



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-SIXTH LEGISLATURE

Bill 68

An Act respecting the certification of a taxi lease drivers' association

Introduction

**Introduced by
Madam Diane Lemieux
Minister of Labour**

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EXPLANATORY NOTES

The purpose of this bill is to provide for the certification of a taxi lease drivers' association devoted to defending and promoting the interests of the drivers.

The bill specifies the requirements that a taxi lease drivers' association must satisfy to be entitled to certification, establishes the certification procedure including the manner in which an applicant association's representativeness is to be determined or verified, and determines the effects of certification. The effects of a revocation of certification are also determined.

The bill grants the labour commissioner general the powers necessary to decide any application for certification filed by a taxi lease drivers' association.

The Minister is authorized under the bill to order an inquiry into any matter relating to the administration and functioning of a certified association or the conduct of its members. The Minister is also granted the power to order the certified association to take corrective action.

The bill empowers the Government to make regulations to provide for the manner in which certification is to be granted.

Lastly, the bill contains transitional provisions and consequential amendments.

LEGISLATION AMENDED BY THIS BILL :

- Act respecting transportation by taxi (R.S.Q., chapter T-11.1).

Bill 68

AN ACT RESPECTING THE CERTIFICATION OF A TAXI LEASE DRIVERS' ASSOCIATION

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

CHAPTER I

SCOPE OF APPLICATION

1. The purpose of this Act is to provide for the certification of an association responsible for representing taxi lease drivers and for promoting and defending their interests.
2. This Act applies to the holders of a taxi driver's permit issued under the Act respecting transportation by taxi (R.S.Q., chapter T-11.1) who are lessees of the automobile they use to supply transportation by taxi under a lease made with the holder of a taxi permit.

CHAPTER II

RIGHT OF ASSOCIATION

3. Every taxi lease driver has the right to join a taxi lease drivers' association of the driver's choice and to participate in its formation, activities and administration.
4. No person shall use intimidation or threats to induce anyone to become, refrain from becoming or cease to be a member of an association of taxi lease drivers.

CHAPTER III

CERTIFICATION OF A TAXI LEASE DRIVERS' ASSOCIATION

DIVISION I

GENERAL PROVISIONS

5. A taxi lease drivers' association is entitled to be certified if
 - (1) the association comprises an absolute majority of the taxi drivers registered on the list drawn up pursuant to section 16 or obtains, after balloting,

in the cases provided for in sections 19 and 20, an absolute majority of the votes of the taxi drivers qualified to vote or, in the case provided for in section 22, the greater number of votes after balloting;

(2) the association is a professional syndicate within the meaning of the Professional Syndicates Act (R.S.Q., chapter S-40); and

(3) the by-laws of the association

(a) determine membership requirements based on requirements specific to the trade of taxi driver;

(b) confer on the members the right to take part in the meetings of the association and to vote;

(c) prescribe that all decisions regarding membership requirements must be submitted to the members for approval;

(d) prescribe that a general meeting must be called or a ballot must be held if 10% of the members request such a meeting or ballot; and

(e) contain no provisions that would operate to unjustly prevent a taxi driver from becoming a member of or from maintaining or qualifying for membership in the association.

6. Every association of taxi lease drivers has an obligation to

(1) allow its members to take part in the association's meetings and to vote;

(2) submit all decisions regarding the association's membership requirements to the members for approval; and

(3) call a general meeting or hold a ballot if 10% of the members request such a meeting or ballot.

7. Certification shall be granted by the labour commissioner general to only one taxi lease drivers' association for the whole of the territory of Québec.

DIVISION II

CERTIFICATION PROCEDURE

8. An association wishing to be certified must apply in writing to the labour commissioner general.

The application must be authorized by a resolution of the association and be signed by representatives specially authorized for that purpose.

9. Certification may be applied for

(1) at any time, if no association has been certified; or

(2) if an association has been certified, from the one-hundred and eightieth day to the one-hundred and fiftieth day preceding every fifth anniversary of the date on which the certification became effective.

10. An application for certification must be accompanied by a certified copy of the articles and by-laws of the applicant association, a list of its members and the membership applications required under paragraph 2 of section 17 or a copy of the applications.

11. The filing of an application for the certification of a group of taxi lease drivers that is not represented by a certified association renders inadmissible any application for certification filed later than the thirtieth day after the date on which notice of the application is published by the labour commissioner general.

For the purposes of the first paragraph, an application for certification is deemed to be filed at the office of the labour commissioner general on the day of its receipt there.

12. An application for certification shall not be renewed within three months of the date of its refusal by the labour commissioner general or withdrawal by an applicant association, except in the case of an application not admissible under section 11.

DIVISION III

DETERMINATION OF REPRESENTATIVENESS

13. The labour commissioner general shall publish a notice of every application for certification addressed to the labour commissioner general in at least two daily newspapers having general circulation in Québec.

The notice must specify, in particular, the name of the applicant association, the date on which the application for certification was filed and the final date for the filing of any other applications for certification.

The publication costs shall be borne by the applicant association.

14. The labour commissioner general shall ascertain the representativeness of the applicant association by calculating the number of members in the association or by holding a ballot, and shall verify whether the association meets the requirements of this Act.

The holding of a ballot may be ordered at any time by the labour commissioner general if the facts revealed during the verification so warrant.

15. For the purposes of the calculation or ballot, the labour commissioner general shall draw up a list of the holders of taxi driver's permits in accordance with section 16 and examine the books, records and list of members of the applicant association. The labour commissioner general may at any time contact taxi lease drivers to ascertain whether the provisions of section 4 are being complied with, and may examine any relevant fact.

16. The labour commissioner general must, in the manner prescribed by regulation, draw up a list of the holders of a taxi driver's permit who supply transportation by taxi as taxi lease drivers. For that purpose, the labour commissioner general may collect any information necessary from a person, regional authority or body authorized to issue taxi driver's permits and taxi permits under the Act respecting transportation by taxi (R.S.Q., chapter T-11.1). That person, authority or body is required to furnish to the labour commissioner general all information requested.

A taxi driver may, in accordance with the conditions prescribed in the regulation, request to be entered on or struck off the list or to have personal information corrected.

17. For the purpose of determining the representativeness of an applicant association, a person is deemed to be a member of the association if the person

- (1) is a taxi lease driver;
- (2) has signed a membership application, duly dated and not revoked;
- (3) has personally paid the membership dues payable within the 12 months preceding the filing of the application for certification of the association; and
- (4) meets the conditions set out in paragraphs 1 to 3 on or before the day of the filing of the application for certification.

18. Every holder of a taxi driver's permit whose name appears on the list drawn up pursuant to section 16 and every taxi lease drivers' association is considered to be an interested party as regards the determination of the representativeness of the applicant association.

19. Where the labour commissioner general is satisfied that the applicant association comprises an absolute majority of the taxi drivers entered on the list drawn up pursuant to section 16 or, where applicable, has obtained an absolute majority of the votes of the taxi drivers qualified to vote, the labour commissioner general shall grant certification.

20. The labour commissioner general must order the holding of a ballot whenever an applicant association comprises between 35% and 50% of the taxi drivers entered on the list drawn up pursuant to section 16.

If the applicant association obtains an absolute majority of the votes of the taxi drivers qualified to vote, the labour commissioner general shall grant certification.

21. The labour commissioner general must order the holding of a ballot where one or more associations have filed an application for certification within the time provided for in paragraph 2 of section 9, unless one of the associations comprises an absolute majority of the taxi drivers entered on the list drawn up pursuant to section 16.

Only an applicant association comprising at least 35% of the taxi drivers entered on the list drawn up pursuant to section 16 and the certified association may compete in the ballot.

22. Where more than two associations compete in the ballot and together they obtain an absolute majority of the votes of the taxi drivers qualified to vote without any one association obtaining an absolute majority, the labour commissioner general must order the holding of a new ballot, excluding the association having received the smallest number of votes.

Where two associations compete in the ballot, the labour commissioner general must grant certification to the association that obtains the greater number of votes if the two associations together obtain an absolute majority of the votes of the taxi drivers qualified to vote.

23. The fact that a person belongs to an association shall not be revealed by anyone during certification proceedings, except to the labour commissioner general or a person designated by the labour commissioner general, who are bound to secrecy.

DIVISION IV

BALLOT

24. The ballot is to be held in the whole of the territory of Québec in the manner prescribed by regulation, under the supervision of the labour commissioner general.

25. To exercise the right to vote, a person must be entered on the list drawn up pursuant to section 16 and be the holder of a taxi driver's permit.

26. The taxi driver's permit is the only document valid for the purpose of verifying the identity of the persons qualified to vote.

A holder of more than one taxi driver's permit has only one vote.

27. The list of the persons qualified to vote must, in particular, be sent to every applicant or certified association and be made public in the manner prescribed by regulation.

28. No publicity may be made by an applicant or certified association during the period beginning 36 hours before the polling stations open and ending at the time the polling stations close.

29. Balloting must take place over a period of not less than three consecutive days ending on a Saturday.

30. The labour commissioner general shall publish a notice of the granting of certification in the *Gazette officielle du Québec*. The certification takes effect on the date of the publication.

DIVISION V

EFFECTS OF CERTIFICATION

31. Certification confers on the association the rights and powers to

(1) defend and promote the economic, social and professional interests of taxi lease drivers, in particular by promoting transportation by taxi and by establishing a pension, insurance or employment benefits plan;

(2) intervene at any time before a body, court or tribunal to defend the interests of taxi lease drivers; and

(3) represent taxi lease drivers whenever it is in their interest to do so.

32. To finance its activities, a certified association may, by by-law approved by a majority vote of the members at a special meeting held for that purpose, fix dues payable by all taxi lease drivers for every permit they hold.

A holder of two or more taxi driver's permits has only one vote at such a meeting.

Every taxi lease driver, even a taxi lease driver who is not a member of the association, is required to pay the dues.

DIVISION VI

VERIFICATION OF CERTIFICATION

33. The labour commissioner general must verify the representativeness of the certified association, by calculating the number of members in the association or by holding a ballot, following an application made within the time specified in paragraph 2 of section 9

(1) by an association comprising at least 35% of the taxi lease drivers entered on the list used for the certification of the certified association; or

(2) by a group of taxi lease drivers representing at least 35% of the taxi drivers entered on that list.

Section 17 applies to the verification, with the necessary modifications.

34. Where the certified association does not comprise an absolute majority of the taxi drivers entered on the list drawn up pursuant to section 16, the labour commissioner general shall revoke the certification granted to the certified association.

35. The labour commissioner general shall publish a notice of the revocation of certification in the *Gazette officielle du Québec* and in at least two daily newspapers having general circulation in Québec.

36. The revocation of an association's certification deprives, by operation of law, the association of its rights and advantages under this Act.

If no other association is certified, the association whose certification has been revoked must, within 30 days after the revocation, send to the Minister a statement of the dues paid by the taxi lease drivers and a statement of the assets of the special funds established pursuant to sections 13 and 14 of the Professional Syndicates Act (R.S.Q., chapter S-40) in respect of any pension, insurance or employment benefits plan. The association must then liquidate the special funds established in respect of those plans.

The liquidator must transfer the balance of the assets of the special funds and the unexpended dues to the taxi lease drivers or to a legal person having objectives similar to those of an association of taxi lease drivers.

The liquidator shall transmit a report to the Minister stating the names of the persons to whom property has been transferred and the value of the property.

37. The certification of a taxi lease drivers' association terminates when a new association is certified.

38. The certified association is subrogated by operation of law to the rights and obligations arising out of any pension, insurance or employment benefits plan established by the association whose certification has been revoked.

The latter association must, within 30 days after its certification is revoked, send to the certified association the statement of dues and the statement of fund assets referred to in the second paragraph of section 36. It must also, within the same time, remit the balance of the assets of the special funds and the unexpended dues to the certified association. The amounts remitted must be used for their intended purposes.

CHAPTER IV

POWERS OF THE LABOUR COMMISSIONER GENERAL

39. The labour commissioner general may

(1) decide any application for certification filed by a taxi lease drivers' association;

(2) decide whether the by-laws of the applicant association meet the requirements of this Act;

(3) rule on any dispute relating to the ballot, in particular by ordering the holding of a new ballot; and

(4) decide during an inquiry or at any time at the request of an interested party, whether a person is a taxi driver to whom section 2 applies or is a member of an association according to the provisions of section 17, and decide any other matter relating to certification.

40. The labour commissioner general may designate a labour commissioner or certification agent to exercise the powers assigned to the labour commissioner general by this Act.

41. The labour commissioner general may require any applicant or certified association to furnish any information and may examine any document as may be necessary to exercise the powers of labour commissioner general.

The labour commissioner general may make any provisional order considered necessary for the protection of the rights of any interested party.

42. The labour commissioner general shall give any interested party an opportunity to present observations before deciding any application relating to certification.

The labour commissioner general shall give reasons in writing for every decision and send the decision to the parties having presented observations.

43. The labour commissioner general may declare inadmissible any application or request that appears to the labour commissioner general to be manifestly frivolous, vexatious or made in bad faith.

44. Every decision of the labour commissioner general is final and without appeal.

45. A decision made by the labour commissioner general may be reviewed or revoked by the labour commissioner general

(1) where a new fact is discovered which, had it been known in time, could have warranted a different decision;

(2) where a party, owing to reasons considered sufficient, could not present observations; or

(3) where a substantive or procedural defect is of a nature likely to invalidate the decision.

46. The labour commissioner general and any person designated by the labour commissioner general pursuant to section 40 have all the powers necessary to exercise their jurisdiction and, for that purpose, are vested with the powers and immunity of commissioners appointed under the Act respecting public inquiry commissions (R.S.Q., chapter C-37), except the power to order imprisonment.

47. Except on a question of jurisdiction, article 33 of the Code of Civil Procedure (R.S.Q., chapter C-25) does not apply to the labour commissioner general or any person designated by the labour commissioner general and no extraordinary recourse provided in articles 834 to 846 of the Code may be exercised nor any injunction granted against the labour commissioner general or a designated person acting in their official capacity.

CHAPTER V

INQUIRY

48. A person designated by the Minister may be entrusted with an inquiry into any matter relating to the administration or functioning of a certified association or to the conduct of its members. The person so designated is vested with the powers and immunity of a commissioner appointed under the Act respecting public inquiry commissions (R.S.Q., chapter C-37), except the power to order imprisonment.

49. The Minister may, even before the inquiry has ended,

(1) order the certified association to take the necessary corrective action within a specified time;

(2) accept a voluntary undertaking by the certified association to take the appropriate corrective action.

50. The Minister may revoke the association's certification if the facts revealed during an inquiry so warrant or if the certified association has not taken the corrective action referred to in section 49, after giving the association an opportunity to present its observations within 15 days of receiving a notice to that effect. The Minister shall publish a notice of the revocation in the *Gazette officielle du Québec* and in at least two daily newspapers having general circulation in Québec.

CHAPTER VI

PENAL PROVISIONS

51. Every person who contravenes a provision of section 4, 6, 28, 36 or 38 of this Act is guilty of an offence and is liable to a fine of \$100 to \$1,000 for each day or portion of a day during which the offence continues.

52. Penal proceedings for an offence against a provision of section 6, instituted in accordance with article 10 of the Code of Penal Procedure (R.S.Q., chapter C-25.1), may be instituted only by a member of the association of taxi lease drivers.

CHAPTER VII

REGULATORY PROVISIONS

53. The Government may make regulations

(1) establishing the manner in which a ballot to determine the representativeness of an applicant association is to be organized and held and the manner in which the representativeness of a certified association is to be verified;

(2) determining the manner in which the list of taxi drivers is to be drawn up for the purposes of the ballot or calculation of the number of members of an applicant or certified association, the manner in which the list is to be revised and the procedure for transmitting and publicizing the list.

CHAPTER VIII

AMENDING PROVISIONS

ACT RESPECTING TRANSPORTATION BY TAXI

54. Section 40 of the Act respecting transportation by taxi (R.S.Q., chapter T-11.1) is amended by adding the following paragraph at the end:

“Where the person is a taxi driver to whom section 2 of the Act respecting the certification of a taxi lease drivers’ association (*insert here the year and chapter number of this Act*) applies, the person is also required, for each permit obtained or renewed, to have paid the dues fixed by by-law under section 32 of that Act to the certified association.”

55. Section 41.4.0.1 of the said Act is amended by inserting “dues,” after “paid the” in the fifth line.

CHAPTER IX

TRANSITIONAL AND FINAL PROVISIONS

56. Notwithstanding any provision of this Act, the labour commissioner general must order the holding of a ballot to decide the representativeness of the first association of taxi lease drivers that files an application for certification under this Act.

57. The Minister of Labour is responsible for the administration of this Act.

58. The provisions of this Act come into force on the date or dates to be fixed by the Government.