

1986, chapter 96

AN ACT TO AMEND VARIOUS LEGISLATION RESPECTING ALCOHOLIC BEVERAGES

Bill 96

Introduced by Mr Gérard Latulippe, Solicitor General

Introduced 9 June 1986

Passage in principle 29 October 1986

Passage 19 December 1986

Assented to 19 December 1986

Coming into force: 19 December 1986

Acts amended:

Act respecting offences relating to alcoholic beverages (R.S.Q., chapter I-8.1)

Act respecting liquor permits (R.S.Q., chapter P-9.1)

Act respecting the Société des alcools du Québec (R.S.Q., chapter S-13)





CHAPTER 96

An Act to amend various legislation respecting alcoholic beverages

[Assented to 19 December 1986]

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

ACT RESPECTING OFFENCES RELATING TO ALCOHOLIC BEVERAGES

c. I-8.1, s.
2, am.

1. Section 2 of the Act respecting offences relating to alcoholic beverages (R.S.Q., chapter I-8.1) is amended by adding the words “and the appurtenances of those premises” at the end of paragraph 13.

c. I-8.1, s.
80, am.

2. Section 80 of the said Act is amended

(1) by striking out the words “other than beer” in the first line of the first paragraph;

(2) by striking out the words “other than beer” in the first and second lines of the second paragraph.

c. I-8.1, s.
82.1, added

3. The said Act is amended by inserting, after section 82, the following section:

Prohibition

“82.1 No permit holder may keep, possess or sell in his establishment

(1) alcoholic beverages other than beer or weak cider not purchased directly from the Corporation;

(2) weak cider not purchased directly from the Corporation, from a holder of a cider maker's permit issued under the Act respecting the Société des alcools du Québec or from an agent of the holder of a cider maker's permit;

(3) beer not purchased directly from the Corporation, from the holder of a brewer's permit issued under the Act respecting the Société des alcools du Québec or from an agent of the holder of a brewer's permit.

Exceptions

Subparagraph 1 of the first paragraph does not apply to the holder of a reunion permit unless he is also the holder of another permit authorizing alcoholic beverages to be sold or served for consumption on the premises. Subparagraphs 2 and 3 of that paragraph do not apply to the holder of a reunion permit."

c. I-8.1, s.
83, am.

4. Section 83 of the said Act is amended

(1) by inserting, after the words "Subject to " in the first line of the first paragraph, the following: "section 82.1,";

(2) by inserting, after the words "permit, possession" in the fourth line of the first paragraph, the words "or keeping";

(3) by striking out the words ", a cider maker's permit holder or his agent," in the second line of paragraph 3;

(4) by adding, at the end, the following paragraph:

"(5) beer not purchased directly from the Corporation, from a person authorized by it or from the holder of a grocery permit."

c. I-8.1, s.
84, am.

5. Section 84 of the said Act is amended by inserting after the word "sell" in the third line of the second paragraph the words "or serve".

c. I-8.1, s.
91.1, am.

6. Section 91.1 of the said Act is amended

(1) by inserting, after the word "and" in the third line of the first paragraph, the words ", except in the case of a restaurant service permit,";

(2) by striking out the second paragraph.

c. I-8.1, s.
93, am.

7. Section 93 of the said Act is amended

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

“(d) by a person who has legally acquired them from the Corporation, from a person authorized by the Corporation or from a grocery permit holder.”;

(2) by striking out the words “directly from the establishment where he bought it to his residence” at the end of the second paragraph.

c. I-8.1, s.
103.1, am.

8. Section 103.1 of the said Act is amended by adding, at the end, the following paragraph:

Prohibition

“No holder of a restaurant service permit may serve alcoholic beverages to a minor or allow him to consume them in his establishment. Nor may he serve alcoholic beverages to a person of full age if he knows they are for a minor.”

c. I-8.1, s.
107, am.

9. Section 107 of the said Act is amended by replacing the last four lines by the following: “to a fine of not less than \$1 000 nor more than \$5 000 and, for any subsequent offence, to a fine of not less than \$5 000 nor more than \$20 000.”

c. I-8.1, s.
108, am.

10. Section 108 of the said Act, amended by section 46 of chapter 58 of the statutes of 1986, is again amended by inserting, after paragraph 1, the following paragraphs:

“(1.1) which is a restaurant service permit, serves or allows his patrons to consume alcoholic beverages of a kind other than those for which he is authorized for those purposes by his permit;

“(1.2) which is a restaurant service permit, possesses or keeps in his establishment alcoholic beverages other than those used in the preparation of the food cooked in the restaurant;”.

c. I-8.1, s.
109, am.

11. Section 109 of the said Act, amended by section 47 of chapter 58 and by section 145 of chapter 95 of the statutes of 1986, is again amended by replacing paragraphs 1 and 2 by the following paragraphs:

“(1) being the holder of a permit, sells, serves or allows to be consumed any alcoholic beverage that his permit or this Act authorizes him to sell, serve or allow to be consumed, but in any place, or in any manner, or in any quantity other than his permit authorizes him to sell;

“(2) being the holder of a permit, sells, serves or allows to be consumed any alcoholic beverage that his permit authorizes him to sell, serve or allow to be consumed, but outside the days or hours when he may use that permit;”.

c. I-8.1, s.
112, am. **12.** Section 112 of the said Act, amended by section 50 of chapter 58 of the statutes of 1986, is again amended by replacing paragraph 10 by the following paragraph:

“(10) contravenes any other provision of this Act or the Act respecting liquor permits, except sections 52, 70 to 73, 75, 87, 89 or 110 of that Act.”.

c. I-8.1, s.
114, am. **13.** Section 114 of the said Act is amended

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

“(3) has in his possession or keeps a container on which is affixed the stamp of the Corporation that has been removed from another container, has in his possession, keeps or fraudulently sells wrappers, labels, corks, caps or stamps imitating those used by the Corporation or has in his possession or keeps otherwise than by having legally obtained them from the Corporation, or sells wrappers, labels, corks, caps or stamps manufactured for the Corporation and for its use,”;

(2) by replacing the last six lines by the following:

“is guilty of an offence under this Act and liable, in addition to costs, to a fine of \$500 to \$1 000 for a first offence and to a fine of \$1 000 to \$2 000 for any subsequent offence.”

c. I-8.1, s.
118,
repealed **14.** Section 118 of the said Act is repealed.

ACT RESPECTING LIQUOR PERMITS

c. P-9.1, s.
3, am. **15.** Section 3 of the Act respecting liquor permits (R.S.Q., chapter P-9.1) is amended by adding, at the end, the following paragraph:

Cancellation
of permits “It is also the function of the Régie, under the Act respecting the Société des alcools du Québec (R.S.Q., chapter S-13), to suspend or cancel permits issued under that Act.”

c. P-9.1, s.
25, am. **16.** Section 25 of the said Act is amended by inserting, after the word “restaurant” in the second line, the words “sales, restaurant service”.

c. P-9.1, s.
28, am. **17.** Section 28 of the said Act is amended by inserting, before the word “permit” in the first line, the word “sales”.

c. P-9.1, s.
28.1, added **18.** The said Act is amended by inserting, after section 28, the following section:

Service
permit

“28.1 A restaurant service permit entitles its holder to serve to his patrons or to allow them to consume alcoholic beverages which they bring into his establishment for consumption on the premises at a meal, provided such beverages are not beer, alcohol, spirits or mixed alcoholic beverages commonly called “cooler”.”

c. P-9.1, ss.
42.1, 42.2,
added

19. The said Act is amended by inserting, after section 42, the following sections:

Effective
period of
decision

“42.1 The Régie shall not issue a permit where it has decided that no permit would be issued for the premises contemplated in the application, if the period for which the decision is effective has not expired.

Reunion
permits

In addition to the case contemplated in section 86.2, the Régie may make a decision described in the first paragraph in respect of reunion permits that could be issued for use in an establishment in which the Régie considers that a reunion permit has been used contrary to the public interest or to public tranquility, after notifying the owner of the establishment of the previous occurrence of such an incident. The Régie shall in such a case determine the period for which the decision is effective, which must not exceed six months.

No
concurrent
permits

“42.2 The Régie shall not issue a restaurant service permit for an establishment in which a permit authorizing the sale of alcoholic beverages is already in use. Nor shall it issue a permit authorizing the sale of alcoholic beverages in an establishment where a restaurant service permit is already in use.”

c. P-9.1, s.
62, am.

20. Section 62 of the said Act is amended by inserting, after the word “vente” in the third line of the French text, the words “ou le service”.

c. P-9.1, s.
63, replaced

21. Section 63 of the said Act is replaced by the following section:

Exception

“63. Section 62 does not apply to a room or terrace where a restaurant sales permit is used if a device complying with the standards prescribed by regulation prevents, from the time the restaurant permit must cease to be used, access to the place where the alcoholic beverages are kept and if no alcoholic beverage is consumed after the expiry of thirty minutes following the time the permit must cease to be used.

Exception

Nor does section 62 apply to a room or terrace where a restaurant service permit is used if no alcoholic beverage is consumed after the expiry of thirty minutes following the time the permit must cease to be used.”

c. P-9.1, s.
65, am. **22.** Section 65 of the said Act is amended by inserting the word “sales” after the word “restaurant” in the second line.

c. P-9.1, s.
66, am. **23.** Section 66 of the said Act is amended by inserting the word “sales” after the word “restaurant” in the fourth line of the second paragraph.

c. P-9.1, s.
71, am. **24.** Section 71 of the said Act is amended by inserting, after the word “sell” in the first line, the words “or serve”.

c. P-9.1, s.
73, am. **25.** Section 73 of the said Act is amended by inserting, after the word “sell” in the first line, the words “or serve”.

c. P-9.1, s.
75, am. **26.** Section 75 of the said Act is amended by inserting, after the word “sell” in the first line, the words “or serve”.

c. P-9.1, s.
76, am. **27.** Section 76 of the said Act is amended by inserting, after the word “restaurant” in the first line of the first paragraph, the word “sales”.

c. P-9.1, s.
86, am. **28.** Section 86 of the said Act is amended by replacing subparagraph 8 by the following subparagraph:

“(8) the permit holder contravenes any provision of sections 70 to 73, 75, 78 and 82, or refuses or neglects to comply with the requirements of the Régie contemplated in section 110;”.

c. P-9.1, s.
86.2, added **29.** The said Act is amended by inserting, after section 86.1, the following section:

No issue of
permit **“86.2** When suspending or cancelling a permit owing to the permit holder’s contravention of any provision of section 70 or 75 or his refusal or neglect to comply with a requirement of the Régie under section 110, the Régie may decide that no permit may be issued for the establishment in which the permit was used, for the duration of the suspension or until the expiry of six months from the date of cancellation.”

c. P-9.1, s.
90.1, added **30.** The said Act is amended by inserting, after section 90, the following section:

Beverages
under seal **“90.1** Where a permit is suspended, the Régie or, at its request, a member of a police force authorized under section 111 or a member of the Sûreté du Québec, shall put under seal all receptacles containing alcoholic beverages then in the possession of the permit holder.

Conservatory measures

Upon the application of the permit holder and according to the circumstances and to the duration of the suspension, the Régie may also authorize the holder to take any conservatory measure which the Régie deems appropriate."

c. P-9.1, s. 91, am.

31. Section 91 of the said Act is amended by adding, at the end, the following paragraph:

Seizure by police

"At the request of the Régie, a member of a police force authorized under section 111 or a member of the Sûreté du Québec may seize the alcoholic beverages and their receptacles and hand them over to the Société des alcools du Québec."

c. P-9.1, s. 104.1, added

32. The said Act is amended by inserting, after section 104, the following section:

Report in lieu of testimony

"104.1 The Régie may accept, in lieu of the testimony of a person responsible for the administration of this Act, of the Act respecting offences relating to alcoholic beverages or of the Act respecting the Société des alcools du Québec, a report made and signed by that person according to a model approved by the Government. The Régie may also accept, in lieu of the testimony of a chemist of the Société des alcools du Québec, a report made and signed by the chemist.

Presence

A person may require the presence of the person who has made and signed the report by summoning him at his own expense. The cost of the summons will be reimbursed to him unless the Régie considers that the mere production of the report would have sufficed."

ACT RESPECTING THE SOCIÉTÉ DES ALCOOLS DU QUÉBEC

c. S-13, s. 34, am.

33. Section 34 of the Act respecting the Société des alcools du Québec (R.S.Q., chapter S-13), amended by section 310 of chapter 95 of the statutes of 1986, is again amended by adding, at the end, the following paragraph:

Police

"At the request of the Régie des permis d'alcool du Québec established under the Act respecting liquor permits, a member of a police force authorized for that purpose by the Attorney General or a member of the Sûreté du Québec may exercise the powers provided in the second paragraph."

c. S-13, s. 34.1, added

34. The said Act is amended by inserting, after section 34, the following section:

Sharing of
information

“34.1 The Minister of Industry and Commerce and the Régie des permis d'alcool du Québec may share any information with each other and transmit any report, book, register or document to each other which they obtain pursuant to sections 33 and 34.”

c. S-13, s.
35, replaced

35. Section 35 of the said Act is replaced by the following section :

Suspension
or
cancellation

“35. At the request of the Minister of Industry and Commerce, the Régie des permis d'alcool du Québec may cancel or suspend a permit for any period it may determine where

(1) the conditions fixed on the issuance of the permit are not fulfilled;

(2) the annual duties are not paid;

(3) the permit is transferred without the express authorization of the Minister or without observing the conditions attached to the transfer by the Minister;

(4) the permit holder contravenes section 33;

(5) the permit holder fails to install the basic machinery required for making or bottling in accordance with the conditions determined by the Minister of Industry and Commerce;

(6) the permit holder does not maintain the basic machinery required for making and bottling;

(7) the permit holder or, where the holder is a corporation, a director of the corporation or a shareholder holding ten per cent or more of the shares with full voting rights is found guilty of an offence under this Act, a regulation thereunder or the Act respecting offences relating to alcoholic beverages.

Applicable
provisions

Any relevant provisions of the Act respecting liquor permits or of the regulations thereunder respecting the cancellation or the suspension of a permit and the procedure and proof applicable before the Régie apply, with the necessary adaptations, to the cancellation or suspension of a permit issued under this Act.”

c. S-13, s.
36, replaced

36. Section 36 of the said Act is replaced by the following section :

Appeal

“36. A person whose permit is suspended or cancelled by the Régie des permis d'alcool du Québec may, within 10 days after the date of being advised of the decision, appeal the decision on any question of law by a motion to a judge of the Provincial Court, after the motion has been served on the Minister of Industry and Commerce and on the Régie.”

c. S-13, s.
36.3, am. **37.** Section 36.3 of the said Act is amended by adding, at the end, the following sentence: "It shall be transmitted to the Régie des permis d'alcool du Québec for execution."

c. S-13, s.
39.1, added **38.** The said Act is amended by inserting, after section 39, the following section:

Owner of
premises **"39.1** The owner or lessee of premises where an offence under section 38, 38.1 or 39 is committed, as well as the holder of a permit contemplated in section 24 issued for those premises who authorizes or allows the commission of such an offence, is guilty of an offence and liable, in addition to costs, to a penalty equal to that provided for the offence he has authorized or allowed.

Employee of
owner In proceedings pursuant to the first paragraph, proof that an offence under section 38, 38.1 or 39 has been committed by a person in the employ of the owner, lessee or permit holder is, in the absence of evidence to the contrary, proof that the person has committed the offence with the authorization or consent of the owner, lessee or permit holder.

Partnership
or
corporation If the person who has committed an offence under section 38, 38.1 or 39, the owner or lessee of the premises where the offence has been committed or the holder of the permit issued for those premises is a partnership or a corporation, each partner or director of the corporation who authorized or allowed the commission of the offence is deemed a party to the offence."

c. S-13, s.
53, am. **39.** Section 53 of the said Act is amended by striking out the words "or when such a permit is cancelled by the Minister of Industry and Commerce", in the second, third and fourth lines.

TRANSITIONAL AND FINAL PROVISIONS

Conversion
of permits **40.** Restaurant permits issued under the Act respecting liquor permits before the coming into force of this section are converted without other formality into restaurant sales permits.

Exigible
duties **41.** Until the Regulation respecting duties and costs payable under the Act respecting liquor permits (R.R.Q., 1981, chapter P-9.1, r. 5) is amended to cover restaurant sales permits or restaurant service permits, the duties exigible for a restaurant sales permit or a restaurant service permit shall be in the same amount as those exigible for a restaurant permit under that regulation.

Provisional
measure

42. In premises designated as a “restaurant” within the meaning of the Hotels Act (R.S.Q., chapter H-3) and for which an application for a restaurant service permit has been made to the Régie des permis d’alcool du Québec within ninety days after the coming into force of this section, it shall be lawful, until the Régie decides the application, to serve to patrons or to allow them to consume alcoholic beverages which they bring with them, for consumption on the premises at a meal, provided such beverages are not beer, alcohol, spirits or mixed alcoholic beverages commonly called “cooler”.

Coming into
force

43. This Act comes into force on 19 December 1986.