
NATIONAL ASSEMBLY

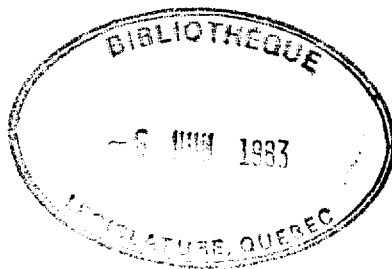
THIRTY-SECOND LEGISLATURE

FOURTH SESSION

Bill 29

An Act to amend the Act respecting the Société des alcools du Québec and other legislation

First reading



Introduced by
Mr Rodrigue Biron
Minister of Industry, Commerce and Tourism

EXPLANATORY NOTES

The object of this bill is to modify certain aspects of the manufacturing and marketing system of alcoholic beverages in Québec.

First, amendments concerning the administration and the exercise of the powers of the Société des alcools du Québec are proposed. More particularly, the bill authorizes the Minister of Industry, Commerce and Tourism to give directives to the Société des alcools on its objectives and orientation, with the approval of the Government.

The Act respecting the Société des alcools du Québec is also amended by replacing Division III which concerns industrial permits, in order to specify the powers of the holders of brewer's permits, distiller's permits, wine maker's permits and cider maker's permits.

The said Act is also amended to provide for the imposition of substantial fines and even the cancellation of permits where, contrary to law, a permit holder sells beverages that he makes or bottles to unauthorized persons.

Finally, the bill enacts certain transitional and final provisions.

ACTS AMENDED BY THIS BILL

- the Act respecting offences relating to alcoholic beverages (R.S.Q., chapter I-8.1);
- the Act respecting liquor permits (R.S.Q., chapter P-9.1);
- the Act respecting the Société des alcools du Québec (R.S.Q., chapter S-13).

Bill 29

An Act to amend the Act respecting
the Société des alcools du Québec
and other legislation

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

ACT RESPECTING THE SOCIÉTÉ DES ALCOOLS DU QUÉBEC

1. Section 1 of the Act respecting the Société des alcools du Québec (R.S.Q., chapter S-13) is replaced by the following section:

“1. In this Act and any regulations thereunder:

(1) the words “alcohol”, “beer”, “alcoholic beverages”, “cider”, “weak cider”, “spirits”, “to sell” and “wine” have, unless otherwise required by the context, the meaning assigned to them by the Act respecting offences relating to alcoholic beverages (R.S.Q., chapter I-8.1);

(2) the expressions “grocery permit” and “cider seller’s permit” mean, respectively, a grocery permit and a cider seller’s permit issued under the Act respecting liquor permits (R.S.Q., chapter P-9.1).”

2. Sections 7 and 8 of the said Act are replaced by the following sections:

“7. The affairs of the Corporation are administered by a board of directors consisting of the following members:

(1) a president and managing director of the Corporation appointed for a term of not over five years;

(2) eight members appointed by the Government for a term of not over two years.

The members of the board of directors are the directors of the Corporation within the meaning of the Companies Act.

“7.1 The Government shall appoint the chairman of the board of directors from among the members contemplated in subparagraph 2 of section 7.

The chairman of the board of directors shall preside over the meetings of the board and supervise its operations. He shall assume any other functions the board of directors assigns to him by by-law.

“8. The Government shall fix the salary, fees, allowances or additional salary of each of the members of the board of directors except the president and managing director.”

3. Sections 12 and 13 of the said Act are replaced by the following sections:

“12. The president and managing director is responsible for the management of the Corporation within the scope of its by-laws and policies. He shall exercise his functions full time.

His remuneration and the other conditions of employment attached to his position are established by a contract binding between him and the Corporation. The contract has effect only if it is ratified by the Government.

“13. No member of the board of directors exercising his functions full time shall, under pain of forfeiture of office, have any direct or indirect interest in an undertaking putting his personal interest in conflict with that of the Corporation. However, such forfeiture is not incurred if such an interest devolves to him by succession or gift, provided he renounces or disposes of it with all possible dispatch.

Any other member of the board of directors having an interest in an undertaking shall, under pain of forfeiture of office, disclose it in writing to the chairman and abstain from participating in any deliberation or decision involving the undertaking in which he has such interest.”

4. Section 17 of the said Act is amended

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

“(e) authorize any person, on such conditions as it may determine, to purchase alcoholic beverages and to sell them as an agent of the Corporation, and issue a certificate to such person establishing his quality of agent;”;

(2) by replacing paragraph *g* by the following paragraphs:

“(g) authorize any person, on the conditions it determines, to make the delivery of alcoholic beverages and to have possession of and keep the said alcoholic beverages for such purpose for the account of the Corporation, except for delivery to the holder of a grocery permit;

“(h) authorize any person, on such conditions as it may determine, to purchase from the Corporation, from another person authorized under this paragraph or, in the case of weak cider, from the holder of a cider maker’s permit and to sell to any other person authorized under this paragraph or to the holder of a grocery or cider seller’s permit, alcoholic beverages other than the beer that the permit holder is authorized to sell.”

5. Section 20 of the said Act is replaced by the following sections:

“**20.** In no case may the Corporation, without the authorization of the Conseil du Trésor, make a contract respecting movable or immovable property in consideration of a sum higher than \$300 000.

“**20.1** In no case may the Corporation, without the authorization of the Government, acquire shares or stock in another undertaking.

“**20.2** The Corporation shall comply with the directives of the Minister of Industry, Commerce and Tourism respecting the objectives and orientation of the Corporation as soon as they are approved by the Government.

Any directive shall be tabled before the National Assembly within fifteen days of its approval by the Government if the National Assembly is in session or, if it is not sitting, within fifteen days after the opening of the next session or resumption.”

6. Divisions III and IV of the said Act comprising sections 24 to 37.1 are replaced by the following divisions:

“DIVISION III

“PERMITS

“**24.** Every person other than the Corporation wishing to operate an establishment for the making of alcoholic beverages shall obtain from the Minister of Industry, Commerce and Tourism one of the four following industrial permits:

- (1) a brewer’s permit;
- (2) a distiller’s permit;
- (3) a wine maker’s permit;

(4) a cider maker's permit;

A warehouse permit may also be issued under this Act.

"25. A brewer's permit authorizes the holder to make, keep, sell or deliver beer to any holder of a permit to sell beer.

Such permit also authorizes the sale or delivery of beer by a brewer who ships it out of Québec.

"26. A distiller's permit authorizes, in accordance with the regulations, the holder to

(1) make alcohol and spirits and bottle them;

(2) make any other alcoholic beverages provided for by regulation and bottle them;

(3) purchase and import cider, wine, alcohol and spirits to blend them with the products he makes;

(4) purchase and bottle spirits in the cases provided for by regulation;

(5) distil alcoholic beverages made by the holder of a wine or cider maker's permit on his behalf.

No holder of such a permit may sell the products he makes or bottles to anyone but the Corporation unless he ships them out of Québec. He may sell the alcohol or spirits he makes to another distiller's permit holder for purposes of blending or bottling. He may also sell the alcohol he makes to a wine or cider maker's permit holder for purposes of blending.

"27. A wine maker's permit authorizes, in accordance with the regulations, the holder to

(1) make wines and bottle them;

(2) make the other alcoholic beverages provided for by regulation by means of fermentation and to bottle them;

(3) purchase wine and alcohol to blend with other products he makes;

(4) purchase or bottle wine in the cases provided for by regulation.

No holder of such a permit may sell the products he makes or bottles to anyone but the Corporation unless he ships them out of Québec. He may sell the wine he makes to another wine maker's permit holder for purposes of blending or bottling. He may also sell the wine he makes to a distiller's permit holder for purposes of blending or distilling.

“28. A cider maker’s permit authorizes, in accordance with the regulations, the holder to

- (1) make cider and bottle it;
- (2) purchase alcohol to blend with the cider he makes.

No holder of such a permit may sell the cider he makes to anyone but the Corporation unless he ships it out of Québec. He may also sell cider to a cider maker’s permit holder for purposes of blending or distilling and sell weak cider to a person authorized under paragraph *h* of section 17 or a person authorized to sell cider under a permit held by such person.

“29. A warehouse permit authorizes the holder to own warehouses to store the products he makes or bottles. Such a permit may be issued only to an industrial permit holder. In the case of a holder of a brewer’s or cider maker’s permit, the permit may be issued only for his own purposes or those of his agent. The agent may sell, on the same conditions as the holder of the brewer’s or cider maker’s permit for whom he is the agent, the beer or weak cider he stores.

However, a warehouse permit is not required whenever products are kept in the very establishment where they were made or bottled or its dependencies.

“30. Permits are issued by the Minister of Industry, Commerce and Tourism on such conditions as he may fix and subject to the payment of the annual duties fixed by regulation.

In no case may those permits be transferred without the express authorization of the Minister and on such conditions as he may fix.

The Minister may designate in writing any person to issue warehouse permits in his name.

“31. Such permits shall not be the object of a right of ownership and the holders shall not consider or value them as part of their assets.

“32. Neither a person authorized under paragraph *h* of section 17 nor a grocery permit holder may hold an interest in an undertaking holding an industrial permit.

“33. A holder of an industrial permit shall forward to the Minister of Industry, Commerce and Tourism, on such dates and in such manner as the latter may fix,

- (1) a return on all his sales for delivery inside and outside Québec, specifying therein the volume and gross amount of such sales;
- (2) a return on purchases of raw materials;

(3) a return on inventories;

(4) his audited and unconsolidated annual financial statements.

The Minister may cause the books of the holder to be examined or otherwise assure himself of the accuracy of the returns.

“34. The Minister of Industry, Commerce and Tourism may also order the inspection of the facilities and of the products made, bottled or stored by industrial permit holders.

In the performance of their duties, the inspectors and investigators delegated by the Minister may enter the establishments used for the activities of those permit holders, examine the products found therein, take samples, require the production of the books, registers and documents respecting such activities and require in such respect any other information deemed useful or necessary.

An inspector or investigator shall, if so required, show a certificate attesting his capacity and signed by the Minister.

“35. Permits may be suspended or cancelled for cause by the Minister of Industry, Commerce and Tourism by means of a written notice specifying the reasons for suspension or cancellation.

In the case of an industrial permit, the Minister may suspend or cancel such permit if the permit holder

(1) has not installed the basic machinery required for making or bottling in accordance with the conditions determined by the Minister;

(2) does not maintain the basic machinery required for making and bottling.

“DIVISION III.1

“APPEAL

“36. A person whose permit is suspended or revoked by the Minister may, within 10 days after the date of being advised of the Minister’s decision, appeal the decision, by a motion served on the Minister, before three judges of the Provincial Court on any question of law or jurisdiction.

“36.1 The appeal is subject to the rules in articles 491 to 524 of the Code of Civil Procedure, *mutatis mutandis*.

“36.2 The Provincial Court may, in the manner provided in section 47 of the Code of Civil Procedure, make the rules of practice judged necessary for the application of this division.

“36.3 The decision of the three judges of the Provincial Court is final.

“DIVISION IV

REGULATIONS

“37. The Government, after consultation with the Corporation, may make regulations

(1) determining the conditions of purchase, making, bottling, keeping and handling of alcoholic beverages;

(2) determining the composition and alcoholic content of alcoholic beverages and the standards of quality they are required to meet;

(3) prescribing the classification of alcoholic beverages and, for that purpose, establishing classes, names or marks, as well as categories, subject to subparagraph 4;

(4) defining, for wines, with an indication of their composition and alcoholic content, the following categories: table wines, fortified wines, flavoured wines and appetizer wines;

(5) determining the specifications of alcoholic beverage containers and the inscriptions or indications they are required to bear;

(6) requiring a wine maker's or cider maker's permit holder to affix a numbered label to every bottle container he fills with alcoholic beverage, fixing the cost of the label and prescribing the modalities of its acquisition and use;

(7) determining which wines and alcoholic beverages made or bottled by the Corporation or a wine maker's permit holder, other than alcohol and spirits, may be sold by grocery permit holders;

(8) determining, for grocery permit holders, the conditions and modalities of supplying, marketing and fixing the retail price of alcoholic beverages contemplated in subparagraph 7;

(9) determining the duties payable by a person seeking the issue, renewal or transfer of a permit;

(10) prescribing any other useful measure for the administration of this Act.

The regulations come into force ten days after their publication in the *Gazette officielle du Québec* or any later date fixed therein.”

7. Section 38 of the said Act is amended by striking out the second paragraph.

8. The said Act is amended by inserting, after section 38, the following section:

“38.1 Every holder of an industrial permit who, by himself or through another person, sells or attempts to sell alcoholic beverages he makes or bottles to any person other than the Corporation or other than a person authorized to purchase them directly from him pursuant to this Act is guilty of an offence and liable, in addition to costs, for a first offence, to a mandatory fine of \$25 000; for a second offence within two years of conviction, the permit holder is liable, in addition to the fine, to cancellation of his permit *pleno jure* upon pleading guilty or being found guilty.”

9. Section 39 of the said Act is replaced by the following section:

“39. Every person who interferes with or hinders a police officer, investigator or inspector duly authorized under this Act in the performance of his duties is guilty of an offence and liable, in addition to costs, to a fine of not less than \$100 nor more than \$1 000.”

10. Section 55 of the said Act is amended by replacing the first paragraph by the following paragraph:

“55. Any proceedings taken under this Act must be commenced within one year after the date of the offence.”

ACT RESPECTING OFFENCES RELATING TO ALCOHOLIC BEVERAGES

11. Section 2 of the Act respecting offences relating to alcoholic beverages (R.S.Q., chapter I-8.1) is amended

(1) by replacing paragraph 7 by the following paragraph:

“(1) “cider”: the beverage obtained by the alcoholic fermentation of apple juice;”;

(2) by striking out paragraph 8;

(3) by replacing paragraph 9 by the following paragraph:

“(9) “weak cider”: cider containing not less than 1½% nor over 7% of alcohol by volume;”;

(4) by replacing paragraph 29 by the following paragraph:

“(29) “spirits”: alcoholic beverages obtained by the distillation of fermented food substances;”;

(5) by replacing paragraph 33 by the following paragraph:

“(33) “wine”: the beverage obtained by the alcoholic fermentation of grape juice, reconstituted grape juice or grape mash;”;

(6) by striking out paragraph 33.1.

12. The said Act is amended by striking out, before section 80, the following:

“§ 1.—*Alcohol, spirits, strong cider and wine*”.

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

“**80.** The sale or delivery of alcoholic beverages other than beer is forbidden in Québec.

However, the sale or delivery of alcoholic beverages other than beer is permitted in the cases contemplated by this Act, the Act respecting alcohol permits and the Act respecting the Société des alcools du Québec (R.S.Q., chapter S-13), by the persons contemplated in these Acts.

14. Section 83 of the said Act is replaced by the following sections:

“**83.** Subject to paragraph *i* of Section 91 and to the right of the holder of a permit issued under the Act respecting the Société des alcools du Québec to have alcoholic beverages in his possession for purposes authorized by his permit, possession of the following is forbidden:

(1) wines other than those determined by regulation under paragraph 7 of section 37 of the Act respecting the Société des alcools du Québec, alcohol or spirits not purchased directly from the Corporation or a person authorized by it;

(2) wines or alcoholic beverages determined by regulation under paragraph 7 of section 37 of the Act respecting the Société des alcools du Québec, not purchased directly from the Corporation, from a person authorized by it or from a grocery permit holder;

(3) weak cider not purchased directly from the Corporation, a person authorized by it, a cider maker’s permit holder or his agent, or a grocery permit or cider seller’s permit holder;

(4) cider other than weak cider not purchased directly from the Corporation, a person authorized by it, or a grocery permit or cider seller’s permit holder.

“**83.1** Permit holders are prohibited from keeping containers for alcoholic beverages other than beer, alcohol or spirits in the establishment where the permit is operated if the containers do not bear the numbered label contemplated in paragraph 6 of section 37 of the Act respecting the Société des alcools du Québec.”

15. The said Act is amended by striking out, before section 89, the following:

“§ 2.—*Beer and weak cider*”.

16. Section 89 of the said Act is amended by striking out, in the first line, the words “and weak cider”.

17. Section 91 of the said Act is amended by replacing paragraph *a* by the following paragraph:

“(a) in the stores and warehouses of the Corporation or in those of a person authorized by it;”.

18. Section 92 of the said Act is amended by replacing paragraphs *c* to *f* by the following paragraphs:

“(c) by any holder of a permit issued under the Act respecting the Société des alcools du Québec, other than a brewer’s permit, for purposes authorized by his permit;

“(d) by any person having legally acquired cider other than weak cider from a cider seller’s permit holder;

“(e) by any person having legally acquired alcoholic beverages from a grocery permit holder.”

19. Section 94 of the said Act is amended by replacing the words “paragraph *f*” in the first line of the first paragraph by the words “paragraph *e*”.

20. Section 101 of the said Act is amended by replacing the words “strong cider or wine” in the second line by the words “wine or cider other than weak cider”.

21. Section 108 of the said Act is amended

(1) by replacing paragraphs 1 and 2 by the following paragraphs:

“(1) sells any alcoholic beverage of a kind other than that which his permit or this Act authorizes him to sell, unless the person is an agent of the Corporation according to paragraph *e* of section 17 of the Act respecting the Société des alcools du Québec;

“(2) other than a grocery permit, sells or has in his possession bottles containing alcoholic beverages other than beer or cider to which the Corporation’s stamp is not affixed;”;

(2) by replacing the words “designated wines” in the third line of paragraph 4 by the words “alcoholic beverages the sale of which is authorized by a grocery permit and”.

22. Section 110 of the said Act is amended

(1) by striking out paragraph 2;

(2) by replacing paragraph 8 by the following paragraph:

“(8) being the holder of a grocery permit, allows any alcoholic beverage authorized for sale under the permit to be consumed in his establishment or delivers it contrary to the provisions of section 94,”.

ACT RESPECTING LIQUOR PERMITS

23. Section 31 of the Act respecting liquor permits (R.S.Q., chapter P-9.1) is replaced by the following section:

“**31.** A grocery permit entitles the holder to sell beer except draught beer, cider and the wines and alcoholic beverages determined by regulation under paragraph 7 of section 37 of the Act respecting the Société des alcools du Québec, except alcohol and spirits, for consumption at a place other than the establishment and its dependencies.”

TRANSITIONAL AND FINAL PROVISIONS

24. The president and managing director of the Société des alcools du Québec and the other members of the board of directors whose terms of office have not expired at the coming into force of section 7 of the Act respecting the Société des alcools du Québec enacted by section 2 of this Act remain in office for the unexpired portion of their terms.

25. The staff of the Service des permis industriels in the Société des Alcools du Québec in office at the coming into force of this Act is transferred to the Ministère de l'Industrie, du Commerce et du Tourisme, and the Civil Service Act (R.S.Q., chapter F-3.1) becomes applicable to those persons without other formality.

26. The regulations made under the Act respecting the Société des alcools du Québec remain in force until they are replaced or repealed.

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

28. This Act will come into force on the date to be fixed by proclamation of the Government, except the provisions excluded by the proclamation, which will come into force, in whole or in part, on any later date that may be fixed by any proclamation of the Government.