

NATIONAL ASSEMBLY

FIRST SESSION FORTY-FIRST LEGISLATURE

Bill 71

An Act respecting the settlement of certain disputes in the automotive sector in the Saguenay–Lac-Saint-Jean region

Introduction

Introduced by
Mr. Sam Hamad
Minister of Labour, Employment and Social Solidarity

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EXPLANATORY NOTES

The purpose of this bill is to put an end to the ongoing lock-out and strikes in the automotive sector in the Saguenay–Lac-Saint-Jean region and establish measures to settle the disputes between employees and employers in that sector over the renewal of their collective agreements.

The bill provides for a final mediation period concerning the terms governing the return to work and concerning the renewal of the collective agreements. It sets a final deadline for the return to work and provides that, failing agreements within the prescribed time limits, the disputes will be referred to arbitration.

Specific obligations relating to the employees' return to work are also imposed on employees and employers and their associations.

Lastly, penal sanctions are provided for failure to fulfill the obligations imposed by this Act.

Bill 71

AN ACT RESPECTING THE SETTLEMENT OF CERTAIN DISPUTES IN THE AUTOMOTIVE SECTOR IN THE SAGUENAY–LAC-SAINT-JEAN REGION

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

DIVISION I

PURPOSE

1. The purpose of this Act is to settle the disputes over the renewal of the collective agreements governing the employers listed in the schedule and the Syndicat démocratique des employés de garage Saguenay–Lac-St-Jean (CSD) concerning the bargaining units listed in the same schedule.

More specifically, the Act is intended to encourage a negotiated settlement of those disputes and the employees' return to work by providing for a final period of mediation and, failing an agreement between the parties, to refer to arbitration the determination of the terms of the employees' return to work and the disputes concerning the renewal of the collective agreements.

DIVISION II

MEDIATION

2. A mediator, appointed under paragraph 1 of section 13 of the Act respecting the Ministère du Travail (chapter M-32.2), assists the parties for the purpose of setting the date and terms of the employees' return to work and renewing the collective agreements.

3. Mediation concerning the date and terms of the employees' return to work ends no later than (*insert the date that is 20 days after the date of assent to this Act*).

The date agreed on for the employees' return to work may be no later than (*insert the date that is 50 days after the date of assent to this Act or, if that date is a Saturday or a Sunday, the date of the following Monday*).

Failing an agreement within the time prescribed in the first paragraph on all matters relating to the return to work, the date of return to work is the date specified in the second paragraph and the determination of the terms of the return to work is referred to arbitration in accordance with Division III.

4. Mediation concerning the renewal of the collective agreements ends no later than (*insert the date that is 50 days after the date of assent to this Act*).

Failing an agreement within the time prescribed in the first paragraph, the disputes concerning the renewal of the collective agreements are referred to arbitration in accordance with Division V.

5. If there is no agreement at the expiry of the mediation period, the mediator gives the parties a report without delay specifying the matters on which there has been agreement and the matters which are still in dispute.

At the same time, the mediator gives a copy of the report with comments to the Minister.

DIVISION III

ARBITRATION ON THE RETURN TO WORK

6. On receiving the mediator's report stating the absence of agreement on the employees' return to work, the Minister refers the determination of the terms of the return to work to arbitration.

The Minister appoints the arbitrator from the list drawn up annually by the Minister under the second paragraph of section 77 of the Labour Code (chapter C-27) and informs the parties.

7. The Minister sends the arbitrator a copy of the mediator's report. Only matters not identified as having been the subject of an agreement between the parties may be referred to arbitration.

Despite the end of the mediation process and even after sending the report, the mediator may continue to act at the request of the parties for the purpose of determining the terms of the return to work. However, the mediator may not continue to act once the arbitration hearings have begun.

Any agreement entered into after the mediator's report has been sent is included in an additional report that is sent to the parties and the Minister without delay. The Minister then sends the report to the arbitrator.

8. Arbitration is conducted jointly for all the employers and employees involved. However, the arbitrator may take into account the particular characteristics of each enterprise concerned and impose different terms of return to work based on those characteristics.

9. The arbitrator hears the dispute with diligence and according to the procedure and the method of proof the arbitrator considers appropriate. The arbitrator may proceed, clause by clause or globally, using the "best final offer" method.

10. Arbitration expenses and fees are shared equally by the Corporation des concessionnaires d'automobiles du Saguenay–Lac-Saint-Jean-Chibougamau and the Syndicat démocratique des employés de garage Saguenay–Lac-St-Jean (CSD).

The arbitrator's expenses and fees are those prescribed in the Regulation respecting the remuneration of arbitrators (chapter C-27, r. 6); the tariff of remuneration is that declared in accordance with section 12 of that regulation, if applicable.

The Corporation may claim part of its arbitration expenses from the employers that it does not represent and that are party to the arbitration, in proportion to the number of such employers in relation to all the employers that are party to the arbitration.

11. Sections 76 and 79, the first paragraph of section 80, sections 82 to 89, 91, 91.1, 93 and 139 to 140 of the Labour Code apply, with the necessary modifications, to the arbitration and regarding the arbitrator.

12. In the award, the arbitrator records the stipulations relating to the matters that have been agreed on, as evidenced in the mediator's report.

The parties may, at any time, come to an agreement on a matter in dispute and the corresponding stipulations must also be recorded in the arbitration award.

The arbitrator may not amend such stipulations except for the purpose of making modifications that are necessary to make the stipulations consistent with a clause of the award.

13. The arbitrator must render the arbitration award no later than 12 noon on the day that precedes the day set for the return to work under the third paragraph of section 3.

DIVISION IV

OBLIGATIONS AND PROHIBITIONS CONCERNING THE RETURN TO WORK

14. Employers listed in the schedule must, as of 6:30 a.m. on the date set for the return to work, take the appropriate measures to ensure that the employees return to work.

15. Employers are prohibited from continuing or declaring a lock-out or participating in any other form of concerted action that prevents the employees from returning to work.

16. The Corporation des concessionnaires d'automobiles du Saguenay–Lac-Saint-Jean-Chibougamau must take the appropriate measures to induce the employers it represents to comply with section 14 and not contravene section 15.

It must, in particular and before 3:00 p.m. on the day before the date set for the return to work, communicate the content of this Act and the date and terms of the return to work to the employers it represents and send the Minister an attestation that it has done so.

17. Unless they have formally given notice of their resignation to their employer before the date set for the return to work, employees included in a bargaining unit listed in the schedule must, as of 6:30 a.m. on the date set for the return to work, report for work according to their regular work schedule and other applicable conditions of employment.

18. Employees must, as of that time, perform all the duties attached to their respective functions, in accordance with the applicable conditions of employment, without any stoppage, slowdown, reduction or degradation of their normal activities.

Employees may not, as part of a concerted action, refuse to provide services to their employer.

Any employee who contravenes this section receives no remuneration for the contravention period.

19. The Syndicat démocratique des employés de garage Saguenay–Lac-St-Jean (CSD) and its officers and representatives are prohibited from calling or continuing a strike or participating in any other form of concerted action that prevents the employees from returning to work.

20. The Syndicat démocratique des employés de garage Saguenay–Lac-St-Jean (CSD) must take the appropriate measures to induce the employees it represents to comply with section 17 and not contravene section 18.

It must, in particular and before 3:00 p.m. on the day before the date set for the return to work, communicate the content of this Act and the date and terms of the return to work to the employees it represents and send the Minister an attestation that it has done so.

21. No one may, by omission or otherwise, in any manner prevent or impede the employees' return to work or the performance of work by employees, or directly or indirectly contribute to slowing down, degrading or delaying the performance of such work.

DIVISION V

ARBITRATION ON THE RENEWAL OF COLLECTIVE AGREEMENTS

22. On receiving the mediator's report stating the absence of agreement on the renewal of the collective agreements, the Minister refers the dispute to arbitration and notifies the parties.

23. Within 15 days after receiving the Minister's notice under section 22, the parties must consult each other as to the choice of an arbitrator and inform the Minister of the name of the arbitrator chosen. The Minister then appoints that arbitrator.

Failing agreement between the parties within the time prescribed, the Minister appoints an arbitrator from the list drawn up annually by the Minister under the second paragraph of section 77 of the Labour Code and informs the parties.

24. Sections 7 to 12 apply, with the necessary modifications, to the arbitration on the renewal of the collective agreements.

25. The arbitrator must render an award within six months of the date on which the disputes are referred to the arbitrator.

26. The award has effect, at the arbitrator's option, from the date the employees return to work or from the date the award is filed with the Minister, unless the parties have agreed otherwise.

Section 92 of the Labour Code applies with the necessary modifications.

DIVISION VI

PENAL PROVISIONS

27. Anyone who contravenes a provision of sections 14 to 21 is guilty of an offence and is liable, for each day or part of a day during which the offence continues, to a fine

(1) of $100 to $250 in the case of an employee or of a person not mentioned in paragraph 2 or 3;

(2) of $1,000 to $10,000 in the case of an officer, representative or employee of an association of employees or association of employers, or an officer or representative of an employer;

(3) of $5,000 to $50,000 in the case of an employer, an association of employers, an association of employees or a union, federation or confederation with which an association of employees is affiliated or to which it belongs.

28. Any person who, by an act or an omission, aids the commission of an offence or, by encouragement, advice, consent or order, induces another person to commit an offence is party to the offence and is liable to the same penalty as that prescribed for the offender.

When the offence is committed by a legal person or an association, any officer or representative who in any manner approves of the act constituting the offence or acquiesces to the commission of the offence is guilty of the offence.

DIVISION VII

MISCELLANEOUS, TRANSITIONAL AND FINAL PROVISIONS

29. The Government may amend the schedule to correct any error in the identification of an employer or a bargaining unit after informing the employer concerned and the Syndicat démocratique des employés de garage Saguenay–Lac-St-Jean (CSD) of its intention.

30. The conditions of employment contained in each collective agreement in force on 28 February 2013 apply, with the necessary modifications, until a new collective agreement replacing it comes into effect.

31. The Minister of Labour, Employment and Social Solidarity is responsible for the administration of this Act.

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

SCHEDULE
(*Section 1*)

Employers	**Bargaining units**
2431-9006 Québec Inc. (Alma Toyota)	AQ-1003-9618
2846-3982 Québec Inc. (La Maison Mazda Enr.)	AQ-1004-6192
9034-4227 Québec Inc. (St-Félicien Toyota)	AQ-2001-0584
9075-5125 Québec Inc. (Alma Honda)	AQ-2000-9125 AQ-2000-9356
9167-1446 Québec Inc. (Maison Mitsubishi)	AQ-2001-0160
9171-1440 Québec Inc. (Maison de l'auto Dolbeau Mistassini)	AQ-2000-8231
9192-1718 Québec Inc. (Intégral Subaru)	AQ-2000-8129
9254-9328 Québec Inc. (Excellence Nissan)	AQ-2001-4520 AQ-2001-4074
Arnold Chevrolet Buick GMC Cadillac Inc.	AQ-1003-5544 AQ-1004-1842
Automobiles Chicoutimi (1986) Inc.	AQ-1004-4136
Automobiles du Royaume Ltée	AQ-2000-8862 AQ-2000-8863
Automobiles Perron (Chicoutimi) Inc.	AQ-1004-9197
Chicoutimi Chrysler Dodge Jeep Inc.	AQ-1005-0456
Dolbeau Automobiles Ltée	AQ-1003-3686
Dupont Automobile Ltée	AQ-1003-6118 AQ-1003-9329
Garage Paul Dumas Ltée	AQ-1003-2453
Harold Autos Inc.	AQ-2001-2152

L.D. Auto (1986) Inc.	AQ-1003-2085 AQ-1004-3958
Léo Automobile Ltée	AQ-1003-2706 AQ-1003-9511
L'Étoile Dodge Chrysler Inc.	AQ-1004-1302 AQ-1004-2869
L.G. Automobile Ltée	AQ-1004-2964
Maison de l'auto St-Félicien (1983) Ltée (Maison de l'auto Roberval)	AQ-1005-3540 AQ-1003-1652
Paul Albert Chevrolet Buick Cadillac GMC Ltée	AQ-2000-2025
Roberval Pontiac-Buick Inc.	AQ-1004-1676 AQ-1005-0999
Rocoto Ltée	AQ-1003-1223