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# NATIONAL ASSEMBLY

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FIRST SESSION

THIRTY-EIGHTH LEGISLATURE

Bill 42

**An Act to amend the Highway Safety  
Code and the Regulation respecting  
demerit points**

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**Introduction**

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

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## **EXPLANATORY NOTES**

*This bill amends the Highway Safety Code, in particular as concerns speeding, drinking and driving, new traffic control technologies, gradual acquisition of driving privileges, the use of telephones at the wheel and speed limiters for heavy vehicles.*

*The bill doubles the fines imposed under the Highway Safety Code and the number of demerit points prescribed under the Regulation respecting demerit points for excessive speeding. It also introduces an immediate 7-day licence suspension for such speed violations, and a 30-day suspension for repeat offences. The bill also makes the activation of speed limiters on heavy vehicles mandatory.*

*The bill increases the immediate licence suspension period from 30 to 90 days for a driver whose blood alcohol concentration level is in excess of 80 mg of alcohol in 100 ml of blood or who refuses to provide a breath sample. It provides for an immediate 24-hour suspension for a driver whose blood alcohol concentration level is between 50 and 80 mg of alcohol in 100 ml of blood.*

*Also, the bill authorizes a peace officer to immediately seize, for 30 days, a road vehicle driven by a person whose blood alcohol concentration level is in excess of 160 mg of alcohol in 100 ml of blood, who refuses to give a breath sample, or whose blood alcohol concentration level is in excess of 80 mg of alcohol in 100 ml of blood and whose licence was cancelled during the 10 preceding years for the same kind of offence.*

*Under the bill, the licence of a driver found guilty under the Criminal Code whose blood alcohol concentration level at the time of the offence was in excess of 160 mg in 100 ml of blood or who refused to provide a breath sample is cancelled for an additional period of up to 5 years. It also makes provision for cases in which a vehicle must be equipped with an alcohol ignition interlock device. That condition may be imposed for life if the driver is found guilty under the Criminal Code for a second alcohol-related offence within 10 years and the driver's blood alcohol concentration level at the time of each offence was in excess of 160 mg.*

*The bill provides for the installation and use of photo radar devices and red light cameras at determined locations for a period of at least 18 months. In the case of a violation evidenced by a photograph taken by such a device, the owner of the road vehicle involved is held responsible unless the owner proves that the vehicle was in the possession of a third party without the owner's consent or the driver admits committing the offence or is found guilty of the offence. No demerit points will be entered in the offender's record for such violations. The Minister of Transport will be required to report to the National Assembly within 12 months after implementing the measures.*

*The bill introduces the requirement for all new drivers to take a driving course, and provides that new drivers 25 years of age or over will be issued a probationary licence. It amends the Regulation respecting demerit points by lowering the number of demerit points entailing the suspension of a driver's licence to 8 for drivers under 23 years of age and 12 for drivers 23 or 24 years of age. Furthermore, it prohibits the use of hand-held devices that include a telephone function while driving.*

*The bill provides for the creation of a fund dedicated to financing highway safety and road victim assistance measures and programs. The bill also contains various other provisions relating to certain specific situations. Lastly, the bill includes technical, transitional and consequential provisions.*

**LEGISLATION AMENDED BY THIS BILL:**

- Highway Safety Code (R.S.Q., chapter C-24.2);
- Act respecting the Ministère des Transports (R.S.Q., chapter M-28).



## Bill 42

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

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) is amended by replacing “and 209.2” in the definition of “pound” by “, 209.2 and 209.2.1”.

**2.** Section 64 of the Code is amended by replacing the second paragraph by the following paragraphs:

“On the request of a person who holds a licence or is applying for a licence, the Société may limit the right to drive to road vehicles equipped with an alcohol ignition interlock device approved by the Société. The licence issued and any subsequent licence are subject to that condition as long as the person has not established by means of an assessment that the person’s relationship with alcohol or drugs does not compromise the safe operation of a road vehicle. The assessment is governed by the provisions of section 76.1.9.

A person who is not subject to mandatory use of an alcohol interlock device approved by the Société under this Code and does not make a request under the second paragraph may purchase any other alcohol interlock device and install such a device on the person’s vehicle without notifying the Société; in such a case, the condition set out in the second paragraph is not attached to the person’s driver’s licence, and section 64.1 does not apply.”

**3.** The Code is amended by inserting the following section after section 64:

“**64.1.** The Société determines conditions for the use of an alcohol ignition interlock device prescribed by this Code. On the request of the Société, the holder of the licence must provide the data collected by the alcohol ignition interlock device.”

**4.** Section 66 of the Code is amended by replacing the second paragraph by the following paragraph:

“A person applying for a licence other than a moped licence or a farm tractor licence must also have held a probationary licence for the period prescribed by regulation.”

**5.** The Code is amended by inserting the following section after section 66:

**“66.1.** Persons applying for their first licence to drive a motorcycle, a moped or another passenger vehicle must successfully complete a driving course appropriate for the class of licence requested, given by a driving school recognized by a body approved by the Société.

The course must comprise a theoretical part and a practical part. The deadline for the successful completion of each part of the course and the cases in which a person may be exempted from taking the course are determined by government regulation.”

**6.** Sections 76 and 76.1 of the Code are replaced by the following sections:

**“76.** Subject to section 76.1.1, no licence may be issued to a person whose licence has been cancelled or whose right to obtain a licence has been suspended following a conviction for an offence under the Criminal Code (Revised Statutes of Canada, 1985, chapter C-46) listed in section 180 of this Code before a period of one, three or five years has elapsed since the date of the cancellation or suspension, depending on whether, during the ten years before the cancellation or suspension, the person incurred no cancellation or suspension, one cancellation or suspension or two or more cancellations or suspensions under that section.

If the conviction is followed by an order prohibiting the offender from operating a road vehicle under any of subsections 1, 2 and 3.1 to 3.4 of section 259 of the Criminal Code for a longer period than the period applicable under the first paragraph, the period prescribed in the order is the applicable period.

**“76.1.** When the offence for which the cancellation or suspension is incurred is evading a police car or leaving the scene of an accident, the one- and three-year sanction periods under the first paragraph of section 76 are extended by three and two years respectively.

**“76.1.1.** As soon as the order of prohibition referred to in the second paragraph of section 76 expires or as soon as allowed under the order, a person who has incurred a cancellation or suspension for an alcohol-related offence or for refusing to provide a breath sample may be authorized, under a restricted licence, to drive a road vehicle mandatorily equipped with an alcohol ignition interlock device.

The restricted licence remains valid until the end of the sanction period under section 76.

**“76.1.2.** When the offence for which a cancellation or suspension is incurred is an alcohol-related offence and section 76.1.4 does not apply, the person must, in order to obtain a new licence, establish that the person’s relationship with alcohol or drugs does not compromise the safe operation of a road vehicle corresponding to the class of licence applied for.

The person must meet the requirement set out in the first paragraph

(1) by means of a summary assessment if, during the ten years before the cancellation or suspension, the person incurred no cancellation or suspension for refusing to provide a breath sample or for an alcohol-related offence; or

(2) by means of a comprehensive assessment if, during the ten years before the cancellation or suspension, the person incurred one or more cancellations or suspensions for refusing to provide a breath sample or for an alcohol-related offence.

A person who fails a summary assessment must meet the requirement set out in the first paragraph by means of a comprehensive assessment.

A person who passes a summary assessment must, after paying the Société the related fees, successfully complete an education program accredited by the Minister of Transport that is designed to raise driver awareness about alcohol- and drug-related problems.

**“76.1.3.** A new licence authorizing a person referred to in section 76.1.2 who has passed a comprehensive assessment to drive a road vehicle mandatorily equipped with an alcohol ignition interlock device approved by the Société is issued for one, two or three years, depending on whether, during the ten years before the cancellation or suspension, the person incurred no cancellation or suspension, one cancellation or suspension or two or more cancellations or suspensions for refusing to provide a breath sample or for an alcohol-related offence.

**“76.1.4.** When the offence for which the cancellation or suspension is incurred is refusing to provide a breath sample or when it is an alcohol-related offence and the person’s blood alcohol concentration level at the time of the offence exceeded 160 mg in 100 ml of blood, the one- and three-year sanction periods set out in the first paragraph of section 76 are extended by two years and the person must, in order to obtain a new licence, establish by means of a comprehensive assessment that the person’s relationship with alcohol or drugs does not compromise the safe operation of a road vehicle corresponding to the class of licence applied for.

**“76.1.5.** The new licence authorizing a person referred to in section 76.1.4 to drive a road vehicle mandatorily equipped with an alcohol ignition interlock device approved by the Société is issued for two or three years, depending on whether, during the ten years before the cancellation or suspension, the person incurred no cancellation or suspension or one or more

cancellations or suspensions for refusing to give a breath sample or for an alcohol-related offence, provided the Société holds no information that the person's blood alcohol concentration level at the time of the offence exceeded 160 mg of alcohol in 100 ml of blood.

**“76.1.6.** When the offence for which a cancellation or suspension is incurred is an alcohol-related offence and the person's blood alcohol concentration level at the time of the offence exceeded 160 mg in 100 ml of blood, the new licence and every subsequent licence issued to the person during the person's life is subject to the person driving a road vehicle mandatorily equipped with an alcohol ignition interlock device approved by the Société if, during the ten years before the cancellation or suspension, the person incurred one or more cancellations or suspensions for an alcohol-related offence and the person's blood alcohol concentration level at the time of the offence exceeded 160 mg of alcohol in 100 ml of blood.

**“76.1.7.** For the purposes of sections 76.1 to 76.1.6,

(1) “evading a police vehicle” means any offence under section 249.1 of the Criminal Code (Revised Statutes of Canada, 1985, chapter C-46);

(2) “leaving the scene of an accident” means any offence under subsection 1, 1.2 or 1.3 of section 252 of the Criminal Code;

(3) “refusing to provide a breath sample” means any offence under subsection 5 of section 254 of the Criminal Code; and

(4) “alcohol-related offence” means any offence under section 253 or subsection 2 or 3 of section 255 of the Criminal Code.

**“76.1.8.** If a person fails the assessment required under section 76.1.2 or 76.1.4, the Société may, for the period it determines, issue a probationary licence or a driver's licence authorizing the person to drive a road vehicle mandatorily equipped with an alcohol ignition interlock device approved by the Société.

**“76.1.9.** Alcohol and drug rehabilitation centres are responsible for the assessments required under sections 64, 76.1.2 and 76.1.4. The assessments are carried out by persons authorized by those centres according to rules set out in an agreement between the Société and the Fédération québécoise des centres de réadaptation pour personnes alcooliques et autres toxicomanes.

**“76.1.10.** When computing the one-, two- and three-year periods set out in sections 76.1.3 and 76.1.5, any time during which the licence was suspended or the person was prohibited from driving a road vehicle under the first paragraph of section 93.1 must be disregarded.

**“76.1.11.** If the cancelled licence was a learner's licence, the new licence is also a learner's licence and the person must complete any unfinished



learning period, after which the person may only obtain a licence authorizing the person to drive a road vehicle mandatorily equipped with an alcohol ignition interlock device approved by the Société for the period referred to in sections 76.1.3, 76.1.5 and 76.1.6.

**“76.1.12.** The Société may exempt a person from the requirement to equip the vehicle the person drives with an alcohol ignition interlock device if exceptional medical reasons warrant such a decision. The person is prohibited from operating a vehicle or having the care or control of a vehicle if there is any alcohol in the person’s body. The Société may require the person to provide information and documents concerning the person’s relationship with alcohol.”

**7.** Sections 76.2 to 76.4 of the Code are amended by replacing “76” by “76.1.1”.

**8.** Section 79 of the Code is repealed.

**9.** Section 81 of the Code is amended by replacing “73 or 76” in paragraphs 1 to 3 by “64, 73, 76.1.2 or 76.1.4”.

**10.** Section 83 of the Code is amended

(1) by replacing “73 or 76” in paragraph 2 by “64, 73, 76.1.2 or 76.1.4”;

(2) by replacing “, 79, 80.1 and 80.3” in paragraph 4 by “to 76.1.12, 80.1, 185 and 191.2”.

**11.** Section 92.0.1 of the Code is replaced by the following section:

**“92.0.1.** In the cases provided for in sections 90, 91, 91.1, 91.3 and 92, the licence issued by the Société is a probationary licence if the applicant has held a valid driver’s licence for less than two years.”

**12.** Section 98.1 of the Code is amended by replacing “in the fourth paragraph of section 76.1” in the second paragraph by “in section 76.1.12”.

**13.** Section 102 of the Code is amended by inserting “, 99” after “97” in the first paragraph.

**14.** Section 117 of the Code is amended

(1) by replacing “annul” by “remove”;

(2) by adding “, unless the excess number of points is equal to or higher than the number of points entailing the application of one of those sections, in which case it is brought down to the number that is one less than the number entailing a sanction” at the end.

**15.** The Code is amended by inserting the following sections after section 117:

**“117.1.** A decision to cancel a licence or suspend the right to obtain a licence applies even if the number of demerit points entailing a cancellation or suspension is different from the number applicable at the time of the decision.

**“117.2.** A decision to cancel a probationary licence applies to any licence to drive a road vehicle held by the person at the time the decision comes into force even if the probationary licence is expired and the number of demerit points for the cancellation is different from the number applicable at the time of the decision.”

**16.** Section 118 of the Code is amended by replacing “suspended” by “cancelled”.

**17.** Section 121 of the Code is amended

(1) by replacing “ans” in paragraph 1 in the French text by “années” and by striking out “or suspension” and “or suspended” in that paragraph;

(2) by replacing “suspension” in paragraph 3 by “cancellation”;

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

“For the purposes of subparagraph 1 of the first paragraph, the two-year period before the cancellation or suspension includes the day on which the sanction is imposed.”

**18.** Section 180 of the Code is replaced by the following section:

**“180.** A conviction for an offence under any of the following provisions of the Criminal Code (Revised Statutes of Canada, 1985, chapter C-46) committed with a road vehicle or an off-highway vehicle entails by operation of law the cancellation of any licence to drive a road vehicle or the suspension of the right to obtain such a licence:

(1) section 220, 221, 236, paragraph *a* of subsection 1 or subsection 3 or 4 of section 249, section 249.1, 249.2, 249.3, subsection 1, 3 or 4 of section 249.4 or subsection 1, 1.2 or 1.3 of section 252;

(2) section 253, subsection 5 of section 254 or subsection 2 or 3 of section 255.

The convicting judge must order the confiscation of the licence referred to in the first paragraph so that it may be returned to the Société.”

**19.** Section 185 of the Code is replaced by the following section:

**“185.** When the total number of demerit points entered in a person’s record is equal to or greater than the number prescribed by regulation under paragraph 9 of section 619, the Société cancels the person’s driver’s licence or suspends the person’s right to obtain a licence.

The number of demerit points prescribed by regulation varies depending on whether the person is

- (1) under 23 years of age;
- (2) 23 or 24 years of age; or
- (3) 25 years of age or over.

If the number of demerit points entered in the person’s record is equal to or greater than the number prescribed by regulation but less than twice that number, no licence may be issued to the person

(1) before three or six months have elapsed, depending on whether the person incurred no three-month cancellation or suspension or one three-month cancellation or suspension under section 191.2 or this section during the two years before the cancellation or suspension under the first paragraph; or

(2) before twelve months have elapsed if the person incurred one six- or twelve-month cancellation or suspension or more than one cancellation or suspension under section 191.2 or this section during the two years before the cancellation or suspension under the first paragraph.

If the number of demerit points entered in the person’s record is equal to or greater than twice the number prescribed by regulation but less than three times that number, no licence may be issued to the person before six or twelve months have elapsed, depending on whether the person incurred no cancellation or suspension or one or more cancellations or suspensions under section 191.2 or this section during the two years before the cancellation or suspension under the first paragraph.

If the number of demerit points entered in the person’s record is equal to or greater than three times the number prescribed by regulation, no licence may be issued to the person before twelve months have elapsed.

For the purposes of this section, the two-year period before the cancellation or suspension includes the day the sanction is imposed.

When a person holds a driver’s licence and a learner’s licence, the cancellation under this section applies to both licences.”

**20.** Section 190 of the Code is amended by replacing “73 or 76” in paragraphs 1 to 3 by “64, 73, 76.1.2 or 76.1.4”.

**21.** Section 191 of the Code is amended by replacing “73 or 76” by “64, 73, 76.1.2 or 76.1.4”.

**22.** Section 191.2 of the Code is replaced by the following section:

**“191.2.** If the number of demerit points entered in the record of a person who is subject to the prohibition under section 202.2 is equal to or greater than the number prescribed by regulation under paragraph 9.3 of section 619, the Société cancels any licence to drive a road vehicle held by the person, or suspends the person’s right to obtain such a licence.

If the number of demerit points entered in the person’s record is equal to or greater than the number prescribed by regulation but less than twice that number, no licence may be issued to the person

(1) before three or six months have elapsed, depending on whether the person incurred no three-month cancellation or suspension or one three-month cancellation or suspension under this section during the two years before the cancellation or suspension under the first paragraph; or

(2) before twelve months have elapsed if the person incurred one six- or twelve-month cancellation or suspension or more than one cancellation or suspension under this section during the two years before the cancellation or suspension under the first paragraph.

If the number of demerit points entered in the person’s record is equal to or greater than twice the number prescribed by regulation but less than three times that number, no licence may be issued to the person before six or twelve months have elapsed, depending on whether the person incurred no cancellation or suspension or one or more cancellations or suspensions under this section during the two years before the cancellation or suspension under the first paragraph.

If the total number of demerit points entered in the person’s record is equal to or greater than three times the number prescribed by regulation, no licence may be issued to the person before twelve months have elapsed.

For the purposes of this section, the two-year period before the cancellation or suspension includes the day the sanction is imposed.”

**23.** Section 195.1 of the Code is amended by replacing “76” by “76.1.1”.

**24.** Section 195.2 of the Code is amended by replacing “the fourth paragraph of section 76.1” in the second paragraph by “in section 76.1.12”.

**25.** The Code is amended by inserting the following section after section 202.1:

**“202.1.1.** This division is applicable

(1) not only on public highways, but also 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; and

(2) to persons driving or having the care or control of a road vehicle or an off-highway vehicle.”

**26.** Section 202.2 of the Code is amended

(1) by striking out “is under 25 years of age and” in subparagraph 2 of the first paragraph;

(2) by replacing subparagraph 3 of the first paragraph by the following subparagraph:

“(3) the holder of a restricted licence issued under section 118 following the cancellation of a probationary licence, and the holder of a licence issued under the fourth paragraph of section 73 or under any of sections 76.1.1, 76.1.3, 76.1.5, 76.1.6, 76.1.8, 76.1.11 and 76.1.12;”.

**27.** Section 202.4 of the Code is replaced by the following section:

**“202.4.** On behalf of the Société, a peace officer shall immediately suspend,

(1) for 90 days, the licence of any person driving or having the care or control of a road vehicle whose blood alcohol concentration level is shown, by a breath test carried out by means of an approved instrument in accordance with the Criminal Code (Revised Statutes of Canada, 1985, chapter C-46), to be in excess of 80 mg of alcohol in 100 ml of blood;

(2) for 90 days, the licence of any person driving or having the care or control of a road vehicle who is subject to the prohibition under section 202.2 or 202.2.1 and in whose body the presence of alcohol is revealed by a screening test administered under section 202.3 or whose blood alcohol concentration level is shown, by a breath test carried out by means of an approved instrument in accordance with the Criminal Code, to be equal to or less than 80 mg of alcohol in 100 ml of blood; or

(3) for 24 hours, the licence of any person driving or having the care or control of a road vehicle, other than a person described in subparagraph 1 or a person subject to the prohibition under section 202.2 or 202.2.1, whose blood alcohol concentration level is shown, by a breath test carried out 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.

The suspension applies to any licence authorizing the operation of a road vehicle or to the right to obtain such a licence.

The suspension imposed on a person who is subject to the prohibition under section 202.2.1 applies only with respect to vehicles to which that prohibition is applicable, provided the person is not also in contravention of subparagraph 1 of the first paragraph of this section.”

**28.** Section 202.5 of the Code is amended by inserting “90-day” after “impose the”.

**29.** Section 202.6 of the Code is replaced by the following section:

**“202.6.** A peace officer who immediately suspends a licence under section 202.4 or 202.5 may, without the owner’s permission, or, in the case of a heavy vehicle, without the operator’s permission, take possession of and impound the road vehicle at the owner’s or operator’s expense if the vehicle is illegally occupying a part of the road.”

**30.** Section 209.2 of the Code is amended by replacing “and 202.5” by “, 202.5 and 328.1”.

**31.** The Code is amended by inserting the following section after section 209.2:

**“209.2.1.** On behalf of the Société, a peace officer shall immediately seize and impound a road vehicle for 30 days at the owner’s expense if the person driving or having the care or control of the vehicle

(1) has a blood alcohol concentration level that is shown, by a breath test carried out by means of an approved instrument in accordance with the Criminal Code (Revised Statutes of Canada, 1985, chapter C-46), to be in excess of 80 mg of alcohol in 100 ml of blood and if the person’s licence was cancelled or the person’s right to obtain a licence was suspended under paragraph 2 of section 180 during the 10 years before the seizure;

(2) has a blood alcohol concentration level that is shown, by a breath test carried out by means of an approved instrument in accordance with the Criminal Code, to be in excess of 160 mg of alcohol in 100 ml of blood; or

(3) fails to comply with the peace officer’s demand under section 254 of the Criminal Code without a reasonable excuse.

The peace officer retains the road vehicle from the time the person is ordered to accompany the peace officer in order to undergo the breath analysis test until the time the test is completed.”

**32.** Section 209.6 of the Code is amended by replacing “radar de vitesse” in the French text by “cinémomètre”.

**33.** Section 209.11 of the Code is amended

(1) by adding the following subparagraphs at the end of subparagraph 2 of the first paragraph:

“(c) could not reasonably foresee that the driver would drive or have the control or care of the vehicle with a blood alcohol concentration level in excess of 80 mg of alcohol in 100 ml of blood; or

“(d) could not reasonably foresee that the driver would, without a reasonable excuse, fail to comply with a peace officer’s demand under section 254 of the Criminal Code (Revised Statutes of Canada, 1985, chapter C-46).”;

(2) by adding the following paragraphs after the first paragraph:

“When a vehicle was seized under section 209.1 or 209.2 as well as under section 209.2.1 and the owner was not the driver of the vehicle, the owner may recover the vehicle by showing that the conditions set out in subparagraph *a* or *b* and subparagraph *c* or *d* of subparagraph 2 of the first paragraph are met, according to the applicable situation.

No release may be ordered under subparagraph 1 of the first paragraph if the vehicle is seized under sections 209.2 and 209.2.1.”

**34.** Section 209.14 of the Code is replaced by the following section:

**“209.14.** Sections 209.11 to 209.13 must not be interpreted as preventing the Société from authorizing the recovery of a vehicle by its owner, on payment of the towing and impounding costs incurred by the custodian, provided the owner meets the following conditions:

(1) in the case of a seizure under section 209.1 or 209.2, the owner establishes to the satisfaction of the Société that subparagraph 1 or 2 of the first paragraph of section 209.11 applies;

(2) in the case of a seizure under section 209.2.1

(a) while the owner was the driver and

i. the vehicle was seized under subparagraph 1 of the first paragraph of section 209.2.1, the owner obtains the lifting of the licence suspension under section 202.6.6;

ii. the vehicle was seized under subparagraph 2 of the first paragraph of section 209.2.1, the owner establishes by a preponderance of evidence that the owner was driving or had the care or control of the road vehicle without having consumed alcohol in such a quantity as to have a blood alcohol concentration level in excess of 160 mg of alcohol in 100 ml of blood; or

iii. the vehicle was seized under subparagraph 3 of the first paragraph of section 209.2.1, the owner obtains the lifting of the licence suspension under section 202.6.6;

(b) while the owner was not the driver and

i. the vehicle was seized under subparagraph 1 or 2 of the first paragraph of section 209.2.1, the owner establishes to the satisfaction of the Société that the owner could not reasonably foresee that the driver would drive or have the care or control of the vehicle with a blood alcohol concentration level in excess of 80 mg of alcohol in 100 ml of blood; or

ii. the vehicle was seized under subparagraph 3 of the first paragraph of section 209.2.1, the owner establishes to the satisfaction of the Société that the owner could not reasonably foresee that the driver would, without a reasonable excuse, fail to comply with a peace officer's demand under section 254 of the Criminal Code (Revised Statutes of Canada, 1985, chapter C-46);

(3) in the case of a seizure under section 209.1 or 209.2 and under section 209.2.1, the owner meets the conditions of subparagraphs 1 and 2.

Sections 202.6.3 to 202.6.5 and 202.6.7 to 202.6.12 apply to any application made under subparagraph 2 of the first paragraph."

**35.** Section 209.26 of the Code is amended by replacing "or 209.2" by ", 209.2 or 209.2.1".

**36.** Section 251 of the Code is replaced by the following section:

**"251.** No person may

(1) install a radar warning device, have a radar warning device installed or in any way place a radar warning device in a road vehicle;

(2) place any object or have any object placed on a road vehicle, or apply any material or have any material applied to a road vehicle, that is capable of interfering in any way with the normal operation of a photo radar device or a red light camera system or with the recording of licence plate information by the camera of such a radar device or camera system."

**37.** Section 252 of the Code is amended

(1) by replacing "radar de vitesse" in the French text of the first paragraph by "cinémomètre";

(2) by replacing "radar" in the French text of the second paragraph by "cinémomètre".

**38.** Section 253 of the Code is repealed.



**39.** Section 284 of the Code is amended

- (1) by striking out “, 251” in the first paragraph;
- (2) by adding the following paragraph at the end:

“Every person who contravenes section 251 is guilty of an offence and is liable to a fine of \$500 to \$1,000.”

**40.** Section 287.1 of the Code is amended by replacing “\$300 to \$600” in the first paragraph by “\$500 to \$1,000”.

**41.** The Code is amended by inserting the following sections after section 312:

**“312.1.** No person may modify or remove all or part of a photo radar device or a red light camera system erected on a public highway without the authorization of the person responsible for the maintenance of the highway.

**“312.2.** No person may damage or interfere with or prevent the operation of a photo radar device or a red light camera system erected on a public highway.”

**42.** The Code is amended by inserting the following section after section 315.3:

**“315.4.** Every person who contravenes section 312.1 or 312.2 is guilty of an offence and is liable to a fine of \$500 to \$1,000.

On the request of the prosecutor, the court may impose an additional fine, determined on the basis of the damage caused.”

**43.** The Code is amended by inserting the following section after section 328:

**“328.1.** On behalf of the Société, a peace officer shall immediately suspend, for a period of seven days, the licence issued under section 61 to any person who

(1) drives a road vehicle at a speed of 40 km/h or more over the posted speed limit in a zone where the maximum authorized speed limit is 60 km/h or less;

(2) drives a road vehicle at a speed of 50 km/h or more over the posted speed limit in a zone where the maximum authorized speed limit is over 60 km/h but not over 90 km/h; or

(3) drives a road vehicle at a speed of 60 km/h or more over the speed limit in a zone where the maximum authorized speed limit is 100 km/h.

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 a speeding offence under this section during the 10 years before the suspension.

On suspending a licence under this section, the peace officer may, without the owner's permission, or, in the case of a heavy vehicle, without the operator's permission, take possession of and impound the road vehicle at the owner's or operator's expense, if the vehicle is illegally occupying a part of the road.

Sections 195, 202.6.1 and 202.7 apply to a licence suspension under this section."

**44.** Section 332 of the Code is replaced by the following section:

**"332.** The speed of a road vehicle may be measured by means of a photo radar device approved by the Minister of Transport and the Minister of Public Security and used in the manner they determine.

The image obtained through the use of a photo radar device approved and used in accordance with the first paragraph, the speed recorded and indicated on the photograph and the other information displayed on the photograph concerning the vehicle and its licence plate, as well as the place, date and time the image was captured are proof of their accuracy, in the absence of any evidence to the contrary."

**45.** Section 333 of the Code is amended by replacing "radar warning device within the meaning of section 253" by "radar warning device or on which is placed any object or to which is applied any material capable of interfering in any way with the normal operation of a radar device, or with the recording of licence plate information by the camera of a photo radar device or of a red light camera system."

**46.** Section 334 of the Code is amended by replacing "radar de vitesse" and "radar" wherever they appear in the French text by "cinémomètre".

**47.** The Code is amended by inserting the following section after section 334:

**"334.1.** A peace officer is authorized to remove or require the removal, at the expense of the owner of the road vehicle, of any object or material capable of interfering in any way with the normal operation of a radar device, or with the recording of licence plate information by the camera of a photo radar device or of a red light camera system.

The peace officer shall issue a receipt for a seized object to the person in possession of the vehicle and remit the object to the Société.”

**48.** The Code is amended by inserting the following section after section 359.2:

**“359.3.** Stopping at red lights may be verified by means of a camera system designed for that purpose, approved and used in the manner determined by the Minister of Transport and the Minister of Public Security.

The image obtained through the use of a red light camera system approved and used in accordance with the first paragraph and the information displayed on the photograph concerning the vehicle and its licence plate, as well as the place, date and time the image was captured are proof of their accuracy, in the absence of any evidence to the contrary.”

**49.** The Code is amended by inserting the following section after section 439:

**“439.1.** No person may, while driving a road vehicle, use a hand-held device that includes a telephone function.

This prohibition does not apply to drivers of emergency vehicles in the performance of their duties.”

**50.** The Code is amended by inserting the following section after section 480:

**“480.1.** No person under 16 years of age may carry a passenger on a moped.”

**51.** Section 506 of the Code is amended by striking out “439,” in the first paragraph.

**52.** Section 508 of the Code is amended by inserting “, 439, 439.1” after “401”.

**53.** The Code is amended by inserting the following section after section 508:

**“508.1.** Every person who contravenes section 480.1 is guilty of an offence and is liable to a fine of \$100.”

**54.** The Code is amended by inserting the following section after section 516:

**“516.1.** Every person who

(1) drives a road vehicle at a speed of 40 km/h or more over the posted speed limit in a zone where the maximum authorized speed limit is 60 km/h or less,

(2) drives a road vehicle at a speed of 50 km/h or more over the posted speed limit in a zone where the maximum authorized speed limit is over 60 km/h but not over 90 km/h, or

(3) drives a road vehicle at a speed of 60 km/h or more over the speed limit in a zone where the maximum authorized speed limit is 100 km/h

is liable to double the fine set out in section 516 for the corresponding speeding violation.”

**55.** The Code is amended by inserting the following section after section 519.15.2, enacted by section 39 of chapter 39 of the statutes of 2005:

**“519.15.3.** An operator may not allow a heavy vehicle to be driven unless the speed limiter with which the vehicle has been equipped is activated and set at a maximum speed of 105 km/h and is in proper working order.

However, the Minister of Transport may, by an order published in the *Gazette officielle du Québec*, exempt the types of heavy vehicles the Minister determines from the application of the first paragraph.”

**56.** The Code is amended by inserting the following section after section 519.46:

**“519.46.1.** Every operator who contravenes section 519.15.3 is guilty of an offence and is liable to a fine of \$350 to \$1,050.”

**57.** Section 550 of the Code is amended by replacing “paragraph 2” in the second line of the first paragraph by “paragraph 2 or 4” and by striking out “187.2” in the third line of that paragraph.

**58.** Section 552 of the Code is amended by replacing “76” by “76.1.2, 76.1.4”.

**59.** Section 587 of the Code is amended by replacing the second paragraph by the following paragraphs:

“The clerk of a court of justice or a person under the clerk’s authority shall also notify the Société of an order of prohibition under any of subsections 1, 2 and 3.1 to 3.4 of section 259 of the Criminal Code (Revised Statutes of Canada, 1985, chapter C-46).

If a decision states that the offender’s blood alcohol concentration level at the time of an offence under section 180 exceeded 160 mg of alcohol in 100 ml of blood, the notice to the Société must mention it.”

**60.** Section 589 of the Code is amended by inserting “, a blood alcohol concentration level” after “payment”.

**61.** The Code is amended by inserting the following sections after section 592:

**“592.1.** In the case of an offence evidenced by a photograph taken by a photo radar device or a red light camera system, the owner of the road vehicle may be convicted of the offence, despite the second paragraph of section 592, unless the owner proves that the vehicle was in the possession of a third party without the owner’s consent at the time of the offence.

The statement of offence and the photograph indicating the place, date and time the photograph was taken and, as applicable, the traffic light involved or the speed recorded, must be sent to the owner within 30 days after the date of the offence at the most recent address entered in the records of the Société or in records held outside Québec by an administrative authority responsible for registering the vehicle. The photograph must show the road vehicle and its licence plate and, if applicable, the traffic light involved, without making it possible to identify the occupants of the vehicle.

If the owner was not driving the vehicle at the time the offence was recorded, the driver and the owner may, within 10 days after service of the statement of offence, send the prosecutor a declaration identifying the driver on the form prescribed by the Minister of Justice signed by both the driver and the owner. The prosecutor may serve a new statement of offence on the driver.

Even if the driver refuses to sign the declaration, the owner may send it to the prosecutor and so notify the driver. The prosecutor may serve a new statement of offence on the driver.

**“592.2.** Despite the first paragraph of section 592.1, the owner of the road vehicle may not be convicted if the driver is convicted of the same offence or an included offence.

**“592.3.** For the purposes of sections 592.1 and 592.2, a person who rents a road vehicle under a short-term rental contract is deemed to be the owner of the vehicle.

**“592.4.** An offence evidenced by a photograph taken by a photo radar device or a red light camera system does not entail the issue of demerit points unless the driver was intercepted and was served with a statement of offence.”

**62.** The Code is amended by inserting the following section after section 597:

**“597.1.** Section 597 does not apply to penal proceedings for an offence evidenced by a photograph taken by a photo radar device or a red light camera system.

Despite the first paragraph, the Government may make an agreement with a municipality under which the fines collected for an offence evidenced in the territory of the municipality belong to the municipality.”

**63.** Section 619 of the Code is amended

(1) by replacing “types and classes” in paragraph 3 by “classes and categories”;

(2) by striking out “, 90, 91, 91.1, 92” in paragraph 6.4;

(3) by striking out paragraphs 9.1 and 9.2;

(4) by replacing paragraph 9.3 by the following paragraph:

“(9.3) prescribe the number of offences or of demerit points entered in a person’s record that entails the suspension of a learner’s licence, a probationary licence, a moped licence or a farm tractor licence, or the suspension of the right to obtain such licences;”.

**64.** Section 619.2 of the Code is amended by replacing “76” in the portion before paragraph 1 by “76.1.1”.

**65.** Section 619.3 of the Code is amended by replacing “76” in the portion before subparagraph *a* of subparagraph 2 of the first paragraph by “76.1.1”.

**66.** Section 621 of the Code is amended by replacing “or section 209.2” in subparagraph 50 of the first paragraph by “, 209.2 or 209.2.1”.

**67.** The Code is amended by inserting the following section after section 634.2:

**“634.3.** Photo radar devices and red light camera systems may only be used subject to the conditions and procedures and at the places determined by the Minister of Transport and the Minister of Public Security.

In determining where photo radar devices and red light camera systems are to be installed, the Minister of Transport and the Minister of Public Security may consider requests submitted by municipalities.

The places where photo radar devices and red light camera systems may be used must be announced by means of traffic signs or signals determined in accordance with section 289.

Any order made under the first paragraph is published in the *Gazette officielle du Québec*.”

**68.** Section 648 of the Code is amended by inserting the following paragraphs after paragraph 1.1:

“(1.2) the fines collected under section 315.4;

“(1.3) the fines collected under sections 509, 516 and 516.1 when the offence was evidenced by a photograph taken by a photo radar device or a red light camera system;”.

#### ACT RESPECTING THE MINISTÈRE DES TRANSPORTS

**69.** Section 12.30 of the Act respecting the Ministère des Transports (R.S.Q., chapter M-28) is amended by inserting the following paragraph after paragraph 1:

“(1.1) the “highway safety fund”, to finance highway safety measures or highway safety and road victim assistance programs;”.

**70.** The Act is amended by inserting the following after section 12.39:

“§1.1. — *Highway safety fund*

“**12.39.1.** The fund is made up of the following, exclusive of the interest earned:

(1) fines referred to in paragraphs 1.2 and 1.3 of section 648 of the Highway Safety Code (chapter C-24.2), except fines belonging to a municipality in accordance with an agreement under the second paragraph of section 597.1 of that Code;

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

(3) sums paid by the Minister of Finance under the first paragraph of section 12.34 and section 12.35;

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

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

#### REGULATION RESPECTING DEMERIT POINTS

**71.** Sections 4 to 6 of the Regulation respecting demerit points, enacted by Order in Council 1003-2001 (2001, G.O. 2, 4894), are replaced by the following sections:

“**4.** The notice provided for in section 114 of the Highway Safety Code is sent in the following cases:

(1) when 4 or more demerit points have been entered in the record of a person under 23 years of age;

(2) when 6 or more demerit points have been entered in the record of a person 23 or 24 years of age;

(3) when 7 or more demerit points have been entered in the record of a person 25 years of age or over.

**“5.** For the purposes of section 185 of the Highway Safety Code, the number of demerit points is set at

(1) 8 for a person under 23 years of age;

(2) 12 for a person 23 or 24 years of age;

(3) 15 for a person 25 years of age or over.

**“6.** For the purposes of section 191.2 of the Highway Safety Code, the number of demerit points is set at 4.”

**72.** The Schedule to the Regulation is amended

(1) by inserting the following elements after element 6:

“6.1. Driving 40 km/h or more over the speed limit in a zone where the maximum authorized speed is 60 km/h or less

516.1,  
par.1

516.1,  
par.1

Exceeding the speed limit by:

40 to 45 km/h	6
46 to 60 km/h	10
61 to 80 km/h	14
81 to 100 km/h	18
more than 100 km/h	24 + 6 points for each additional 20 km/h in excess of 100 km/h over the speed limit



“6.2. Driving 50 km/h or more over the speed limit in a zone where the maximum authorized speed is over 60 km/h but not over 90 km/h

516.1,  
par. 2

516.1,  
par. 2

Exceeding the speed limit by:

50 to 60 km/h	10
61 to 80 km/h	14
81 to 100 km/h	18
more than 100 km/h	24 + 6 points for each additional 20 km/h in excess of 100 km/h over the speed limit

“6.3. Driving 60 km/h or more over the speed limit in a zone where the maximum authorized speed is 100 km/h

516.1,  
par. 3

516.1,  
par.3

Exceeding the speed limit by:

60 km/h	10
61 to 80 km/h	14
81 to 100 km/h	18
more than 100 km/h	24 + 6 points for each additional 20 km/h in excess of 100 km/h over the speed limit

”;

(2) by inserting the following element after element 26:

“26.1. Driving while using a hand-held telephone

439.1

508 3

”.

## TRANSITIONAL AND FINAL PROVISIONS

**73.** Section 66 of the Highway Safety Code, as it read before being amended by section 4, continues to apply to a person who holds a probationary licence on *(insert the date of the day before the coming into force of section 4)*.

**74.** Sections 76 and 76.1 of the Highway Safety Code, as they read before being replaced by section 6, continue to apply to the issue of a permit after a cancellation or suspension following a conviction for an offence referred to in section 180 of the Code committed before (*insert the date of the day before the coming into force of section 6*).

**75.** An applicant for a first licence to drive a passenger vehicle other than a moped or a motorcycle is exempted from the requirement to successfully complete a practical driving course provided the applicant

(1) held a learner's licence authorizing the operation of a passenger vehicle other than a moped or a motorcycle on (*insert the date of the day before the coming into force of section 5*); and

(2) held such a learner's licence for 12 months.

**76.** The driver's licence of a person who, on (*insert the date of coming into force of section 73*), is under 23 years of age and has accumulated between 8 and 14 demerit points is not cancelled. However, any entry of demerit points in the person's record after that date that brings the total to or over 8 or 12 demerit points, depending on whether the person is under 23 years of age or is 23 or 24 years of age when the demerit points are entered in the record, entails the cancellation of the person's licence or, if the person does not hold a licence when the demerit points are entered, the suspension of the person's right to obtain such a licence.

The driver's licence of a person who, on (*insert the date of coming into force of section 73*), is 23 or 24 years of age and has accumulated between 12 and 14 demerit points is not cancelled. However, any entry of demerit points in the person's record after that date that brings the total to or over 12 or 15 demerit points, depending on whether the person is 23 or 24 years of age or is 25 years of age or over when the demerit points are entered in the record, entails the cancellation of the person's licence or, if the person does not hold a licence when the demerit points are entered, the suspension of the person's right to obtain such a licence.

**77.** The driver's licence of a person who, on (*insert the date of coming into force of section 73*), is over 25 years of age, has held a moped or farm tractor licence for less than 5 years and has accumulated between 4 and 14 demerit points is not cancelled. However, any entry of demerit points in the person's record after that date that brings the total to or over 4 or 15 demerit points, depending on whether the person has held the licence for less than 5 years or for 5 years or more when the demerit points are entered, entails the cancellation of the person's licence or, if the person does not hold a licence when the demerit points are entered, the suspension of the person's right to obtain such a licence.

**78.** Sanctions incurred under section 191.2 of the Highway Safety Code before (*insert the date of coming into force of section 19*) must not be taken

into account when imposing a sanction under section 185 of the Code on or after *(insert the date of coming into force of section 19)*.

**79.** Sanctions incurred under section 191.2 of the Highway Safety Code before *(insert the date of coming into force of section 22)* must not be taken into account when imposing a sanction under section 191.2 of the Code on or after *(insert the date of coming into force of section 22)*.

**80.** Not later than *(insert the date occurring one year after the date of coming into force of this section)*, the Minister of Transport must report to the National Assembly on the use of photo radar devices and red light camera systems. The competent committee of the National Assembly must examine the report and make recommendations to the Minister.

**81.** The provisions of this Act come into force on the date or dates to be set by the Government, except sections 49, 51, 52, 54 and 72, which come into force on 1 April 2008. However, the provisions of section 36 that relate to paragraph 2 of section 251 of the Highway Safety Code, sections 41, 42 and 44, the provisions of section 45 that relate to photo radar devices and red light camera systems, and sections 47, 48, 61, 62, 67 and 68 cease to have effect on the date or dates to be set by the Government, which may not be earlier than *(insert the date occurring 18 months after the date of coming into force of section 80)*.

