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AN ACT RESPECTING THE USE OF PETROLEUM PRODUCTS

Bill 93

Introduced by Mr John Ciaccia, Minister of Energy and Resources

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Assented to 17 December 1987

Coming into force: on the date fixed by the Government

Acts replaced:

Petroleum Products Trade Act (R.S.Q., chapter C-31)

Act to amend the Petroleum Products Trade Act (1976, chapter 22)



Éditeur officiel
Québec



CHAPTER 80

An Act respecting the use of petroleum products

[Assented to 17 December 1987]

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

SCOPE

- Objects** **1.** The objects of this Act are
- (1) to ensure the safety of persons who have access to a facility or to petroleum equipment or who use petroleum products;
 - (2) to ensure the use of quality petroleum equipment;
 - (3) to institute inspections, inquiries, and monitoring with respect to gasoline prices;
 - (4) to control the sales price of petroleum products.
- Applicability** **2.** This Act applies to any petroleum equipment or facility used for the manufacture of or trading in petroleum products or for the consumption, handling, distribution, storage or road transportation of petroleum products.
- Piping** Any piping connected to a facility which feeds or supplies it is deemed to be an integral part of the facility.
- Exceptions** This Act does not apply to the following petroleum equipment used for purposes other than trading in petroleum products:

(1) any tank used to fuel a motor vehicle and any movable tank containing a petroleum product, with a capacity not exceeding 225 litres;

(2) any tank with a capacity of less than 4 000 litres used for the storage of heating oil used to fuel a heating device.

“petroleum product” 3. In this Act, “petroleum product” means a mixture of hydrocarbons used as motor fuel, heating oil or lubricant, except liquified gas.

Government and government agencies 4. This Act is binding on the Government, government departments and government agencies.

CHAPTER II

ADMINISTRATION

DIVISION I

PERMITS AND CERTIFICATES

Trading permit 5. No person or company may operate a facility for the purposes of trading in petroleum products unless he or it is the holder of a trading permit of a class determined by regulation, issued by the Minister of Energy and Resources for each of his or its facilities.

Installer's permit 6. No person or company may, for others perform or cause the performance of installation, alteration, maintenance or demolition work on petroleum equipment, or make or submit bids, personally or through another person, to perform or cause the performance of such work for a consideration unless he or it is the holder of an installer's permit issued by the Minister.

Registration certificate 7. No person or company may use petroleum equipment for purposes other than trading in petroleum products unless he or it is the holder of a registration certificate issued by the Minister for the petroleum equipment located in each of his or its facilities.

Exception Notwithstanding the foregoing, the user of the facility of an operator is not required to be the holder of a registration certificate.

Requirements 8. The Minister shall issue a permit or a registration certificate if the applicant meets the requirements prescribed by regulation.

Refusal

9. The Minister may refuse to issue a permit or a registration certificate to any applicant convicted of an offence in connection with any activity carried on under the permit or the registration certificate applied for.

Expiry and renewal

10. Every permit expires on 30 April of each year. It is renewed on payment of the fee and production of the documents prescribed by regulation.

Cessation of activities

11. The holder of a permit or registration certificate that ceases his or its activities shall notify the Minister in writing within ten days.

Contents of notice

The notice must set out the following information:

- (1) the number of the permit or registration certificate;
- (2) the address of the facility;
- (3) the date of cessation of activities;

(4) in the case of a trading permit, the volume of the different products sold since the submission of the last activities report prescribed by regulation.

Notice of changes

12. The holder of a permit or registration certificate shall inform the Minister of any change as a result of which the information provided for the issue or renewal of the permit or certificate is no longer accurate or complete.

Transferability

13. A permit or registration certificate is not transferable.

Display of permit or certificate

14. The holder of a permit or registration certificate shall display it in public view.

Display of other information

He or it shall also display any other information prescribed by regulation in the manner prescribed therein.

Suspension or cancellation

15. The Minister may suspend or cancel a permit or registration certificate where the holder

(1) does not meet or no longer meets the requirements prescribed in this Act and the regulations for the issue or renewal of the permit or registration certificate;

(2) fails to comply with the conditions, obligations or restrictions applicable to the carrying on of his or its activities;

(3) is convicted of an offence against this Act or the regulations;

(4) has ceased his or its activities.

Hearing

16. The Minister shall, before suspending or cancelling a permit or a registration certificate, give the holder an opportunity to be heard.

Decisions

17. Any decision to refuse to issue, suspend or cancel a permit or a registration certificate must give the reasons therefor and be transmitted to the interested person by registered or certified mail.

Annual report

18. Not later than 30 April each year, the holder of a trading permit shall submit an activities report in the form prescribed by regulation.

DIVISION II

APPEAL

Appeal to the Provincial Court

19. Any interested person may appeal to the Provincial Court from any decision of the Minister with respect to the issue, renewal, suspension or cancellation of a permit or registration certificate.

Effect of appeal

20. The appeal suspends the execution of the Minister's decision unless the court orders otherwise.

Motion

21. The appeal is brought by way of a motion served on the Minister.

Time and place of filing

The motion must be filed at the office of the Provincial Court in the judicial district of the appellant's domicile or principal place of business, within thirty days after the appellant receives the decision.

Transmission of record

22. On being served with the motion, the Minister shall transmit the record relating to the decision appealed from to the clerk of the Provincial Court.

Preference

23. The appeal is heard and decided by preference.

Hearing and decision

24. Subject to any additional evidence it may allow, the court shall render its decision on the basis of the record transmitted to it, after allowing the parties to present their views.

Finality of decision

25. The decision of the Provincial Court is final and without appeal.

Rules of
practice

26. The Provincial Court may, in the manner provided for in article 47 of the Code of Civil Procedure (R.S.Q., chapter C-25), adopt such rules of practice as it considers necessary for the proper carrying out of this division.

DIVISION III

LICENCE

Compulsory
supervision

27. Any work related to the installation, alteration, maintenance or demolition of petroleum equipment shall be performed under the continual supervision of a holder of a master petroleum equipment installer's licence.

Written ap-
plication

28. A person wishing to obtain a master petroleum equipment installer's licence must apply therefor in writing to the Minister.

Require-
ments

29. The Minister shall issue a master petroleum equipment installer's licence to any person

(1) who has worked as a petroleum equipment installer for at least two years;

(2) who has passed the examinations prescribed by regulation and has shown following those examinations or by any other means he deems appropriate that he has the relevant knowledge or experience for the trade of petroleum equipment installer;

(3) who has paid the fee prescribed by regulation;

(4) who has the other qualifications, has fulfilled the other conditions and has provided the information prescribed by regulation.

Validity

30. A master petroleum equipment installer's licence has a valid term of five years from its date of issue. It is renewed for the same term upon payment of the fee and upon the other conditions prescribed by regulation.

Untransfere-
bility

31. A master petroleum equipment installer's licence is unassignable.

Examination

32. The Minister may require the holder of a master petroleum equipment installer's licence to take the examination contemplated in section 29 if he is of the opinion that developments in the knowledge required for the work contemplated in this division require it.

Production
on demand

33. The holder of a master petroleum equipment installer's licence must have it with him when carrying on his activities, and must produce it to an inspector on demand.

CHAPTER III

PROHIBITIONS

Standards of
quality

34. No holder of a commercial permit may store, use or trade in petroleum products which do not conform to the standards of quality prescribed by regulation.

Mandatory
standards

35. No person may use any facility or petroleum equipment which does not conform to the standards prescribed by regulation.

Authoriza-
tion

36. Every person wishing to perform any work related to the installation, alteration, maintenance or demolition of petroleum equipment shall obtain prior authorization from the Minister. The authorization shall be granted or renewed in the name of the holder of a trading permit or registration certificate on the conditions prescribed by regulation. The authorization shall not be issued except on condition that the work be performed by the holder of an installer's permit.

Provisions
for emer-
gencies

The regulation contemplated in the first paragraph must provide for emergencies.

Demolition

37. No person may demolish all or part of a facility for the manufacture of petroleum products without the prior authorization of the Minister and, where such is the case, on such conditions as he may fix.

Mandatory
standards

38. No holder of an installer's permit may perform any work which does not conform to the standards prescribed by regulation.

Authorized
activities

39. No holder of a commercial permit or registration certificate may carry on activities other than those authorized by his permit or certificate.

Delivery of
petroleum
products

40. No person may deliver petroleum products to the facility of a person or partnership other than the holder of a trading permit or registration certificate.

CHAPTER IV

MONITORING OF GASOLINE PRICES

Powers of
the Minister

41. For the purpose of monitoring gasoline prices in the various regions of Québec, the Minister shall have the following powers:

(1) the power to inquire into the sale or distribution of gasoline, and the prices, taxes and fees charged and paid therefor;

(2) the power of inspection, in accordance with Chapter VI of this Act, in respect of the sale or distribution of gasoline, and the prices, taxes and fees charged and paid therefor;

(3) the power to monitor the sale or distribution of gasoline, and the prices, taxes and fees charged and paid therefor.

Information
required by
the Minister

42. The Minister may, at any time, order a person to provide him with any required information concerning the person's sales or distribution of gasoline, and the prices, taxes and fees charged and paid therefor.

Compliance

43. Every person shall comply with any order of the Minister.

False state-
ment

44. No person may make any false or misleading statement, or participate in or consent to such a statement in response to an order of the Minister.

Delegation
of powers

45. The Minister may, by order, delegate his powers under this chapter to any person, group of public servants formed for the purposes of this chapter or any body he may designate.

CHAPTER V

PRICE CONTROLS

Maximum
price

46. Where in its opinion such action is required in the public interest, the Government may fix, by an order in council, the maximum price at which a petroleum product may be sold or distributed.

Content of
order

The order in council may concern

(1) one or several petroleum products;

(2) the price or its components, except any component in relation to a duty or tax levied pursuant to any law of the Parliament of Canada;

(3) all or part of the territory of Québec.

Amendment of contract **47.** Every contract concerning the sale or distribution of petroleum products that stipulates a higher price than that determined by an order in council shall be amended so as to bring the price stipulated in the contract into conformity with that fixed by the order in council.

Validity The contract remains valid between the parties in every other respect.

Information required by the Minister **48.** The Minister may, at any time, order any person to provide him with any required information concerning his sales or distribution of petroleum products other than gasoline and the prices, taxes and duties charged and paid therefor.

Compliance **49.** Every person must comply with an order given by the Minister.

False information **50.** No person may make a false or misleading declaration or consent to such a declaration in reply to an order given by the Minister.

Sale price **51.** No person may sell or distribute a petroleum product in Québec at a price higher than that determined by the order in council.

Destruction of documents **52.** No person may destroy, alter, mutilate or conceal a register, book of account or any other document relating to the sale or distribution of petroleum products.

False entry **53.** No person may make a false or misleading entry or consent to the making of such an entry.

Omission **54.** No person may omit to make an entry in a register or book of account or consent to the omission of such an entry.

CHAPTER VI

INSPECTION

Inspectors **55.** A chief inspector and inspectors shall, to ensure the enforcement of this Act and the regulations thereunder, be appointed and remunerated in accordance with the Public Service Act (R.S.Q., chapter F-3.1.1).

Powers **56.** An inspector may, in the performance of his duties,

(1) have access, at any reasonable time, to any place where an activity governed by this Act and the regulations thereunder is carried on and inspect such place;

(2) take samples of any petroleum product with a view to having them analyzed and examine any petroleum equipment;

(3) examine and make copies of the registers, records and other documents relating to the activities governed by this Act and the regulations thereunder;

(4) require any information or document relating to the enforcement of this Act and the regulations thereunder.

Identifica-
tion and
certificate

57. The inspector shall, on request, identify himself and produce a certificate of his quality signed by the Minister.

Danger to
the environ-
ment or to
human
safety

58. An inspector who has reasonable and probable grounds to believe that a facility or any petroleum equipment presents a danger to the environment or to human safety or is used to sell a petroleum product which does not conform to standards prescribed by regulation may order it to be closed or stopped or partly closed and, if necessary, affix seals thereto and prohibit its use.

Reopening
of facilities

59. The chief inspector shall authorize the reopening of the facility or the restarting of the petroleum equipment and, where such is the case, the removal of seals and the lifting of the prohibition to use the facility or equipment where he is satisfied that it no longer presents a danger to the environment or to human safety according to the standards prescribed by regulation or where the petroleum products which did not conform to the standards have been disposed of to his satisfaction.

Notice of
correction

60. The inspector shall give the holder of a permit or registration certificate a notice of correction in which he specifies the irregularities ascertained and the time allowed to conform to the notice.

Failure to
comply

If the holder of a permit or registration certificate fails to conform to the notice within the time allowed, the Minister may direct the carrying out of the corrective measures specified in the notice at the expense of the person in default.

Seal

61. No person may break a seal affixed by an inspector.

Hindering
prohibited

62. No person may hinder an inspector in the performance of his duties, mislead him by concealment or false declarations or refuse to disclose to him information which he is entitled to obtain under this Act.

Immunity

63. No inspector may be prosecuted for official acts performed in good faith in the performance of his duties.

CHAPTER VII

REGULATORY PROVISIONS

Regulations

64. The Government may, by regulation,

(1) prescribe the form and content of applications for permits, registration certificates and licences;

(2) prescribe categories and classes of petroleum products used by holders of permits or registration certificates;

(3) prescribe the documents to be produced and the information to be provided by an applicant for a permit or a registration certificate or the renewal thereof;

(4) prescribe fees for the issue or renewal of permits, registration certificates, and master petroleum equipment installer's licences;

(5) prescribe classes of trading permits;

(6) prescribe requirements, restrictions and conditions of issue with respect to permits, registration certificates and classes of trading permits;

(7) prescribe the form and content of permits and registration certificates;

(8) prescribe the information to be displayed by the holder of a permit or registration certificate and the manner of displaying it;

(9) prescribe the form and content of the annual report and the notice of cessation to be produced by the holder of a permit or registration certificate;

(10) prescribe the examinations a person applying for a master petroleum equipment installer's licence is required to pass, the conditions of eligibility and the cases of exemption from an examination;

(11) prescribe other qualifications and conditions to be met by a person applying for a master petroleum equipment installer's licence and the information to be provided by him;

(12) prescribe the conditions regarding the obtaining of authorization for the performance of work related to the installation,

alteration, maintenance or demolition of petroleum equipment and emergencies;

(13) prescribe standards relating to the storage, handling and road transportation of petroleum products;

(14) prescribe standards to be complied with by every holder of a permit or registration certificate and every owner of petroleum equipment or of any facility, to prevent contamination by petroleum products;

(15) prescribe standards to be complied with by every holder of a permit or registration certificate or by every owner of petroleum equipment or of any facility, to prevent any contamination which may occur in the storage, handling or road transportation of petroleum products;

(16) prescribe the methods, conditions and modes of sampling and analyzing of petroleum products;

(17) prescribe standards of quality of petroleum products;

(18) prescribe standards relating to petroleum equipment and to facilities;

(19) prescribe the form and content of the notice of correction, establish the application procedure and fix the time limit to comply therewith;

(20) prescribe the form and content of the statement of offence;

(21) determine the provisions of a regulation the violation of which constitutes an offence.

CHAPTER VIII

PENAL PROVISIONS

Offence and
penalty

65. Every person who contravenes any of the provisions of sections 5, 6, 7, 11, 14, 18, 33, 35, 36, 38, 39, 40, 43, 44, 49, 50, 51, 52, 53, 54, 61 and 62 or any regulation the violation of which constitutes an offence under paragraph 21 of section 64 is liable, in addition to costs, to a fine of \$200 to \$5 000.

Offence and
penalty

66. Every person who contravenes section 34 is liable, in addition to costs, to a fine of \$2 000 to \$4 000.

Offence and penalty **67.** Every person who contravenes section 37 is liable, in addition to costs, to a fine equivalent to the cost of replacing the demolished part of the facility for the manufacture of petroleum products.

Offence and penalties **68.** Every person who fails or refuses to comply, before the expiry of the time prescribed, with a notice of correction provided for in section 60 is liable, in addition to costs, to a fine of \$200 to \$2 000.

Subsequent offence **69.** In the case of any subsequent offence within two years of conviction for an offence under the same provision of section 65 or 68, the offender is liable, in addition to costs, to a fine of \$500 to \$6 000.

Subsequent offence **70.** In the case of any subsequent offence within two years of conviction for an offence under section 66, the offender is liable, in addition to costs, to a fine of \$4 000 to \$8 000.

Guilty parties **71.** Every director, employee or representative of a legal person who has authorized or allowed the commission of an offence described in sections 65 to 70, or who has consented thereto or otherwise participated therein is guilty of an offence if he knew or should have known that his acts would probably result in the commission of the offence.

Penalty The person is liable to the same penalty as that imposed for such an offence.

Proceedings **72.** Proceedings under this Act shall be instituted in accordance with the Summary Convictions Act (R.S.Q., chapter P-15).

Prosecution **73.** The prosecution may be commenced by notice of the offence handed to or otherwise served on the offender by an inspector. The notice has the effect of an information.

Contents of notice of offence **74.** The notice of offence shall describe the offence, specify the minimum fine and indicate to the offender that payment of the required amount may be made within 30 days at the place indicated therein.

Presumption **75.** An offender who pays the required amount at the prescribed place within the time limit is deemed to have pleaded guilty, but such payment does not constitute an admission of civil liability.

Consequence of non-payment On failure to make such payment, the notice of offence shall be laid before a justice of the peace, who may issue a summons.

Report as
evidence

76. In any proceedings, the report relating to the analysis of a petroleum product and signed by an analyst recognized by the Minister shall, in the absence of any evidence to the contrary, be accepted as evidence of its content and of the authority of the person signing the report without further proof of his appointment or signature.

Costs of
analysis

The cost of such analysis shall form part of the costs of the offender.

CHAPTER IX

MISCELLANEOUS AND TRANSITIONAL PROVISIONS

Delegation
of powers

77. The Minister may, by order, delegate the powers conferred on him under sections 8, 9, 12, 15, 16, 22, 29, 32, 36, 42, 48, 60 and 76 to any person, group of public servants or body he may designate.

c. C-31 and
1976, c. 22,
replaced

78. This Act replaces the Petroleum Products Trade Act (R.S.Q., chapter C-31) and the Act to amend the Petroleum Products Trade Act (1976, chapter 22).

Permits is-
sued under
c. C-31

79. A permit issued under the Petroleum Products Trade Act remains in force until the date on which it would have expired under the said Act, and its holder may, until that date, carry on the activities authorized under the permit, subject to this Act and the regulations thereunder.

Temporary
licences

80. The Minister shall issue temporary master petroleum equipment installer's licences until (*insert here the date occurring two years after the date of coming into force of this Act*) to every person who meets the prescribed conditions and upon payment of the fee prescribed by regulation of the Government.

Date of ef-
fect of pro-
hibition un-
der s. 40

81. The prohibition under section 40 of the delivery of petroleum products to the facility of a person who does not hold a registration certificate has effect only from (*insert here the date occurring three years after the date of coming into force of this Act*).

Minister
responsible

82. The Minister of Energy and Resources is responsible for the administration of this Act.

Coming into
force

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

TABLE OF CONTENTS

		<i>Sections</i>
CHAPTER I	SCOPE	1-4
CHAPTER II	ADMINISTRATION	5-33
Division I	Permits and certificates	5-18
Division II	Appeal	19-26
Division III	Licences	27-33
CHAPTER III	PROHIBITIONS	34-40
CHAPTER IV	MONITORING OF GASOLINE PRICES	41-45
CHAPTER V	PRICE CONTROL	46-54
CHAPTER VI	INSPECTION	55-63
CHAPTER VII	REGULATORY PROVISIONS	64
CHAPTER VIII	PENAL PROVISIONS	65-76
CHAPTER IX	MISCELLANEOUS AND TRANSITIONAL PROVISIONS	77-83