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# NATIONAL ASSEMBLY

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FIRST SESSION

THIRTY-EIGHTH LEGISLATURE

Bill 36

**An Act to amend the Act respecting  
transport infrastructure partnerships  
and other legislative provisions**

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**Introduction**

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

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## **EXPLANATORY NOTES**

*This bill amends the Act respecting transport infrastructure partnerships to introduce new rules for the recovery of unpaid tolls and the protection of amounts collected by a partner on behalf of the Government. It also amends the Act respecting the Ministère des Transports to create the transport infrastructure partnership fund.*

*The bill contains measures allowing the Government to entrust the management of an infrastructure to a municipal authority. It specifies the powers that the Minister of Transport may delegate to a partner and the applicable liability regime.*

*Finally, the bill contains a number of consequential provisions.*

### **LEGISLATION AMENDED BY THIS BILL:**

- Highway Safety Code (R.S.Q., chapter C-24.2);
- Act respecting administrative justice (R.S.Q., chapter J-3);
- Act respecting the Ministère des Transports (R.S.Q., chapter M-28);
- Act respecting transport infrastructure partnerships (R.S.Q., chapter P-9.001);
- Act respecting roads (R.S.Q., chapter V-9).

## Bill 36

### AN ACT TO AMEND THE ACT RESPECTING TRANSPORT INFRASTRUCTURE PARTNERSHIPS AND OTHER LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

#### ACT RESPECTING TRANSPORT INFRASTRUCTURE PARTNERSHIPS

**1.** Section 3 of the Act respecting transport infrastructure partnerships (R.S.Q., chapter P-9.001) is amended by replacing “proposal solicitation” by “tender solicitation” in the last line.

**2.** Section 4 of the Act is amended by replacing “transfer or lease out any property under the Minister’s management” at the end by “dispose of any government property under the Minister’s authority”.

**3.** Section 6 of the Act is amended

(1) by inserting “physical” before “property” in the first line;

(2) by adding the following paragraph:

“However, the Government may, by an order published in the *Gazette officielle du Québec*, entrust all or part of the management of a road infrastructure constructed under this Act to a municipality, which, in that case, shall exercise the powers provided for in the Municipal Powers Act (chapter C-47.1).”

**4.** Section 8 of the Act is amended

(1) by inserting “under the Act respecting the Ministère des Transports (chapter M-28) and the Act respecting roads (chapter V-9) and” after “powers” in the first paragraph;

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

“However, a partner or partner’s delegate is not a mandatary of the State and no legal action may be taken against the State for damage caused by a partner or partner’s delegate in the exercise of a power delegated by the Minister or resulting from any instrument entered into under the agreement.”

**5.** Section 11 of the Act is amended by striking out “charges and the” in subparagraph 1 of the first paragraph.

**6.** Section 12 of the Act is amended

(1) by replacing paragraph 2 by the following paragraph:

“(2) establish, collect and enforce administration fees relating to the recovery of unpaid tolls;”;

(2) by replacing “, fees and charges” in paragraph 3 by “and fees”.

**7.** Section 13 of the Act is replaced by the following section:

**“13.** A toll and related fees and interest payable under this Act for the operation of a road vehicle on a designated road infrastructure shall be paid to the partner

(1) if a camera or other equipment is used to record the passage of the vehicle,

(a) by the person in whose name the toll device is registered, if a toll device is affixed to the road vehicle, or

(b) by the holder of the registration certificate issued with respect to the road vehicle, if a toll device is not affixed to the road vehicle or if the device is not in operation; and

(2) in all other cases, by the driver of the road vehicle.”

**8.** Section 14 of the Act is replaced by the following section:

**“14.** The obligation to pay a toll is incurred as soon as the passage of a road vehicle on a designated infrastructure is recorded.”

**9.** Section 15 of the Act is amended by adding the following paragraph at the end:

“(4) the file number of the person in whose name the road vehicle is registered with the Société de l’assurance automobile du Québec.”

**10.** Section 16 of the Act is amended by striking out “, charges” in the first line.

**11.** The Act is amended by inserting the following section after section 16:

**“16.1.** If a partnership agreement provides that tolls collected by the partner belong to the State, the partner is deemed to hold the tolls in trust for

the State for payment into the transport infrastructure partnership fund established under paragraph 3 of section 12.30 of the Act respecting the Ministère des Transports (chapter M-28). This amount must be considered as forming a fund separate from the partner's own patrimony and property, whether or not the amount has in fact been held separately from the partner's own funds and assets.”

**12.** Sections 18 to 23 of the Act are replaced by the following sections:

**“18.** A person described in paragraph 1 of section 13 must pay the toll and related fees immediately upon receiving a demand for payment to that effect.

Such a demand for payment, indicating the place, date and time the road vehicle's passage on the infrastructure was recorded, must be sent to the person within 30 days. In the case of a person described in subparagraph *b* of paragraph 1 of section 13, the demand for payment is sent to the last address listed for the person in the records of the Société de l'assurance automobile du Québec or, if applicable, in the records kept outside Québec by the administrative authority responsible for the registration of the vehicle.

**“19.** If the toll and related fees are not paid within 30 days of the demand for payment, a notice of failure to pay is sent to the person referred to in section 18 and additional fees prescribed by government regulation may be charged.

The notice of failure to pay must be sent together with a photograph of the registration plate indicating the place, date and time the road vehicle's passage on the infrastructure was recorded. It must also state that failure to pay the amount within 30 days of receipt of the notice may result in penal proceedings.

**“20.** If the tolls and fees are not paid within the prescribed time after receipt of a notice of failure to pay, the partner may refer the case to the Attorney General by means of an offence report so that the Attorney General may, if warranted, take appropriate penal proceedings.

**“21.** For the purposes of this Act, the Minister may designate a person from among the partner's employees to write up offence reports under section 20 and send them to the Attorney General.

By signing such a report, that person attests that the photograph sent with the notice of failure to pay was taken with a camera approved by the Minister and used in accordance with section 595.1 of the Highway Safety Code (chapter C-24.2).

**“22.** The tolls and related fees, and any additional fees charged under the first paragraph of section 19, are paid into the transport infrastructure partnership fund established under the Act respecting the Ministère des Transports (chapter M-28).”

## HIGHWAY SAFETY CODE

**13.** Section 31.1 of the Highway Safety Code (R.S.Q., chapter C-24.2) is amended by striking out the second paragraph.

**14.** Section 417.1 of the Code, amended by section 26 of chapter 49 of the statutes of 2000, is again amended by striking out “or the sum payable under the Act respecting transport infrastructure partnerships” at the end.

**15.** The Code is amended by inserting the following section after section 417.1:

“**417.2.** No person may drive a road vehicle on a public road subject to a toll under the Act respecting transport infrastructure partnerships (chapter P-9.001) unless the toll is paid as required by that Act or an exemption applies.”

**16.** The Code is amended by inserting the following section after section 509.1:

“**509.2.** Every person who contravenes section 417.2 is guilty of an offence and is liable to a fine of \$100 to \$200.

The fine is increased by the amount of the toll and related fees as well as any additional fees payable under the first paragraph of section 19 of the Act respecting transport infrastructure partnerships (chapter P-9.001).”

**17.** Section 592 of the Code is amended by replacing “415 to 418” in the fourth line of the second paragraph by “415 to 417.1, 418”.

**18.** The Code is amended by inserting the following sections after section 595:

“**595.1.** The cameras used to photograph the licence plates of road vehicles driven on a public road referred to in section 417.2 must be approved by the Minister of Transport and allow the place, date and time the photograph was taken to be determined. Such cameras may be used only in the locations determined by the Minister, and only by persons designated for the purposes of the Act respecting transport infrastructure partnerships (chapter P-9.001).

Those locations must be announced by road signs or signals prescribed for that purpose by the Minister of Transport.

Any order adopted under this section must be published in the *Gazette officielle du Québec*.

“**595.2.** In penal proceedings for an offence under section 417.2, a photograph of a road vehicle’s registration plate taken by a camera approved

by the Minister of Transport is proof of the vehicle's presence on the public road and of the other information on the photograph.”

**19.** Section 648 of the Code is amended by adding the following paragraph:

“However, the amounts collected under the second paragraph of section 509.2 must be paid into the transport infrastructure partnership fund established under the Act respecting the Ministère des Transports (chapter M-28).”

#### ACT RESPECTING ADMINISTRATIVE JUSTICE

**20.** Schedule IV to the Act respecting administrative justice (R.S.Q., chapter J-3) is amended by striking out paragraph 30.

#### ACT RESPECTING THE MINISTÈRE DES TRANSPORTS

**21.** Section 3 of the Act respecting the Ministère des Transports (R.S.Q., chapter M-28) is amended by replacing “is applied” in subparagraph *j* of the first paragraph by “and the Act respecting transport infrastructure partnerships (chapter P-9.001) are applied”.

**22.** Section 12.1 of the Act is amended by replacing “Minister and” by “Minister or of a partner in accordance with the Act respecting transport infrastructure partnerships (chapter P-9.001), and in respect”.

**23.** Section 12.1.1 of the Act is amended by adding “or by a partner in accordance with the Act respecting transport infrastructure partnerships (chapter P-9.001)” at the end.

**24.** Section 12.30 of the Act is amended by adding the following paragraph at the end:

“(3) the “transport infrastructure partnership fund”, to finance the construction and operation of transport infrastructures pursuant to a partnership agreement.”

**25.** The Act is amended by adding the following after section 12.42:

“§3. — *Transport infrastructure partnership fund*

“**12.43.** The fund is made up of the following amounts, except interest:

(1) the tolls and fees collected by partners under the Act respecting transport infrastructure partnerships (chapter P-9.001);

(2) the sums collected under the second paragraph of section 509.2 of the Highway Safety Code (chapter C-24.2);

(3) the sums paid by the Minister of Transport out of the appropriations granted for that purpose by Parliament;

(4) the sums paid by the Minister of Finance pursuant to the first paragraph of section 12.34 and to section 12.35;

(5) the sums paid by a partner or a third party under a partnership agreement;

(6) the contributions, gifts and legacies paid into the fund to further the achievement of its objects.

**“12.44.** Sections 12.31 and 12.33 to 12.39 apply to the fund.”

#### ACT RESPECTING ROADS

**26.** Section 1 of the Act respecting roads (R.S.Q., chapter V-9) is amended by adding the following paragraph:

“It does not apply to a road infrastructure constructed or operated under an agreement entered into pursuant to the Act respecting transport infrastructure partnerships (chapter P-9.001), except to the extent provided for in the agreement in accordance with section 8 of that Act.”

#### FINAL PROVISION

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