



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-NINTH LEGISLATURE

Bill 71

**An Act to again amend the Highway
Safety Code and other legislative
provisions**

Introduction

**Introduced by
Madam Julie Boulet
Minister of Transport**

**Québec Official Publisher
2009**

EXPLANATORY NOTES

This bill amends the Highway Safety Code to prohibit persons 21 years of age or under from driving a road vehicle if they have any alcohol in their body. It provides for an immediate 24-hour licence suspension for drivers not under a complete alcohol prohibition whose blood alcohol concentration is between 50 and 80 mg of alcohol in 100 ml of blood.

Under the bill, the Government is granted the power to make a regulation requiring cyclists 12 years of age or under to wear a protective helmet. The bill amends certain traffic rules, in particular those governing the crossing of roadways by pedestrians, and gives municipalities the power to authorize cycling against the traffic on a one-way lane.

The bill also raises certain fines, and provides for an immediate seven-day licence suspension and vehicle seizure, for street racing with another vehicle and for riding or holding on to the outer part of a road vehicle in motion, or for tolerating such behaviour. For a second or subsequent offence, the suspension and seizure periods are increased to 30 days.

The bill contains various other provisions relating to certain specific situations. Lastly, it contains consequential, technical and transitional provisions.

LEGISLATION AMENDED BY THIS BILL:

- Highway Safety Code (R.S.Q., chapter C-24.2);
- Act to amend the Highway Safety Code and the Regulation respecting demerit points (2007, chapter 40);
- Act to again amend the Highway Safety Code and other legislative provisions (2008, chapter 14).

Bill 71

AN ACT TO AGAIN AMEND THE HIGHWAY SAFETY CODE AND OTHER LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

HIGHWAY SAFETY CODE

1. Section 4 of the Highway Safety Code (R.S.Q., chapter C-24.2), amended by section 1 of chapter 40 of the statutes of 2007, is again amended by replacing “and 328.2” in the definition of “pound” by “, 328.2, 422.4 and 434.5”.

2. Section 89 of the Code is amended by replacing “within 90 days of” by “during the six months after”.

3. Section 182 of the Code is amended by replacing “conditional release” by “a conditional”.

4. Section 202.2 of the Code, amended by section 35 of chapter 40 of the statutes of 2007, is again amended by adding the following subparagraph after subparagraph 3 of the first paragraph:

“(5) the holder of a driver’s licence not described in subparagraph 2 who is 21 years of age or under.”

5. Section 202.4 of the Code, replaced by section 36 of chapter 40 of the statutes of 2007, is amended by adding the following subparagraph after subparagraph 2 of the first paragraph:

“(3) for 24 hours, the licence of any person not described in subparagraph 1 or 2 driving or having the care or control of a road vehicle

(a) if, during a screening test conducted in accordance with the Criminal Code, the screening device shows a blood alcohol concentration level equal to or in excess of 50 mg of alcohol in 100 ml of blood;

(b) if the person’s blood alcohol concentration level is shown, following a breath test conducted by means of an approved instrument in accordance with the Criminal Code, to be equal to or in excess of 50 mg of alcohol in 100 ml of blood.”

6. Section 202.6 of the Code, replaced by section 38 of chapter 40 of the statutes of 2007, is amended by replacing “section 202.4” by “section 202.1.4, 202.1.5 or 202.4”.

7. Section 209.2 of the Code, amended by section 39 of chapter 40 of the statutes of 2007 and section 22 of chapter 14 of the statutes of 2008, is again amended by replacing “and 328.1” by “, 328.1, 422.1 and 434.2”.

8. Section 209.2.1 of the Code, enacted by section 40 of chapter 40 of the statutes of 2007, is amended by adding the following paragraph:

“This section applies on public highways, on highways under the administration of or maintained by the Ministère des Ressources naturelles et de la Faune, on private roads open to public vehicular traffic and on land occupied by shopping centres or other land where public traffic is allowed.”

9. Section 209.9 of the Code is amended by striking out the second sentence of the third paragraph.

10. Section 209.11 of the Code, amended by section 42 of chapter 40 of the statutes of 2007, is again amended

(1) by replacing the second paragraph by the following paragraph:

“When a vehicle was seized on more than one ground and the owner was not the driver of the vehicle, the owner may recover the vehicle by showing that all the conditions for recovery of the vehicle applicable to the situation have been met.”;

(2) by replacing “under sections 209.2 and 209.2.1” in the third paragraph by “under section 209.2 and under any of sections 209.2.1, 328.2, 422.4 and 434.5”.

11. Section 209.22.2 of the Code is repealed.

12. Section 210 of the Code is amended

(1) by striking out “, except trailers and semi-trailers whose net mass does not exceed 900 kg,” in the first paragraph;

(2) by adding the following sentence at the end of the first paragraph: “However, trailers and semi-trailers whose net mass does not exceed 900 kg and detachable axles are not required to be provided with such a number.”

13. Section 232 of the Code is amended

(1) by striking out “amber” in paragraph 4;

(2) by striking out “red” in paragraph 5;

(3) by adding the following paragraph:

“Any equipment or object placed on a bicycle that blocks a prescribed reflector must be provided with a reflector that complies with the first paragraph.”

14. Section 250.2 of the Code is amended

(1) by replacing the second paragraph by the following paragraph:

“No person may repair a module after the air bag has deployed or a seat belt with a pretensioner that has been activated. No person other than a person authorized by the manufacturer of the vehicle concerned may reprogram or repair an air bag or seat belt electronic control module.”;

(2) by adding the following paragraph:

“The Société may, on the conditions it determines, exempt a person from the prohibitions of this section.”

15. Section 250.3 of the Code is replaced by the following section:

“250.3. No person may remove or cause to be removed an air bag module installed in a road vehicle, or render it inoperative except by means of a device installed by the manufacturer of the vehicle before its sale to the first user. The prohibition does not apply if the air bag module must be removed or rendered inoperative for the purpose of adapting a road vehicle for a handicapped person.

The Société may, on the conditions it determines and for reasons of safety, exempt a person from the prohibition.”

16. Section 328.1 of the Code, enacted by section 52 of chapter 40 of the statutes of 2007 and amended by section 41 of chapter 14 of the statutes of 2008, is again amended

(1) by replacing “to any person who” in the portion of the first paragraph before subparagraph 1 by “of any person who”;

(2) by inserting “or off-highway vehicle” after “road vehicle” in subparagraphs 1, 2 and 3 of the first paragraph.

17. Section 328.2 of the Code, enacted by section 52 of chapter 40 of the statutes of 2007, is amended

(1) by inserting “road” before “vehicle”;

(2) by adding the following paragraph:

“Sections 209.3 to 209.10 apply to the seizure, with the necessary modifications.”

18. Section 328.3 of the Code, enacted by section 52 of chapter 40 of the statutes of 2007, is amended by replacing the second paragraph by the following paragraph:

“The second, third and fourth paragraphs of section 209.11 and sections 209.12 to 209.15 apply to the seizure, with the necessary modifications.”

19. Section 328.4 of the Code, enacted by section 52 of chapter 40 of the statutes of 2007, is amended by replacing the second paragraph by the following paragraph:

“The first paragraph of section 202.6.3, sections 202.6.4 and 202.6.5, the second paragraph of section 202.6.6, sections 202.6.7 and 202.6.9 to 202.6.12 and the second and third paragraphs of section 209.11 apply to the seizure, with the necessary modifications.”

20. Section 328.5 of the Code, enacted by section 42 of chapter 14 of the statutes of 2008, is amended

(1) by inserting “or off-highway vehicle” after “road vehicle” in the first paragraph;

(2) by replacing “subparagraph 1” in the first paragraph by “subparagraph 1, 2 or 3”;

(3) by adding “, as applicable” at the end of the first paragraph.

21. Section 395 of the Code is replaced by the following section:

“**395.** No person shall drive a road vehicle in which the seat belt or an air bag provided for the driver or for the seat occupied by a passenger is missing or has been modified or rendered inoperative.”

22. Section 408 of the Code is amended by replacing “a white signal or a flashing pedestrian light” by “a steady, white signal representing a walking figure, or a flashing pedestrian light”.

23. The Code is amended by inserting the following sections after section 422:

“**422.1.** A peace officer shall immediately suspend, on behalf of the Société and for a period of seven days, the licence issued under section 61 of any person driving a road vehicle in contravention of section 422.

If the person does not hold a licence or holds a licence issued by another administrative authority, the peace officer shall immediately suspend, on behalf of the Société and for a period of seven days, the person's right to obtain a learner's licence, a probationary licence or a driver's licence.

The suspension period is increased to 30 days in the case of a person who was convicted of an offence under section 422 during the 10 years before the suspension.

“422.2. The driver of a road vehicle whose licence or right to obtain a licence is suspended for a period of 30 days under section 422.1 may obtain the lifting of the suspension by the Société after establishing by a preponderance of evidence that he was not driving the vehicle in a race with another vehicle or for a wager or a stake.

“422.3. Section 202.6.1, the first paragraph of section 202.6.3, sections 202.6.4 and 202.6.5, the second paragraph of section 202.6.6, sections 202.6.7, 202.6.9 to 202.6.12 and 202.7 apply to the licence suspension, with the necessary modifications.

“422.4. In the case of a person who contravenes section 422, the peace officer, on behalf of the Société and at the owner's expense, shall immediately seize the road vehicle and impound it for seven days if the person was not convicted of an offence under section 422 during the 10 years before the licence suspension under section 422.1, or for 30 days if the person was convicted of such an offence during that period.

Sections 209.3 to 209.10 apply to the seizure, with the necessary modifications.

“422.5. The owner of the road vehicle seized may, on the authorization of a judge of the Court of Québec acting in chambers in civil matters, recover his vehicle if he was not the driver of the vehicle and could not reasonably have foreseen that the driver would drive the vehicle in a race with another vehicle or for a wager or a stake, or had not consented to the driver being in possession of the vehicle.

The owner of a road vehicle who was the driver at the time of a 30-day seizure may recover his vehicle if he obtains the lifting of his licence suspension under section 422.2.

The second, third and fourth paragraphs of section 209.11 and sections 209.12 to 209.15 apply with the necessary modifications.”

24. The Code is amended by inserting the following sections after section 434:

“434.1. Sections 433 and 434 apply on public highways, on highways under the administration of or maintained by the Ministère des Ressources naturelles et de la Faune, on private roads open to public vehicular traffic and on land occupied by shopping centres or other land where public traffic is allowed.

“434.2. A peace officer shall immediately suspend, on behalf of the Société and for a period of seven days, the licence issued under section 61 of any person who contravenes section 433 or 434.

If the person does not hold a licence or holds a licence issued by another administrative authority, the peace officer shall immediately suspend, on behalf of the Société and for a period of seven days, the person’s right to obtain a learner’s licence, a probationary licence or a driver’s licence.

The suspension period is increased to 30 days in the case of a person who was convicted of an offence under section 433 or 434 during the 10 years before the suspension.

“434.3. A person, other than the driver, whose licence or right to obtain a licence is suspended for a period of 30 days under section 434.2 may obtain the lifting of the suspension by the Société after establishing by a preponderance of evidence, according to the applicable situation, that he was not riding on the running board, on any outer part of the road vehicle or in the box or dump body of the vehicle, or holding or hanging on to the vehicle, or that he was riding on an outer part of the vehicle designed for such use in order to perform his duties.

The driver of a road vehicle whose licence or right to obtain a licence is suspended for a period of 30 days under section 434.2 may obtain the lifting of the suspension by the Société after establishing by a preponderance of evidence that he did not allow a person to ride on the running board, on any outer part of the road vehicle or in the box or dump body of the vehicle, or to hold or hang on to the vehicle, nor tolerate such a practice.

“434.4. Section 202.6.1, the first paragraph of section 202.6.3, sections 202.6.4 and 202.6.5, the second paragraph of section 202.6.6 and sections 202.6.7, 202.6.9 to 202.6.12 and 202.7 apply, with the necessary modifications, to the licence suspension.

“434.5. In the case of a person who contravenes section 433 or 434, the peace officer, on behalf of the Société and at the owner’s expense, shall immediately seize the road vehicle and impound it for seven days if the person was not convicted of an offence under section 433 or 434 during the 10 years before the licence suspension under section 434.2, or for 30 days if the person was convicted of such an offence during that period.

Sections 209.3 to 209.10 apply to the seizure, with the necessary modifications.

434.6. The owner of the road vehicle seized may, on the authorization of a judge of the Court of Québec acting in chambers in civil matters, recover his vehicle if he was not one of the offenders and, according to the applicable situation, could not reasonably have foreseen that a person would ride on the running board, on any outer part of the road vehicle or in the box or dump body of the vehicle, or hold or hang on to the vehicle, or that the driver would allow or tolerate such a practice, or if the owner had not consented to the driver being in possession of the vehicle.

The owner of a road vehicle who was one of the offenders at the time of a 30-day seizure may recover his vehicle if he obtains the lifting of his licence suspension under section 434.3.

The second, third and fourth paragraphs of section 209.11 and sections 209.12 to 209.15 apply, with the necessary modifications.”

25. Section 444 of the Code is amended

(1) by replacing “feux de piétons” in the first paragraph in the French text by “feux pour piétons”;

(2) by replacing “a white signal” in the second paragraph by “a steady, white signal representing a walking figure”;

(3) by replacing “an orange signal” in the third paragraph by “a steady, orange hand signal”;

(4) by adding the following paragraph:

“When facing a flashing signal with a countdown display, a pedestrian may only start crossing the roadway if he is able to reach the other sidewalk or the safety zone before the signal changes to the orange hand signal.”

26. Section 445 of the Code is amended by replacing “feux de piétons” in the French text by “feux pour piétons”.

27. Section 451 of the Code is replaced by the following section:

451. A pedestrian must cross the roadway perpendicularly to its axis. A pedestrian may cross the roadway diagonally only if authorized to do so by a peace officer or school crossing guard, or by a sign or signal.

An exclusive pedestrian phase, that is, an interval during which the light signals at an intersection allow protected pedestrian crossing in all directions, is a sign or signal authorizing pedestrians to cross the roadway diagonally.”

28. Section 473 of the Code is amended by adding “or that travels on a public highway for the purpose of carrying out such operations on another public infrastructure” at the end of the third paragraph.

29. Section 474 of the Code is amended

(1) by inserting the following sentence after the second sentence of the third paragraph: “If the equipment extends beyond the front of the vehicle, the light must be amber.”;

(2) by replacing “If the equipment extends” in the third paragraph by “If part of the equipment extends”;

(3) by inserting “, as the case may be,” after “precede or follow the vehicle” in the third paragraph;

(4) by inserting the following paragraphs after the third paragraph:

“The equipment is considered to extend beyond the tool vehicle when it has a point or a sharp edge that extends by at least 30 cm beyond the front or the rear of the vehicle. The starting point for measuring the part of the equipment that extends beyond the front or the rear of the tool vehicle is the end of the mast or boom to which the fork, bucket or other tool is attached.

No person may drive a tool vehicle on a public highway unless the vehicle’s equipment is in a retracted position.”;

(5) by replacing “The third paragraph does not” in the last paragraph by “The third and fifth paragraphs do not”.

30. Section 490 of the Code is amended by striking out “extend his left forearm vertically upwards or” in paragraph 2.

31. The Code is amended by inserting the following section after section 492.3:

“**492.4.** The Government may, by regulation, require persons 12 years of age or under riding on a bicycle to wear a protective helmet that meets the standards established by the Government.”

32. Section 497 of the Code is replaced by the following section:

“**497.** Subject to a by-law adopted by a municipality, no person may, in residential areas where the speed limit is 50 km/h or less, conduct snow-removal operations on a public highway with a snowblower whose net mass exceeds 900 kg except under the supervision of a person walking in front of the vehicle.”

33. Section 506 of the Code, amended by section 100 of chapter 14 of the statutes of 2008, is again amended by replacing “to 436” in the first paragraph by “to 432, 435, 436”.

34. Section 512 of the Code is amended

(1) by replacing “or 422” in the first paragraph by “422, 433 or 434”;

(2) by replacing “\$300 to \$600” in the first paragraph by “\$1,000 to \$1,500”.

35. The Code is amended by inserting the following section after section 514:

“514.1. Every person who drives a road vehicle that has been impounded under section 328.2, 422.4 or 434.5 is guilty of an offence and is liable to a fine of \$600 to \$2,000.”

36. Section 517.1 of the Code is amended by adding the following paragraph:

“Subparagraph 6 of the first paragraph applies only if the axle load or the total loaded mass exceeds the normally authorized load limit, that is, the load limit permitted in the absence of restrictions determined under section 419 or under a special permit.”

37. Section 519.15.3 of the Code, enacted by section 66 of chapter 40 of the statutes of 2007, is amended

(1) by replacing “and is in proper working order,” in the first paragraph by “, is in proper working order and allows the programming data to be read”;

(2) by inserting the following paragraph after the first paragraph:

“Moreover, an operator may not allow a heavy vehicle to be driven if it is fitted with any form of technology that allows it to travel at a speed exceeding 105 km/h despite the activation of a speed limiter or that makes it possible to conceal the programming data allowing such a speed to be attained.”

38. Section 519.21.2 of the Code is amended by replacing “519.12, 519.67.1, 519.70 and 519.73” by “519.70, 519.71 and 638.1”.

39. Section 521 of the Code, amended by section 59 of chapter 2 of the statutes of 2004 and section 72 of chapter 14 of the statutes of 2008, is again amended by replacing “a net mass in excess of 3,000 kg, except” in subparagraph 5 of the first paragraph by “a gross vehicle weight rating of 4,500 kg or more, except detachable axles, vehicles having a net mass of 4,000 kg or less that originally had an open truck box and a tailgate and that bear a registration plate without a prefix,”.

40. Section 588 of the Code is amended by striking out “, 519.56” in the first paragraph.

41. Section 592.3 of the Code, enacted by section 72 of chapter 40 of the statutes of 2007, is amended

(1) by replacing “is deemed to be the owner of the vehicle” in the first paragraph by “or a person who borrows a courtesy vehicle from a garage operator or a test vehicle from a dealer is deemed to be the owner of the vehicle”;

(2) by inserting “or lent” after “rented out” in the second paragraph;

(3) by inserting “or borrower” after “renter” in the second paragraph.

42. Section 622 of the Code is amended by inserting the following subparagraph after subparagraph 6 of the first paragraph:

“(6.1) set rules for the training of persons working in the dangerous substances transportation industry”.

43. Section 624 of the Code, amended by section 78 of chapter 40 of the statutes of 2007 and section 87 of chapter 14 of the statutes of 2008, is again amended by striking out subparagraph 20 of the first paragraph.

44. Section 626 of the Code, amended by section 100 of chapter 14 of the statutes of 2008, is again amended by adding the following subparagraphs after subparagraph 15 of the first paragraph:

“(16) permit bicycles to travel against the traffic, under the conditions it determines, on all or part of a one-way traffic lane of a public highway it maintains, provided such permission is clearly stated on signs or signals at the intersections of the traffic lane;

“(17) authorize, on all or part of a road it maintains, the supervisor in front of a snowblower to travel in another road vehicle.”

45. Section 636.3 of the Code is amended

(1) by striking out “by a highway controller” in the first paragraph;

(2) by replacing “an impounded road vehicle” in the third paragraph by “a road vehicle impounded by a highway controller”.

ACT TO AMEND THE HIGHWAY SAFETY CODE AND THE REGULATION RESPECTING DEMERIT POINTS

46. Section 12 of the Act to amend the Highway Safety Code and the Regulation respecting demerit points (2007, chapter 40) is amended

(1) by replacing “as soon as allowed under the order” in section 76.1.1 that it enacts by “, unless the court orders otherwise, as soon as the minimum absolute prohibition period under the Criminal Code expires”;

(2) by replacing “the Fédération québécoise des centres de réadaptation pour personnes alcooliques et autres toxicomanes” in section 76.1.9 that it enacts by “the Association des centres de réadaptation en dépendance du Québec”.

47. Section 31 of the Act is amended by inserting “, other than a person described in subparagraph 5 of the first paragraph of that section,” after “202.2” in the first paragraph of section 191.2 that it replaces.

ACT TO AGAIN AMEND THE HIGHWAY SAFETY CODE AND OTHER LEGISLATIVE PROVISIONS

48. Section 20 of the Act to again amend the Highway Safety Code and other legislative provisions (2008, chapter 14) is repealed.

49. Section 72 of the Act is amended by striking out paragraph 2.

FINAL PROVISIONS

50. From the coming into force of section 9, towing charges set out in the Regulation respecting towing and impounding charges for seized road vehicles, enacted by Order in Council 751-2008 (2008, G.O. 2, 2938), for towing on the parts of public highways specified in the Regulation respecting the provision of road service or towing on certain roads and autoroutes and on certain bridges or other infrastructures, enacted by Order in Council 987-98 (1998, G.O. 2, 3600), are increased by 5.56%.

51. The provisions of this Act come into force on the date or dates to be set by the Government, except sections 22, 25, 26, 28, 29, 31, 32, 36, 37, 41, 42 and 44, which come into force on (*insert the date of assent to this Act*), and section 31, which comes into force on (*insert the date that is one year after the date of assent to this Act*).

