

chapter P-30.3

ACT RESPECTING OWNERS, OPERATORS AND DRIVERS OF HEAVY VEHICLES

2005, c. 39, s. 1.

TABLE OF CONTENTS

CHAPTER I	
SCOPE.....	1
CHAPTER II	
REGISTER OF OWNERS AND OPERATORS OF HEAVY VEHICLES.....	4
CHAPTER III	
OBLIGATIONS.....	19
CHAPTER IV	
MONITORING AND CONTROL OF HEAVY VEHICLES	
DIVISION I	
POWERS OF THE SOCIÉTÉ.....	22
DIVISION II	
POWERS OF THE COMMISSION.....	26
DIVISION III	
SEIZURE, INSPECTION AND INQUIRY	39
DIVISION IV	
IDENTIFICATION OF OPERATOR.....	42.1
CHAPTER V	
PENAL PROVISIONS.....	43
CHAPTER VI	
ACCESS TO INFORMATION AND RETENTION OF INFORMATION.....	49
CHAPTER VII	
AMENDING, TRANSITIONAL AND MISCELLANEOUS PROVISIONS.....	52
REPEAL SCHEDULES	

CHAPTER I

SCOPE

1. This Act establishes special rules applicable to owners, operators and drivers of heavy vehicles with a view to increasing the safety of road users on roads open to public vehicular traffic and to preserving the integrity of those roads.

Land occupied by shopping centres and other land where public traffic is allowed shall be considered to be a road open to public vehicular traffic.

1998, c. 40, s. 1; 2005, c. 39, s. 2.

2. For the purposes of this Act,

(1) an owner of a heavy vehicle is a person whose name appears on the vehicle's registration certificate issued in Québec or a person who holds, in respect of the vehicle, a right within the meaning of section 2 of the Highway Safety Code (chapter C-24.2);

(2) an operator of a heavy vehicle is a person who controls the operation of a heavy vehicle;

(3) "heavy vehicle" means

(a) a road vehicle or combination of road vehicles, within the meaning of the Highway Safety Code, having a gross vehicle weight rating or gross combination weight rating of 4,500 kg or more;

(b) a bus, minibus or tow truck, within the meaning of that Code;

(c) a road vehicle subject to a regulation made under section 622 of that Code;

(4) "gross vehicle weight rating" means the value specified by the manufacturer as the loaded weight of a single vehicle and known as the "gross vehicle weight rating" (GVWR) or "poids nominal brut du véhicule" (PNBV);

(5) unless otherwise provided, the drivers of heavy vehicles who are subject to this Act are those who hold a driver's licence issued by the Société de l'assurance automobile du Québec.

In this Act and the regulations, unless otherwise indicated by the context, "person" means, in addition to a natural person and a legal person, a partnership.

1998, c. 40, s. 2; 2005, c. 39, s. 3.

3. The Government may, by regulation and subject to the conditions it determines,

(1) exempt certain drivers of heavy vehicles, certain heavy vehicles or certain classes of heavy vehicles from the application of all or part of this Act;

(2) prescribe, for the purpose of harmonizing this Act with the rules governing persons who operate heavy vehicles mainly outside Québec, a weight other than that referred to in subparagraph *a* of subparagraph 3 of the first paragraph of section 2, or determine a total loaded mass applicable to those persons;

(3) prescribe notations to accompany the safety ratings referred to in section 12 and determine their effects.

1998, c. 40, s. 3; 2005, c. 39, s. 4.

CHAPTER II

REGISTER OF OWNERS AND OPERATORS OF HEAVY VEHICLES

4. A register in which owners and operators of heavy vehicles are to be registered and containing the information referred to in sections 7, 12 and 35 is hereby established at the Commission des transports du Québec under the name “Registre des propriétaires et des exploitants de véhicules lourds”.

The Government may, by regulation, exempt any group or any class of persons it determines from the requirement to be registered. The exemption may be subject to conditions and be granted for a limited period of time. Persons so exempted are deemed not to be governed by this Act insofar as the persons comply with the conditions, if any, imposed on them.

1998, c. 40, s. 4.

5. Only owners of heavy vehicles who are registered in the Commission’s register may put into operation on a road open to public vehicular traffic a heavy vehicle whose registration certificate was issued in Québec.

Only operators of heavy vehicles who are registered in the Commission’s register may operate on a road open to public vehicular traffic a heavy vehicle whose registration certificate was issued in Québec. Only operators of heavy vehicles who hold a safety fitness certificate issued by another administrative authority under the Motor Vehicle Transport Act (R.S.C. 1985, c. 29 (3rd Suppl.)) and authorizing the holder to operate such vehicles, or who hold a similar document recognized under that Act, may operate on a road open to public vehicular traffic a heavy vehicle whose registration certificate was issued outside Québec. However, an operator of heavy vehicles who is registered in the Commission’s register may operate on a road open to public vehicular traffic a heavy vehicle whose registration certificate was issued outside Canada.

A heavy vehicle that is operated on a road open to public vehicular traffic is deemed to have been put into operation by its owner.

A person may register as both an owner and operator.

1998, c. 40, s. 5; 2005, c. 39, s. 5.

6. Persons wishing to register as owners or operators must provide their names and addresses to the Commission and pay the fees set by government regulation.

The Commission assigns an identification number to each registered person.

1998, c. 40, s. 6; 2005, c. 39, s. 6.

7. No registered person may put a heavy vehicle into operation or operate a heavy vehicle on a road open to public vehicular traffic unless

(1) the person has provided, as applicable, the names and addresses of the person’s directors and any other information required by the Commission under the conditions it determines;

(2) the person, in accordance with the intervals, terms and conditions determined by the Commission, has renewed the person’s registration and paid the fees set by government regulation;

(3) five years have elapsed since the date of any conviction for an indictable offence related to the operation of a heavy vehicle with respect to which a pardon has not been granted;

(4) where the law so requires, the person holds a licence under section 50.0.6 of the Fuel Tax Act (chapter T-1), is registered under the Act respecting the legal publicity of enterprises (chapter P-44.1) and is registered under section 290 of the Act respecting industrial accidents and occupational diseases (chapter A-3.001); and

(5) the person has paid any fine not under appeal that was imposed under this Act, the Transport Act (chapter T-12), the Highway Safety Code (chapter C-24.2), or a legislative or regulatory provision referred to in section 519.65 of that Code in respect of which an agreement has been entered into with the Société, or that was imposed outside Québec where a similar measure is applied.

If the Commission is informed that a registered person does not satisfy the conditions set forth in subparagraphs 1 to 5 of the first paragraph, it indicates in the register that the person's right to put a heavy vehicle into operation or operate a heavy vehicle has been suspended.

1998, c. 40, s. 7; 2005, c. 39, s. 7; 2010, c. 7, s. 226.

8. *(Repealed).*

1998, c. 40, s. 8; 2005, c. 39, s. 8.

9. *(Repealed).*

1998, c. 40, s. 9; 2005, c. 39, s. 8.

10. *(Repealed).*

1998, c. 40, s. 10; 2005, c. 39, s. 8.

11. The Commission may enter into any administrative agreement necessary for the purposes of this Act with any minister or body.

The Commission may enter into an administrative agreement with the Minister of Justice to allow the Commission, on the terms and conditions provided for in the agreement, to act in the capacity of mandatary to recover the fines covered by the agreement.

Following an agreement with any other minister or body, the Commission may, in particular, accept a mandate to collect the information required for the registration of a person who is subject to a special obligation imposed by that authority, and to collect the related fees and duties.

The Commission may, with the approval of the Minister and subject to the conditions it establishes, appoint and authorize persons to collect on its behalf the sums referred to in this section and to make any transaction it indicates relating to the application of this Act, and may determine the amount and method of compensation of the persons appointed.

1998, c. 40, s. 11.

12. The Commission shall assign to registered persons one of the following safety ratings: “satisfactory”, “conditional” or “unsatisfactory”.

A “satisfactory” safety rating indicates that the registered person has an acceptable record of compliance with the applicable laws and regulations relating to safety and the preservation of the integrity of roads open to public vehicular traffic.

A “conditional” safety rating indicates that the registered person's right to put a heavy vehicle into operation or operate a heavy vehicle is subject to specific conditions because of a record which, in the Commission's opinion, reveals deficiencies that can be corrected by the imposition of certain conditions.

An “unsatisfactory” safety rating indicates that the registered person is judged unfit to put a heavy vehicle into operation or operate a heavy vehicle because of a record which, in the Commission's opinion, reveals deficiencies that cannot be corrected by the imposition of conditions.

1998, c. 40, s. 12; 2005, c. 39, s. 9.

13. *(Repealed).*

1998, c. 40, s. 13; 2005, c. 39, s. 10.

14. The Commission shall update the information in the public register it maintains and in respect of which the Government may, by regulation, fix access fees.

1998, c. 40, s. 14; 2005, c. 39, s. 11.

15. The Commission shall establish and maintain a list of transport service intermediaries carrying on business in Québec. The list is public. The Commission shall also establish a file on each transport service intermediary who applies for registration.

Only intermediaries entered on the list may provide such services.

The expression “transport service intermediary” means any person who, for remuneration, acts directly or indirectly as an intermediary in a transaction between third persons the object of which is the transportation of persons or property by a heavy vehicle.

1998, c. 40, s. 15.

16. Every transport service intermediary must register or renew registration by filing an application with the Commission, in the form and tenor determined by the Commission, together with payment of the fees fixed by regulation of the Government.

Where such a person fails to register or renew registration, any contract entered into by the person becomes without effect.

1998, c. 40, s. 16; 1999, c. 40, s. 349.

16.1. The Commission must refuse to register, or must cancel the registration of, a transport service intermediary who

(1) has been convicted within the past five years of an indictable offence related to the exercise of activities as a transport service intermediary;

(2) though the law requires it, is not registered under the Act respecting the legal publicity of enterprises (chapter P-44.1) or is not registered under section 290 of the Act respecting industrial accidents and occupational diseases (chapter A-3.001); or

(3) has failed to pay a fine imposed under this Act, the Transport Act (chapter T-12) or the Highway Safety Code (chapter C-24.2).

2005, c. 39, s. 12; 2010, c. 7, s. 227.

16.2. The Commission may refuse to register, or may cancel the registration of, a transport service intermediary that has been assigned an “unsatisfactory” safety rating as an owner or operator of a heavy vehicle.

2005, c. 39, s. 12.

16.3. The Commission may cancel the registration of a transport service intermediary for a maximum of five years, or impose conditions for the maintenance of the registration, if the practices of the intermediary endanger the safety of the users of roads open to public vehicular traffic or threaten the integrity of those roads, or if the intermediary was convicted within the past three years of an indictable offence related to the use of a heavy vehicle.

2005, c. 39, s. 12.

17. The Commission may require any information it considers pertinent from a person applying to be registered on the list of transport service intermediaries. A person who fails to provide such information shall be struck off the list.

1998, c. 40, s. 17.

18. The Société shall transmit to the Commission all the information it holds concerning a transport service intermediary. The Commission shall enter that information in the file of the intermediary concerned.

1998, c. 40, s. 18.

18.1. The Government may, by regulation, in the cases and according to the terms and conditions it determines, impose on the transport service intermediaries it indicates the obligation to obtain and maintain a suretyship contract for an amount it determines, and file the contract with the Commission, so as to guarantee the performance of their obligations toward other contracting parties. The suretyship contract must be accompanied with an undertaking by the surety to notify the Commission in the event of cancellation or non-renewal of the contract or reduction of the suretyship amount.

If such a suretyship contract is not obtained or maintained, the registration of the transport service intermediary on the list established under section 16 shall be refused or cancelled. An intermediary whose registration has been cancelled cannot present another application for registration until the default has been remedied and 90 days have elapsed since the date of cancellation.

The Commission shall publish the name and address of the surety together with the name of the intermediary whose obligations are guaranteed by the surety.

2000, c. 35, s. 3.

CHAPTER III

OBLIGATIONS

19. *(Repealed).*

1998, c. 40, s. 19; 2005, c. 39, s. 13.

20. An owner of heavy vehicles who is not the operator must, if the owner is subject to an administrative measure prohibiting the putting into operation of all or certain of the owner's heavy vehicles or imposing certain restrictions on their use, notify the operator by supplying the operator with a copy of the decision of the Commission. As well, an operator must notify the owner of the vehicles being operated in the event that the operator is subject to an administrative decision prohibiting or restricting the operation of the vehicles.

For the purposes of section 39, the owner is responsible for ascertaining that the operator is not subject to a measure imposing a prohibition or restriction and the operator is responsible for ascertaining that the owner is not subject to a measure imposing a prohibition.

1998, c. 40, s. 20.

21. No person shall lease a heavy vehicle to a person who is subject to an administrative measure prohibiting the operation of heavy vehicles or to a person who is not registered under this Act, or entrust such a person with the control of heavy vehicles except, in the latter case, if the person is exempt from the requirement to be registered.

1998, c. 40, s. 21.

CHAPTER IV

MONITORING AND CONTROL OF HEAVY VEHICLES

DIVISION I

POWERS OF THE SOCIÉTÉ

22. The Société shall maintain, using the information reported to it, in particular the information transmitted by the police forces and the Commission or any other administrative authority, a file on each owner and each operator required to register and on each driver of heavy vehicles. The Société shall, in accordance with its administrative policy, identify the owners, operators and drivers whose conduct is exemplary as well as those who require special monitoring because of conduct that presents a risk. For that purpose, the Société shall consider, in particular, contraventions of the provisions of this Act, the Highway Safety Code (chapter C-24.2), any similar legislation administered by other administrative authorities, and the Criminal Code (Revised Statutes of Canada, 1985, chapter C-46), reports and statements of offence or convictions in respect of those persons and the drivers of the heavy vehicles owned or operated by those persons, including drivers whose driver's licence was issued by an authority other than the Société, inspections and road check operations concerning them, even those that reveal no irregularity and any accident involving a heavy vehicle owned or operated by those persons. For the purposes of a driver's file, the Société shall consider every accident in which the driver was involved while driving a heavy vehicle.

The Société shall consider only reports and statements of offence or convictions in respect of an act done by a driver of heavy vehicles in performing work as a driver.

1998, c. 40, s. 22; 2005, c. 39, s. 14; 2008, c. 14, s. 120.

23. The Société shall also consider any contravention of a provision of an Act the application of which it is responsible for pursuant to section 519.65 of the Highway Safety Code (chapter C-24.2) if such a provision, as determined by the Government by regulation, concerns the safety of the users of roads open to public vehicular traffic or the integrity of those roads and an agreement has been entered into between the Société and the authority responsible for the application of that provision as well as any contravention of similar legislative provisions administered by other administrative authorities or similar provisions of the Criminal Code (Revised Statutes of Canada, 1985, chapter C-46).

1998, c. 40, s. 23; 2005, c. 39, s. 15.

24. To establish or modify the administrative policy referred to in the first paragraph of section 22, the Société shall, according to the classes of road transport services it determines, consult representatives of the owners and operators of heavy vehicles and take into consideration, where relevant, the factors retained by the Commission in its decisions.

The Société shall publicize its administrative policy and any modification it makes to the policy in the manner it considers appropriate so that the rules to be used as a guide in assessing the conduct of owners and operators of heavy vehicles are known.

1998, c. 40, s. 24.

25. The Société may, after examining the file, propose to the Commission

(1) that the rating of the person registered be replaced by a more favourable rating or that an additional condition attached to the person's registration be removed, if the person's conduct has improved; or

(2) that the safety rating of the registered person be downgraded, or that it be maintained at "conditional" with the removal or replacement of an existing condition or the addition of a new one;

(3) that the conduct of a heavy-vehicle driver be evaluated.

In the case of an emergency or a situation which, in the opinion of the Société, endangers the safety of the users of roads open to public vehicular traffic or threatens the integrity of those roads, the Société shall submit to the Commission, after a summary assessment, a report with its recommendations.

1998, c. 40, s. 25; 2005, c. 39, s. 16.

DIVISION II

POWERS OF THE COMMISSION

26. The Commission may assess whether a person endangers or imperils the users of roads open to public vehicular traffic or threatens the integrity of those roads. It may also determine, for the purposes of sections 7, 16.1, 16.3 and 30, whether an indictable or criminal offence is related to the use of a heavy vehicle or to the exercise of activities as a transport service intermediary, as applicable.

1998, c. 40, s. 26; 2005, c. 39, s. 17.

27. The Commission shall assign an “unsatisfactory” safety rating to a person, among other circumstances, if

(1) in its opinion, the person imperils the users of roads open to public vehicular traffic or significantly threatens the integrity of those roads;

(2) in its opinion, the person endangers the users of roads open to public vehicular traffic or threatens the integrity of those roads by repeatedly contravening a provision of this Act, the Highway Safety Code (chapter C-24.2) or other legislation referred to in section 23;

(3) the person fails to comply with a condition imposed in relation to a “conditional” safety rating, unless the person shows that other measures have resulted in the correction of the deficiencies for which the condition was imposed;

(4) an “unsatisfactory” safety rating has been assigned to any partner of the person or, in the case of a legal person, any director or officer judged by the Commission to have a determining influence;

(5) the Commission judges that, given the information it has at its disposal concerning the person, the person’s directors, partners, officers or employees, or an undertaking to which the second paragraph of section 32 applies, the person is unable to properly put a heavy vehicle into operation or operate a heavy vehicle.

The Commission may apply a registered person’s “unsatisfactory” safety rating to any of the person’s partners or directors judged by the Commission to have a determining influence.

In that case, the Commission shall enter such partners or directors or any other person in its register, if they are not already registered.

An “unsatisfactory” safety rating results in the registered person’s being prohibited from putting a heavy vehicle into operation or operating a heavy vehicle.

1998, c. 40, s. 27; 2005, c. 39, s. 17.

28. When it assigns or maintains a “conditional” safety rating, the Commission may impose any condition it judges likely to correct the deficiencies observed, whether with regard to the heavy vehicles, the qualifications of partners, directors, officers and employees, or the management and operation of the undertaking or of any undertaking acquired by the registered person.

The Commission may also take any other measure it judges appropriate and reasonable, such as requiring as a condition that an administrative agreement entered into with the registered person be complied with.

1998, c. 40, s. 28; 2005, c. 39, s. 17.

29. In the case of a person whose activities the Commission considers to be in the public interest and whose deficient conduct cannot, in the Commission's opinion, be corrected by the imposition of conditions, the Commission may, for a period it determines and at the person's expense, appoint a director to exercise all the powers of the board of directors with regard to the use of any heavy vehicle.

1998, c. 40, s. 29; 2005, c. 39, s. 17.

30. The Commission may suspend the right of a registered person to put a heavy vehicle into operation or operate a heavy vehicle on roads open to public vehicular traffic if

- (1) the person provided false or inaccurate information to the Commission;
- (2) the person was convicted within the past three years of an indictable offence related to the use of a heavy vehicle;
- (3) one of the person's directors, partners, officers or employees was convicted within the past five years of an indictable offence related to the use of a heavy vehicle with respect to which a pardon has not been granted;
- (4) the person refuses to allow a place of business inspection to be conducted or hinders the work of a person authorized under this Act, the Highway Safety Code (chapter C-24.2) or the Transport Act (chapter T-12) to make such an inspection.

In the cases described in the first paragraph, the Commission shall indicate in the register that the person's right to put a heavy vehicle into operation or operate a heavy vehicle has been suspended.

1998, c. 40, s. 30; 2005, c. 39, s. 17.

31. The Commission may impose on a driver of a heavy vehicle any condition it judges likely to correct deficient conduct and may take any other measure it judges appropriate and reasonable.

When it judges that a driver of a heavy vehicle is unfit to drive a heavy vehicle because of deficient conduct that cannot, in its opinion, be corrected by the imposition of conditions, the Commission may order the Société to prohibit that person from driving a heavy vehicle. The person's right to have the prohibition lifted is subject to the prior authorization of the Commission. The Société must execute the order of the Commission immediately upon receipt of a copy of the decision by entering a prohibition to that effect in the person's file maintained under section 22.

1998, c. 40, s. 31; 2005, c. 39, s. 17; 2008, c. 14, s. 121.

32. The Commission may require of a registered person any information it judges necessary, including the number, class, assignment and habitual use made of the heavy vehicles owned or operated as well as a description of the transport services offered and any information it judges necessary as to the past conduct of the person or the person's directors, partners, officers and employees regarding road safety and the integrity of public roads.

In the case of an amalgamation of undertakings, a change in the control of an undertaking or the acquisition of an undertaking by the owner or operator of a heavy vehicle, the Commission may require any information it judges necessary as to the past conduct of the person who operated or controlled the undertaking or of the undertaking's directors, partners, officers and employees regarding road safety and the integrity of public roads.

1998, c. 40, s. 32; 2005, c. 39, s. 17.

32.1. The Commission may, of its own initiative or after examining a proposal or request made by the Société or any other person, exercise the powers conferred on the Société or that person by this Act.

2005, c. 39, s. 17.

33. A person that has been assigned an “unsatisfactory” or “conditional” safety rating by the Commission shall not transfer or otherwise dispose of heavy vehicles registered in the person’s name except with the consent of the Commission; the Commission shall withhold its consent if it considers that the transfer or disposal is to be made for the purpose of avoiding the imposed administrative measure.

The first paragraph applies, with the necessary modifications, to every owner or operator of heavy vehicles who is the subject of an inquiry made by the Commission to determine whether the owner or operator is attempting to avoid the application of this Act. The paragraph also applies to every owner or operator of heavy vehicles whose file is referred to the Commission for the imposition of an administrative measure, from the transmission to the Commission of the file maintained by the Société in accordance with section 22 or, in other cases, from the transmission by the Commission of a prior notice under section 37.

1998, c. 40, s. 33; 2001, c. 27, s. 8; 2005, c. 39, s. 18.

34. The Commission may change a safety rating it has assigned and replace or revoke a condition it has imposed.

The Commission may reassess a rating assigned where it is of the opinion that the person registered has taken efficient action or implemented concrete measures that allow the Commission to reasonably believe that the unsafe conduct that was the subject of the administrative measure has been remedied and will not reoccur.

It may also withdraw an “unsatisfactory” safety rating that it has applied to a director or partner of a registered person under the second paragraph of section 27.

1998, c. 40, s. 34; 2005, c. 39, s. 19.

35. The ratings assigned by the Commission are public. The Commission shall make the ratings and its decisions available to the public in the manner it considers appropriate.

1998, c. 40, s. 35.

36. The Commission may, in exercising its powers, take into consideration any inspections and road check operations that have revealed no irregularity as well as any corrective measures taken by a person registered.

1998, c. 40, s. 36.

37. Before making a decision assigning an “unsatisfactory” or “conditional” safety rating to a person or prohibiting the person from putting a heavy vehicle into operation or from operating a heavy vehicle, the Commission shall inform the owner or operator in writing as provided in section 5 of the Act respecting administrative justice (chapter J-3) and allow the owner or operator at least 10 days to present observations. The same applies where the Commission proposes to strike off a transport service intermediary from the list or impose conditions for the maintenance of the intermediary’s registration.

The Commission shall transmit a copy of the prior notice referred to in the first paragraph to the Société if the file was proposed or referred to the Commission by the Société, and inform the Société of the date of the meeting, if any, with the owner or operator. The Société may, of its own initiative, be represented at such a meeting.

An exception shall be made to such prior obligations if the decision is made in urgent circumstances or to prevent irreparable harm to users of the roads open to public vehicular traffic or to the integrity of the road network.

1998, c. 40, s. 37; 2005, c. 39, s. 20.

38. The decisions of the Commission may be reviewed under sections 17.2 to 17.4 of the Transport Act (chapter T-12). Such decisions may also be contested before the Administrative Tribunal of Québec in accordance with sections 51 to 53 of that Act.

1998, c. 40, s. 38; 2005, c. 39, s. 21.

DIVISION III

SEIZURE, INSPECTION AND INQUIRY

39. A heavy vehicle being operated on a road open to public vehicular traffic in contravention of a measure prohibiting the putting of a heavy vehicle into operation or the operation or driving of a heavy vehicle may be immediately seized by a peace officer and impounded for a period of 30 days. The seizure, to which the provisions of sections 209.3 to 209.10 and section 209.23 of the Highway Safety Code (chapter C-24.2) apply, with the necessary modifications and replacing therein, except in section 209.8, “Société” by “Commission”, shall be effected on behalf of the Commission and the costs of the seizure shall be chargeable to the person subject to the prohibition.

Where the owner or the person subject to the prohibition is unaware of the prohibition, or where the seizure was effected by mistake, release or recovery of the vehicle may be obtained in accordance with the provisions of sections 209.11 to 209.15 of the Highway Safety Code, with the necessary modifications and replacing therein, except in section 209.15, “Société” by “Commission”.

The provisions of sections 209.17 to 209.22.3 and 209.24 to 209.26 and the regulatory provisions under paragraph 50 of section 621 of that Code also apply, with the necessary modifications, to the seizure.

1998, c. 40, s. 39; 1999, c. 66, s. 33; 2008, c. 14, s. 122.

40. *(Repealed).*

1998, c. 40, s. 40; 2000, c. 35, s. 4; 2001, c. 27, s. 9.

41. An inspector or a peace officer may require that any registration number or any document to which this Act applies be communicated for examination.

1998, c. 40, s. 41.

42. The Commission may, of its own initiative or on request, make an inquiry to determine whether a person is contravening this Act or whether the operation of a heavy vehicle or the practices of a driver or a transport service intermediary endanger the safety of the users of roads open to public vehicular traffic or threaten the integrity of those roads.

1998, c. 40, s. 42; 2005, c. 39, s. 22.

DIVISION IV

IDENTIFICATION OF OPERATOR

2005, c. 39, s. 23.

42.1. The purpose of this division is to facilitate the identification of operators of heavy vehicles for the purposes of this Act, the Highway Safety Code (chapter C-24.2) and the Transport Act (chapter T-12).

2005, c. 39, s. 23.

42.2. All vehicles forming a combination of heavy vehicles are deemed to be operated by the operator of the motorized heavy vehicle of the combination.

2005, c. 39, s. 23.

42.3. A person identified as the operator or the carrier on the most recent trip-document, the daily log or the circle-check report shown during a road check to a peace officer by the driver of a motorized heavy vehicle registered in Québec is presumed to control the operation of the vehicle.

For this presumption to be lifted, the person identified as the operator or carrier must produce a written document in which another person has acknowledged being the operator of the heavy vehicle subjected to the road check and must establish that this person in fact controlled the operation of the vehicle.

The Government may, by regulation, formulate rules for applying the means that can be used for the purposes of the first paragraph in the situations it determines.

2005, c. 39, s. 23.

42.4. Where a heavy vehicle registered by another administrative authority is operated in Québec, the person presumed to control the operation of the vehicle is the person whose name or operator's identification number appears on the vehicle registration certificate or is attested by some other document issued by that authority or indicated on the vehicle in accordance with a legislative or regulatory provision administered by that authority.

2005, c. 39, s. 23.

42.5. A person identified as the operator or the carrier on the documents kept at the person's place of business is presumed to control the operation of the vehicle identified in those documents.

2005, c. 39, s. 23.

42.6. In the absence of a means of identifying the person who controls the operation of a motorized heavy vehicle, the owner or, in the case of a leased vehicle, the lessee is presumed to control the operation of the vehicle unless it can be established that another person actually does.

2005, c. 39, s. 23.

CHAPTER V

PENAL PROVISIONS

43. Every person who furnishes false information with regard to the first paragraph of section 7 is guilty of an offence and is liable to a fine of \$500 to \$1,500 and, in the case of a subsequent offence, \$1,500 to \$2,500.

1998, c. 40, s. 43.

44. Every person who fails to comply with an obligation under any of sections 20, 21 or 33, as the case may be, is guilty of an offence and is liable to a fine of \$500 to \$1,500 and, in the case of a subsequent offence, \$1,500 to \$2,500.

1998, c. 40, s. 44; 2005, c. 39, s. 24.

45. *(Repealed).*

1998, c. 40, s. 45; 2005, c. 39, s. 25.

46. *(Repealed).*

1998, c. 40, s. 46; 2005, c. 39, s. 25.

47. The following are guilty of an offence and are liable to a fine of \$350 to \$1,050 and, in the case of a subsequent offence, \$700 to \$2,100:

- (1) every transport service intermediary who falsely claims to be registered in compliance with this Act;
- (2) every transport service intermediary who offers transport services without being registered under this Act;
- (3) every operator who makes a contract to which a transport service intermediary not registered in compliance with this Act is a party.

1998, c. 40, s. 47.

48. A person that

- (1) contravenes section 5,
- (2) puts a heavy vehicle into operation or operates or drives a heavy vehicle on a road open to public vehicular traffic despite being prohibited from doing so, or
- (3) fails to meet a condition related to the “conditional” safety rating assigned to that person,

is guilty of an offence and liable to a fine of \$500 to \$1,500 for a first offence and \$1,500 to \$2,500 for every subsequent offence.

1998, c. 40, s. 48; 2005, c. 39, s. 26; 2008, c. 14, s. 123.

48.1. A print-out of a computer file held by the Société concerning the registration of a heavy vehicle or a driver’s licence, or of a computer file held by the Commission concerning the Register of Owners and Operators of Heavy Vehicles, is admissible as proof of the identity of the driver, owner or operator of a heavy vehicle in proceedings instituted under this Act, the Highway Safety Code (chapter C-24.2) or the Transport Act (chapter T-12), provided it bears the attestation of an inspector or peace officer to the effect that he or she actually made the print-out and that it originates from the Société or the Commission.

In the case of a heavy vehicle registered by another administrative authority, a computer-file print-out from that authority has the same probative force as that referred to in the first paragraph.

A copy of a document used to identify the driver, owner or operator of a motorized heavy vehicle and bearing the attestation of an inspector or peace officer to the effect that he or she made the copy, is admissible as proof in any proceedings instituted under this Act, the Highway Safety Code or the Transport Act without it being necessary to prove the authenticity of the signature or the official capacity of the signatory; in the

absence of evidence to the contrary, such a copy has the probative force of an original document filed as evidence in the usual manner.

2005, c. 39, s. 27.

48.2. The gross vehicle weight rating of a road vehicle is that appearing on the compliance label affixed to the vehicle by the manufacturer. It may also be determined by the Société by means of conversion software if the label is missing, inaccessible or illegible.

2005, c. 39, s. 27.

Not in force

48.3. Penal proceedings for an offence under this Act may be instituted by a municipality if the offence is committed on its territory.

Fines collected pursuant to this section belong to the prosecutor.

2005, c. 39, s. 27.

48.4. Penal proceedings for an offence under this Act committed on the territory of a municipality may be instituted before the competent municipal court.

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

2005, c. 39, s. 27.

CHAPTER VI

ACCESS TO INFORMATION AND RETENTION OF INFORMATION

49. The Société shall make available to the Commission any information the Commission requires to make a decision in a matter that it takes up or that is referred to it under this Act. As well, the Commission shall make available to the Société any information enabling the Société to monitor the operation of heavy vehicles on roads open to public vehicular traffic, whatever the source of the information.

The Commission and the Société may exchange information with another administrative authority concerning a person subject to this Act or the Motor Vehicle Transport Act, 1987 (Revised Statutes of Canada, 1985, chapter 29, 3rd Supplement) provided the information is necessary for the carrying out of that Act.

1998, c. 40, s. 49; 2005, c. 39, s. 28.

50. On payment of the fees fixed by the Société, a person registered in the Commission's register may have access to the information in a statement of offence or a conviction concerning acts done by drivers employed by the person or a person with whom the person registered is bound by a contract for the use of a heavy vehicle under the control of the person registered, provided that the acts were done in the performance of their work as drivers. However, the information communicated must reveal only the identity of the driver, the nature of the act and the time at which the act was done.

1998, c. 40, s. 50.

51. *(Repealed).*

1998, c. 40, s. 51; 2005, c. 39, s. 29.

CHAPTER VII

AMENDING, TRANSITIONAL AND MISCELLANEOUS PROVISIONS

52. *(Amendment integrated into c. A-25, s. 87.1).*

1998, c. 40, s. 52.

53. *(Amendment integrated into c. A-25, s. 186).*

1998, c. 40, s. 53.

54. *(Omitted).*

1998, c. 40, s. 54.

55. *(Amendment integrated into c. C-24.2, s. 4).*

1998, c. 40, s. 55.

56. *(Amendment integrated into c. C-24.2, s. 21).*

1998, c. 40, s. 56.

57. *(Amendment integrated into c. C-24.2, s. 35).*

1998, c. 40, s. 57.

58. *(Amendment integrated into c. C-24.2, s. 39).*

1998, c. 40, s. 58.

59. *(Amendment integrated into c. C-24.2, s. 39.1).*

1998, c. 40, s. 59.

60. *(Amendment integrated into c. C-24.2, s. 59).*

1998, c. 40, s. 60.

61. *(Amendment integrated into c. C-24.2, s. 65).*

1998, c. 40, s. 61.

62. *(Omitted).*

1998, c. 40, s. 62.

63. *(Amendment integrated into c. C-24.2, s. 97).*

1998, c. 40, s. 63.

64. *(Amendment integrated into c. C-24.2, s. 145).*

1998, c. 40, s. 64.

65. *(Omitted).*

1998, c. 40, s. 65.

66. *(Amendment integrated into c. C-24.2, s. 188).*

1998, c. 40, s. 66.

67. *(Amendment integrated into c. C-24.2, s. 189).*

1998, c. 40, s. 67.

68. *(Amendment integrated into c. C-24.2, s. 209.7).*

1998, c. 40, s. 68.

69. *(Amendment integrated into c. C-24.2, s. 212.1).*

1998, c. 40, s. 69.

70. *(Amendment integrated into c. C-24.2, s. 213).*

1998, c. 40, s. 70.

71. *(Amendment integrated into c. C-24.2, s. 214.1).*

1998, c. 40, s. 71.

72. *(Amendment integrated into c. C-24.2, s. 216).*

1998, c. 40, s. 72.

73. *(Omitted).*

1998, c. 40, s. 73.

74. *(Amendment integrated into c. C-24.2, s. 220.2).*

1998, c. 40, s. 74.

75. *(Amendment integrated into c. C-24.2, s. 220.3).*

1998, c. 40, s. 75.

76. *(Amendment integrated into c. C-24.2, s. 226.1).*

1998, c. 40, s. 76.

77. *(Amendment integrated into c. C-24.2, s. 240.1).*

1998, c. 40, s. 77.

78. *(Amendment integrated into c. C-24.2, s. 272.1).*

1998, c. 40, s. 78.

79. *(Amendment integrated into c. C-24.2, s. 281).*

1998, c. 40, s. 79.

80. *(Amendment integrated into c. C-24.2, s. 284).*

1998, c. 40, s. 80.

81. *(Amendment integrated into c. C-24.2, s. 285).*

1998, c. 40, s. 81.

82. *(Amendment integrated into c. C-24.2, s. 286).*

1998, c. 40, s. 82.

83. *(Amendment integrated into c. C-24.2, s. 289)*

.
1998, c. 40, s. 83.

84. *(Amendment integrated into c. C-24.2, ss. 291-292.0.1).*

1998, c. 40, s. 84.

85. *(Amendment integrated into c. C-24.2, s. 292.1).*

1998, c. 40, s. 85.

86. *(Amendment integrated into c. C-24.2, s. 293.1).*

1998, c. 40, s. 86.

Not in force

87. Section 295 of the said Code is amended by replacing “413” in the second line of paragraph 5 by “519.13”.

1998, c. 40, s. 87.

88. *(Amendment integrated into c. C-24.2, s. 314.1).*

1998, c. 40, s. 88.

89. *(Amendment integrated into c. C-24.2, ss. 315.1-315.3).*

1998, c. 40, s. 89.

90. *(Amendment integrated into c. C-24.2, s. 316.1).*

1998, c. 40, s. 90.

91. *(Amendment integrated into c. C-24.2, s. 320).*

1998, c. 40, s. 91.

92. *(Amendment integrated into c. C-24.2, s. 327).*

1998, c. 40, s. 92.

93. *(Amendment integrated into c. C-24.2, s. 328).*

1998, c. 40, s. 93.

94. *(Amendment integrated into c. C-24.2, s. 389).*

1998, c. 40, s. 94.

95. *(Amendment integrated into c. C-24.2, s. 396).*

1998, c. 40, s. 95.

96. *(Amendment integrated into c. C-24.2, s. 397).*

1998, c. 40, s. 96.

Not in force

97. Sections 413 and 414 of the said Code are repealed.

1998, c. 40, s. 97.

98. *(Amendment integrated into c. C-24.2, ss. 437.1-437.2).*

1998, c. 40, s. 98.

99. *(Amendment integrated into c. C-24.2, s. 463).*

1998, c. 40, s. 99.

100. *(Amendment integrated into c. C-24.2, s. 468).*

1998, c. 40, s. 100.

101. *(Amendment integrated into c. C-24.2, s. 469).*

1998, c. 40, s. 101.

102. *(Omitted).*

1998, c. 40, s. 102.

103. *(Amendment integrated into c. C-24.2, s. 471).*

1998, c. 40, s. 103.

104. *(Amendment integrated into c. C-24.2, s. 472).*

1998, c. 40, s. 104.

105. *(Amendment integrated into c. C-24.2, s. 473)*

.

1998, c. 40, s. 105.

106. *(Omitted).*

1998, c. 40, s. 106.

107. *(Amendment integrated into c. C-24.2, s. 509).*

1998, c. 40, s. 107.

108. *(Amendment integrated into c. C-24.2, s. 509.1).*

1998, c. 40, s. 108.

109. Section 510 of the said Code is amended

(1) *(amendment integrated into c. C-24.2, s. 510 except for the striking out of the reference to section 413);*

(2) *(amendment integrated into c. C-24.2, s. 510);*

(3) *(amendment integrated into c. C-24.2, s. 510);*

1998, c. 40, s. 109.

110. *(Amendment integrated into c. C-24.2, s. 510.1).*

1998, c. 40, s. 110.

111. *(Amendment integrated into c. C-24.2, s. 512).*

1998, c. 40, s. 111.

112. *(Amendment integrated into c. C-24.2, s. 513)*

.

1998, c. 40, s. 112.

113. *(Omitted).*

1998, c. 40, s. 113.

114. *(Amendment integrated into c. C-24.2, s. 517).*

1998, c. 40, s. 114.

115. *(Amendment integrated into c. C-24.2, s. 517.1)*

.

1998, c. 40, s. 115.

116. *(Amendment integrated into c. C-24.2, s. 517.2)*

.

1998, c. 40, s. 116.

117. *(Amendment integrated into c. C-24.2, s. 518).*

1998, c. 40, s. 117.

118. *(Amendment integrated into c. C-24.2, s. 519).*

1998, c. 40, s. 118.

119. *(Amendment integrated into c. C-24.2, title VIII.1, ss. 519.1-519.54)*

1998, c. 40, s. 119.

120. *(Amendment integrated into c. C-24.2, s. 519.64).*

1998, c. 40, s. 120.

121. *(Amendment integrated into c. C-24.2, s. 519.65).*

1998, c. 40, s. 121.

122. *(Amendment integrated into c. C-24.2, s. 519.67).*

1998, c. 40, s. 122.

123. *(Amendment integrated into c. C-24.2, s. 519.69).*

1998, c. 40, s. 123.

124. *(Amendment integrated into c. C-24.2, s. 519.70).*

1998, c. 40, s. 124.

125. *(Amendment integrated into c. C-24.2, s. 519.73).*

1998, c. 40, s. 125.

126. *(Amendment integrated into c. C-24.2, s. 519.75).*

1998, c. 40, s. 126.

127. *(Amendment integrated into c. C-24.2, ss. 519.77-519.78).*

1998, c. 40, s. 127.

128. *(Amendment integrated into c. C-24.2, s. 521).*

1998, c. 40, s. 128.

129. *(Amendment integrated into c. C-24.2, s. 532).*

1998, c. 40, s. 129.

130. *(Amendment integrated into c. C-24.2, s. 538.0.1).*

1998, c. 40, s. 130.

131. *(Amendment integrated into c. C-24.2, s. 543.2).*

1998, c. 40, s. 131.

132. *(Amendment integrated into c. C-24.2, ss. 543.3.1-543.3.2).*

1998, c. 40, s. 132.

133. *(Amendment integrated into c. C-24.2, s. 545.2).*

1998, c. 40, s. 133.

134. *(Amendment integrated into c. C-24.2, s. 546).*

1998, c. 40, s. 134.

135. *(Amendment integrated into c. C-24.2, s. 546.0.1).*

1998, c. 40, s. 135.

136. *(Amendment integrated into c. C-24.2, s. 546.0.2).*

1998, c. 40, s. 136.

137. *(Amendment integrated into c. C-24.2, s. 546.0.3).*

1998, c. 40, s. 137.

138. *(Amendment integrated into c. C-24.2, s. 546.0.4).*

1998, c. 40, s. 138.

139. *(Amendment integrated into c. C-24.2, s. 550).*

1998, c. 40, s. 139.

140. *(Amendment integrated into c. C-24.2, s. 560).*

1998, c. 40, s. 140.

141. *(Amendment integrated into c. C-24.2, s. 587.1)*

1998, c. 40, s. 141.

142. *(Amendment integrated into c. C-24.2, s. 596.1).*

1998, c. 40, s. 142.

143. *(Amendment integrated into c. C-24.2, s. 510).*

1998, c. 40, s. 143.

144. *(Amendment integrated into c. C-24.2, s. 621).*

1998, c. 40, s. 144.

145. *(Amendment integrated into c. C-24.2, s. 622).*

1998, c. 40, s. 145.

146. *(Amendment integrated into c. C-24.2, s. 626).*

1998, c. 40, s. 146.

147. *(Amendment integrated into c. C-24.2, s. 627).*

1998, c. 40, s. 147.

148. *(Amendment integrated into c. C-24.2, s. 636).*

1998, c. 40, s. 148.

149. *(Amendment integrated into c. C-24.2, s. 636.1).*

1998, c. 40, s. 149.

150. *(Amendment integrated into c. C-24.2, s. 636.2).*

1998, c. 40, s. 150.

151. *(Amendment integrated into c. C-24.2, s. 643.2).*

1998, c. 40, s. 151.

152. *(Omitted).*

1998, c. 40, s. 152.

153. *(Amendment integrated into c. C-25.1, a. 510).*

1998, c. 40, s. 153.

154. *(Amendment integrated into c. T-12, s. 1).*

1998, c. 40, s. 154.

155. *(Amendment integrated into c. T-12, s. 2).*

1998, c. 40, s. 155.

156. *(Amendment integrated into c. T-12, s. 5).*

1998, c. 40, s. 156.

157. *(Amendment integrated into c. T-12, s. 17.2).*

1998, c. 40, s. 157.

158. *(Amendment integrated into c. T-12, s. 34.1).*

1998, c. 40, s. 158.

159. *(Amendment integrated into c. T-12, s. 35).*

1998, c. 40, s. 159.

160. *(Amendment integrated into c. T-12, s. 36).*

1998, c. 40, s. 160.

161. *(Amendment integrated into c. T-12, s. 48).*

1998, c. 40, s. 161.

162. *(Amendment integrated into c. T-12, s. 49.2).*

1998, c. 40, s. 162.

163. *(Amendment integrated into c. T-12, s. 73).*

1998, c. 40, s. 163.

164. *(Amendment integrated into c. T-12, s. 74).*

1998, c. 40, s. 164.

165. *(Amendment integrated into c. T-12, ss. 74.1-74.1.1).*

1998, c. 40, s. 165.

166. *(Amendment integrated into c. T-12, s. 74.2).*

1998, c. 40, s. 166.

167. *(Amendment integrated into c. T-12, s. 74.2.1).*

1998, c. 40, s. 167.

168. *(Amendment integrated into c. T-12, s. 74.2.2).*

1998, c. 40, s. 168.

169. *(Amendment integrated into c. T-12, s. 74.2.3).*

1998, c. 40, s. 169.

170. *(Amendment integrated into c. T-12, s. 74.2.4).*

1998, c. 40, s. 170.

171. *(Amendment integrated into c. T-12, s. 80).*

1998, c. 40, s. 171.

172. *(Amendment integrated into c. J-3, Schedule IV).*

1998, c. 40, s. 172.

173. The experimental preventive maintenance programs certified by the Société de l'assurance automobile before 24 December 1998 are exempted from the certification under Chapter I.1 of Title IX of the Highway Safety Code (chapter C-24.2) but are subject to the other provisions of that chapter and to the regulatory provisions made for the application of the programs.

Programs in respect of which no decision on an application for certification has been made before the date mentioned in the first paragraph are subject to the provisions of that chapter.

1998, c. 40, s. 173.

174. The Commission shall, beginning on 1 August 1998 and on the basis of the information held by it as well as the information held by the Société, notify owners and operators of the rules prescribed by this Act.

Where the Commission is of the opinion that the information held by it is sufficient for it to make a decision and assign a rating of “satisfactory”, the Commission shall notify the person concerned that the person will be registered accordingly as of 1 April 1999 and that the person will be assigned a rating of “satisfactory” so long as the person’s situation remains unchanged.

Where the Commission is of the opinion that the information held by it is insufficient or would lead to a refusal or a declaration of disqualification, the Commission shall notify the person concerned and invite the person to make an application or to appear for a meeting before 1 April 1999.

1998, c. 40, s. 174.

175. Within 30 days of the date of a notice under the second paragraph of section 174, the person concerned must pay the registration fees fixed and send to the Commission the information required under the

second paragraph of section 7. Where the person fails to do so, the registration under section 174 is without effect.

1998, c. 40, s. 175.

176. For the purposes of section 174, the Commission may consider the information entered in a carrier's file under the Regulation respecting carriers' demerit points made by Order in Council 672-88 (1988, G.O. 2, 1988).

1998, c. 40, s. 176.

177. Every regulation made under a provision of the Highway Safety Code (chapter C-24.2) or the Transport Act (chapter T-12) that is replaced or amended by a provision of this Act shall remain in force until it is replaced, amended or repealed.

1998, c. 40, s. 177.

178. The first regulations made under section 3, the second paragraph of section 4, section 6, the second paragraph of section 13 and sections 14 and 23 of this Act, the new provisions of the Highway Safety Code (chapter C-24.2) and of the Transport Act (chapter T-12) enacted by this Act are not subject to the publication requirement in section 8 of the Regulations Act (chapter R-18.1).

1998, c. 40, s. 178.

179. Notwithstanding section 54 and until the Government, by order, prohibits the privilege or imposes terms and conditions for the maintenance of the privilege, a person who, on 21 July 1998,

(1) was a person to whom section 124 of the Act respecting truck transportation (chapter C-5.1) applied, may continue, where applicable, to benefit from the privilege conferred by sections 12.77 and 12.78 of Regulation 12 respecting bulk trucking continued by section 68 of the Regulation respecting bulk trucking (R.R.Q., 1981, c. T-12, r. 3);

(2) was the holder of a trucking licence under the Act respecting truck transportation continues to be authorized to transport, throughout Québec, wood for veneer and timber sawn across the grain or along the grain.

Section 54 shall not be construed as prohibiting a person from transporting a matter the person would have been authorized to transport under the Act respecting truck transportation on 21 July 1998.

1998, c. 40, s. 179.

180. Sections 19 to 30 and Schedule II to the Trucking Regulation made by Order in Council 47-88 (1988, G.O. 2, 659), notwithstanding section 54 of this Act, shall remain in force until they are replaced by a regulation made under paragraph *n* of section 5 of the Transport Act (chapter T-12). Contravention of a provision of that regulation is punishable as provided in section 74 of the Transport Act.

1998, c. 40, s. 180.

181. The Minister shall, on or before 20 June 2001, make a report to the Government on the implementation of this Act and the advisability of maintaining it in force and, if necessary, of amending it.

The report shall be tabled before the National Assembly within the following 15 days or, if the Assembly is not sitting, within 15 days of resumption.

1998, c. 40, s. 181.

182. The Minister of Transport is responsible for the administration of this Act.

1998, c. 40, s. 182.

183. *(Omitted).*

1998, c. 40, s. 183.

REPEAL SCHEDULES

In accordance with section 9 of the Act respecting the consolidation of the statutes and regulations (chapter R-3), chapter 40 of the statutes of 1998, in force on 1 April 1999, is repealed, except paragraph 1 of section 109 and section 183, effective from the coming into force of chapter P-30.3 of the Revised Statutes.

In accordance with section 9 of the Act respecting the consolidation of the statutes and regulations (chapter R-3), the second paragraph of section 15, the second paragraph of section 16, sections 47, 52, 53, 64, 68, 81, 83, 99 to 102, 104 to 106, paragraph 2 of section 109, sections 112, 115, 116, 118, 119, paragraph 1 of section 124, sections 141 to 143, paragraphs 1 to 6, 11 and 13 to 24 of section 144, section 145, paragraph 3 of section 150 and sections 152 and 153 of chapter 40 of the statutes of 1998, in force on 1 April 2000, are repealed effective from the coming into force of the updating to 1 April 2000 of chapter P-30.3 of the Revised Statutes.

In accordance with section 9 of the Act respecting the consolidation of the statutes and regulations (chapter R-3), sections 110 and 113 of chapter 40 of the statutes of 1998, in force on 1 April 2001, are repealed effective from the coming into force of the updating to 1 April 2001 of chapter P-30.3 of the Revised Statutes.