



NATIONAL ASSEMBLY OF QUÉBEC

FIRST SESSION

FORTY-SECOND LEGISLATURE

Bill 591

An Act to amend the Charter of the French language to define the circumstances under which an employer may make knowledge of a language other than the official language a requirement for access to employment or a position

Introduction

**Introduced by
Mr. Pascal Bérubé
Member for Matane-Matapédia**

**Québec Official Publisher
2020**

EXPLANATORY NOTES

This bill amends the Charter of the French language to define the circumstances under which an employer may make knowledge or a specific level of knowledge of a language other than the official language a requirement for access to employment or a position.

To that end, the bill provides that, to require knowledge or a specific level of knowledge of a language other than the official language, the employer must show that participating in the regular activities related to the employment or position and performing the duties require such knowledge.

The bill also imposes an additional burden of proof where an employer claims that knowledge or a specific level of knowledge of a language other than the official language is required to perform the duties, due to the fact that exchanges with clients and suppliers generally take place in that language. In such cases, the employer must show that the services are organized so as to restrict, as much as possible, the number of positions to which this requirement applies.

LEGISLATION AMENDED BY THIS BILL:

- Charter of the French language (chapter C-11).

Bill 591

AN ACT TO AMEND THE CHARTER OF THE FRENCH LANGUAGE TO DEFINE THE CIRCUMSTANCES UNDER WHICH AN EMPLOYER MAY MAKE KNOWLEDGE OF A LANGUAGE OTHER THAN THE OFFICIAL LANGUAGE A REQUIREMENT FOR ACCESS TO EMPLOYMENT OR A POSITION

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 46 of the Charter of the French language (chapter C-11) is replaced by the following sections:

“46. An employer is prohibited from making knowledge or a specific level of knowledge of a language other than the official language a requirement for access to employment or a position, unless the employer proves that

(1) participating in the regular activities related to the employment or position requires such knowledge or such a level of knowledge; and

(2) performing the duties requires such knowledge or such a level of knowledge.

Subparagraphs 1 and 2 of the first paragraph must not be interpreted as allowing an employer to require knowledge or a specific level of knowledge of a language other than the official language when it is useful but not necessary for participating in the regular activities related to the employment or position and performing the duties.

Moreover, if an employer claims that knowledge or a specific level of knowledge of a language other than the official language is required to perform the duties because exchanges with clients and suppliers generally take place in that language, the employer must show that he has organized his services so as to restrict, as much as possible, the number of positions to which this requirement applies.

“46.1. A person, whether employed by the employer or not, not subject to a collective agreement who believes he has been aggrieved by a contravention of section 46 may exercise a remedy before the Administrative Labour Tribunal. The provisions applicable to a remedy relating to the exercise by an employee of a right arising out of the Labour Code (chapter C-27) apply, with the necessary modifications.

A person subject to a collective agreement who believes he has been so aggrieved may submit the grievance for arbitration if the association representing the person fails to do so.

The remedy must be brought before the Tribunal within 30 days of the date on which the employer informed the complainant of the language requirements of the employment or position or, failing that, from the employer's last act invoked in support of a contravention of section 46.

If the Tribunal or the arbitrator considers the complaint justified, the Tribunal or the arbitrator may issue any order they consider fair and reasonable under the circumstances, in particular an order to cease the alleged act, to perform an act, such as resuming the staffing process for the employment or position, or to pay compensation or punitive damages to the complainant."

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