



NATIONAL ASSEMBLY

FIRST SESSION

FORTY-FIRST LEGISLATURE

Bill 25
(2015, chapter 4)

**An Act to transfer the responsibility for
issuing road vehicle dealer's and recycler's
licences to the president of the Office de la
protection du consommateur**

**Introduced 28 November 2014
Passed in principle 19 February 2015
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Assented to 30 March 2015**

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EXPLANATORY NOTES

This Act transfers the responsibility for issuing road vehicle dealer's and recycler's licences, which is currently conferred on the Société de l'assurance automobile du Québec, to the president of the Office de la protection du consommateur.

It also makes consequential amendments and contains transitional provisions.

LEGISLATION AMENDED BY THIS ACT:

- Highway Safety Code (chapter C-24.2);
- Consumer Protection Act (chapter P-40.1).

Bill 25

AN ACT TO TRANSFER THE RESPONSIBILITY FOR ISSUING ROAD VEHICLE DEALER'S AND RECYCLER'S LICENCES TO THE PRESIDENT OF THE OFFICE DE LA PROTECTION DU CONSOMMATEUR

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CONSUMER PROTECTION ACT

1. Section 1 of the Consumer Protection Act (chapter P-40.1) is amended by inserting the following subparagraph after subparagraph *o* of the first paragraph:

“(o.1) “road vehicle” means a road vehicle within the meaning of the Highway Safety Code (chapter C-24.2);”.

2. The Act is amended by inserting the following section after section 2:

“**2.1.** Despite section 2, the provisions of this Title, those of Title III.3, except section 260.28, and those of sections 261 and 263 to 267, Chapter III of Title IV and Title V, except subparagraph *a* of the first paragraph of section 338.1, also apply, with the necessary modifications, in the case where a road vehicle dealer or recycler enters into contracts with other merchants.”

3. Section 158 of the Act is amended by replacing “of the licence issued to the merchant under of the Highway Safety Code (chapter C-24.2)” in paragraph *a* by “of the road vehicle dealer’s permit”.

4. The Act is amended by inserting the following after section 260.24:

“TITLE III.3

“SPECIAL PROVISIONS RESPECTING ROAD VEHICLE DEALERS AND RECYCLERS

“**260.25.** A road vehicle dealer is a merchant who acquires road vehicles for trading purposes.

“**260.26.** A road vehicle recycler is a merchant who dismantles or sells discarded road vehicles, vehicle carcasses or parts taken from road vehicles

that have been dismantled or are destined for dismantling or destruction or for sale for parts only.

For the purposes of the first paragraph, a carcass may consist of a complete road vehicle.

“260.27. Road vehicle dealers and recyclers must indicate the number of their permit on all contracts of sale or long-term contracts of lease, within the meaning of section 150.2, of a road vehicle and contracts of sale of a major component.

For the purposes of the first paragraph, “major component” has the meaning assigned by a regulation made under section 155 of the Highway Safety Code (chapter C-24.2).

“260.28. If a road vehicle must undergo a mechanical inspection under the Highway Safety Code (chapter C-24.2) before being authorized to travel on a public highway, the road vehicle dealer or recycler selling the vehicle or leasing it under a long-term contract of lease, within the meaning of section 150.2, must give the consumer a certificate of mechanical inspection attesting that the vehicle meets the requirements of that Code.

“260.29. Holders of a road vehicle dealer’s or recycler’s permit may sell road vehicles, or lease road vehicles under long-term contracts of lease, within the meaning of section 150.2, at their establishment only.

“260.30. Holders of a road vehicle dealer’s or recycler’s permit must keep it posted in public view in their establishment.

“260.31. A person who, by onerous title, acts as an intermediary between consumers in the sale of road vehicles is subject to the obligations imposed on road vehicle dealers under Title III.3 and paragraph *e* of section 321.

“260.32. A member of the Sûreté du Québec or of a municipal police force may enforce sections 260.27 to 260.31 and paragraphs *e* and *f* of section 321 in any territory in which that member provides police services.”

5. Section 277 of the Act is amended by adding the following paragraph after paragraph *f*:

“(g) does not hold a permit although required to hold one under any of the paragraphs of section 321.”

6. Section 278 of the Act is amended by replacing “paragraph *b*, *c*, *d*, *e* or *f*” in the introductory clause in the first paragraph by “any of paragraphs *b* to *g*”.

7. Section 279 of the Act is amended by replacing “a fine of \$300 to \$6,000” in subparagraph *a* of the first paragraph by “a fine of \$600 to \$6,000”.

8. The Act is amended by inserting the following section after section 290.1:

“**290.2.** Penal proceedings for an offence under any of sections 260.27 to 260.31 or paragraph *e* or *f* of section 321 may be instituted by a municipality if the offence was committed in its territory, excluding any part of the territory covered by an agreement entered into under the second paragraph.

Likewise, where an agreement has been entered into for that purpose with the Government, penal proceedings for such an offence may be instituted

(*a*) by a Native community, represented by its band council, if the offence is committed in the territory assigned to that community and in respect of which a police service agreement has been entered into under section 90 of the Police Act (chapter P-13.1);

(*b*) by a Cree community, represented by its band council, if the offence is committed in a part of the territory described in section 102.6 of that Act and specified in the agreement;

(*c*) by the Naskapi Village, if the offence is committed in the territory described in section 99 of that Act;

(*d*) by the Cree Nation Government, if the offence is committed in the territory described in section 102.6 of that Act, excluding any part of the territory covered by an agreement entered into with a Cree community under this paragraph; and

(*e*) by the Kativik Regional Government, if the offence is committed in the territory referred to in section 369 of the Act respecting Northern villages and the Kativik Regional Government (chapter V-6.1).

Fines collected under this section belong to the prosecutor.

Proceedings in respect of such an offence committed in the territory of a municipality may be instituted before the competent municipal court.

The costs relating to proceedings instituted before a municipal court belong to the municipality under the jurisdiction of that court, except the part of the costs remitted to another prosecutor by the collector under article 345.2 of the Code of Penal Procedure (chapter C-25.1), and the costs remitted to the defendant or imposed on the municipality under article 223 of that Code.”

9. Section 321 of the Act is amended by adding the following paragraphs at the end:

“(e) every road vehicle dealer; and

“(f) every road vehicle recycler.”

10. Section 322 of the Act is amended by striking out “or, as the case may be, the licence required under the Highway Safety Code (chapter C-24.2)” in the first paragraph.

11. The Act is amended by inserting the following section after section 323:

“323.1. Despite the second paragraph of section 323, an application for a road vehicle dealer’s or recycler’s licence must be accompanied by security, in the amount and form prescribed by regulation.

An association of road vehicle dealers or an association of road vehicle recyclers may act as surety for its members, in the form, on the conditions and in the manner prescribed by regulation. In such a case, the association must deposit an amount with a trust company. The amount is fixed by the president.”

12. The Act is amended by inserting the following sections after section 327:

“327.1. The president may refuse to issue a permit to any applicant for a road vehicle dealer’s or recycler’s permit who, during the five years preceding the application, was found guilty of a criminal offence relating to possession of stolen goods, fraud or theft involving a road vehicle or its parts and for which the applicant has not obtained a pardon.

“327.2. Without limiting the powers conferred on the president by sections 325 to 327.1, the president may, on the recommendation of the Société de l’assurance automobile du Québec, refuse to issue a permit to any applicant for a road vehicle dealer’s or recycler’s permit who was found guilty of an offence under the Highway Safety Code (chapter C-24.2) in connection with the occupation of road vehicle dealer or recycler, as the case may be, and for which the applicant has not obtained a pardon.”

13. The Act is amended by inserting the following sections after section 329:

“329.1. Without limiting the powers conferred on the president by sections 328 and 329, the president may, on the recommendation of the Société de l’assurance automobile du Québec, suspend or cancel the permit of any holder of a road vehicle dealer’s or recycler’s permit who was found guilty of an offence under the Highway Safety Code (chapter C-24.2) in connection with the occupation of road vehicle dealer or recycler, as the case may be, and for which the holder has not obtained a pardon.

The terms and conditions as well as the duration of the suspension are determined after consultation with the Société.

“329.2. If the president renders a decision to suspend or cancel a road vehicle dealer’s or recycler’s permit, the president may maintain the permit subject to certain conditions for a period the president determines.

“329.3. A road vehicle dealer or recycler whose permit has been suspended or cancelled must, on the president’s request, return the permit to the president immediately.

If the permit is not returned, the president may seize and confiscate or destroy it.

The president may request a peace officer to seize and confiscate or destroy the cancelled or suspended permit. The peace officer is authorized to seize and confiscate or destroy any suspended or cancelled permit. The person in possession of the permit must surrender it immediately to a peace officer on the officer’s request. When confiscating a permit, the peace officer issues a receipt to the person in possession of the permit and then remits the permit to the president; when the peace officer destroys a permit, the officer informs the president of that fact.”

14. Section 335 of the Act is amended by adding the following paragraph at the end:

“A permit whose renewal is applied for remains in force until the president’s decision on the renewal application.”

15. The Act is amended by inserting the following section after section 338:

“338.1. Section 338 does not apply to security given by a road vehicle dealer or recycler. In both cases and on the terms and conditions prescribed by regulation, the security is to be used

(a) to indemnify any consumer who has a claim against the person who gave the security or that person’s representative;

(b) to reimburse to the true owner of a road vehicle an amount equal to the price the true owner was required to pay to the purchaser as a condition for revindicating the road vehicle from the purchaser, in the case of the sale of the property of another by the road vehicle dealer or recycler;

(c) to reimburse to the owner of a stolen road vehicle that was dismantled or sold for parts by the road vehicle recycler an amount equal to the value of the vehicle at the time of the theft; and

(d) to pay the fine imposed on the person who gave the security or that person’s representative.

For the purposes of subparagraph *b* of the first paragraph, the following persons have no recourse against the surety in respect of a road vehicle that has been sold or leased:

(a) the transferee of a contract of sale of a road vehicle if the contract has a reserve of ownership or the transferee of a long-term contract of lease, within the meaning of section 150.2, of a road vehicle; and

(b) a road vehicle dealer who has reserved the ownership of a road vehicle that the dealer has sold or a dealer who has leased a road vehicle under a long-term contract of lease within the meaning of section 150.2.”

16. Section 350 of the Act is amended by inserting the following paragraphs after paragraph *l*:

“(l.1) fixing the amount of the security required under section 323.1 and establishing its form and terms and the manner of disposing of it in case of cancellation or confiscation or for the indemnification of a consumer, the reimbursement of the owner of a road vehicle or the execution of a judgment in a penal matter;

“(l.2) establishing the form, the conditions and the manner in or on which an association of road vehicle dealers or an association of road vehicle recyclers may act as surety for its members;”.

HIGHWAY SAFETY CODE

17. Section 1 of the Highway Safety Code (chapter C-24.2) is amended by striking out “et licences” in the second paragraph in the French text.

18. Section 4 of the Code is amended by striking out the definition of “dealer”.

19. Section 15 of the Code is amended

- (1) by inserting “road vehicle” in paragraph 1 before “dealer”;
- (2) by inserting “road vehicle” in paragraph 2 before “dealer”;
- (3) by adding the following paragraph at the end:

“The exemption provided for in the first paragraph applies to vehicles referred to in subparagraphs 1 and 2, other than a trailer or semi-trailer with a net mass of less than 1,300 kg, only if the road vehicle dealer holds a permit issued under the Consumer Protection Act (chapter P-40.1).”

20. Section 35 of the Code is amended by inserting “road vehicle” in the third paragraph before “dealer”.

21. Section 40 of the Code is amended by inserting “road vehicle” before “dealer”.

22. Section 41 of the Code is amended by inserting “road vehicle” before “dealer”.

23. Section 42 of the Code is amended by replacing “a dealer” by “a road vehicle dealer”.

24. Section 43 of the Code is amended by replacing “a dealer” by “a road vehicle dealer”.

25. The heading of Title III of the Code is amended by inserting “ROAD VEHICLE” before “DEALERS AND RECYCLERS”.

26. The Code is amended by inserting the following section before section 151:

“**150.1.** For the purposes of this Title, “recycler” has the meaning assigned by section 260.26 of the Consumer Protection Act (chapter P-40.1).”

27. Sections 151 to 154 of the Code are repealed.

28. Section 156 of the Code is amended

(1) by striking out “or an employee of the Société specially designated for that purpose” in the first paragraph;

(2) by striking out the second paragraph.

29. Sections 157 to 161 of the Code are repealed.

30. Section 161.1 of the Code is amended by replacing “Every holder of a dealer’s licence who is authorized” by “Every road vehicle dealer holding a permit issued under the Consumer Protection Act (chapter P-40.1) and authorized by the Société”.

31. Sections 162 to 164.1 of the Code are repealed.

32. Section 166 of the Code is amended by replacing “Every person who contravenes any of sections 151, 153, 157, 161 and” by “A road vehicle dealer who contravenes section”.

33. The heading of Chapter II of Title V of the Code is amended by replacing “, SUSPENSION DES PERMIS ET DES LICENCES” in the French text by “ET SUSPENSION DES PERMIS”.

34. Division III of Chapter II of Title V of the Code, comprising sections 207 to 209, is repealed.

35. Section 550 of the Code is amended, in the first paragraph,

(1) by replacing “any of sections 162, 185, 187.1” by “section 185 or 187.1”;

(2) by replacing “, 207 and 538.0.1” by “and 538.0.1”.

36. Section 560 of the Code is amended by replacing “or under any of sections 162, 207 and” in paragraph 2 by “, section”.

37. Section 587 of the Code is amended, in the first paragraph,

(1) by replacing “ class thereof of a dealer’s or recycler’s licence” by “a class thereof”;

(2) by inserting “under section 165 or 166 of this Code or” after “offence”.

38. Section 609 of the Code is amended by replacing “ou d’une licence délivrés” in the first paragraph in the French text by “délivré”.

39. The Code is amended by inserting the following section after section 611.2:

“611.3. The president of the Office de la protection du consommateur must, for the purpose of enforcing the provisions of this Code, send the Société any information enabling it to identify road vehicle dealers and recyclers who hold a permit issued under the Consumer Protection Act (chapter P-40.1) or whose permit is suspended or cancelled, including, in the case of dealers and recyclers who are natural persons, their name, residential address, date of birth and any other information determined by government regulation.”

40. Section 620 of the Code is amended by striking out paragraphs 1 to 4.

41. Section 624 of the Code is amended by striking out “of a licence or permit under Title III or” in subparagraph 7 of the first paragraph.

42. Section 637.1 of the Code is amended

(1) by replacing “et licence lorsque le permis, une classe de celui-ci ou la licence” in the first paragraph in the French text by “lorsque celui-ci ou une classe de celui-ci”;

(2) by replacing “where the permit, class thereof or the licence” in the first paragraph by “where the permit or licence or a class thereof”;

(3) by replacing the second paragraph in the French text by the following paragraph:

“Lorsqu’il confisque un permis, l’agent de la paix délivre un reçu à la personne en possession du permis et remet ensuite le permis à la Société.”

43. Section 648 of the Code is amended

(1) by replacing “the duties” in paragraph 6 by “the fees”;

(2) by replacing “, aux permis et aux licences” in paragraph 6 in the French text by “et aux permis”.

TRANSITIONAL AND FINAL PROVISIONS

44. Road vehicle dealer’s or recycler’s licences issued under the Highway Safety Code (chapter C-24.2) before the date of coming into force of this section and in force on that date are deemed to be road vehicle dealer’s or recycler’s permits, as applicable, issued under the Consumer Protection Act (chapter P-40.1).

However, if a dealer or recycler holds more than one licence issued under that Code, the dealer or recycler is deemed, for the purposes of the Consumer Protection Act, to hold a single permit issued under that Act.

On the expiry of the licence having the earliest expiry date, the holder must apply for a single permit. The duties chargeable for such a permit are then, to take into account the fact that one or more licences are not expired, reduced to the amount obtained

(1) by dividing the number of months remaining in the term of validity of each licence by 24 and multiplying the quotient so obtained by the fee charged to issue the licence; and

(2) if there is more than one unexpired licence, by adding the results obtained for each licence after the provisions of subparagraph 1 are applied.

Any application for the issue of a licence being processed at the Société de l’assurance automobile du Québec on the date this section comes into force is transferred to the president of the Office de la protection du consommateur for processing in accordance with the new provisions applicable.

45. Any security given to the Société de l’assurance automobile du Québec by a dealer or recycler in accordance with the Highway Safety Code before the date of coming into force of this section and in force on that date is deemed to be security given to the president of the Office de la protection du consommateur in accordance with the Consumer Protection Act.

46. The provisions of this Act come into force on 19 October 2015, unless the Government sets an earlier date or earlier dates for their coming into force.

