

NATIONAL ASSEMBLY

FIFTH SESSION

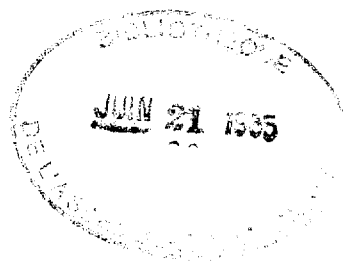
THIRTY-SECOND LEGISLATURE

Bill 65

An Act to amend the Animal Health Protection Act

Introduction

**Introduced by
Mr Jean Garon
Minister of Agriculture, Fisheries and Food**



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EXPLANATORY NOTES

The object of this bill is to extend the application of Division I of the Animal Health Protection Act and the prevention of diseases likely to affect animals to goats, rabbits, eggs and ova of protected animals.

The object of the bill is also to clarify every animal owner's or possessor's obligation to declare any of his animals that are affected by a designated contagious or parasitic disease to a designated public servant, and to compel the veterinary surgeon who diagnoses such a disease in an animal to declare the disease to the designated public servant.

Another object of the bill is to abolish the sentence of imprisonment provided in section 11 of Division I of the Animal Health Protection Act and to increase the amount of the fines that may be imposed under that division.

The bill adds a new division after Division IV of the Animal Health Protection Act.

Subdivision 1 of the new division provides that the holder of a permit issued for that purpose may, as the case may be, prepare a medicinal food, sell or supply certain medications in the form of medicinal premixes or foods. It also contains provisions pertaining to the issue, suspension, revocation or renewal of permits.

Subdivision 2 provides for an appeal to the Provincial Court from the decisions of the Minister with respect to the suspension, revocation or renewal of permits.

Subdivision 3 requires that the owner of an animal having consumed a medication disclose that fact to the buyer if the waiting period set by the veterinary surgeon or the manufacturer has not expired and that he make sure that the animal is not slaughtered for human consumption during that period.

Subdivision 4 contains the regulation-making powers of the Government and the power of the Minister to develop programs to authorize the sale and administering of medications intended for animals.

Subdivision 5 deals with inspection, seizure and confiscation.

Subdivision 6 creates offences and determines penalties.

Finally, the bill contains the transitional and final provisions.

Bill 65

An Act to amend the Animal Health Protection Act

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 2 of the Animal Health Protection Act (R.S.Q., chapter P-42) is amended by replacing paragraph 1 by the following paragraph:

“(1) “**animals**” means horses, cattle, hogs, sheep, goats, dogs, cats, poultry, rabbits, furbearing animals raised in captivity and their fertilized eggs and ova;”.

2. Section 3 of the said Act is amended by replacing paragraphs 2, 5 and 7 by the followings paragraphs:

“(2) regulate the sale, offering for sale, exhibition, detention and transportation for the purpose of sale or exchange of animals affected or suspected of being affected with a contagious or parasitic disease or having been in contact with such animals, within Québec or any part thereof;

“(5) order the segregation, treatment, marking, disposal or slaughtering of animals affected or suspected of being affected with a contagious or parasitic disease or having been in contact with such animals, and to determine the measures to be taken in order to check the propagation of such disease;

“(7) require any owner or possessor of an animal to report any contagious or parasitic disease of which he observes symptoms in the animal to the officer designated by the Minister;

“(7.1) require every veterinary surgeon to report any contagious or parasitic disease that he has diagnosed or that he suspects, on serious grounds, of affecting an animal, to the officer designated by the Minister;”.

3. Section 5 of the said Act is replaced by the following section:

“5. Any person authorized by the Minister to act as an inspector for the purposes of this division may, in the discharge of his duties, visit the places contemplated in paragraph 3 of section 3 and examine the animals that are there, make analyses and take specimens, free of charge. He may, for the same purposes, stop in transit any shipment of animals.”

4. Section 6 of the said Act is amended by inserting the words “or the statement made by a veterinary surgeon pursuant to paragraph 7.1 of section 3” after the word “Division” in the third line.

5. Section 11 of the said Act is replaced by the following sections:

“11. Every person who contravenes any provision of this Division or of a regulation thereunder is liable, in addition to costs, to a fine of \$200 to \$2 000 in the case of an individual and of \$500 to \$5 000 in the case of a legal person.

For any subsequent conviction within two years for the same offence, the offender is liable, in addition to costs, to a fine of \$1 000 to \$10 000 in the case of an individual and of \$3 000 to \$30 000 in the case of a legal person.

“11.1 Every person who, by his consent, encouragement, advice or order, induces another person to commit an offence contemplated in section 11 is guilty of the offence as if he had committed it himself and of any other offence committed by the other person as a result of the consent, encouragement, advice or order, if he knew or should have known that its probable consequence would be the commission of the offences.

“11.2 Every person who, by his act or omission, aids another person to commit an offence contemplated in section 11 is guilty of the offence as if he had committed it himself, if he knew or should have known that the probable consequence of his act or omission would be to aid in the commission of the offence.

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

"11.4 Penal proceedings under this Division are instituted according to the Summary Convictions Act.

"11.5 In the case of proceedings instituted for an offence described in this Division, the report of the inspection, analysis or specimen taking and the minutes of the seizure, signed by a person authorized under section 5, are proof of their contents unless there is evidence to the contrary, and no proof of the signature or quality of the signatory is required.

The dependant may require the presence of the authorized person at the hearing but the judge may order him to pay additional costs in the amount he may fix if he finds him guilty and is of the opinion that the mere filing of the report would have been sufficient."

6. Division V of the said Act is replaced by the following divisions:

"DIVISION V

"VETERINARY MEDICATIONS

"§ 1.—*Permits*

"56. In this division, unless the context requires a different meaning,

"medicinal premix" means a mixture of substances containing a nutriment and a medication, that is designed to be diluted or mixed again to produce a medicinal food;

"medicinal food" means a mixture of substances containing a nutriment and a medication, for the feeding of animals.

"57. No person may prepare a medicinal food unless he is the holder of a permit issued for that purpose by the Minister or is authorized by law to do so.

"58. No person may sell or supply a medication appearing on the list contemplated in section 9 of the Veterinary Surgeons Act (R.S.Q., chapter M-8) unless it is in the form of a medicinal premix or of a medicinal food and unless he is the holder of a permit issued for that purpose by the Minister or is authorized by law to do so.

The holder of the permit provided for in the first paragraph may prepare a medicinal premix or a medicinal food contemplated therein.

In no case may the permit holder sell or supply a medicinal premix to a person who is not authorized to prepare or sell a medicinal food.

“59. The holder of the permit provided for in section 58 may prepare, sell or supply a medicinal premix or food containing a medication the use of which is permitted by law and which does not appear on the list contemplated in section 9 of the Veterinary Surgeons Act.

“60. In no case may the holder of the permit provided for in section 58 administer a medication or a medicinal food to his own animals except on the prescription of a veterinary surgeon.

“61. The holder of the permit provided for in section 58 shall keep, in accordance with the regulations, a register of the medications, medicinal premixes and medicinal foods that he uses in carrying on his activities.

“62. Every application for a permit shall be submitted to the Minister, by the person who intends to use it, in the form and with the documents prescribed by regulation.

If the applicant is a legal person or a partnership, the application shall be submitted by a duly commissioned administrator or by a partner, as the case may be.

“63. The Minister shall issue the permit if the applicant fulfills the conditions and pays the fee prescribed by regulation.

The Minister may, after giving the applicant an opportunity to be heard, refuse to deliver a permit for reasons of public interest.

“64. The Minister may subject the issue of a permit to any condition, restriction or prohibition determined by him and indicated on the permit.

“65. The permit is valid for a period of twelve months, or for a lesser period if the Minister so prescribes.

The permit may be renewed on the conditions prescribed by regulation.

“66. The rights conferred by a permit are not transferable.

“67. After giving the holder an opportunity to be heard, the Minister may suspend, cancel or refuse to renew his permit

(1) if the holder no longer fulfills the conditions prescribed by regulation for the issue or renewal of the permit, as the case may be;

(2) if he fails to comply with any condition, restriction or prohibition indicated on the permit;

(3) if he has been found guilty of an offence under this Act or the regulations.

“68. Every decision of the Minister shall be substantiated and transmitted in writing to the holder of the permit.

“69. The revocation or suspension of a permit has effect from the date of its service upon the holder.

“§ 2.—*Appeal*

“70. The decision of the Minister may be appealed from to the Provincial Court, on any question of law or jurisdiction, by

(1) a person whose application for a permit is refused for other reasons than reasons of public interest;

(2) a person whose permit is suspended, cancelled or not renewed.

“71. The appeal is brought by means of a motion served upon the Minister.

The motion shall be deposited at the office of the Provincial Court of the judicial district where the appellant’s domicile, head office or establishment is situated, within thirty days after the receipt by the appellant of the Minister’s decision.

“72. Upon the service of the motion, the Minister shall transmit to the Provincial Court the record pertaining to the decision that is being appealed from.

“73. The appeal is heard and decided by preference.

“74. Subject to any additional evidence it may require, the court shall adjudicate upon the record transmitted by the Minister after allowing the parties to present their points of view.

“75. The appeal does not suspend the execution of the Minister’s decision, unless the court decides otherwise.

“76. The decision of the Provincial Court is final.

“77. The Provincial Court may make, in the manner provided for in article 47 of the Code of Civil Procedure (R.S.Q., chapter C-25), the

rules of practice considered necessary for the administration of this subdivision.

“§ 3.—Waiting period

“78. The owner of an animal which has been administered a medication or a medicinal food shall, upon selling the animal, disclose that fact to the buyer if the waiting period indicated in the prescription of the veterinary surgeon or on the packaging or label of the medication or medicinal food has not expired.

“79. No person may, so long as the waiting period indicated in the prescription of a veterinary surgeon or on the packaging or label of a medication or medicinal food has not expired, send to a slaughterhouse, for the purposes of human consumption, an animal which, to his knowledge, has been administered such a product.

“§ 4.—Regulations and programs

“80. The Government may, by by-law,

(1) determine the classes of permits and the rights, conditions and restrictions relating to each class;

(2) fix the conditions of issue or renewal and the form of the permit and the fees therefor;

(3) exempt a class of persons from holding a permit for the preparation of a medicinal food;

(4) determine what books, registers, accounts and other documents a permit holder is required to keep and provide to the Minister in carrying on his activities;

(5) determine the form of the register and documents that a permit holder is required to keep and provide to the Minister in respect of any medication, medicinal premix and medicinal food used in carrying on his activities;

(6) determine standards respecting the equipment and activities for which a permit is required;

(7) determine the qualifications required of persons carrying on activities for which a permit is required;

(8) determine the modes of conservation and preservation of medications, medicinal premixes and medicinal foods used by permit holders;

(9) prohibit or restrict the administering of certain medications for categories of animals;

(10) determine standards respecting advertising by permit holders;

(11) prescribe the modalities respecting inspection, specimen taking, seizure and confiscation;

(12) determine, among the provisions of a regulation passed under this section, the provisions the violation of which is punishable under section 95.

The Government shall publish a draft regulation in the *Gazette officielle du Québec* with a notice to the effect that, at the expiry of a period of at least thirty days after the publication, the regulation may be made with or without amendments. The regulation comes into force on the date of its publication in the *Gazette officielle du Québec* or on any later date fixed therein.

“81. The Minister may develop programs to authorize the sale and administering of medications intended for animals notwithstanding section 17 of the Pharmacy Act and sections 9 and 24 of the Veterinary Surgeons Act.

Every program shall indicate the nature of the medications, the categories of animals concerned, the persons authorized to sell or administer such medications and whether a prescription by a veterinary surgeon is required.

Every program shall be submitted for approval to the Government, which may amend it.

“§ 5.—*Inspection, seizure and confiscation*

“82. The Minister may, within the limits authorized by the Conseil du trésor, appoint inspectors, analysts and agents for the administration of this division and the regulations thereunder and determine their remuneration, social benefits and other conditions of employment.

“83. It is forbidden to hinder the action of an inspector, analyst or agent in the performance of his duties, to mislead him or to refuse to obey him.

An inspector or agent shall, upon request, identify himself and produce a certificate signed by the Minister attesting his authority as such.

“84. No inspector, analyst or agent may be prosecuted for acts done in good faith in the performance of his duties.

“85. Every inspector or agent may, in the performance of his duties,

(1) visit, at any reasonable time, the establishment of a permit holder and inspect it;

(2) enter and search, without a warrant, any vehicle or place other than a house, open or cause to be opened any receptacle if he has reasonable cause to believe that an offence under this division or a regulation thereunder has been committed or that an object in respect of which the offence has been committed or that was used in committing the offence may be found therein;

(3) examine any animal, document, equipment or product that may be found in an inspected place or vehicle and take samples or specimens therefrom free of charge;

(4) require any information or document relating to the application of this division or a regulation thereunder and take extracts or make copies therefrom;

(5) seize any object without a warrant if he has reasonable cause to believe that an offence under this division or a regulation thereunder has been committed with that object or that the object was used in committing the offence.

“86. The inspector or agent who seizes an object shall make a report indicating, in particular,

(1) the date, time and place of the seizure;

(2) the circumstances of and grounds for the seizure;

(3) the description of the object seized;

(4) the name of the person from whom the object was seized;

(5) any information by which the owner or possessor of the object seized may be identified;

(6) the identity and position of the seizer.

“87. A copy of the report contemplated in section 86 shall be given to the person from whom the object was seized.

“88. The inspector or agent shall, without delay, send a report in writing to the Minister of every seizure made by him.

“89. The owner or possessor of the object seized shall have the custody of the object until a court decides the matter by judgment or until the matter is decided in accordance with section 90, 91, 92 or 94.

“90. If, among the objects seized, some goods are perishable, an inspector or agent may, according to the modalities and at a price justified by the circumstances, authorize the person having custody of them to sell them.

The proceeds of the sale shall be credited to the Minister of Finance in a bank or any other financial institution determined by him and the Deposit Act (R.S.Q., chapter D-5) applies, adapted as required.

“91. Subject to section 92, 93 or 94, the object seized or the proceeds of its sale shall be given to the owner or possessor if no charge is brought in respect of that object within 90 days after the date of seizure.

“92. If, among the objects seized, some goods have become unusable for the purposes for which they were intended, an inspector or agent may authorize the person having custody of them to destroy them in accordance with the Minister's instructions.

“93. On the application of the seizer, a justice of the peace may order that the period of retention of the object seized or of the proceeds of its sale be extended for not more than 90 days.

The justice of the peace may, before ruling on the content of the application, order that the application be served on the person designated by him.

“94. Every seized object the owner or possessor of which is unknown or cannot be found, or the proceeds of its sale, shall be confiscated 90 days after the date of seizure. The object shall then be disposed of in accordance with the Minister's instructions.

“§ 6.—Penal provisions

“95. Every person who contravenes section 57, 58, 60, 61, 78, 79, 83 or 89, any provision of an order approving a program contemplated in section 81 or any prescription of a regulation determined under subparagraph 12 of the first paragraph of section 80 is liable, in addition to costs, to a fine of \$200 to \$2 000 in the case of an individual and of \$500 to \$5 000 in the case of a legal person.

For any subsequent conviction within two years for the same offence, the offender is liable, in addition to costs, to a fine of \$1 000 to \$10 000 in the case of an individual and of \$3 000 to \$30 000 in the case of a legal person.

“96. The judge who imposes a penalty for any contravention of section 57, 58, 60, 78 or 79 may, in the case of a seizure pursuant to section 85, order the seized property to be confiscated.

The Minister shall prescribe the manner of disposing of the property confiscated under the first paragraph.

“97. Every person who, by his consent, encouragement, advice or order, induces another person to commit an offence contemplated in section 95 is guilty of the offence as if he had committed it himself, and of every other offence committed by the other person as a result of the consent, encouragement, advice or order, if he knew or should have known that its probable consequence would be the commission of the offences.

“98. Every person who, by his act or omission, assists another person to commit an offence contemplated in section 95 is guilty of the offence as if he had committed it himself, if he knew or should have known that the probable consequence of his act or omission would be to aid in the commission of the offence.

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

“100. Penal proceedings under this Division are instituted according to the Summary Convictions Act.

“101. In the case of proceedings instituted for an offence described in this Division, the report of the inspection, analysis or specimen taking and the minutes of the seizure, signed by an inspector, agent or analyst appointed under section 82, are proof of their contents, unless there is evidence to the contrary, and no proof of the signature or of the quality of the signatory is required.

The defendant may require the presence of the authorized person at the hearing but the judge may order him to pay additional costs in the amount he may fix if he finds him guilty and is of the opinion that the mere filing of the report would have been sufficient.

“DIVISION VI

“FINAL PROVISION

“102. This Act shall operate notwithstanding the provisions of sections 2 and 7 to 15 of the Constitution Act, 1982 (Schedule B to the Canada Act, chapter 11 in the 1982 volume of the Acts of the Parliament of the United Kingdom).”

[[**7.** The sums required for the administration of this Act during the fiscal year 1985-86 are taken out of the consolidated revenue fund to the extent determined by the Government.]]

8. This Act shall operate notwithstanding the provisions of sections 2 and 7 to 15 of the Constitution Act, 1982 (Schedule B to the Canada Act, chapter 11 in the 1982 volume of the Acts of the Parliament of the United Kingdom).

9. This Act comes into force on the date fixed by proclamation of the Government, except for provisions excluded by the proclamation, which will come into force on later dates fixed by proclamation of the Government.