



NATIONAL ASSEMBLY OF QUÉBEC

FIRST SESSION

FORTY-SECOND LEGISLATURE

Bill 87

**An Act to limit certain charges in
the restaurant industry**

Introduction

**Introduced by
Mr. André Lamontagne
Minister of Agriculture, Fisheries and Food**

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EXPLANATORY NOTES

The purpose of this bill is to temporarily limit the amount of certain charges payable by restaurateurs when they retain the delivery services of a third person while the dining room of their restaurant is closed because of the health measures ordered under section 123 of the Public Health Act.

To that end, the bill provides that a third person who provides delivery services to a restaurateur may not charge the restaurateur, as a delivery charge, an amount exceeding 15% of the total amount of the order. It also limits the amounts that a third person may charge a restaurateur as a charge for the supply of information technology-based services that can be used to place an order, setting the maximum amounts at 5% or 10% of the total amount of the order, depending on whether or not the third person carries out the delivery for the restaurateur. Furthermore, the bill prohibits a third person from reducing the remuneration they pay or any other payment they make to a person to whom they entrust a delivery activity in order to comply with limits established above.

In addition, the bill makes it possible for a restaurateur or a person to whom a third person has entrusted a delivery activity to file a complaint with the Minister of Agriculture, Fisheries and Food if the amounts charged to the restaurateur exceed the prescribed limits or if the delivery person's remuneration is reduced.

The Minister is given the power to conduct, or commission a person the Minister designates to conduct, an investigation on any matter relating to the application of this bill, as well as to order a third person, when a complaint has been processed or an investigation concluded, to reduce the amounts that person charges a restaurateur or to restore a delivery person's remuneration.

Lastly, penal offences are created to ensure compliance with the measures the bill puts in place.

Bill 87

AN ACT TO LIMIT CERTAIN CHARGES IN THE RESTAURANT INDUSTRY

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

GENERAL PROVISIONS

- 1.** The purpose of this Act is to limit the amount of certain charges payable by restaurateurs when they retain the delivery services of a third person.
- 2.** For the purposes of this Act, “restaurateur” means the operator of a business whose main activity is selling or serving meals or refreshments, in a restaurant, to its patrons.

In addition, delivery services include technology-based services that allow patrons to order meals or refreshments from a restaurateur.

- 3.** The measures provided for in this Act apply to restaurateurs with respect to any restaurant whose dining room is closed because of the health measures ordered under section 123 of the Public Health Act (chapter S-2.2).

The measures provided for in this Act also apply to third persons who provide delivery services to restaurateurs for at least 500 restaurants.

CHAPTER II

LIMITATION OF CHARGES

- 4.** A third person who provides delivery services to a restaurateur may charge the restaurateur only the following amounts:
 - (1) as a delivery charge, an amount not exceeding 15% of the total amount of the order if the delivery is carried out by the third person or in that person’s name; and
 - (2) as a charge for the supply of information technology-based services that allow a patron to place an order with a restaurateur,

(a) an amount not exceeding 5% of the total amount of the order if the delivery is carried out by the third person or in that person's name; and

(b) an amount not exceeding 10% of the total amount of the order if the delivery is not carried out by the third person or in that person's name.

For the purposes of the first paragraph, the total amount of the order excludes the amount of the taxes and tip.

5. A third person who entrusts a delivery activity to a person who must carry it out in their name may not reduce the amounts they pay to that person as remuneration or other payment for the activity in order to comply with the provisions of section 4.

CHAPTER III

COMPLAINTS

6. A restaurateur that has retained the delivery services of a third person, or a person to whom a third person entrusts a delivery activity, may, after requesting the third person by a written notice to comply with section 4 or 5, as applicable, file a complaint with the Minister if the third person fails to remedy the failure.

7. A complaint must be filed electronically in the manner determined by the Minister, which must enable the complainant to provide the following information and documents:

- (1) proof of the amounts charged by the third person; and
- (2) a copy of the notice sent to the third person.

8. The Minister may require any other information or document from the complainant that the Minister considers necessary to process the complaint.

9. The Minister must dismiss a complaint if

- (1) the complaint is abusive, frivolous or clearly unfounded;
- (2) no notice was sent to the third person concerned;
- (3) the complaint was not filed in accordance with section 7; or
- (4) the complainant refuses or neglects to provide, within the time specified by the Minister, the information or documents the Minister requires.

10. If the Minister is of the opinion that a complaint is admissible, the Minister notifies the third person concerned, who must in turn, within the time determined by the Minister, submit their observations to the Minister and, if applicable, send the Minister a copy of the documents in support of their contentions.

The Minister may, by the notice, require the third person to provide, within the same time, the information or documents the Minister considers useful for processing the complaint or to otherwise provide access to that information or those documents to the Minister.

11. The Minister has 20 days from the date of the notice sent under section 10 to render a decision.

The Minister may attach either of the orders described in section 18, as applicable, to the decision. In such a case, the time the Minister has to render a decision is increased by the time the Minister determines under the second paragraph of that section.

12. The Minister sends, in writing, to the complainant and the third person concerned, any decision the Minister renders regarding a complaint, unless the complaint is dismissed for a reason listed in section 9. In the latter case, only the complainant is informed of the decision.

13. It is forbidden to take a reprisal in any manner whatever against a complainant or to threaten to take a reprisal against them so that they will abstain from filing a complaint.

14. A restaurateur or a person to whom a third person has entrusted a delivery activity and who, in good faith, files a complaint with the Minister incurs no civil liability for doing so.

15. Nothing in this chapter restricts a complainant's right to pursue a remedy based on the same facts as those set out in their complaint.

CHAPTER IV

INVESTIGATION

16. The Minister may, on the Minister's own initiative or on request, conduct an investigation or commission a person the Minister designates to conduct an investigation on any matter relating to the application of this Act.

17. No proceedings may be brought against an investigator for an act performed or omitted in good faith in the exercise of investigation functions.

CHAPTER V

ORDERS

18. The Minister may, when a complaint has been processed or an investigation concluded, order the third person concerned

(1) to reduce any amounts that the third person charges a restaurateur to bring them into compliance with the amounts prescribed in the first paragraph of section 4; and

(2) to restore the amounts that are paid to a person to whom the third person has entrusted a delivery activity if those amounts were reduced in contravention of section 5.

Before making an order, the Minister notifies the third person as prescribed by section 5 of the Act respecting administrative justice (chapter J-3), stating the grounds for the order and the date on which the order is to take effect, and granting the third party a period of time for presenting observations.

CHAPTER VI

PENAL PROVISIONS

19. Anyone who

(1) provides information they know to be false or misleading regarding a complaint filed under Chapter III,

(2) fails to provide any information or document required under the second paragraph of section 10, or

(3) hinders or attempts to hinder the action of an investigator in the exercise of investigation functions or powers, or who hides, destroys or refuses to provide, information, a document or a thing the investigator is entitled to require or examine when exercising those functions

commits an offence and is liable to a fine of \$2,500 to \$250,000 in the case of a natural person and \$7,500 to \$750,000 in all other cases.

20. Anyone who

(1) contravenes section 4, 5 or 13, or

(2) contravenes an order described in section 18

commits an offence and is liable to a fine of \$5,000 to \$500,000 in the case of a natural person and \$15,000 to \$1,500,000 in all other cases.

21. The minimum and maximum fines under sections 19 and 20 are doubled for a subsequent offence.

CHAPTER VII

MISCELLANEOUS AND FINAL PROVISIONS

22. The provisions of this Act apply despite any provision to the contrary in an agreement, convention, contract or any other similar instrument.

23. The provisions of this Act cease to have effect on the date the public health emergency declared by the Government on 13 March 2020 is lifted.

24. The Minister of Agriculture, Fisheries and Food is responsible for the administration of this Act.

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

