



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-THIRD LEGISLATURE

Bill 101

**An Act to again amend the Act
respecting the conservation and
development of wildlife and the
Parks Act.**

Introduction

**Introduced by
Mr Yvon Picotte
Minister of Recreation, Fish and Game**



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EXPLANATORY NOTES

The main object of this bill is to amend the provisions of the Act respecting the conservation and development of wildlife regarding wildlife management areas and the Fondation pour la conservation et la mise en valeur de la faune et de son habitat.

The bill allows the Government to delegate more powers to the agencies which manage such areas, at the same time establishing new mechanisms to control the exercise of those powers. It also creates two new offences to ensure that the delegated powers are complied with.

The bill replaces the name of the Foundation by the name “Fondation de la faune du Québec” and changes the composition of its board of directors. It specifies its duties and powers, giving it greater autonomy and efficiency, and provides for its financing by allowing the Government to assign to the Foundation part of the fees for fishing licences.

The bill also introduces various amendments respecting the administration of the Act. It extends the powers conferred on conservation offices to conduct a search and specifies their obligations regarding the return of the property seized. The bill restricts the use of the words “hunting and fishing outfitter” to the holders of outfitter’s licences and it indicates the consequences of the granting, by a call for tenders, of a lease of exclusive hunting and fishing rights in respect of holders of outfitter’s licences. It provides for more flexibility in the fixing of tariffs relating to licences or to the carrying on of hunting or fishing activities and in the administration of duties collected in wildlife territories or in parks.

Finally, the bill introduces technical or concordance amendments.

ACTS AMENDED BY THIS BILL

- Act respecting the conservation and development of wildlife (R.S.Q., chapter C-61.1);
- Parks Act (R.S.Q., chapter P-9).

Bill 101

An Act to again amend the Act respecting the conservation and development of wildlife and the Parks Act

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 15 of the Act respecting the conservation and development of wildlife (R.S.Q., chapter C-61.1) is again amended

(1) by adding, after subparagraph 2 of the first paragraph, the following subparagraph:

“(3) anything which may be used to prove that an offence against this Act or the regulations under it or any other Act or regulation assigned to his administration has been committed.”;

(2) by replacing the words “or object referred to in subparagraph 1 or 2” in the seventh line of the second paragraph by “object or thing referred to in subparagraph 1, 2 or 3”.

2. Section 16 of the said Act is amended by inserting, after the second paragraph, the following paragraph:

“A conservation officer may also, without a warrant, seize anything where he has reasonable and probable cause to believe that it may be used to prove that an offence against this Act or the regulations under it or any other Act or regulation assigned to his administration has been committed.”

3. Section 19 of the said Act is amended by replacing the first paragraph by the following paragraph:

“19. A conservation officer shall, on request of the person having a right therein, return to that person property seized by him or which has been delivered to him by a deputy conservation officer if no charge is laid in respect of the property within 120 days of the date of seizure.”

4. Section 24 of the said Act is amended by replacing the figures “32, 34” in the third line by the figures “30.1, 30.2, 32, 34, 36.1”.

5. Section 54 of the said Act, amended by section 1 of chapter 31 of the statutes of 1987, is again amended

(1) by replacing the words “Fondation pour la conservation et la mise en valeur de la faune et de son habitat” in the fourth and fifth lines of the second paragraph by “Fondation de la faune du Québec”;

(2) by adding, after the second paragraph, the following paragraph:

“The Minister may grant compensation to a person authorized to issue certificates or licences for the collection and remittance of fees prescribed by regulation. The amount of such compensation must not exceed ten per cent of the fees collected and it is payable out of those fees.”

6. Section 86.1 of the said Act is amended

(1) by replacing the words “hunting and fishing” in the fourth line of the first paragraph by the words “hunting or fishing”;

(2) by replacing the words “or expansion” in the fifth line of the first paragraph by the words “, extension of rights or expansion of territory”.

7. The said Act, amended by chapters 95 and 109 of the statutes of 1986 and chapters 12 and 31 of the statutes of 1987, is again amended by inserting, after section 86.1, the following section:

“86.2 Where a part of the Crown lands is contemplated in an outfitter’s licence although the licence holder does not hold a lease of exclusive hunting or fishing rights and where that part of the Crown lands is subsequently designated and delimited in accordance with section 85, the Minister shall revoke the outfitter’s licence if the licence holder does not obtain a lease of exclusive rights.

The provisions of this division in respect of compensation to a lessee whose lease is not renewed apply, adapted as required.”

8. Section 89 of the said Act is amended by replacing the word “regulation” in the first line by the word “order”.

9. The said Act is amended by inserting, after section 101, the following section:

“101.1 No person may, to designate any immovable, enterprise or agency, use the expression “hunting outfitter”, “fishing outfitter”, or “hunting or fishing outfitting operations” or any other expression that includes those terms or any expression which may lead to the belief that an outfitter or a hunting or fishing outfitting operation is referred to, unless the person holds an outfitter’s licence issued under this Act or the Act respecting hunting and fishing rights in the James Bay and New Québec territories or is an agency comprised exclusively of the holders of such outfitter’s licences.”

10. Section 106 of the said Act is amended by adding, at the end, the following paragraph:

“Where a memorandum of agreement is cancelled, the Minister may continue to apply the by-laws passed by an agency that is a party to the memorandum of agreement in accordance with section 110.1 or, without any formality, amend or replace them. He may also use the fees collected from users to travel about the territory or to carry on any activity for purposes of management of the wildlife management area.”

11. The said Act is amended by inserting, after section 106, the following section:

“106.1 The fees collected from users to travel about the territory or to carry on any activity by any agency that is a party to the memorandum of agreement shall devolve to the agency and be used for purposes of management of the wildlife management area.”

12. Section 108 of the said Act is amended by replacing the second paragraph by the following paragraph:

“Notwithstanding the first paragraph, the person shall comply with the prescriptions in respect of maximum value of the structures or improvements under paragraph 3 of section 97.”

13. Section 110 of the said Act is amended

(1) by replacing subparagraph 4 of the first paragraph by the following subparagraph:

“(4) determine the conditions governing the use of a vehicle or access by boat, motor-boat or aircraft for recreational purposes, or prohibit the use of or access by certain types thereof, or determine the conditions or procedures governing the authorization to use a vehicle or to have access by aircraft, boat or motor-boat, for recreational purposes, or any prohibition of such use or access; the conditions or procedures may vary according to the type of vehicle, aircraft or boat, the date or place they are used or the date or place where access thereby is authorized;”;

(2) by adding, after subparagraph 5 of the first paragraph, the following subparagraphs:

“(5.1) divide the territory into sectors for hunting, fishing or trapping purposes, or determine the conditions or procedures governing the division of a territory into such sectors, and establish the conditions or procedures governing the authorization or prohibition of any hunting, fishing or trapping activity according to the sector, the species of wildlife sought, the age or the sex of the animals, the means used to carry on an activity or the date on which an activity is carried on;

“(5.2) fix the maximum number of persons who may hunt, fish or trap in any sector of the territory or establish the mode of assigning persons to a sector or determine the conditions or procedures governing the fixing of the maximum number of persons who may hunt, fish or trap in a sector of the territory, or the establishment of the mode of assignment of persons to any sector;

“(5.3) determine the maximum amount of fees exigible for membership of an agency that is a party to a memorandum of agreement;”;

(3) by replacing subparagraph 6 of the first paragraph by the following subparagraph:

“(6) permit any agency that is a party to a memorandum of agreement

(a) to determine the cases where the registration of persons is required;

(b) to establish, within the maximum amounts fixed by regulation of the Government, the amount of the fee exigible to travel about the territory and to carry on any activity;

(c) to determine the types of vehicles, boats or aircraft the use of or access by which, for recreational purposes, is authorized or prohibited,

in accordance with the conditions or procedures prescribed by regulation of the Government;

(d) to divide the territory into sectors and to authorize or prohibit any hunting, fishing or trapping activity within the territory, in accordance with the conditions or procedures prescribed by regulation of the Government;

(e) to fix the maximum number of persons who may hunt, fish or trap in the sectors it has determined, or to establish the mode of assignment of persons to any sector, in accordance with the conditions or procedures prescribed by regulation of the Government.”;

(4) by replacing the second paragraph by the following paragraph:

“The maximum amount of fees exigible that may be determined under this section may vary according to the category of persons concerned, the age of the persons, the activity carried on, the species of wildlife sought, the period of the stay, or the place or date of the hunting, fishing or trapping activity.”

14. The said Act is amended by inserting, after section 110, the following sections:

“110.1 The powers which an agency that is a party to a memorandum of agreement may exercise in respect of the matters contemplated in subparagraph 6 of the first paragraph of section 110 and as regards the amount of the fees exigible for membership of the agency shall be made by by-law requiring the approval of the general meeting of the members of the agency.

The approval of the by-law is subject to the following rules:

(1) notice of meeting must be sent to the Minister and to each member of the agency at least thirty days before the date of the general meeting;

(2) the by-law must accompany the notice of meeting;

(3) the general meeting must be held between 1 December and 1 May;

(4) the by-law must be approved, with or without amendment, by the votes of at least two-thirds of the members attending the meeting.

The by-law cannot come into force before the expiry of thirty days from the date on which it is sent to the Minister.

“110.2 A copy of the by-law contemplated in section 110.1 shall be sent to the Minister by registered or certified mail, with a notice of receipt or delivery.

The Minister may amend or replace the by-law if he considers that it does not comply with the conditions prescribed by regulation of the Government.

The Minister shall transmit the amended or replaced by-law to the agency that is a party to the memorandum of agreement by registered or certified mail; it comes into force on the date indicated on the acknowledgement of receipt or notice of delivery.

“110.3 A copy of any by-law of an agency that is a party to a memorandum of agreement respecting the matters provided for in section 110.1 shall be sent to each user carrying on an activity in the wildlife management area.

“110.4 No person may carry on any hunting, fishing or trapping activity in the territory of a wildlife management area elsewhere than at the place indicated to him at his registration.

“110.5 No person may use a vehicle in or have access by boat or aircraft to a wildlife management area contrary to the conditions or procedures determined by by-law of an agency that is a party to a memorandum of agreement.”

15. Section 118 of the said Act, amended by section 25 of chapter 109 of the statutes of 1986, is again amended by adding, at the end, the following paragraph:

“The contract may provide that the fees collected to travel about the territory or to carry on any activity shall devolve to the other contracting party.”

16. Section 121 of the said Act, amended by section 27 of chapter 109 of the statutes of 1986, is again amended

(1) by replacing paragraph 1 by the following paragraph:

“(1) determine the conditions on which hunting, fishing or trapping activities are permitted and, according to the category of persons concerned, the age of the persons, the activity carried on or the species of wildlife sought, the period of the stay, the place where the hunting, fishing or trapping activity is carried on or the date on which the activity is carried on, fix the amount of the fees exigible for carrying on such activities or prohibit such activities;”;

(2) by adding, at the end of paragraph 3, the words “or according to the age of the persons”.

17. Section 125 of the said Act, amended by section 29 of chapter 109 of the statutes of 1986, is again amended

(1) by replacing paragraph 1 by the following paragraph:

“(1) determine the conditions on which hunting, fishing or trapping activities are permitted and, according to the category of persons concerned, the age of the persons, the activity carried on or the species of wildlife sought, the period of the stay, the place where the hunting, fishing or trapping activity is carried on or the date on which the activity is carried on, fix the amount of the fees exigible for carrying on such activities or prohibit such activities;”;

(2) by adding, at the end of paragraph 2, the words “or according to the age of the persons”;

(3) by adding, after paragraph 4, the following paragraph:

“(5) determine the conditions governing the carrying, possession or transportation of hunting, fishing or trapping implements or prohibit such implements.”

18. The title of Chapter V of the said Act is replaced by the following title:

“FONDATION DE LA FAUNE
DU QUÉBEC”.

19. Section 129 of the said Act is replaced by the following section:

“**129.** A Foundation called the “Fondation de la faune du Québec” is hereby established.”

20. Section 130 of the said Act is replaced by the following section:

“**130.** The Foundation is a non-profit corporation.”

21. Section 132 of the said Act is replaced by the following section:

“**132.** The corporate seat of the Foundation is in the territory of the Communauté urbaine de Québec, at the place determined by the board of directors.

Notice of the location or of any change of location of the corporate seat must be published in the *Gazette officielle du Québec*.”

22. Section 133 of the said Act is replaced by the following section:

“**133.** The Foundation is administered by a board of directors consisting of nine members, including a chairman of the board of directors and a president and director general, appointed by the Government.”

23. Section 134 of the said Act is amended by replacing the word “chairman” in the third line by the words “chairman of the board of directors”.

24. Section 135 of the said Act is replaced by the following section:

“**135.** The term of office of the chairman, of the president and director general and of the other members of the board of directors is not over three years.

The term of office of the chairman of the board of directors and of the other members of the board other than the president and director general is not renewable more than once consecutively.”

25. Section 138 of the said Act is replaced by the following section:

“**138.** The president and director general shall manage the Foundation and supervise its staff; he shall devote his full time to his duties of office.

The chairman of the board of directors shall preside at meetings of the board and see to its proper management. He shall also assume all other duties assigned to him under the by-laws of the board of directors.”

26. Section 139 of the said Act is replaced by the following section:

“**139.** The Government shall fix the remuneration, social benefits and other conditions of employment of the president and director general.

The members other than the president and director general are not remunerated.

The members are entitled, however, on such conditions and to such extent as the Government may determine; to the reimbursement of reasonable expenses incurred in the performance of their duties.”

27. Section 142 of the said Act is amended

(1) by replacing the word “chairman” in the first line of the first paragraph by the words “president and director general”;

(2) by replacing the word “chairman” in the third line of the second paragraph by the words “chairman of the board of directors”.

28. Section 143 of the said Act is amended

(1) by replacing the second paragraph by the following paragraph:

“A majority of the appointed members is a quorum at sittings of the board of directors.”;

(2) by replacing the word “chairman” in the third paragraph by the words “chairman of the board”.

29. Section 145 of the said Act is replaced by the following section:

“**145.** The functions of the Foundation are to promote conservation and development of wildlife and of wildlife habitat.

The Foundation may, for those purposes,

(1) solicit and receive gifts, legacies, subsidies and other contributions provided the conditions that may be attached thereto are consistent with its functions;

(2) acquire, lease or alienate property or real rights in property and carry out thereon any work it considers necessary in the performance of its functions;

(3) provide financial or technical assistance to any person or body on condition that such assistance is granted within the scope of its program of activities approved by the Government and that it is used for purposes of conservation or development of wildlife or of wildlife habitat;

(4) make agreements with any person or body within the scope of its functions.”

30. Section 147 of the said Act is repealed.

31. Section 148 of the said Act is amended by striking out the third paragraph.

32. Section 151 of the said Act is amended by striking out the last paragraph.

33. The said Act is amended by inserting, after section 155.1, the following section:

“155.2 The Minister shall pay a contribution toward the funding of the Foundation out of the sums collected for the issue of fishing licences under the Fisheries Act (R.S.Q., chapter F-14).

The amount of the contribution shall be prescribed by regulation and the Minister shall remit it to the Foundation on the date he determines.”

34. Section 156 of the said Act is amended

(1) by replacing the word “chairman” in the second line of the first paragraph by the words “chairman of the board of directors, the president and director general”;

(2) by striking out the third paragraph.

35. Section 162 of the said Act, amended by section 2 of chapter 31 of the statutes of 1987, is again amended

(1) by replacing paragraph 10 by the following paragraph:

“(10) determining the form, tenor and term of a licence or certificate, the mode and cost of its issue, replacement and renewal according to the category and age of persons concerned or according to the species of wildlife sought or the age or sex of animals, and the obligations of holders respecting a change of address;”;

(2) by adding, after the figure “54” in the second line of paragraph 10.1, the words and figure “and section 155.2”.

36. Section 163 of the said Act, replaced by section 32 of chapter 109 of the statutes of 1986, is again replaced by the following section:

“163. Mandatory publication pursuant to section 8 of the Regulations Act (1986, chapter 22) does not apply in the case of a regulation under paragraph 19 of section 162.”

37. Section 164 of the said Act is amended by striking out the first paragraph.

38. Section 171 of the said Act, replaced by section 37 of chapter 109 of the statutes of 1986, is amended by replacing the figure “105” in the first line of paragraph 2 by the figures “101.1, 105, 110.4”.

39. Section 177 of the said Act is amended by replacing the first paragraph by the following paragraph:

“**177.** The Minister may suspend, revoke, or refuse to renew an outfitter’s licence

(1) if the lease of exclusive hunting, fishing or trapping rights of the licence holder has not been renewed or has been cancelled;

(2) if the holder has been found guilty of an offence under this Act, the regulations thereunder or any Act or regulation respecting hunting, fishing, trapping or outfitting.”

40. The English text of the said Act and statutory instruments is amended by replacing the expression “wildlife preserve” by “wildlife sanctuary”, the expression “wildlife management area” by “controlled zone” and the expression “wildlife sanctuary” by “wildlife preserve”.

41. In any Act or statutory instrument, the expression “Fondation pour la conservation et la mise en valeur de la faune et de son habitat” is replaced by the expression “Fondation de la faune du Québec”.

42. Section 8.1 of the Parks Act (R.S.Q., chapter P-9) is amended by adding, at the end, the following paragraph:

“The contract may stipulate that the fees collected for fishing are devolved on the other contracting party.”

43. This Act comes into force on (*insert here the date of assent to this Act*), except sections 9 and 12, which will come into force on the date or dates fixed by the Government.