



NATIONAL ASSEMBLY OF QUÉBEC

FIRST SESSION

FORTY-THIRD LEGISLATURE

Bill 103

**An Act mainly to regulate supervised
consumption sites in order to promote
their harmonious cohabitation with
the community**

Introduction

**Introduced by
Mr. Lionel Carmant
Minister Responsible for Social Services**

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EXPLANATORY NOTES

This bill proposes to prohibit the offering of supervised consumption services on premises located outside a facility maintained by Santé Québec, unless those premises are the subject of an authorization from the Minister of Health. It determines the rules governing the process for obtaining such authorization.

The bill provides that the application for authorization is sent first to Santé Québec, which performs an initial analysis of it and then sends it to the Minister. It gives the Minister the power to grant an authorization if the Minister considers it appropriate, after consulting with the Minister of Education, the Minister of Families and the municipality concerned. However, under the bill, an authorization cannot be granted for premises that would be located in the neighbourhood of a school, a childcare centre or a day care centre, which means located less than 150 meters from such a place.

The bill allows the Minister to attach to the authorization conditions the Minister considers appropriate so as to ensure, among other things, cleanliness, hygiene and safety in the vicinity of the premises. It sets the duration of an authorization at four years and provides the rules that apply when the authorization is revoked and when it is renewed. It also determines the obligations that are imposed on the holders of an authorization as well as the monetary administrative penalties and penal sanctions that apply.

The bill prohibits the issue of a permit of a childcare centre or a day care centre or the establishment of a school if a premises where supervised consumption services are offered would be located in its neighbourhood.

Furthermore, the bill authorizes the Minister to delegate to Santé Québec all or part of the Minister's functions and powers relative to the authorization regime. It also allows the Minister, to the extent provided by regulation, to render applicable the authorization regime the bill establishes for premises intended to receive mainly persons experiencing homelessness or who are without shelter, except with respect to the prohibition on granting an authorization if the premises concerned are located in the neighbourhood of one of the previously described places.

Lastly, the bill deems persons who, on the date of assent of this Act, were offering supervised consumption services to be holders of an authorization for a period of four years.

LEGISLATION AMENDED BY THIS BILL:

- Act respecting private education (chapter E-9.1);
- Act respecting the governance of the health and social services system (chapter G-1.021);
- Education Act (chapter I-13.3);
- Act respecting administrative justice (chapter J-3);
- Educational Childcare Act (chapter S-4.1.1).

Bill 103

AN ACT MAINLY TO REGULATE SUPERVISED CONSUMPTION SITES IN ORDER TO PROMOTE THEIR HARMONIOUS COHABITATION WITH THE COMMUNITY

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

ACT RESPECTING THE GOVERNANCE OF THE HEALTH AND
SOCIAL SERVICES SYSTEM

1. The Act respecting the governance of the health and social services system (chapter G-1.021) is amended by inserting the following Title after section 667:

“TITLE III.1

“SPECIAL AUTHORIZATIONS

“CHAPTER I

“PREMISES WHERE SUPERVISED CONSUMPTION SERVICES ARE OFFERED

“667.1. An authorization from the Minister regarding premises is required for supervised consumption services to be offered on those premises when they are located outside a facility maintained by Santé Québec.

For the purposes of this Act,

“illegal substance” means a controlled substance or a precursor within the meaning of the Controlled Drugs and Substances Act (S.C. 1996, c. 19) obtained in a manner not authorized under that Act;

“supervised consumption services” means the activities related to the on-site consumption of an illegal substance in accordance with an exemption granted under paragraph 1 of section 56 or section 56.1 of that Act.

“667.2. To obtain the Minister’s authorization regarding premises, an application for authorization must be sent to Santé Québec by the person or group that will have a right enabling the use of the premises referred to in the application at the time the supervised consumption services will be offered there.

“667.3. The applicant must provide, in the application for authorization, the following information:

- (1) their name and contact information; and
- (2) the exact address of the premises referred to in the application.

“667.4. The applicant must attach to their application for authorization a reproduction of a title of ownership, a lease, a promise to enter into such a contract or another document evidencing that at the time the supervised consumption services will be offered, they will have a right enabling the use of the premises referred to in the application.

They must also attach to the application for authorization

(1) an analysis detailing the needs to be met by the services offered on the premises, the benefits to result and the annoyances that the services could cause in the vicinity of the premises; and

(2) a cohabitation plan detailing the measures the applicant intends to take to mitigate those annoyances.

“667.5. Santé Québec sends to the Minister any applications for authorization in which the information referred to in section 667.3 is provided and to which the documents referred to in section 667.4 are attached.

Santé Québec also sends the Minister a report in which it presents its evaluation of the analysis attached to the application and, if applicable, of the foreseeable consequences of the services offered on the premises concerned for Santé Québec and for any other service provider in the field of health and social services in the vicinity.

The report must also describe the clinical services trajectories, determined in compliance with the Minister’s orientations, so that Santé Québec or another service provider in the field of health and social services in the vicinity may take charge of persons for whom the services offered on the premises are intended.

“667.6. The Minister may require from the applicant any information or documents the Minister considers necessary for the evaluation of the application for authorization.

The Minister may also require that the applicant make the changes which the Minister determines are necessary to the cohabitation plan attached to the application and that the applicant meet any other conditions determined by the Minister.

“667.7. The Minister may, if the Minister considers it appropriate, grant an authorization regarding premises on which supervised consumption services will be offered.

The Minister may not, however, grant an authorization regarding premises located in the neighbourhood of any of the following places:

(1) a school established in accordance with the Education Act (chapter I-13.3) or the Education Act for Cree, Inuit and Naskapi Native Persons (chapter I-14);

(2) a private educational institution referred to in the Act respecting private education (chapter E-9.1) dispensing services referred to in paragraphs 1 to 3 of section 1 of that Act and the buildings or premises at the disposal of such an institution; or

(3) a facility of a childcare centre or a day care centre within the meaning of the Educational Childcare Act (chapter S-4.1.1).

The neighbourhood of a place referred to in the second paragraph means, in addition to the land on which it is located, a contiguous band of land of a width of 150 meters measured perpendicularly from the outside limits of the land.

“667.8. Before granting an authorization, the Minister consults the Minister of Education, Recreation and Sports, the Minister of Families, Seniors and the Status of Women and the municipality in whose territory the premises referred to in the application are located.

“667.9. The Minister may attach to the authorization granted by the Minister conditions the Minister considers appropriate so as to ensure

(1) the continuity of the services offered on the authorized premises with any other services provided by Santé Québec or by any other provider of services in the field of health and social services;

(2) cleanliness, hygiene and safety in the vicinity of the premises; and

(3) the implementation of any measure to ensure the activities related to the services offered on the premises, whether indoors or outdoors, do not exceed the normal neighbourhood annoyances.

“667.10. Where the Minister grants an authorization, the Minister issues the applicant a document attesting to the Minister’s decision.

That document states the following information:

(1) the name of the authorization holder;

(2) the exact address of the authorized premises;

(3) the date on which the authorization was granted;

(4) the measures provided for by the cohabitation plan; and

(5) the conditions, if any, attached to the authorization.

“667.11. Where the Minister refuses to grant an authorization, the Minister notifies the applicant in writing.

Before refusing to grant an authorization, the Minister must notify in writing the prior notice prescribed by section 5 of the Act respecting administrative justice (chapter J-3) to the applicant and give the applicant at least 10 days to submit observations.

“667.12. The Minister may, at any time, on the Minister’s own initiative or at the request of Santé Québec or the authorization holder, modify or withdraw a condition attached to the authorization.

The Minister may, in the same manner, add a condition to the authorization.

Before making a decision under the first or second paragraph, the Minister must notify in writing the prior notice prescribed by section 5 of the Act respecting administrative justice (chapter J-3) to the authorization holder and give the latter at least 10 days to submit observations, except when the Minister grants the holder’s request.

“667.13. The holder of an authorization must ensure that the supervised consumption services are offered only inside the premises covered by the authorization and ensure compliance with any conditions attached to the authorization as well as any measures provided for by the cohabitation plan.

“667.14. On an application by an interested person, the Minister may revoke the authorization granted by the Minister regarding premises when the following conditions are met:

- (1) the authorization was granted more than one month prior;
- (2) no supervised consumption service has been offered there for more than a month; and
- (3) no steps or actions aimed at allowing the carrying on, on those premises, of activities related to the on-site consumption of an illegal substance under paragraph 1 of section 56 or section 56.1 of the Controlled Drugs and Substances Act (S.C. 1996, c. 19) are underway.

“667.15. The Minister may revoke the authorization granted by the Minister regarding premises if the authorization holder has failed to comply with the conditions attached to the authorization or has not implemented the measures provided for by the cohabitation plan.

“667.16. The Minister must, before revoking an authorization under section 667.14 or 667.15, notify in writing the prior notice prescribed by section 5 of the Act respecting administrative justice (chapter J-3) to the holder of that authorization and give the holder at least 10 days to submit observations.

The Minister must notify in writing the holder of the authorization of the Minister's decision to revoke the authorization.

“667.17. The authorization granted by the Minister regarding premises ends four years after the date on which it was granted or on one of the following dates, whichever occurs first:

(1) the date on which a decision is rendered refusing to allow, on those premises, the carrying on of activities related to the on-site consumption of an illegal substance under paragraph 1 of section 56 or section 56.1 of the Controlled Drugs and Substances Act (S.C. 1996, c. 19);

(2) the date on which the supervised consumption services offered on the premises cease to be permitted under that Act; or

(3) the date on which the authorization was revoked by the Minister under section 667.14 or 667.15 or at the request of the authorization holder.

“667.18. The authorization granted by the Minister regarding premises may be renewed.

The application for renewal must be sent no later than six months before the authorization ends.

Sections 667.2 to 667.11 apply to an application for renewal as if it were an application for authorization.

“667.19. The holder of an authorization may contest a decision of the Minister made under section 667.14 or 667.15 before the Administrative Tribunal of Québec within 60 days of the date on which the decision was notified to the holder.

“667.20. The Minister may, on the conditions the Minister determines, delegate to Santé Québec all or part of the functions and powers conferred on the Minister by this chapter.

The instrument of delegation is published in the *Gazette officielle du Québec*.

“667.21. Santé Québec publishes on a website the following information in relation to any authorization granted by the Minister under this chapter:

(1) the exact address of the premises referred to in the authorization;

(2) the conditions attached, if applicable, to the authorization;

(3) the projected end date of the authorization;

(4) the end date of the authorization when the authorization ends before the date referred to in paragraph 3; and

(5) any other information Santé Québec considers to be of public interest.

“667.22. The provisions of section 568, of the second paragraph of section 602 and of sections 644 and 646 apply, with the necessary modifications, to the holder of an authorization granted under this chapter.

Section 569 applies in the same manner to any person or group that no longer holds an authorization of the Minister regarding premises but holds a document attesting such an authorization.

For the purposes of the second paragraph of section 602, a reference to Santé Québec is a reference to the Minister.

“667.23. No municipal permit or certificate may be refused nor proceedings under a by-law instituted for the sole reason that premises are to be used to offer supervised consumption services when those premises are authorized by the Minister under section 667.7.

This section takes precedence over any general or special Act and over any municipal by-law adopted under any such Act.

“667.24. No one may offer supervised consumption services on premises located outside a facility maintained by Santé Québec if they do not hold an authorization from the Minister under section 667.7.

“CHAPTER II

“PREMISES INTENDED TO RECEIVE MAINLY PERSONS EXPERIENCING HOMELESSNESS OR WHO ARE WITHOUT SHELTER

“667.25. The Minister may, by regulation, specify the cases in which the Minister’s authorization is required regarding premises intended to receive mainly persons experiencing homelessness or who are without shelter.

The provisions of Chapter I, except those of section 667.1 and of the second and third paragraphs of section 667.7, apply to such premises, to such an extent as may be determined by that regulation.

“667.26. No one may offer to receive persons experiencing homelessness or who are without shelter on premises intended mainly for that purpose if those premises are not authorized by the Minister in accordance with section 667.25, when that authorization is required under a regulation adopted under that section.”

2. Section 793 of the Act is amended by inserting the following paragraph after paragraph 4:

“(4.1) a holder of an authorization of the Minister regarding premises who fails

(a) to post in public view the document attesting the authorization in accordance with section 568; or

(b) to send Santé Québec an activity report or statements, statistical data and other information or to send them to Santé Québec within the specified time limit in accordance with the first paragraph of section 644;”.

3. Section 819 of the Act is amended

(1) by replacing “or 664 to 667” in subparagraph *d* of paragraph 1 by “, 664 to 667, 667.24 or 667.26”;

(2) by adding the following paragraph at the end:

“(6) a holder of an authorization of the Minister regarding premises that contravene section 667.13.”

ACT RESPECTING PRIVATE EDUCATION

4. Section 18.3 of the Act respecting private education (chapter E-9.1) is amended

(1) by striking out the second sentence;

(2) by adding the following paragraphs at the end:

“The Minister shall refuse to issue a permit for an establishment dispensing services referred to in paragraphs 1 to 3 of section 1 if premises referred to in an authorization granted under section 667.7 of the Act respecting the governance of the health and social services system (chapter G-1.021) would be located in the neighbourhood, within the meaning of the third paragraph of that section, of the institution or of premises or a building placed at the disposal of the institution.

Section 22.2 does not apply to a decision made under the first or second paragraph.”

5. Section 20 of the Act is amended by adding the following paragraph at the end:

“The Minister shall refuse to modify the address of the institution or the address of the buildings or premises placed at the institution’s disposal and mentioned in the permit if premises referred to in an authorization granted under section 667.7 of the Act respecting the governance of the health and social services system (chapter G-1.021) would be located in the neighbourhood, within the meaning of the third paragraph of that section, of the institution or of the buildings or premises that would be mentioned in the permit following the modification.”

EDUCATION ACT

6. The Education Act (chapter I-13.3) is amended by inserting the following section after section 39:

“39.1. A school service centre may not establish a school if premises referred to in an authorization granted under section 667.7 of the Act respecting the governance of the health and social services system (chapter G-1.021) would be located in the neighbourhood of that school, within the meaning of the third paragraph of that section.”

ACT RESPECTING ADMINISTRATIVE JUSTICE

7. Section 25 of the Act respecting administrative justice (chapter J-3), amended by section 213 of chapter 5 of the statutes of 2023, is again amended, in the second paragraph,

(1) by inserting “, 12.0.1,” after “11”;

(2) by replacing “, 13 and 14” by “and 13 to 15”.

8. Section 119 of the Act, amended by section 1083 of chapter 34 of the statutes of 2023, is again amended by inserting the following paragraph after paragraph 6:

“(6.1) a proceeding under section 667.19 of the Act respecting the governance of the health and social services system which pertains to the revocation of an authorization;”.

9. Section 3 of Schedule I to the Act, amended by section 1085 of chapter 34 of the statutes of 2023, is again amended by replacing “or 634” in paragraph 12.0.1 by “, 634 or 667.19”.

EDUCATIONAL CHILDCARE ACT

10. The Educational Childcare Act (chapter S-4.1.1) is amended by inserting the following section after section 11.3:

“11.4. The Minister refuses to issue a childcare centre permit or day care centre permit if premises referred to in an authorization granted under section 667.7 of the Act respecting the governance of the health and social services system (chapter G-1.021) would be located in the neighbourhood, within the meaning of the third paragraph of that section, of the facility referred to in the application for the issue of a childcare centre or day care centre permit.

Section 104 does not apply to a decision made under the first paragraph.”

11. The Act is amended by inserting the following section after section 16.4:

“16.5. The Minister may not grant an authorization under the second paragraph of section 16, section 16.1 or section 16.4 if premises referred to in an authorization granted by the Minister of Health and Social Services under section 667.7 of the Act respecting the governance of the health and social services system (chapter G-1.021) would be located in the neighbourhood, within the meaning of the third paragraph of that section, of the facility or temporary facility covered by the application for authorization addressed to the Minister and the purpose of the latter application for authorization is not to maintain the provision of childcare services at the address of the facility appearing on the permit of the holder ceasing operations.”

12. The Act is amended by inserting the following section after section 21.1:

“21.2. The Minister refuses to authorize the modification of a permit if the modification pertains to the address of a facility and concerns a facility that would require the Minister, under the first paragraph of section 11.4, to refuse to issue a permit.”

13. Section 24 of the Act is amended by inserting “and those of section 21.2 apply to the modification of a permit” at the end of the second paragraph.

14. Section 108 of the Act is amended by inserting “by any of sections 11.4, 16.5 and 21.2 or” after “other than a standard established” in the first paragraph.

TRANSITIONAL AND FINAL PROVISIONS

15. Premises where supervised consumption services are offered on (*insert the date of assent to this Act*) are deemed to have been authorized by the Minister under the Act respecting the governance of the health and social services system (chapter G-1.021) for the duration provided for in section 667.17 of that Act, enacted by section 1 of this Act. The person or group offering supervised consumption services on the premises is deemed to be the holder of the authorization.

The first paragraph applies even to premises located in the neighbourhood, within the meaning of the third paragraph of section 667.7 of the Act respecting the governance of the health and social services system, enacted by section 1 of this Act, of one of the places referred to in the second paragraph of that section. In such a case, the authorization may not, however, be renewed.

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

