



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-THIRD LEGISLATURE

Bill 76

An Act respecting truck transportation

Introduction

**Introduced by
Mr Marc-Yvan Côté
Minister of Transport**

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EXPLANATORY NOTES

This bill enacts new rules applicable to paid trucking services provided in Québec by local and extra-provincial trucking undertakings. Several provisions of the Québec legislation are realigned to better coincide with the provisions contained in the federal legislation enacted on the 25th of June by Bill C-19 for extra-provincial undertakings carrying goods or passengers across the provinces.

Under the bill, access to the trucking industry is made easier and the scope of intervention of the Government is reduced in many instances, and in particular, in matters relating to the rules governing the granting of licences.

Certain types of trucking services are excluded from the application of this legislation either because it remains regulated, such as the carriage of bulk material, or because it falls outside all economic regulation, such as the delivery of periodicals to the consumer.

As to the services that are subject to the provisions of the bill, they require an operating licence issued by the Commission des Transports du Québec after it is satisfied that the applicant concerned possesses the qualifications or fitness required to provide the services for which the licence is sought. In certain cases, the Commission will also be called upon to ascertain, on the basis of evidence presented by a person opposing the granting of the licence, whether a new licence would be contrary to the public interest with regard to certain factors established by law.

A certain number of provisions contained in the bill concern the issue of licences, the requirements attached to the licences as well as the rules governing suspensions or revocations.

New rules of proof and procedure to be observed by the Commission des Transports du Québec in matters concerning trucking services are provided. Other rules pertaining to inquiries and inspections and to searches and seizures are set out in the bill. In addition, a right of appeal on a question of law to the Court of Appeal, with leave from a judge of that court, from decisions rendered by the Commission is provided.

The bill also provides for the reduction of the number of members of the Commission from fourteen to nine.

Finally, the bill confers on the Government the regulatory powers required and contains the penal provisions that will apply in cases involving transportation matters. It also includes transitional provisions to allow the existing permits to remain valid until new licences are issued and a certain number of concordance provisions to the Act respecting transportation by taxi (R.S.Q., chapter T-11.1), the Transport Act (R.S.Q., chapter T-12) and the Act to amend the Transport Act (1986, chapter 92).

Bill 76

An Act respecting truck transportation

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

SCOPE

1. This Act applies to remunerated truck transportation services which shall include remunerated trailer or semi-trailer drawing services.

This Act does not apply to the carriage

(1) of goods by extra-provincial truck undertakings within the meaning of the Act respecting motor vehicle transport by extra-provincial undertakings (S.C. 1987, 36 Eliz. II, chapter *insert here the chapter number of Bill C-19*), except to the extent provided in the said Act and the regulations thereunder;

(2) of bulk material within the meaning of the Transport Act (R.S.Q., chapter T-12) and the regulations thereunder, except to the extent provided in this Act and the regulations thereunder;

(3) of dairy products pursuant to section 11 of the Dairy Products and Dairy Products Substitutes Act (R.S.Q., chapter P-30);

(4) of petroleum products by a tank vehicle equipped with a meter and having a maximum capacity of 18 200 litres;

(5) of motor vehicle wrecks and waste or scrap whether it can be recycled or not;

(6) of periodicals for delivery to a consumer, a paper boy or a sales outlet;

(7) or towing of abandoned, wrecked or disabled vehicles in providing roadside services;

(8) of a natural or chemical fertilizer and any substance used for the fertilization and upgrading of soils;

(9) or hauling of houses, offices or plants on wheels;

(10) or hauling of vehicles using the technique called “piggyback”;

(11) of goods by a motor vehicle or a combination of road vehicles where its use has previously been authorized by the Régie de l’assurance automobile du Québec for testing purposes under paragraph 2 of section 214 of the Highway Safety Code (1986, chapter 91).

CHAPTER II

TRUCKING LICENCE

DIVISION I

GENERAL PROVISIONS

2. No person may offer or provide remunerated truck transportation services unless he holds a trucking licence issued by the Commission des transports du Québec.

3. A trucking licence is a document evidencing the existence of a privilege conferred by a decision of the Commission.

Every licence shall be in relation to a territory corresponding to that of a regional county municipality established under the Act respecting land use planning and development (R.S.Q., chapter A-19.1) or to that of an urban or regional community or to a combination of such territories pursuant to a regulation of the Government or any other territory described in the regulation.

4. Trucking licences are not transferable.

5. The licence shall contain

(1) the name of the licensee;

(2) the address of the licensee’s domicile or head office;

- (3) the date of issue;
- (4) a statement describing the privilege conferred;
- (5) the period during which an activity authorized by the licence may be carried on, where applicable.

Where the domicile or head office of the licensee is situated outside Québec, the licence shall, in addition, indicate the address of the licensee's establishment in Québec or the name and address of his attorney.

6. The licence must bear the identifying mark of the Commission or the signature of the president, a vice-president or the secretary.

The Government may, on the conditions fixed by it, permit that a signature be affixed by means of an automatic device or that a facsimile of the signature be affixed to the licences, the facsimile having the same force as the signature itself.

7. The privilege conferred pursuant to section 3 may be amended by a decision of the Commission; it shall, in that case, issue a new licence to replace the original licence which must be returned to the Commission by the licensee.

8. The holder of an illegible or damaged licence must apply for its replacement.

9. Upon declaration that a licence is illegible or damaged or has been destroyed, lost or stolen, the Commission shall replace it on payment of the fee fixed by regulation of the Government.

DIVISION II

ISSUE OF LICENCES

10. The Commission shall issue a trucking licence to an applicant who satisfies the requirements prescribed by this Act and the regulations, if any, and who possesses the qualifications required to carry on the activities for which the licence is sought, unless an interested person who objects to the issue proves that the granting of the licence would likely have a detrimental effect on the public interest.

11. No applicant may obtain a licence

- (1) if he is the holder of a suspended trucking licence;

(2) if he held a trucking licence that has been cancelled in the last two years.

12. Every applicant for a trucking licence must demonstrate that he possesses the qualifications required to carry out the activities for which the licence is sought by furnishing to the Commission, on the application form prescribed by it, the following information and documents:

(1) his name and, if applicable, the name of his attorney, the address of his domicile or head office and, as the case may be, the address of his establishment in Québec or that of his attorney;

(2) in the case of a legal person, its incorporating instrument, a list of its directors and officers, a copy of the instrument authorizing the filing of the application and the name and address of any other legal person affiliated with it;

(3) the name and address of his authorized representative;

(4) a copy of any licence held by him which authorizes him to provide remunerated truck transportation services;

(5) a description of the services provided at the time of the application otherwise than under a licence referred to in subparagraph 4, and the number and type of road vehicles owned or leased by him to do so;

(6) a declaration of any bankruptcy currently affecting him or any of his directors or officers, or having occurred in the five years preceding the application, accompanied with the discharge judgment, if any;

(7) a description of any expertise acquired in the field of truck transportation or in a related sector;

(8) a certificate of insurance covering all property damage, including any damage that may be sustained by the goods carried, with the insurer's undertaking to notify the Commission in case of cancellation, non-renewal or reduction of coverage, or a certificate issued by an insurer attesting the applicant's insurability as regards such damage;

(9) a full description of the proposed services, in particular, the territories to be served, the goods to be carried and the number and type of vehicles that will be used;

(10) any other information or document intended to demonstrate his fitness as may be prescribed by regulation of the Government.

In addition, the Régie de l'assurance automobile du Québec must have attested to the Commission that the applicant

(1) is not affected by any unpaid fine within the meaning of Chapter V of Title VIII.1 of the Highway Safety Code enacted by the Act to amend the Highway Safety Code and the Automobile Insurance Act (1987, chapter *insert here the chapter number of that Act in the volume of the Statutes of Québec for 1987*);

(2) has been informed of the rules set out in the said title and the regulations thereunder and, where applicable, of the rules governing the transportation of dangerous substances.

The information and documents furnished by the applicant under this section are public.

13. An applicant for a trucking licence may replace any information or document required pursuant to the first paragraph of section 12 by such information or document as prescribed by regulation of the Government.

14. The Commission is not required to hold a public hearing unless an interested person who object to the issue of a licence establishes to the satisfaction of the Commission that the carrying on of the activities for which the licence is sought would likely have a detrimental effect on the public interest.

Notwithstanding the foregoing, the Commission shall hold a public hearing where a person who objects to the granting of the licence alleges, with supporting evidence, that the carrying on of the activities for which the licence is sought will have a detrimental effect on the services he is providing to users under his licence to the point of being contrary to the public interest; in no case, however, may a decrease in business or income that could be caused by the carrying on of the activities for which the licence is sought be considered by itself as contrary to the public interest.

15. The Commission, in assessing the public interest to decide the merit of an objection, shall

(1) give primary emphasis to the interests of users of truck transportation services, whether those services are provided by the applicant or not, taking into account the following factors:

(a) the availability of adequate truck transportation services, anywhere in Québec, whatever the population density of the territory to be served;

(b) the availability of a wide range of services and prices and even of new truck transportation services;

(c) the increased capacity of the trucking industry to adapt to the various needs of users;

(d) the stimulating effect on users' productivity and efficiency;

(e) the keeping of truck transportation costs at the lowest level possible, the maximum use of equipment and the saving of energy;

(f) the maintenance of the market at a reasonable level of competition and concentration, and the limitation of the risk of deceitful practices;

(g) the elimination of discrimination in prices and services;

(h) the preservation of the stability, dependability and viability of the trucking industry and of its infrastructure;

(i) the applicant's capacity to provide adequate trucking services;

(j) the promotion of the social and economic development of Québec, including the favourable effect on employment and productivity in all sectors of the industry;

(k) any other factor which, in the opinion of the Commission, gives primary emphasis to the interests of users;

(2) satisfy itself that the matters set out in the Government policy statements on trucking are taken into consideration.

16. Subparagraphs 5, 6, 7 and 8 of the first paragraph of section 12 do not apply to an applicant whose domicile or head office is situated outside Québec and who produces, with his application for a licence, a certificate issued by the competent authority of the place of his domicile or head office attesting that he possesses the abilities required to carry on the activities authorized by a trucking licence, provided that an agreement to that effect has been entered into under section 93 and that the requirements of the licence applied for do not differ from those he has already satisfied.

17. The Commission may, on the conditions prescribed by regulation of the Government, if any, grant trip permits and, for such limited time as it may fix, temporary licences to meet the needs of an emergency.

Subparagraphs 4 to 7 of the first paragraph of section 12 and section 15 do not apply to an application for a licence or permit under the first paragraph.

18. Section 15 does not apply to an application for a licence concerning truck transportation services provided under a subcontract for a licensee in carrying on an activity authorized by the licence, in accordance with the conditions prescribed by regulation of the Government, if any.

19. Section 15 does not apply to an application for a licence concerning towing services provided by a natural person who uses his tractor to draw the trailer or semi-trailer of a consignor.

20. Section 15 does not apply to the carriage of

(1) periodicals not referred to in subparagraph 6 of the second paragraph of section 1;

(2) live stock;

(3) fruit and vegetables and horticultural and farm products;

(4) natural Christmas trees;

(5) peat moss;

(6) new or used road vehicles;

(7) goods by the subsidiary of an undertaking, for that undertaking or for any of its other subsidiaries.

For the purposes of this section, an undertaking is deemed to be a subsidiary of another undertaking where 50% of its voting shares are held by that other undertaking.

21. The Commission may refuse to issue a trucking licence to a legal person if one of its directors or officers fails to satisfy the requirements prescribed by this Act and the regulations.

22. The Commission may refuse to issue a trucking licence until five years have elapsed after the date on which the applicant or a person referred to in section 21

(1) was convicted of or pleaded guilty to an offence against this Act or any of the regulations hereunder and for which he has not obtained a pardon; or

(2) finished serving his sentence or, as the case may be, began his probation period in the case of an indictable offence connected with the operation of a transportation service or the driving of a road vehicle, and punishable by a term of imprisonment of five years or over and for which he has not obtained a pardon.

DIVISION III

CONDITIONS ATTACHED TO LICENCES

23. A trucking licence is valid only in respect of its rightful holder.

24. Notwithstanding the foregoing, production of such relevant documents as the Commission may require, and on payment of the duties prescribed by regulation, a person other than the holder of a licence may be temporarily authorized by the Commission to provide truck transportation services under that licence if the person is the licensee's testamentary executor, legatee or heir, or a person designated by any of them, a trustee in bankruptcy, a liquidator, a judicial or conventional sequestrator or a trustee temporarily managing the assets used to carry on the activities authorized by the licence.

The Commission may also, subject to the same conditions, authorize a person other than the holder of a licence to provide truck transportation services under that licence, on a temporary basis, if the person files an application for a licence within 60 days of the signing of an agreement for the sale of all or nearly all the assets of the licensee, subject to the purchaser's obtaining a licence.

25. Any person authorized to provide truck transportation services under a licence on a temporary basis is deemed to be the holder of the licence.

26. The holder of a trucking licence must carry on the activity authorized by and in accordance with the content of his licence.

27. Every holder of a trucking licence is authorized to carry, anywhere in Québec, peeler wood and timber having undergone cross-cutting and lengthwise cutting operations, even if not mentioned on his licence.

28. The holder of a trucking licence shall

(1) use only road vehicles which satisfy the requirements of the Highway Safety Code;

(2) hire for the driving of such vehicles only holders of a drivers' licence of the appropriate class;

(3) maintain for the drivers work schedules which are consistent with the maximum periods of driving prescribed by regulation of the Government enacted under paragraph 12 of section 621 of the Highway Safety Code.

29. The holder of a trucking licence must furnish to the Commission, on request and within the time allotted, any information or document it considers necessary for the carrying out of its duties.

The licensee must inform the Commission of any change in the information or documents furnished under subparagraphs 1 and 2 of the first paragraph of section 12.

30. The Régie de l'assurance automobile du Québec shall notify the Commission of any non-renewal, suspension or cancellation of the registration of the road vehicles used by a licensee in carrying on an activity authorized by his trucking licence.

31. On receiving a notice under section 30, the Commission may require the licensee to produce a report of operation by forwarding to him the form it may prescribe for that purpose.

The form must be accompanied with a notice setting out the time allotted to the licensee for the production of his report and informing him that the penalty for any failure to comply with such requirement within the prescribed time is the revocation of the licence.

32. Every holder of a trucking licence who has no domicile or establishment in Québec must designate an attorney who resides in Québec and has custody of a copy of all documents relating to the truck transportation services provided, wholly or in part, in Québec by the licensee. He must give the name and address of the attorney.

The attorney shall represent the licensee for the purposes of this Act and the regulations; any proceedings against the licensee may be served on the attorney and any demand made to the licensee may be made to him.

33. The holder of a trucking licence is required, in addition, to satisfy the obligations determined by regulation of the Government.

DIVISION IV

SUSPENSION OR CANCELLATION OF THE LICENCE

34. The Commission may, on its own initiative or at the request of the Attorney General or any interested person, suspend a trucking licence for the period it determines, or revoke it in accordance with this division.

35. The Commission may suspend or revoke a licence where it is of opinion that the licensee

- (1) obtained it on the basis of false representations;
- (2) no longer satisfies the requirements prescribed for its issuance by this Act or any of the regulations thereunder;
- (3) fails to satisfy the obligations determined by this Act or any of the regulations thereunder.

36. The Commission may, instead of imposing the suspension or revocation of a licence on any of the grounds set out in paragraph 2 or 3 of section 35, order the licensee to apply the necessary corrective measures within the limit of time fixed by it.

37. On a report by an inspector who has reasonable cause to believe that a licensee is contravening this Act or any of the regulations thereunder, the Commission may summon the licensee and specify the facts that are alleged against him so that he may assert his pretensions in support of the maintenance of his licence.

If the licensee fails to appear or to justify the maintenance of his licence, the Commission may suspend or revoke the licence or accept the licensee's personal undertaking to comply with this Act and the regulations.

38. The Commission may also suspend or revoke the licence of a licensee who

- (1) has failed to implement an order under section 36 or to comply with a personal undertaking signed under section 37;
- (2) was convicted of or pleaded guilty to an offence against this Act or any of the regulations thereunder within the last two years and has not obtained a pardon;

(3) was convicted of or pleaded guilty to an indictable offence in relation to an activity authorized by his licence within the last five years and has not obtained a pardon.

39. The Commission may suspend, for the period it determines, the trucking licence of a licensee upon being notified by the Régie de l'assurance automobile du Québec that a penalty has been imposed on that licensee pursuant to Chapter V of Title VIII.1 of the Highway Safety Code.

40. The Commission may revoke the trucking licence of a licensee upon being notified by the Régie de l'assurance automobile du Québec that he is subject to an undischarged penalty within the meaning of Chapter V of Title VIII.1 of the Highway Safety Code enacted by the Act to amend the Highway Safety Code and the Automobile Insurance Act.

41. The Commission may revoke the licence of a licensee who fails to produce his report of operation within the prescribed time in accordance with section 31, who provides false information in his report, or whose report establishes that he has not carried on any activity authorized by his licence for more than six months.

42. The suspension or revocation of a licence takes effect from the date of service of the Commission's decision on the licensee, or on any later date fixed therein.

43. The Commission shall inform the Régie de l'assurance automobile du Québec of any licence suspension or revocation.

44. Every licensee who incurs a suspension or a revocation of his licence must return his licence to the Commission without delay.

If a licensee refuses or omits to comply with that requirement, the Commission may direct a peace officer to confiscate the licence. At the request of the peace officer, who shall give the reasons therefor, the licensee must forthwith surrender his licence to the peace officer.

CHAPTER III

PROCEDURE AND PROOF

45. An application for a trucking licence is made by filling out the form prescribed by the Commission and must be accompanied with the fee prescribed for its examination by regulation of the Government. Fees are not refundable.

46. On receiving a duly filled out licence application, the Commission, if it considers that the applicant satisfies the requirements prescribed by the Act and the regulations and has the qualifications required to carry on the activities authorized by the licence in accordance with section 12, shall, within 30 days of receiving the application, publish, in at least one daily newspaper circulated in the territory where the licence is to be used, a notice setting out the nature of the application, the Commission's intention to grant it and the procedure for filing an objection within ten days of publication of the notice.

The costs of the publication of the notice shall be paid by the applicant according to the terms and conditions determined by the Commission.

47. Section 46 does not apply to a duly filled out application for a licence concerning services referred to in any of sections 17 to 20 and in respect of which the Commission shall render its decision immediately.

48. Any interested person may object to the issue of a licence by sending a written notice to the Commission, accompanied with the fees prescribed by regulation of the Government, within ten days of publication of a notice pursuant to section 46.

Within 21 days of the publication of the notice, the person making the objection shall, however, file with the Commission an objection duly certified under oath, giving the reasons on which it is based and served on the applicant.

Failure to file the objection within the prescribed time entails its immediate dismissal.

49. All public hearings must be held within 60 days of the expiry of the time prescribed for an objection unless the Commission, at the request of the applicant, grants a postponement on satisfactory proof that he was unable to proceed within that time.

The Attorney General may intervene of right at the hearing as if he were a party thereto.

50. At a public hearing, the burden of proof is first on the person who objects to the granting of the licence.

51. The Commission may admit any relevant evidence capable of furthering the interests of justice.

52. The parties must present the best evidence available in the circumstances; in no case may they refute by oral evidence any validly drawn up writing.

53. No oral evidence is admissible unless the testimony is under oath.

54. A witness is summoned to declare the facts he has seen or heard or to produce and identify any document, plan or photograph he has brought with him.

An expert witness shall give his opinion on questions within the field of his specialty; he may be declared an expert where his competence or expertise in that field has been established or acknowledged by the parties.

55. Depositions shall be taken down in the manner prescribed by the Commission.

56. The decisions of the Commission must be rendered within 30 days of the expiry of the time prescribed for filing an objection or of the end of the public hearings, as the case may be. Every decision must be in writing and contain the reasons on which it is based. A copy must be sent to the Minister of Transport. If a decision is rendered following public hearings, a copy must be served on the parties in the manner prescribed by regulation of the Government.

57. Decisions of the Commission which do not entail the revocation or suspension of a licence shall have effect from the date on which they are signed or on any later date indicated in the decision.

58. The Commission may refuse to admit an application for a licence if it is of opinion that the application is similar to an application that was rejected within the preceding six months.

59. The Commission may, within one year of the effective date of a decision, correct in it any error in writing or computation or any other clerical error.

The Commission may also set aside a decision if, after it was rendered, new evidence has been found and it appears that, had the evidence been submitted on time, the decision would probably have been different.

60. The Commission may, on its own initiative or on the application of a party, declare a case perempted if one year has elapsed since the last useful proceeding was filed.

The Commission's intention to declare peremption or the application for peremption must be served on the attorneys or on the parties themselves if they have no attorney.

61. An uncontested application for a licence may be decided by one member or by a person designated by the Minister of Transport under section 17.8 of the Transport Act.

62. Every objection to an application for a licence must be submitted to at least two members of the Commission who shall decide, where appropriate, that a public hearing is to be held in accordance with section 14.

63. Every application for a licence referred to a public hearing and every revocation or suspension of a licence must be decided by three members.

64. The Commission may, where provisions applicable to a particular case are lacking, supply any procedure compatible with this Act or the regulations.

CHAPTER IV

INQUIRY AND INSPECTION

65. The Commission and each of its members may inquire into any matter within the jurisdiction of the Commission that is relevant to the carrying out of this Act and the regulations thereunder.

66. For the purposes of such inquiries, the Commission and each of its members shall have the powers and immunity of commissioners appointed under the Act respecting public inquiry commissions (R.S.Q., chapter C-37), except the power to impose imprisonment.

67. The Minister of Transport may authorize any person to act as an inspector to ascertain compliance with this Act and the regulations thereunder.

68. Every person authorized to act as an inspector and every peace officer, in the performance of his duties, may, for purposes relevant to the carrying out of this Act and the regulations thereunder,

(1) enter the establishment of a carrier, consignor or consignee at any reasonable time and inspect it;

(2) examine and make copies of books, records, accounts, files and other documents containing information relating to activities of the persons referred to in subparagraph 1 of the first paragraph;

(3) where he has reasonable cause to believe that a road vehicle operated on a public highway is providing a service that is subject to this Act, stop the vehicle, enter and examine it and, for that purpose, open any container or receptacle or cause it to be opened;

(4) require any information relating to the carrying out of this Act and the regulations and the production of any relevant document.

Every person having control, custody or possession of the books, records, accounts, files and other documents shall, on request, communicate them to the person conducting the inspection and facilitate his examination of them.

69. No person shall hinder the work of a person authorized to act as an inspector or peace officer, mislead him by concealment or false declarations, withhold any information or document he is entitled to require or examine under this Act or any of the regulations thereunder, or conceal or destroy any document or thing relevant to the inspection.

70. Every person authorized by this Act to conduct an inspection must, on request, identify himself and show a certificate of his capacity or, as the case may be, show his badge.

CHAPTER V

SEIZURE WITHOUT A WARRANT

71. Any peace officer may, without a warrant,

(1) seize any vehicle where he has reasonable cause to believe that it is being or was used to commit an offence against this Act or any of the regulations thereunder and that the person who is using or who used such vehicle might abscond, until the competent court or a judge of such court authorizes the release of the vehicle with or without a deposit;

(2) seize any vehicle where he has reasonable cause to believe that it is being or was used to commit an offence against section 2, until the competent court or a judge of such court authorizes the release of the vehicle with a deposit.

72. The peace officer who has seized the vehicle shall have custody of it until the competent court has decided that it is to be confiscated or returned to its owner.

CHAPTER VI

APPEAL

73. A decision of the Commission may be appealed from the Court of Appeal, with leave of a judge of that court, on any ground that involves a question of law which, in the opinion of that judge, should be submitted to the Court of Appeal.

74. The appeal is brought in accordance with the rules of the Code of Civil Procedure (R.S.Q., chapter C-25), except as provided under sections 75 to 78.

75. For the purposes of this chapter, any expression in the Code of Civil Procedure designating the prothonotary of the Superior Court designates the secretary of the Commission and any expression designating the court whose judgment is appealed from designates the Commission.

76. The application for leave to bring an appeal must be submitted within 30 days after the date on which the decision of the Commission has taken effect, by a motion accompanied with a copy of the decision and the documents related to the contestation, if they are not reproduced in the decision.

77. Any party or the Attorney General may appeal from a decision of the Commission. The Attorney General may, *ex officio* and without notice, take part in the hearing as if he were a party thereto.

78. If leave to appeal is granted, it is brought by way of an inscription filed in the office of the Court of Appeal within ten days after the judgment authorizing the appeal.

CHAPTER VII

REGULATIONS

79. The Government may, by regulation,
(1) prescribe classes of trucking licences;

(2) describe territories and provide for the combination of territories in relation to trucking licences;

(3) prescribe the requirements that must be satisfied by a person who is applying for a trucking licence;

(4) prescribe any information or document to establish an applicant's qualifications to carry on the activities authorized by a trucking licence;

(5) prescribe any information or document an applicant may furnish to replace the information or documents prescribed under section 12;

(6) prescribe the obligations that must be satisfied by a licensee;

(7) prescribe the requirements applicable to transportation contracts and bills of lading, and prescribe minimum stipulations to be included therein;

(8) prescribe the minimum amounts of insurance that must be carried by a licensee to engage in transportation operations under his licence;

(9) prescribe the amount of the fees and duties payable under this Act, and determine the terms and conditions of payment, where applicable;

(10) prescribe the conditions of issue of temporary licences or trip permits;

(11) prescribe the conditions in which truck transportation services may be provided for a licensee, under a subcontract;

(12) prescribe the mode of service applicable to the Commission's decisions;

(13) determine the prescriptions of a regulation the violation of which constitutes an offence.

The regulatory provisions enacted under this section may vary according to the classes of trucking licences concerned.

80. The Commission may, in plenary session and by a majority vote of its members, adopt internal management by-laws for the conduct of its affairs.

The by-laws come into force from their publication in the *Gazette officielle du Québec*.

CHAPTER VIII

PENAL PROVISIONS

81. Every person who contravenes any of sections 2, 23 and 26 is guilty of an offence and is liable, in addition to costs, for each day during which the offence continues, to a fine of not less than \$250 nor more than \$1 500 in the case of a natural person, and of not less than \$1 000 nor more than \$6 000 in the case of a legal person.

82. Every person who makes false representations for the purpose of obtaining a licence or who provides false information in a report filed under section 31 is guilty of an offence and is liable, in addition to costs, to a fine of not less than \$1 000 nor more than \$6 000.

83. Every person who contravenes section 69 is guilty of an offence and is liable, in addition to costs, for each day during which the offence continues, to a fine of not less than \$250 nor more than \$1 500.

84. Every person who contravenes any of the provisions of this Act for which a penalty is not otherwise provided or any prescription of any of the regulations the violation of which constitutes an offence under paragraph 13 of section 79, is guilty of an offence and is liable, in addition to costs, for each day during which the offence continues, to a fine of not less than \$125 nor more than \$750 in the case of a natural person, and of not less than \$500 nor more than \$3 000 in the case of a legal person.

85. Every person who advises, encourages or incites another person to commit an offence against this Act or any of the regulations thereunder or who does or omits to do something in order to aid another person to commit an offence is a party to that offence and is liable to the same penalty as that prescribed for the offender, whether or not the offender has been prosecuted or found guilty.

86. In any proceeding for a contravention of this Act or any of its regulations, any truck transportation service is, in the absence of any evidence to the contrary, deemed to be remunerated.

87. When a legal person is guilty of an offence against this Act or any of its regulations, every director, partner, officer, employee or agent of the legal person who prescribed or authorized the commission of the offence or who consented thereto or acquiesced or participated therein, is deemed a party to the offence and is liable to the same penalty as that provided for the legal person, whether or not the legal person has been prosecuted or found guilty.

88. The Government shall determine the offences against this Act or any of its regulations for which a 72 hours' notice may be issued.

89. A peace officer may, where a person commits such an offence, issue a notice enjoining him to remedy the alleged offence within a period of 72 hours.

Proceedings may be instituted against the offender if he does not remedy the alleged offence within the prescribed time.

The burden of proof is on the offender that he has remedied the alleged offence within the prescribed time.

90. Proceedings under this Act shall be instituted in accordance with the Summary Convictions Act (R.S.Q., chapter P-15) by the Attorney General or a person generally or specially authorized by him for that purpose.

91. The prosecutor may mail to the offender a prior notice setting out, in particular, the nature of the offence, the fine payable, which must be the minimum fine prescribed for the offence, the amount of the costs fixed by regulation of the Government and the place where the fine and the costs may be paid.

The fine and the costs are payable within the next ten days. Any payment made within the prescribed time and accepted by the prosecutor shall be deemed to have been made by the person to whom the notice was addressed.

The payment shall suspend the proceedings against the accused person who shall be considered to have been found guilty of the offence.

CHAPTER IX

MISCELLANEOUS AND TRANSITIONAL PROVISIONS

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

93. The Minister of Transport may, according to law, enter into an agreement relating to the administration of this Act with any government, any of its departments or any agency in Canada.

94. For the purposes of subparagraph 2 of the second paragraph of section 1, where a bulk material is excluded from the application of the Transport Act after 1 January 1988 by any regulation made under

the said Act, the carriage of that material shall become subject to this Act and the regulations thereunder from the date of the exclusion.

95. Sections 9 to 17.1, 17.5 to 17.7, 18 to 21 and 24, the first and second paragraphs of section 25 and sections 26 to 30 of the Transport Act apply to truck transportation.

96. The Act respecting transportation by taxi (R.S.Q., chapter T-11.1) is amended by striking out section 69.

97. The Transport Act (R.S.Q., chapter T-12) is amended by striking out paragraph ii of subparagraph *d* of the first paragraph of section 1.

98. Section 2 of the said Act is amended

(1) by replacing subparagraph *d* of the first paragraph by the following subparagraph:

“(d) transport brokerage and the leasing of vehicles.”;

(2) by adding, at the end, the following paragraph:

“This Act does not apply to transportation governed by the Act respecting truck transportation (1987, chapter *insert here the chapter number of this Act*) or to the carriage of any goods under subparagraphs 3 to 11 of the second paragraph of section 1 of the said Act.”

99. Section 5 of the said Act, amended by section 1 of chapter 92 of the statutes of 1986, is again amended

(1) by striking out the words “the hauling of trailers, semi-trailers, floats or houses, offices or plants on wheels,” in subparagraph *h* of the first paragraph;

(2) by striking out the second paragraph.

100. Section 16 of the said Act is amended by replacing the word “fourteen” in the first paragraph by the word “nine”.

101. Section 17.1 of the said Act is replaced by the following section:

17.1 The quorum of the Commission is,

(a) in plenary session: five members, including the president, who may designate a member to replace him;

(b) in session and in practice: one member;

(c) in public hearing: three members;

(d) in review: three members, including the president or a vice-president.”

102. Section 17.3 of the said Act, amended by section 321 of chapter 95 of the statutes of 1986, is replaced by the following section:

“**17.3** An application for a review is made in practice division by way of a motion setting out the reasons on which it is based filed within 30 days after the date the decision has taken effect.”

103. Section 17.8 of the said Act, amended by section 322 of chapter 95 of the statutes of 1986, is again amended by striking out the words “to general or specialized transport” in the third line.

104. Section 18 of the said Act is repealed.

105. Section 23 of the said Act is replaced by the following section:

“**23.** A decision of the Commission has effect from the date it is signed or from any later date indicated therein.”

106. Section 31 of the said Act is amended by striking out the words “or by an ordinance contemplated in section 89” in the second and third lines.

107. Section 37.1 of the said Act, enacted by section 8 of chapter 92 of the statutes of 1986, is amended by striking out the last paragraph.

108. The English text of section 38 of the said Act is amended by inserting the words “for a period of less than one year and temporary permits” after the words “special permits” in the third line.

109. Section 45 of the said Act is repealed.

110. Section 48.1 of the said Act is repealed.

111. Section 49.2 of the said Act, enacted by section 326 of chapter 95 of the statutes of 1986, is amended

(1) by replacing the introductory phrase of the second paragraph by the following:

“Any person so authorized to act as an inspector and any peace officer may, in the performance of his duties, for purposes relevant to enforcement of this Act,”;

(2) by replacing subparagraph 3 of the second paragraph by the following subparagraphs:

“(3) where he has reasonable cause to believe that a road vehicle operated on a public highway is providing transportation that is subject to this Act, stop the vehicle, enter and examine it and, for that purpose, open any container or receptacle or cause it to be opened;

“(4) require any information relating to the carrying out of the Act and regulations referred to in the first paragraph and the production of any relevant document.”

112. Section 50 of the said Act, amended by section 327 of chapter 95 of the statutes of 1986, is again amended by replacing the words “a member of the Sûreté du Québec, a public servant of the Sûreté du Québec designated by the Director General of the Sûreté du Québec for the administration of this Act” by the words “a peace officer”.

113. Section 51 of the said Act is amended by striking out the words “of jurisdiction or” in the third line.

114. Section 53 of the said Act is amended by replacing the words “publication of the decision of the Commission, or of a summary of the decision, in the *Bulletin de la Commission*” in the second, third and fourth lines by the words “the date on which the decision of the Commission has taken effect”.

115. Section 80 of the said Act is replaced by the following section:

“80. A peace officer may, without a warrant,

(1) seize any vehicle where he has reasonable cause to believe that it is being or was used to commit an offence against this Act, the regulations or orders and that the person who is using or who used such vehicle might abscond, until the competent court or a judge of such court authorizes the release of the vehicle with or without a deposit;

(2) seize any vehicle where he has reasonable cause to believe that it is being or was used to commit an offence against section 36 or to extend a service authorized by a permit, until the competent court or a judge of such court authorizes the release of the vehicle with a deposit.

The peace officer who has seized the vehicle shall have custody of it until the competent court has decided that it is to be confiscated or returned to its owner.”

116. Section 80.1 of the said Act is repealed.

117. Section 89 of the said Act is amended by striking out the second and third paragraphs.

118. Section 13 of the Act to amend the Transport Act (1986, chapter 92) is repealed.

119. The permits issued before 1 January 1988 under the General Order on Trucking remain in force until 30 June 1989 or until any later date fixed by order of the Government unless the Commission issued a trucking licence before that date to replace such a permit.

While the permits remain in force, they continue to be interpreted in according to the provisions of the General Order on Trucking, even if, in the meantime, it is repealed by regulation of the Government.

This section does not apply to licences authorizing truck transportation services forming the subject of an exclusion under subparagraphs 3 to 11 of the second paragraph of section 1.

120. Where the Commission authorizes the issue of a trucking licence to the holder of a permit referred to in section 119 before the expiry of his permit, it shall order its cancellation and make it effective on the day the trucking licence is issued.

121. Permits referred to in section 119 are deemed to be trucking licences issued under this Act for the period during which they continue to be in force.

122. Every holder of a permit issued under the General Order on Trucking authorizing transportation of a bulk material may continue to provide that service while he continues to be the holder of a licence issued under this Act.

123. Applications for permits filed under the General Order on Trucking and pending at the time of the coming into force of this Act are deemed to be licence applications filed under this Act and shall be heard and decided under it.

124. From the end of the third year to the end of the fourth year following the coming into force of this Act, the Minister of Transport shall examine the effects of the implementation of this Act, particularly in matters of safety, and report thereon to the National Assembly within six months.

125. At the end of the years 1988, 1989 and 1990, the Commission shall conduct an examination to assess compliance with this Act for the year concerned and report thereon to the Minister in the following year.

126. Every member of the Commission whose term expires on the date of the coming into force of section 100 shall cease to hold office on that date.

Every member of the Commission whose term does not expire on that date shall continue to hold office for the period determined by the Government.

127. The first regulation to be enacted by the Government under section 79 may be enacted without the publication of a draft regulation in the *Gazette officielle du Québec*.

The same rule applies to any first regulation amending regulations made under the Transport Act to ensure concordance with this Act and the regulations thereunder.

The regulations shall be deemed to be in force from the date of the coming into force of section 79.

128. The provisions of this Act will come into force on the date or dates fixed by the Government.