



NATIONAL ASSEMBLY

FIRST SESSION

FORTY-FIRST LEGISLATURE

Bill 794

**An Act to regulate using health as a risk
determination factor in insurance
contracts**

Introduction

**Introduced by
Madam Diane Lamarre
Member for Taillon**

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EXPLANATORY NOTES

This bill introduces a prohibition against considering the fact that a person has had a disease determined by regulation as a risk determination factor in an insurance contract once a certain period of time has elapsed since the end of the treatment protocol.

The bill introduces, for persons who have had cancer pathologies or certain chronic pathologies, a “right to be forgotten” once a certain period of time has elapsed since the end of the treatment protocol. In such cases, the bill provides that using health as a risk determination factor constitutes discrimination. Furthermore, the policyholder and the insured are exempted from their pre-contractual representation obligation under article 2408 of the Civil Code of Québec.

The bill also grants insurance applicants the right to be informed of this prohibition.

LEGISLATION AMENDED BY THIS BILL:

- Charter of human rights and freedoms (chapter C-12).

Bill 794

AN ACT TO REGULATE USING HEALTH AS A RISK DETERMINATION FACTOR IN INSURANCE CONTRACTS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

PURPOSE AND INTERPRETATION

1. The purpose of this Act is to prohibit considering the fact that a person has had a disease determined by regulation as a risk determination factor in an insurance contract once a certain period of time has elapsed since the end of the treatment protocol.

This prohibition applies in particular with regard to the evaluation of insurability and the amount of the insurance premiums.

2. In the cases covered by this Act and the regulations, using health as a risk determination factor constitutes discrimination within the meaning of section 10 of the Charter of human rights and freedoms (chapter C-12).

3. In this Act and the regulations, unless the context indicates otherwise, “disease” means a cancer pathology and any chronic pathology whose effects can, as attested by therapeutic advances and scientific data, be significantly and sustainably contained by treatments.

CHAPTER II

DISEASES AND PERIODS OF TIME COVERED BY THIS ACT

4. The Minister determines, by regulation, the diseases whose consideration in determining risk, once a certain period of time has elapsed since the end of the treatment protocol, constitutes discrimination.

The Minister also determines, by regulation, how long after the end of the treatment protocol the diseases concerned must not be considered in determining risk in an insurance contract.

CHAPTER III

EXEMPTION FROM REPRESENTATION

5. In the cases provided for in section 4, the policyholder and the insured are not bound to make representations to the insurer within the meaning of article 2408 of the Civil Code.

CHAPTER IV

DUTY TO PROVIDE INFORMATION

6. The insurer must, on the terms prescribed by regulation, inform insurance applicants of the prohibition under section 1.

CHAPTER V

AMENDING PROVISION

CHARTER OF HUMAN RIGHTS AND FREEDOMS

7. Section 20.1 of the Charter of human rights and freedoms (chapter C-12) is amended by inserting “, except to the extent provided by law” at the end of the second paragraph.

CHAPTER VI

FINAL PROVISIONS

8. The Minister of Health and Social Services is responsible for the administration of this Act.

9. This Act comes into force on *(insert the date of assent to this Act)*.