



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-EIGHTH LEGISLATURE

Bill 9

(2007, chapter 30)

**An Act to protect persons with regard to
activities involving firearms and
amending the Act respecting safety in
sports**

Introduced 15 June 2007

Passed in principle 20 November 2007

Passed 13 December 2007

Assented to 13 December 2007

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EXPLANATORY NOTES

This bill prohibits the possession of firearms in the buildings and on the grounds of childcare facilities and educational institutions and in conveyances used for public transportation and school transportation. By government regulation, any other institution may be added to those listed in the bill.

The bill also regulates target shooting with restricted and prohibited firearms in shooting clubs and shooting ranges, in particular by requiring operators to obtain a licence. Compliance with safety regulations, and the keeping of a register of users' and members' frequentation of the facilities, are among the other requirements set forth in the bill. In addition, a person wishing to engage in target shooting must be a member of a shooting club, meet the conditions for continued membership and obtain an attestation of competency in the safe use of firearms.

Under this bill, the personnel of educational institutions, public transportation and school transportation drivers and admission attendants and persons responsible for shooting clubs and shooting ranges are required to report to police any behaviour indicating that an individual may endanger the safety of the individual or another person by the use of a firearm. Certain professionals are authorized to report such behaviour despite obligations of confidentiality and professional secrecy.

LEGISLATION AMENDED BY THIS BILL:

- Act respecting safety in sports (R.S.Q., chapter S-3.1);
- Act respecting health services and social services (R.S.Q., chapter S-4.2).

Bill 9

AN ACT TO PROTECT PERSONS WITH REGARD TO ACTIVITIES INVOLVING FIREARMS AND AMENDING THE ACT RESPECTING SAFETY IN SPORTS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

ACT TO PROTECT PERSONS WITH REGARD TO ACTIVITIES
INVOLVING FIREARMS

1. The purpose of this Act is, among other things, to protect persons who frequent the premises of a designated institution, including the grounds of the institution and the structures standing on those grounds.

The following are designated institutions:

(1) childcare centres and day care centres within the meaning of the Educational Childcare Act (R.S.Q., chapter S-4.1.1);

(2) nursery schools within the meaning of section 153 of that Act;

(3) schools that provide childcare services, preschools, elementary and secondary schools, postsecondary colleges, general and vocational colleges, vocational training centres, adult education centres, and universities.

This Act and its regulations apply, with the necessary modifications, to premises where home childcare is provided, regardless of whether the childcare provider is a recognized home childcare provider under the Educational Childcare Act.

This Act also seeks to protect persons who use public transportation, with the exception of taxis, and those who use school transportation.

The Government may, by regulation, designate institutions other than those mentioned in the second paragraph, exempt from the application of this Act any institution mentioned in that paragraph or certain of its premises, or exempt from the application of this Act certain means of public transportation, in the cases and under the conditions that it determines.

2. No person may be in possession of a firearm within the meaning of the Criminal Code (Revised Statutes of Canada, 1985, chapter C-46) on the premises of a designated institution. This also applies to public transportation, with the exception of taxis, and to school transportation.

A person who contravenes the first paragraph is guilty of an offence and liable to a fine of \$500 to \$5,000.

3. Section 2 does not apply to public officers within the meaning of section 117.07 of the Criminal Code, to persons authorized to bear firearms for the protection of their own or another's life or for use in the course of their lawful professional activity, or to persons designated by government regulation, with regard to the responsibilities they assume or the activities they exercise and under the conditions determined in the regulation.

4. The Minister may exceptionally authorize an activity involving firearms to take place on the premises of a designated institution, in the cases, for the duration and under the conditions determined by the Minister.

5. A peace officer who has reasonable grounds to believe that a person is contravening section 2 may, without a warrant, search that person and the person's immediate environment, and seize any firearm in the person's possession.

A firearm thus seized may be detained for a period of 90 days. At the end of that period it must be given back to the owner unless that person is not in compliance with the Firearms Act (Statutes of Canada, 1995, chapter 39) or detention of the firearm is required for legal proceedings.

When a person is found guilty of an offence under section 2, the judge may, on application by the prosecuting party, declare the seized firearm to be confiscated.

The provisions of articles 129 to 141 of the Code of Penal Procedure (R.S.Q., chapter C-25.1) that relate to the custody, detention and disposition of things seized, and are complementary to and not incompatible with this section, apply with the necessary modifications.

6. A teacher, professional or other person working at a designated institution who has reasonable grounds to believe that a person is contravening section 2, or that a firearm is on the premises of the institution, must advise the police of the situation immediately. This also applies to public transportation or school transportation admission attendants and drivers with regard to persons who use such transportation.

7. A teacher or a professional occupying a management position at a designated institution who has reasonable grounds to believe that a person on the premises of the institution is behaving in such a way as to compromise the safety of that person or another person by the use of a firearm, must report that behaviour to the police, providing the latter only with such information as is required to facilitate police intervention. This also applies to public transportation or school transportation admission attendants and drivers with regard to persons who use such transportation.

8. A professional referred to in the second paragraph who, in the course of exercising his or her profession, has reasonable grounds to believe that a person is behaving in such a way as to compromise the safety of that person or another person by the use of a firearm, is authorized to report that behaviour to the police, providing the latter only with such information as is required to facilitate police intervention, including information protected by professional secrecy and despite any provision binding the professional to maintain confidentiality, particularly in matters regarding health and social services.

For the purposes of this section, a professional is

- (1) a physician;
- (2) a psychologist;
- (3) a vocational guidance counsellor or psychoeducator;
- (4) a nurse; or
- (5) a social worker or marriage and family therapist.

The Government may, by regulation, make the provisions of the first paragraph applicable to a professional not mentioned in the second paragraph.

A professional referred to in this section who is in the situation described in this section is not required to comply with section 6.

9. A director of an institution that operates a hospital centre or local community service centre within the meaning of the Act respecting health services and social services (R.S.Q., chapter S-4.2), or a person designated by the director, must report to the police any instance of a person being treated in the institution for an injury caused by a projectile from a firearm, specifying only the person's identity, if known, and the name of the institution. This information is communicated orally and as soon as is practicably possible, considering the importance of not hampering the treatment of the person concerned or disrupting the normal course of the institution's activities.

The Government may, by regulation,

(1) in the cases and under the conditions it determines, make other health establishments or private health facilities operated by physicians subject to the obligation to report to the police as set out in the first paragraph, which private health facilities must designate a person within the facility to assume that obligation;

(2) determine any other information to be reported to the police to facilitate their intervention; and

(3) specify any other requirement regarding a report to the police.

10. A person cannot be prosecuted for acts performed in good faith in accordance with sections 6 to 9.

No person may divulge or be compelled to divulge the identity of a person who acts in accordance with those sections, despite section 88 of the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1).

11. The clerk of the Court of Québec must inform the chief firearms officer immediately of an application referred to in article 778 of the Code of Civil Procedure (R.S.Q., chapter C-25) relating to a person whose mental state presents a danger to that person or to other persons and provide the chief firearms officer with the name, address and date of birth of the person and with the court file number. The chief firearms officer must verify whether the person is in possession of a firearm, has access to a firearm or holds a licence to acquire a firearm. If the verification proves negative, the chief firearms officer must destroy the information five years after being so informed.

At the request of the chief firearms officer, the clerk confirms whether or not a person identified by the officer and applying for a licence or authorization under the Firearms Act has previously been the subject of an application referred to in article 778 of the Code of Civil Procedure. If so, the clerk provides the chief firearms officer with the court file number relating to the application.

The chief firearms officer is the person designated by the Minister of Public Security to act as such in Québec under the Firearms Act.

12. Any person who contravenes a regulation under this Act, other than a regulation under section 9, is guilty of an offence and liable to a fine of \$500 to \$5,000.

13. The Minister of Public Security is responsible for the administration of this Act.

ACT RESPECTING SAFETY IN SPORTS

14. The Act respecting safety in sports (R.S.Q., chapter S-3.1) is amended by inserting the following chapter after Chapter V.2:

“CHAPTER V.3

“TARGET SHOOTING

“DIVISION I

“SHOOTING CLUB AND SHOOTING RANGE

“**46.24.** No person may operate a shooting club or shooting range without a licence from the Minister of Public Security.

A shooting club is a sports body whose activities consist in the practice of the sport of target shooting, or the holding of target shooting competitions, with restricted or prohibited firearms.

A shooting range is a place designed or adapted for safe target shooting with restricted or prohibited firearms on a regular and structured basis, but does not include a shooting range exempted from the obligation to be approved under the Firearms Act (Statutes of Canada, 1995, chapter 39) or the regulations.

The terms “restricted firearm” and “prohibited firearm” have the meanings assigned to them by section 84 of the Criminal Code (Revised Statutes of Canada, 1985, chapter C-46).

“**46.25.** The Minister issues a shooting club licence, covering the shooting ranges that the club is authorized to operate, or a shooting range licence to a person that meets the conditions and pays the duties and fees prescribed by government regulation. Only a non-profit body may be issued a shooting club licence.

The Minister may refuse to issue a licence if, in the Minister’s view, it is in the interest of public safety to do so.

“**46.26.** A licence is issued for a five-year period; it may be renewed for the same period, if the conditions for the issuance of the initial licence are met and the duties and fees prescribed by government regulation are paid.

Where special circumstances justify it, the Minister may determine that a licence is to be valid for a shorter period.

“**46.27.** Shooting club licences and shooting range licences cannot be transferred.

“**46.28.** Licence holders must keep a register of the use made of their premises by the members and users. This register must contain the dates and times of arrival and departure of each member and user, as well as any other information prescribed by government regulation.

On being requested to do so, licence holders must send to the Minister any information contained in the register the latter may require, within the time specified by the Minister.

“46.29. Holders of a shooting club licence must revoke or refuse to renew the membership of a person who, for at least one year, has not practised the sport of target shooting at the shooting range to which membership gives access, unless the person shows a new attestation to the effect that the person has passed a competency test in the safe use of restricted firearms or prohibited firearms, or shows proof of having, during the past year, practised the sport of target shooting at a shooting range that is approved under the Firearms Act (Statutes of Canada, 1995, chapter 39) or maintained under the National Defence Act (Revised Statutes of Canada, 1985, chapter N-5). This also applies when a member of a shooting club does not renew his or her membership on its expiry.

Licence holders must inform the Minister as soon as practicable of the identity of any person whose membership is revoked or not renewed.

“46.30. A licence holder must ensure compliance with the requirements set out in sections 46.41 and 46.42.

“46.31. A licence holder or person responsible for a shooting club or shooting range must immediately report to the police any behaviour of a member or user with a firearm that may compromise the safety of that person or another person, providing the police only with such information as is required to facilitate police intervention.

A person cannot be prosecuted for acts performed in good faith in accordance with this section.

No person may divulge or be compelled to divulge the identity of a person who acts in accordance with this section, despite section 40 of the Act respecting the protection of personal information in the private sector (chapter P-39.1).

“46.32. The Minister may appoint the inspectors required to verify compliance with this chapter and the regulations under this chapter.

Inspectors thus appointed may, in the exercise of their duties,

(1) enter a shooting club or shooting range at any reasonable time in order to run tests, take photographs, make recordings or examine the equipment and installations occupying the premises or used for competitions;

(2) examine and copy the licence holder’s books, registers, accounts, files and other documents;

(3) demand any information relating to the application of this chapter and the regulations under this chapter;

(4) require a person to prove his or her membership in a shooting club; and

(5) require a person on the premises to give reasonable assistance and to accompany the inspector on the inspection of the premises.

“46.33. The Minister may also appoint persons to investigate offences against this chapter and the regulations under this chapter.

“46.34. Persons carrying out an inspection or investigation must, on request, show a certificate of authority signed by the Minister.

“46.35. It is forbidden to hinder an inspector in the exercise of his or her duties in any way, to deceive or attempt to deceive an inspector through concealment or by making false or misleading declarations, or to refuse to provide documents or information an inspector may require under this division or a regulation under this division. This also applies in the case of an investigator.

“46.36. Inspectors and investigators cannot be prosecuted for acts performed in good faith in the exercise of their duties.

“46.37. The Minister may modify, suspend, cancel, revoke or refuse to renew the licence of a licence holder who

(1) has been found guilty of an offence against this division or a regulation under this division;

(2) no longer meets the conditions for a licence to be issued;

(3) does not meet the requirements set out in sections 46.28 to 46.31;

(4) is not ensuring compliance with a safety regulation under this Act;

(5) did not obtain approval under the Firearms Act (Statutes of Canada, 1995, chapter 39) within 12 months following the date the licence was issued, or is no longer approved under that Act;

(6) is not in operation within 12 months following the date the approval is granted, or has ceased operations permanently or for at least 12 months; or

(7) represents, in the Minister’s view, a risk to public safety.

“46.38. The Minister must, before modifying, suspending, cancelling, revoking or refusing to issue or renew a licence, notify the applicant or licence holder in writing as prescribed by section 5 of the Act respecting administrative justice (chapter J-3) and grant the applicant or licence holder at least 10 days following receipt of notification to submit observations.

The Minister gives written notice of the decision, including reasons, to the applicant or licence holder.

“46.39. The application of sections 20 and 21, 26 to 30 and 47 to 53 with regard to the sport of target shooting covered by this chapter is under the authority of the Minister of Public Security, with the necessary modifications.

“46.40. With the exception of the power to adopt or amend a regulation, the Minister may entrust all or part of the Minister’s responsibilities under this division to any person the Minister designates.

“DIVISION II

“MEMBERS OF A SHOOTING CLUB AND USERS OF A SHOOTING RANGE

“46.41. No person may frequent a shooting range to use a restricted firearm or a prohibited firearm without being a member of a shooting club or being invited under the immediate supervision of a member.

This section does not apply to public officers within the meaning of section 117.07 of the Criminal Code (Revised Statutes of Canada, 1985, chapter C-46).

“46.42. To be a member of a shooting club, the applicant must take a competency test in the safe practice of the sport of target shooting with restricted firearms or prohibited firearms and provide the operator with an attestation showing that the applicant has passed the test. The subjects covered by the test are determined by regulation of the Minister and the test is supervised by an instructor appointed by the Minister or appointed by a person designated by the Minister. The attestation is issued by the instructor.

With regard to the persons they test, instructors are subject to the same obligation to report unsafe behaviour as are shooting club members under section 46.43. Licence holders and persons responsible for shooting clubs or shooting ranges are subject to the same obligation to report unsafe behaviour as is provided for in section 46.31. These persons also enjoy the same protections as are granted in those sections.

The Minister may, by regulation, require members to take and successfully complete any form of training, at the times determined by the Minister.

“46.43. A member of a shooting club or user of a shooting range must immediately report to the licence holder or the person responsible for the shooting club or shooting range any behaviour of another member or user with a firearm that may compromise the safety of that person or another person.

A person cannot be prosecuted for acts performed in good faith in accordance with this section.

No person may divulge or be compelled to divulge the identity of a person who acts in accordance with this section, despite section 40 of the Act respecting the protection of personal information in the private sector (chapter P-39.1).”

15. Section 53.1 of the Act is amended

(1) by inserting “or 46.25” after “in section 46” and “or 46.37” after “in section 46.1”;

(2) by inserting “of the board or, if applicable, of the Minister of Public Security,” after “contest the decision”;

(3) by adding the following paragraph:

“When assessing the facts or the law, the Tribunal may not substitute its assessment of public security for that made by the Minister of Public Security in making a decision under section 46.25 or 46.37.”

16. Section 58 of the Act is amended by adding the following paragraph at the end of the second paragraph:

“(3) the contravention, by a member of a shooting club or user of a shooting range, of the first paragraph of section 46.43.”

17. Section 60.1 of the Act is amended by replacing “and 46.2.2” by “, 46.2.2, 46.32 and 46.33”.

18. Section 73 of the Act is amended by replacing “Chapter V” by “Chapters V and V.3”.

19. Section 19 of the Act respecting health services and social services (R.S.Q., chapter S-4.2) is amended by adding the following paragraph at the end:

“(10) in the cases and for the purposes set out in sections 8 and 9 of the Act to protect persons with regard to activities involving firearms and amending the Act respecting safety in sports (2007, chapter 30).”

AMENDING, TRANSITIONAL AND FINAL PROVISIONS

20. Section 48 of the Educational Childcare Regulation, made by O.C. 582-2006 (2006, G.O. 2, 2161), is amended by replacing “and 86” in subparagraph *c* of paragraph 5 by “, 86 and 97.1”.

21. Section 60 of the Regulation is amended by adding the following paragraph at the end:

“(14) a copy of the registration certificate for any firearm kept in the residence where the childcare is to be provided.”

22. The Regulation is amended by inserting the following section after section 97:

“97.1. If a firearm is kept in the residence where childcare is provided, the home childcare provider must ensure that it is stored out of the sight and reach of the children. In addition, the home childcare provider must notify the parents of this in writing, and send a copy of the notice, duly signed by the parents, to the coordinating office that recognized the provider.”

23. If on (*insert the date of coming into force of section 2*) a firearm is kept in a residence where home childcare is provided, the home childcare provider has until (*insert the date occurring 90 days after the date of coming into force of section 2*) to comply with paragraph 14 of section 60 and section 97.1 of the Educational Childcare Regulation, enacted by sections 21 and 22 of this Act.

24. An operator of a shooting club or shooting range in operation on the date of coming into force of section 46.24 of the Act respecting safety in sports, enacted by section 14 of this Act, may continue operations provided the operator obtains, in accordance with this Act, a shooting club licence or shooting range licence within one year of the date of coming into force of the regulation provided for in section 46.25 of the Act respecting safety in sports, enacted by section 14 of this Act.

25. Members of shooting clubs have one year as of the coming into force of the regulation provided for in section 46.42 of the Act respecting safety in sports, enacted by section 14 of this Act, to provide a shooting club operator with an attestation to the effect that they have passed a competency test in the safe practice of the sport of target shooting with restricted firearms or prohibited firearms.

26. Sports federations and unaffiliated sports bodies must have their safety regulations on target shooting with restricted or prohibited firearms approved by the Minister of Public Security on or before (*insert the date occurring three months after the date of coming into force of this section*).

If a sports federation or unaffiliated sports body fails to have its safety regulations approved by the Minister within the prescribed time, the Minister may adopt the regulations in its place. Such regulations are deemed to have been adopted by the federation or body and to have been approved by the Minister.

27. The provisions of this Act come into force on the date or dates to be set by the Government but not later than 1 September 2008.