

NATIONAL ASSEMBLY

FIRST SESSION

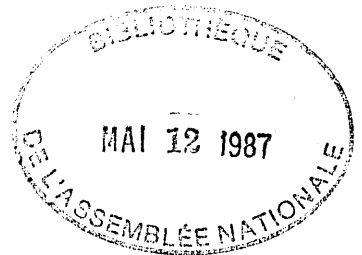
THIRTY-THIRD LEGISLATURE

Bill 32

Roadside Advertising Act

Introduction

Introduced by
Mr Marc-Yvan Côté
Minister of Transport



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1987

EXPLANATORY NOTES

The object of this bill is to make a general revision of the legislation governing roadside advertising along highways maintained by the Ministère des Transports.

To that end, the bill contains separate provisions as to commercial advertising and as to noncommercial advertising; in the field of commercial advertising, it establishes a permit system to control the identification of persons doing roadside advertising, and it renews the standards as to where advertisements may be placed, using the edge of the roadway as the point of reference.

With a view to standardizing legislation, the bill replaces the Signboards and Posters Act (R.S.Q., chapter P-5) and the Roadside Advertising Act (1965, 1st session, chapter 49) and amends the Roads Act (R.S.Q., chapter V-8).

Bill 32

Roadside Advertising Act

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

PRELIMINARY PROVISIONS

1. This Act applies to roadside advertising along highways maintained by the Minister of Transport pursuant to the Roads Act (R.S.Q., chapter V-8), and in or near rest areas and lookouts along them, but not to

(1) road and traffic signs and signals and any other notice intended for the public placed pursuant to the Highway Safety Code (1986, chapter 91) or placed by the government of Canada or of Québec, a municipality or a school board;

(2) signs or signals placed by a public utility to advertise its services or to warn of danger;

(3) inscriptions on the site of a house of worship or in a cemetery.

For the purposes of this Act, any message intended for the public is deemed to be advertising.

2. This Act does not apply to urban or regional communities, municipalities governed by the Cities and Towns Act (R.S.Q., chapter C-19) or Indian reserves.

3. In this Act, the term “roadway” means that part of a highway normally used by vehicular traffic, and the term “right-of-way” means the surface of a highway and of its borders up to the line separating it from the adjacent land.

4. Unless otherwise indicated, the distance between an advertisement and a highway, rest area or lookout shall be measured from the edge of the roadway or, as the case may be, from the boundary of the rest area or lookout.

CHAPTER II

COMMERCIAL ADVERTISING

DIVISION I

SCOPE

5. This chapter does not apply to advertising placed on premises where an enterprise, profession or art is carried on or practised indicating only the name or firm name, activities, products, services or facilities of the occupant.

Notwithstanding the first paragraph, this chapter applies to advertising concerning the harvesting or sale of agricultural products placed on the premises where the products are harvested.

DIVISION II

PROHIBITIONS

6. All commercial advertising visible from the highway is prohibited less than 300 metres from the highway

(1) in a school zone, school crosswalk zone, pedestrian crosswalk zone, children’s playground crosswalk zone or narrow crossing zone indicated by a sign or signal placed pursuant to the Highway Safety Code;

(2) on a curve where a sign or signal indicates reduced speed.

DIVISION III

PERMITS

7. Each and every commercial advertisement placed less than 300 metres from a highway, rest area or lookout and visible therefrom

requires the obtention of a permit from the Minister of Transport unless it concerns the harvesting or sale of agricultural products or the sale or lease of all or part of an immovable.

8. Every person wishing to obtain or renew a permit must

(1) establish that the planned advertisement will conform to the Act and, where applicable, furnish proof of any authorization required thereby;

(2) fulfill the conditions and formalities prescribed by regulation and pay any fees fixed therein.

A permit is issued or renewed for a period of one, three or five years, as the applicant elects. It contains the information prescribed by regulation and is accompanied with an identification plate.

9. The Minister, when issuing a permit, may fix the time within which the advertisement must be placed.

10. The Minister may cancel a permit, after giving the holder an opportunity to be heard,

(1) where the advertisement has not been placed within the fixed time or where it has been removed or destroyed;

(2) where an advertisement that was placed back-to-back or so as to form an angle with another advertisement and that was visible to a driver on his right-hand side has been removed or destroyed;

(3) if the advertisement does not conform to the Act or if the holder has not furnished proof of authorizations required thereby.

The cancellation has effect from the date of its sending, by registered or certified mail, to the permit holder.

DIVISION IV

CONSTRUCTION, ERECTION AND MAINTENANCE

11. The display panel of every commercial advertisement and the identification plate issued with the permit must be solidly affixed to a supporting structure erected for that purpose.

12. The construction, erection and maintenance of an advertisement, particularly the display panel and the supporting

structure, must conform to the standards set down in this division as well as those prescribed by regulation.

13. Any commercial advertisement visible from a highway, rest area or lookout must be placed at a distance of not less than

- (1) 30 metres therefrom, subject to subparagraph 2;
- (2) 75 metres from any autoroute;
- (3) 180 metres from the intersection of the highway with another highway, with the entrance or exit ramp of an autoroute or with a railroad;
- (4) 300 metres or, on an autoroute, 600 metres from another advertisement placed on the same side of the highway and subject to the same dimensional standards;
- (5) 600 metres from any autoroute entry or exit, measured from the head of the ramp.

In addition, the advertisement must be placed so as to be visible to a driver on his right-hand side, except an advertisement placed back-to-back or so as to form an angle with another advertisement.

In this section, the term “autoroute” means a highway designated as such by the Minister by means of the proper signs.

14. The minimum distances prescribed in section 13 do not apply to an advertisement respecting

- (1) the harvesting or sale of agricultural products, provided it is placed, during the harvesting period, not less than one metre from the right-of-way of the highway, rest area or lookout and provided there are not more than two advertisements at the same harvesting place;
- (2) the sale or lease of all or part of an immovable, provided it is placed on the immovable.

15. The height of an advertisement must not exceed

- (1) 4 metres, if it is placed less than 60 metres from a highway, rest area or lookout;
- (2) 6 metres, if it is placed 60 metres or more but less than 90 metres therefrom;
- (3) 8 metres, if it is placed 90 metres or more therefrom.

CHAPTER III

NONCOMMERCIAL ADVERTISING

16. Noncommercial advertising visible from a highway, rest area or lookout is permitted at less than 300 metres therefrom only in the following cases and on the following conditions:

(1) where it concerns a popular, cultural, religious or patriotic event. The advertisement must be removed within 15 days after the event. In addition, not more than two advertisements concerning the same event may be placed along the same highway in the territory of the same municipality;

(2) where it concerns an election, a referendum or any special event designated by the Government. The advertisement must be removed within 15 days after the event;

(3) where

(a) it contains only the emblem, initials or corporate name of the church, religious association or charity, club or chamber of commerce that placed it;

(b) it contains only a prohibition or warning concerning the carrying on of certain activities on the premises on which it is placed;

(c) it contains only the name of the resident of the place where it is displayed or is an inscription on the mailbox or newspaper box;

(4) where it advertises a future construction, a residential, commercial or industrial development, or the name, firm name or telephone number of the contractor, the subcontractors or other persons working thereon, provided the advertisement is placed on the premises of the construction or development. Not more than two such advertisements may be placed on the same premises;

(5) where it concerns the protection of the environment, of the forest, or of land or aquatic animal-life;

(6) where, placed at the intersection of a highway and a private road, it advertises an enterprise or residence distant from the highway and accessible by that road;

(7) where it concerns the practise of a profession governed by a professional corporation which is subject to the Professional Code (R.S.Q., chapter C-26).

Notwithstanding the foregoing, all advertising contemplated in subparagraphs 1, 3, 4, 5 and 7 is prohibited less than 300 metres from a highway designated as an autoroute by the Minister by means of the proper signs.

All advertisements contemplated in this section shall be placed not less than one metre from the highway right-of-way; in no case may they exceed three metres in height.

CHAPTER IV

SPECIAL PROHIBITIONS

17. All commercial and noncommercial advertising is prohibited

(1) less than 300 metres from a highway, rest area or lookout on a site or area designated by the Government for the purposes of highway safety or the protection of the scenery or of the historical or architectural heritage;

(2) within the boundaries of a rest area or lookout, unless authorized by the Minister. The Minister may, without notice, remove any advertisements placed in contravention of this provision;

(3) on an object suspended in the air and attached to the ground in a zone 300 metres from a highway, rest area or lookout;

(4) back-to-back or forming an angle with another advertisement placed less than 300 metres from a highway designated as an autoroute by the Minister by means of the proper signs.

18. Where a road vehicle is stopped on vacant land or in a field less than 300 metres from a highway, rest area or lookout, the advertising appearing on it must be concealed unless the road vehicle is stopped to pick up or deliver goods.

19. Any lighting for an advertisement which interferes with the vision of highway users or otherwise endangers their safety, in particular any intermittent or rotating lighting, is prohibited.

CHAPTER V

INSPECTION

20. A person authorized by the Minister in writing may, at any reasonable time, enter upon private property to inspect an

advertisement, and in particular, its display panel, supporting structure and lighting. The person may be accompanied by a surveyor.

The person shall, upon request, identify himself and show a certificate of his capacity.

21. No person may hinder the work of an inspector or of the surveyor accompanying him in the performance of their duties.

CHAPTER VI

REGULATIONS

22. The Government may, by regulation,

(1) establish standards for the construction, erection and maintenance of advertisements, particularly of their display panels and supporting structures;

(2) prescribe, at the places it determines, special standards concerning the architectural aspect and the design of advertisements;

(3) prescribe the conditions and formalities for obtention and renewal of permits and fix the annual fees exigible from permit holders;

(4) prescribe the form and tenor of a permit and of the identification plate to be affixed to a supporting structure;

(5) prescribe, according to the distance between an advertisement and a highway, rest area or lookout, the maximum dimensions of advertisements;

(6) prescribe that the contravention of any regulations made under this section which it indicates is punishable under this Act.

CHAPTER VII

OFFENCES

23. Every person who places an advertisement in contravention of this Act or the regulations or causes it to be so placed is liable to the following fines:

(1) \$300 to \$600 for contravention of section 6 or 7 or paragraph 3 of section 17;

(2) \$200 to \$500 for contravention of section 11, 13 or 15, paragraph 1 or 4 of section 17 or section 18;

(3) \$100 to \$200 for contravention of section 16, paragraph 2 of section 17 or section 21;

(4) \$50 to \$100 for contravention of any regulations made pursuant to paragraph 6 of section 22.

24. Every person who places lighting or causes it to be placed in contravention of section 19 is liable to a fine of \$300 to \$600.

25. Every person is liable to a fine of \$50 to \$100 who

(1) places or causes to be placed more than two advertisements in contravention of subparagraph 1 or 4 of section 16;

(2) having placed an advertisement or caused it to be placed, leaves it in place after the expiry of the time prescribed in subparagraph 1 or 2 of section 16.

26. Where a commercial advertisement or its lighting is placed in contravention of this Act or the regulations, and the holder of the permit leaves them in place without bringing them into conformity therewith, he is liable to the same fine as the person who placed them.

Where no permit has been issued for the advertisement, or in the case of unlawful placement of a noncommercial advertisement, each of the following persons who knowingly leaves the advertisement in place without bringing it into conformity with this Act and the regulations, is liable to the same fine as the person who placed it:

(1) the owner, lessee or occupant of the land on which the advertisement is placed;

(2) the person whose goods or services are advertised;

(3) the owner of the advertising display panel.

27. Any person found guilty of an offence against this Act or the regulations shall, within 15 days after the service of the judgment, remove the advertisement or lighting which provided the grounds for the proceedings or bring them into conformity with the Act.

Upon failure to do so, the person is liable to a fine of \$1 000 to \$3 000 in the case of a natural person, or of \$3 000 to \$6 000 in the case of a legal person.

28. A court which pronounces a conviction following an offence under this Act or the regulations may authorize the Minister of Transport to enter upon private property at the expiry of the time prescribed in section 27 and to remove the unlawful advertising or lighting at the contravener's expense.

29. Where an offence contemplated in section 27 continues for more than one day, it is deemed to be a separate offence for each day during which it continues.

Notwithstanding subsection 2 of section 12 of the Summary Convictions Act (R.S.Q., chapter P-15), the separate offences may be charged in a single count.

30. Proceedings are instituted in accordance with the Summary Convictions Act by the Attorney General, by a regional county municipality where an agreement has been entered into pursuant to section 31 or by any person generally or specially authorized by either for that purpose.

The costs of the proceedings shall be paid by the person who committed the offence.

CHAPTER VIII

MISCELLANEOUS AND TRANSITIONAL PROVISIONS

31. Every advertisement which, originally placed in conformity with this Act, becomes unlawful following the construction of a new highway, a change in the site of a highway or the designation of an autoroute pursuant to section 297 of the Highway Safety Code, shall be made conformable to law within three years after the date on which it became unlawful.

32. The Minister of Transport and a regional county municipality may enter into an agreement for the purpose of delegating to the municipality the exercise within its territory of all or part of the functions or powers assigned to the Minister in sections 7 to 10 and in section 20.

The agreement may provide for the financing of the expenses incurred by the municipality for the carrying out of this Act.

33. The following Acts are repealed:

- (1) the Signboards and Posters Act (R.S.Q., chapter P-5);

- (2) sections 17 to 17.4 of the Roads Act (R.S.Q., chapter V-8);
- (3) the Roadside Advertising Act (1965, 1st session, chapter 49).

34. Sections 18 and 18.1 of the Roads Act are replaced by the following section:

“18. Any proceedings for an offence under section 15, 15.1 or 16 are brought under the Summary Convictions Act (R.S.Q., chapter P-15) by the Attorney General or by any person generally or specially authorized by him for that purpose.”

35. Any advertisement which, placed in accordance with the Signboards and Posters Act or the Roads Act, does not conform to this Act shall be brought into conformity therewith within three years after (*insert here the date of coming into force of this section*).

In the case of a commercial advertisement, a permit shall be applied for within eighteen months after (*insert here the date of coming into force of this section*).

36. The Minister of Transport is responsible for the administration of this Act.

37. This Act will come into force on the dates fixed by the Government.