

FOURTH SESSION  
THIRTY-FIRST LEGISLATURE

# ASSEMBLÉE NATIONALE DU QUÉBEC

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## Bill 103

**An Act to again amend the Fuel Tax Act and  
other legislation**

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First reading .....  
Second reading .....  
Third reading .....

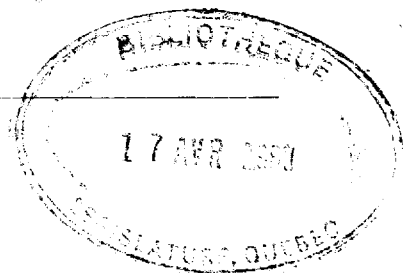
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M. MICHEL CLAIR  
Ministre du revenu

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L'ÉDITEUR OFFICIEL DU QUÉBEC

1980





## EXPLANATORY NOTES

*This bill gives effect to fiscal measures regarding acts respecting consumer taxes announced in the policy statement by the Minister of Finance on 21 December 1979 and in the Budget Speech on 25 March 1980.*

*Four acts are contemplated by this bill: the Fuel Tax Act, the Retail Sales Tax Act, the Licenses Act and the Tobacco Tax Act.*

*The Fuel Tax Act is amended to convert the unit fuel tax into a tax computed on the retail sales price, to determine the mechanisms that will be used to fix the retail prices of the various categories of fuel for the purposes of computing the tax and to give effect to the other measures announced in the Budget Speech, in particular the broadening of the tax exemption for coloured fuel oil, the abolition of the deduction upon refunds of the tax on certain categories of fuel provided by the act and the tax exemption for gasoline used for testing aircraft engines on the ground or in the air.*

*The Retail Sales Tax Act is amended to introduce the exemptions announced in the policy statement on 21 December respecting medicaments sold to the establishments of the social affairs system, software and reports produced in connection with data processing, aircraft used to make experiments or tests and the leasing of moveable property with operators. In addition, this act is amended to introduce measures announced in the Budget Speech, to wit, exemptions respecting optical readers for blind persons, mechanical lifts to permit disabled persons access to the storeys of a building, curtains and drapes, household linen and furniture, and the broadening of exemptions respecting clothing, and vehicles used by, or for the transportation of, paraplegics.*

*The Licenses Act is amended with regard to the tax collected from winners of bets made under a pari mutuel system at horse races, to the government assistance to the horse racing industry*

*in Québec and to the duties that brewers and soft drink distributors must pay to market non-returnable containers of a capacity of one litre or more.*

*Finally, certain provisions of this bill provide for various amendments to the Tobacco Tax Act in order to, as announced in the Budget Speech, convert the tax on cigarettes into a tax computed on the retail sales price, fix the rate of that tax and that which applies to cigars and other tobacco products at 40 per cent of their retail price and to provide for mechanisms that will be used to fix the retail price of cigarettes for the purposes of computing the tax. A new provision is also added to that act to fill a gap which enabled certain persons to consume tobacco or to have other persons consume it at their expense without having to pay the tobacco consumer tax.*

## **Bill 103**

### **An Act to again amend the Fuel Tax Act and other legislation**

HER MAJESTY, with the advice and consent of the Assemblée nationale du Québec, enacts as follows:

[(**1.** The Fuel Tax Act (R.S.Q., c. T-1), amended by chapters 27 and 28 of the statutes of 1978 and by chapters 20, 76 and 78 of the statutes of 1979, is again amended by replacing Divisions II and III, comprising sections 2 to 11, by the following divisions:

#### **“DIVISION II**

##### **“FUEL TAX**

**“2.** Every person who in any way acquires in Québec one of the categories of fuel mentioned in section 4 for purposes other than resale shall pay to the Minister, on each litre, a tax equal to 20 per cent of the average retail price per litre of that fuel, with the reservation that the fuel oil tax must not be less than \$0.055 per litre.

However, in the case of the acquisition of gasoline to be used for supplying aircraft engines or of coloured fuel oil for supplying railroad locomotive engines, the tax shall be 8 per cent of the sales price to the consumer.

**“3.** Every person using in Québec fuel acquired outside Québec shall pay to the Minister the tax established in section 2 which applies to that fuel, on the quantity of such fuel used in Québec; that quantity must, in the cases determined by regulation, be calculated in the manner prescribed by regulation.

This section does not apply to the fuel contained, on its entry into Québec, in the fuel tank installed as standard equipment to supply the engine of a pleasure vehicle, an aircraft or a vessel.

**“4.** The categories of fuels contemplated in the first paragraph of section 2 are

- (a) regular leaded gasoline;
- (b) high-octane leaded gasoline, comprising all categories of leaded gasoline other than regular leaded gasoline;
- (c) regular unleaded gasoline;
- (d) high-octane unleaded gasoline; and
- (e) fuel oil.

When benzol, a mixture of benzol with another substance, propane gas, butane gas or liquified petroleum gas is sold as gasoline, it is deemed to be regular leaded gasoline.

**“5.** The average retail price per litre to be used in computing the tax provided for in the first paragraph of section 2 is

- (a) \$ 0.20 per litre for regular leaded gasoline;
- (b) \$ 0.23 per litre for high-octane leaded gasoline;
- (c) \$ 0.22 per litre for regular unleaded gasoline;
- (d) \$ 0.23 per litre for high-octane unleaded gasoline; and
- (e) \$ 0.19 per litre for fuel oil.

**“6.** The average retail price per litre mentioned in one or other of paragraphs *a* to *e* of section 5 is used to compute the tax provided for in the first paragraph of section 2 until it is replaced by an average retail price per litre determined from time to time by the Minister in accordance with section 7.

**“7.** The Minister shall determine the average retail price per litre of any fuel mentioned in section 4 by means of a representative statistical sampling of prices of that fuel, excluding the tax under this act, in effect in the fuel retail outlets situated on the Island of Montreal, and round off that price downward to the nearest half cent.

**“8.** Every average retail price per litre determined by the Minister in accordance with section 7 shall be published in the *Gazette officielle du Québec* and comes into force on the date indicated therein; from that date, it replaces, for the purposes of computing the tax provided for in the first paragraph of section 2, the tax that was formerly in effect.

## “DIVISION III

## “EXEMPTIONS AND REFUNDS

“9. The following categories of fuel are exempt from the tax provided for in section 2:

(a) propane gas, butane gas and liquified petroleum gas when acquired by a person taking delivery of it in a container used exclusively for supplying the heating system of an immovable or used for any purpose other than supplying an internal combustion engine;

(b) solvents derived from petroleum;

(c) gasoline intended for chemical use;

(d) coloured fuel oil, except that which supplies a railroad locomotive engine;

(e) bunker fuel and crude oil

(i) used for supplying the engine of a vessel described as a commercial vessel by regulation but only when put directly into the tank installed as standard equipment for supplying the engine of that vessel;

(ii) used only for a purpose other than supplying an internal combustion engine;

(iii) acquired or used in the cases, for the purposes and on the conditions determined by regulation; and

(f) non-coloured fuel oil acquired or used in the cases, for the purposes and on the conditions provided by regulation.

“10. Every person, provided that he complies with the terms and conditions established by regulation, is entitled to a refund of the tax that he has paid

(a) on gasoline when the gasoline

(i) was used to supply a farm machinery engine, except a pleasure vehicle or truck, but only while that machinery was used for farming work, provided that the principal occupation of the consumer is farming;

(ii) was used to supply the engine of a fishing boat, but only while that boat was used for fishing, provided that the principal occupation of the consumer is fishing or the processing and the marketing of fish;

(iii) was used to supply a stationary engine;

(iv) was used as an ingredient in a product manufactured by a person in the course of his principal occupation;

(v) was used for purposes of scientific research, experimentation or demonstration, unless it was used to supply a propulsion engine;

(vi) was used to operate a pumper truck while it was used to fight forest fires;

(vii) having been purchased in Québec by a person carrying on a business, was exported and used outside Québec, unless the gasoline was put in a tank supplying a propulsion engine;

(viii) was used to operate a motor vehicle registered for use exclusively on private land or a private road and used for farming, forest or mining operations as defined by regulation; or

(ix) was used to supply an aircraft engine while being tested on the ground or in the air; and

(b) on non-coloured fuel oil when that fuel oil

(i) was used as an ingredient in a product manufactured by a person in the course of his principal occupation;

(ii) having been purchased in Québec by a person carrying on a business, was exported and used outside Québec, unless it was put in a tank supplying an internal combustion engine;

(iii) in the case of bunker fuel or crude oil, was used to supply a stationary engine; or

(iv) was used to operate a motor vehicle registered for use exclusively on private land or a private road and used for farming, forest or mining operations as defined by regulation.

**"11.** Subparagraphs vii of paragraph *a* and ii of paragraph *b* of section 10 do not apply when under a reciprocity agreement made between the Gouvernement du Québec and that of the territory into which the gasoline or fuel oil is exported or used, gasoline or fuel oil is not subject in that territory to a tax equivalent to the tax provided for by this act, and the gasoline or fuel oil imported into Québec from the territory is not subject to the tax provided for by this act, provided that the agreement has been confirmed by a regulation published in the *Gazette officielle du Québec*."

**2.** Section 12 of the said act is amended by replacing the first paragraph by the following paragraph:

**"12.** Every retail dealer shall collect, as agent for the Minister, the tax imposed by section 2 on any sale of fuel that he makes."

**3.** Section 16 of the said act, amended by section 6 of chapter 28 of the statutes of 1978, is again amended by replacing subparagraph *b* of the first paragraph by the following subparagraph:

**"(b)** pay at the same time to the Minister the tax provided for in section 2;"

**4.** Section 17 of the said act is amended by replacing paragraph *b* by the following paragraph:



“(b) pay at the same time to the Minister the tax provided for in section 2.”

**5.** Sections 18 and 19 of the said act are replaced by the following sections:

“**18.** The colouring of fuel oil shall be made by the persons, in the manner and on the conditions prescribed by regulation.

“**19.** Coloured fuel oil may be acquired or used for all purposes other than supplying a propulsion engine, except the propulsion engine

(a) of a pumper truck while used to fight a forest fire;

(b) of a railroad locomotive;

(c) of a vessel described as a commercial vessel by regulation, provided that it be put directly into the tank installed as standard equipment for supplying the engine;

(d) of farm machinery, except a pleasure vehicle or truck, but only while the machinery is used for farming work, provided that the principal occupation of the consumer of the coloured fuel oil is farming;

(e) of a fishing boat, but only while the boat is used for fishing, provided that the principal occupation of the consumer of the coloured fuel oil is fishing or the processing and marketing of fish; or

(f) in the cases, for the purposes and on the conditions determined by regulation.”

**6.** Section 19.1 of the said act, enacted by section 4 of chapter 76 of the statutes 1979, is replaced by the following section:

“**19.1** Subject to section 19, the possession of coloured fuel oil in a tank supplying a propulsion engine is prohibited.”

**7.** Section 22 of the said act is replaced by the following section:

“**22.** Subject to section 19, no person may fill, with coloured fuel oil, the tank supplying a propulsion engine.”

**8.** Section 43.1 of the said act, enacted by section 7 of chapter 76 of the statutes of 1979, is amended by replacing

(1) paragraphs *a* and *b* by the following paragraphs:

“(a) contrary to section 19, acquires or uses coloured fuel oil for a purpose other than those provided therein;

“(b) contrary to section 19.1, has in his possession coloured fuel oil stored in a tank supplying a propulsion engine, except in the cases provided for in section 19;”;

(2) paragraph *f* by the following paragraph:

“(f) contrary to section 22, fills, with coloured fuel oil, the tank supplying a propulsion engine, except in the cases provided for in section 19; or”.

**9.** Section 44 of the said act is replaced by the following section:

**“44.** Every person who attempts to obtain or obtains, fraudulently or on false representations, a refund under section 10, commits an offence and is liable to a fine equal to the amount that he so obtained or attempted to obtain.”

**10.** Section 45.2 of the said act, enacted by section 8 of chapter 76 of the statutes of 1979, is replaced by the following section:

**“45.2** In any proceeding under this act, a presumption exists that fuel oil identified as coloured fuel oil by an analysis made in conformity with this act of a sample taken from the tank used to supply the engine of a motor vehicle, aircraft or vessel, was acquired and used to operate the motor vehicle, aircraft or vessel. In the same proceeding, a presumption also exists that the tax established under section 2 has not been paid in respect of the fuel oil found in the tank at the time the sample was taken, unless payment of the tax in respect of that fuel oil is established beyond all doubt by documentary evidence identifying the purchaser and the vendor of the fuel oil together with the place and date of the transaction and indication of the quantity of fuel oil sold.”

**11.** Section 2 of the Retail Sales Tax Act (R.S.Q., c. I-1), amended by section 1 of chapter 78 of the statutes of 1979, is again amended:

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

“(9) “sale” includes a sale pure and simple, a conditional sale, a sale by instalments, an exchange, a lease or any other contract whereby, for a price or other consideration, a person delivers or binds himself to deliver, to another, moveable property; it also includes any contract whereby a person grants to another the enjoyment of moveable property for a certain time for a rental or price which the latter binds himself to pay him but it does not include any such contract when it is provided

that the moveable property is furnished with the services of its operator;”;

(2) by adding the following paragraph:

“(16) “medicament” means a substance or a mixture of substances that may be used to diagnose, cure, reduce or prevent an ailment, a disorder, an abnormal physical or psychological condition or symptoms thereof in human beings or in animals or to restore, correct or alter their organic functions.”

**12.** Section 17 of the said act, amended by section 1 of chapter 30 of the statutes of 1978, section 2 of chapter 20 and section 3 of chapter 78 of the statutes of 1979, is again amended:

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

“(*l*) Sales of medicaments on doctors’ prescriptions, sales of medicaments to an establishment within the meaning of the Act respecting health services and social services (R.S.Q., s. S-5), sales of prostheses or orthopedic devices, sales of ophtalmic lenses to relieve or correct defects of vision, sales of the mountings supporting such lenses, sales of optical readers used by blind persons to instantaneously transcribe texts printed in a form similar to braille, sales of mechanical lifts designed solely to permit disabled persons access to the various storeys of buildings, sales of goods designed specially to alleviate a physical deficiency or an infirmity, or sales of dogs trained to serve as guides to the blind;”;

(2) by replacing paragraphs *ad* and *ae*, renumbered pursuant to section 27, by the following paragraphs:

“(*ad*) Sales of woven or knitted fabric and natural or synthetic thread or yarn for embroidery, sewing, weaving or knitting, sales of curtains and drapes made with these fabrics, sales of household linen, and sales of footwear and clothing, including handbags, suspenders, belts, neckties, scarves and safety goggles, except

- (i) electric blankets;
  - (ii) rugs and carpets;
  - (iii) footwear the retail sales price of which is over \$100 a pair;
  - (iv) clothing the retail sales unit price of which is over \$500;
- and

(v) clothing, whatever the price, the main object of which is to protect the body against the risk of injury or ailment arising out of the practice of any sporting activity;

“(*ae*) The sale of an aircraft which, within twelve months of that sale, will be used by the purchaser for experiments or tests

under a licence issued to him for that purpose under the Aeronautics Act (R.S.C., 1970, c. A-3) or operated by the purchaser under a licence to operate a commercial air service issued to him under the said act, the leasing of an aircraft which the lessee operates under a licence issued for that purpose under the said act, the sale of component parts of such an aircraft and the sale of spare parts used for the maintenance or repair of any aircraft;

“(af) Sales of furniture for a residential dwelling;

“(ag) Sales of software intended for other than personal or domestic purposes, sales of reports, whatever the support, produced by a peripheral device connected to a computer and on which are recorded the results of the processing, by that computer, of the data furnished by the purchaser of these reports.”

**13.** Section 20.1 of the said act, enacted by section 2 of chapter 30 of the statutes of 1978, and renumbered pursuant to section 27, is amended by replacing paragraph *b* by the following paragraph:

“(b) a motor vehicle and the parts used to modify it to enable him to drive it, provided that such vehicle has been so modified within six months of its acquisition.”

**14.** Section 20.2 of the said act, enacted by section 2 of chapter 30 of the statutes of 1978, and renumbered pursuant to section 27, is amended by replacing paragraph *b* by the following paragraph:

“(b) a motor vehicle and the parts used to modify it for that purpose, used mainly for that purpose, provided that such vehicle has been so modified within six months of its acquisition.”

**15.** Section 31 of the said act, amended by section 3 of chapter 30 of the statutes of 1978, and by section 3 of chapter 20 and section 4 of chapter 78 of the statutes of 1979, is again amended by replacing subparagraph *a* of the first paragraph by the following subparagraph:

“(a) to define the word “production” and the expression “production equipment” for the purposes of the application of paragraphs *z* and *aa* of section 17, the expression “household linen” for the purposes of paragraph *ad* of that section and the word “furniture” for the purposes of the application of paragraph *af* of the same section;”.

**16.** Section 46 of the Licenses Act (R.S.Q., c. L-3) is replaced by the following section:

**“46.** Every winner of a bet made under a *pari mutuel* system, at a horse race held at a race-track, shall pay to the Ministre du revenu his proportional share of the following duty based on the value of the total stake before any deduction prescribed or permitted by any other act:

(a) when that bet includes the choice of a single winning horse,

(i) 4.5 per cent, if the overall average of stakes for each race card at the race track during the calendar year preceding the date on which that race is held, hereinafter called in this section the “overall average of stakes”, is less than \$100 000;

(ii) 5 per cent, if the overall average of stakes is not less than \$100 000 nor more than \$150 000;

(iii) 5.5 per cent, if the overall average of stakes is not less than \$150 000 nor more than \$200 000;

(iv) 6 per cent, if the overall average of stakes is not less than \$200 000 nor more than \$250 000;

(v) 6.5 per cent, if the overall average of stakes is not less than \$250 000 nor more than \$300 000;

(vi) 7 per cent, if the overall average of stakes is \$300 000 or more; and

(b) when that bet includes the choice of more than one winning horse,

(i) 9 per cent, if the overall average of stakes is less than \$100 000;

(ii) 9.5 per cent, if the overall average of stakes is not less than \$100 000 nor more than \$150 000;

(iii) 10 per cent, if the overall average of stakes is not less than \$150 000 nor more than \$200 000;

(iv) 10.5 per cent, if the overall average of stakes is not less than \$200 000 nor more than \$250 000;

(v) 11 per cent, if the overall average of stakes is not less than \$250 000 nor more than \$300 000;

(vi) 11.5 per cent, if the overall average of stakes is \$300 000 or more.

Where, during the calendar year preceding the date on which the race is held, there has been no bet made under a *pari mutuel* system at horse races held at that race track, the Ministre du revenu shall determine the overall average of stakes.”

**17.** Section 50 of the said act is replaced by the following section:

**“50.** For the purposes of promoting and assisting the horse racing industry in Québec, a corporation established for such

purpose whose shares are wholly owned by the Société des loteries et courses du Québec (1978, c. 38) shall receive, for each fiscal period of the Government commencing after 31 March 1980, out of the consolidated revenue fund, an amount equal to 1.2 per cent of the value of the total stake, before any deduction prescribed or permitted by any other act, for all horse races held in Québec during that of the two preceding calendar years in which that total stake was highest.

The payment of that amount is made in three instalments, to wit 50 per cent on 1 April, 25 per cent on 1 June and 25 per cent on 1 September.

In addition, that corporation shall receive, out of the consolidated revenue fund, when the Minister of Finance so indicates, any additional amount determined by him without, however, for a particular fiscal period, the total of these additional amounts exceeding 0.3 per cent of the value of the total stake used to establish, for that fiscal period, the amount of 1.2 per cent mentioned in the first paragraph."

**18.** Sections 79.2 and 79.3 of the said act, enacted by section 9 of chapter 34 of the statutes of 1978 and renumbered pursuant to section 28, are amended by replacing that part of paragraph *b* of each of these sections preceding subparagraph *i* by the following:

"(b) \$0.02 for every non-returnable container of a capacity of 454 millilitres or less, \$0.05 for every non-returnable container of a capacity of more than 454 millilitres and less than 1 litre and \$0.20 for every non-returnable container of a capacity of 1 litre or more that he distributes, except:".

**19.** The said act is amended by inserting, after the said section 79.3, the following section:

**"79.3.1** A brewer or a distributor who, under section 79.2 or 79.3, as the case may be, has paid the duty of \$0.20 for a non-returnable container of a capacity of one litre or more that he has distributed, is entitled to a refund of \$0.15 for each of these containers which he recovers and recycles or causes to be recycled."

**20.** Sections 8 and 9 of the Tobacco Tax Act (R.S.Q., c. I-2) are replaced by the following sections:

**"8.** Every person must, at the time of a retail sale of tobacco in Québec, for consumption by himself or by any other person at his expense, pay a tobacco consumer tax equal to 40 per cent of the retail price of that tobacco.

**“9.** Every person ordinarily residing in Québec or carrying on a business therein who, himself or through the intermediary of any other person, brings or causes to be brought into Québec, or receives delivery of any such tobacco, for consumption by himself or by any other person at his expense, shall immediately report the matter to the Deputy Minister and forward or produce to him the invoice, if any, and any other information he may require and, at the same time, pay the same tobacco consumer tax that would have been payable had that tobacco been purchased at a retail sale in Québec.”

**21.** The said act is amended by inserting after section 9 the following sections:

**“9.1** Every person who consumes tobacco in Québec on which the tax provided for in section 8 or 9 has not been paid, or acts in such a manner as other persons consume such tobacco at his expense, must immediately report the matter to the Deputy Minister with any other information that he may require and, at the same time, pay on that tobacco the same tobacco consumer tax that would have been payable had that tobacco been purchased at a retail sale in Québec.

**“9.2** The retail price of cigarettes to be used in computing the tax provided for in section 8 is \$6 for 200 cigarettes.

**“9.3** The retail price of cigarettes mentioned in section 9.2 is used to compute the tax provided for in section 8, until it is replaced, in accordance with section 9.4, by the weighted average retail price determined by the Minister from time to time in accordance with section 9.4, for 200 cigarettes.

**“9.4** The Minister shall determine the weighted average retail price for 200 cigarettes by means of a representative statistical sampling of prices, excluding the tax provided for by this act, in effect in tobacco retail outlets situated on the Island of Montreal.

**“9.5** The weighted average retail price of cigarettes determined by the Minister in conformity with section 9.4 shall be published in the *Gazette officielle du Québec* and comes into force on the date indicated therein; from that date, it replaces, for the purposes of computing the tax provided for in section 8, the price that was formerly in effect.”

**22.** Section 10 of the said act is replaced by the following section:

**“10.** The tax imposed by this act shall, as regards cigars, be computed on each cigar and, as regards other tobacco products except cigarettes, on every package, and any fraction of a cent of that tax shall be computed as one cent.”

**23.** Section 15 of the said act is replaced by the following section:

**“15.** Every person who omits to pay the tax provided for in section 8, 9 or 9.1, as the case may be, is guilty of an offence under this act and liable, on summary proceeding, in addition to the payment of the tax and costs, to a fine of not less than \$10 nor more \$200 and, failing payment of the fine, tax and costs, to imprisonment for one month.”

**24.** Paragraph *a* of section 11 and paragraph *b* of section 12, to the extent that that latter paragraph enacts paragraphs *ae* and *ag* of section 17 of the Retail Sales Tax Act, have effect as from 1 January 1980.

**25.** Paragraph *b* of section 11 and paragraph *a* of section 12, to the extent that that latter paragraph enacts the exemption respecting medicaments sold to an establishment within the meaning the Act respecting health services and social services, have effect as from 28 March 1979.

**26.** Subject to sections 24 and 25, this act has effect as from 26 March 1980.

**27.** Paragraphs *ae* and *af* of section 17 of the Retail Sales Tax Act (R.S.Q., c. I-1), enacted by section 1 of chapter 30 of the statutes of 1978, and sections 15*d* and 15*e* of the said act, enacted by section 2 of the said chapter, are renumbered *ad*, *ae*, 20.1 and 20.2, respectively, as if they had been updated pursuant to the Act respecting the consolidation of the statutes and regulations (R.S.Q., c. R-3).

**28.** Sections 76 and 77 of the Licenses Act (R.S.Q., c. L-3), enacted by section 9 of chapter 34 of the statutes of 1978, are renumbered 79.2 and 79.3, respectively, as if they had been updated pursuant to the Act respecting the consolidation of the statutes and regulations.

**29.** This act comes into force on the day of its sanction.]]