

NATIONAL ASSEMBLY

FIRST SESSION

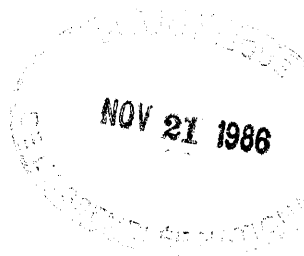
THIRTY-THIRD LEGISLATURE

Bill 153

An Act to amend the Act respecting the conservation and development of wildlife and the Parks Act

Introduction

**Introduced by
Mr Yvon Picotte
Minister of Recreation, Fish and Game**



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EXPLANATORY NOTES

The main object of this bill is step up the fight against poaching, and, to that end, measures are introduced to increase the penal and administrative sanctions under the Act respecting the conservation and development of wildlife, three new offences are created in relation to night hunting and broader inspection powers are granted to conservation officers to facilitate enforcement of the law.

The bill provides that henceforth wildlife areas will be designated by order, not by government regulation, and it reduces the rigidity of the regulation-making powers with respect to the management of those areas.

The bill introduces technical amendments to palliate certain deficiencies in the existing Act and facilitate its enforcement.

Finally, the bill introduces amendments to the Parks Act to increase the penal and administrative sanctions in the same way as in the Act respecting the conservation and development of wildlife, it amends the name of conservation parks and it rectifies an error made on passage of the Act respecting various financial provisions relating to the administration of justice.

ACTS AMENDED BY THIS BILL

- Act respecting the conservation and development of wildlife (R.S.Q., chapter C-61.1);
- Parks Act (R.S.Q., chapter P-9);
- Act respecting various financial provisions relating to the administration of justice (1986, chapter 58).

Bill 153

An Act to amend the Act respecting the conservation and development of wildlife and the Parks Act

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 1 of the Act respecting the conservation and development of wildlife (R.S.Q., chapter C-61.1) is amended by inserting, after the definition of “to hunt”, the following definition:

“**night**” means the period extending from one half hour after sunset to one half hour before sunrise;”.

2. Section 10 of the said Act is amended by striking out paragraph 3.

3. Section 12 of the said Act is amended

(1) by adding the words “any officer referred to in section 3,”, after the word “Minister”, in the second line;

(2) by adding the following paragraph:

“No person may purposely hinder a conservation officer, an officer referred to in section 3 or a deputy conservation officer acting in the discharge of his duties.”

4. The said Act is amended by inserting, after section 13, the following section:

“**13.1** A conservation officer may, at any reasonable time, enter any vehicle, boat or aircraft or any premises other than a dwelling-house where he believes on reasonable grounds there is any animal,

pelt or object that can be used for hunting or trapping animals or any documents relating to the enforcement of this Act and the regulations or of any other Act or regulation the enforcement of which is assigned to him, in order to inspect it.

He may, in the exercise of his inspection powers, make a seizure in accordance with section 16.

He must, on request, identify himself and show a certificate attesting his capacity.

In this section, “dwelling-house” means a building or structure or a part thereof kept or occupied as a permanent or temporary residence, and a building or structure or a part thereof connected to it by a doorway or by a covered and enclosed passageway.”

5. Section 17 of the said Act is amended by adding, at the end, the words “or under any other Act or regulation assigned to his administration”.

6. Section 18 of the said Act is amended by replacing the second paragraph by the following paragraph:

“However, in the case of a resident, the conservation officer who seizes a vehicle, aircraft, boat or dog may, after making if necessary, the appropriate appraisal place it in the custody of the offender.”

7. Section 19 of the said Act is amended by replacing the figure “90” in the third line of the first paragraph by the figure “120”.

8. The said Act is amended by inserting, after section 30, the following sections:

“30.1 No person may hunt big game at night with a spotlight.

Any person in possession of a spotlight and a loaded firearm or an armed crossbow or bow at night in a place frequented by big game shall, in the absence of any evidence to the contrary, be deemed to be in possession of the spotlight and firearm, crossbow or bow in order to hunt.

“30.2 No person may use a spotlight at night to detect the presence of an animal in a place frequented by big game.”

9. Section 45 of the said Act is amended by replacing the words “, trapping or fishing in a place contemplated in section 41” in the first and second lines of the first paragraph by the words “or trapping”.

10. Section 47 of the said Act is amended by inserting, after the figure “30” in the third line of the first paragraph, the figures “, 30.1, 30.2,”.

11. Section 57 of the said Act is amended by inserting, after subparagraph 2 of the first paragraph, the following subparagraph:

“(3) be in possession of an unloaded firearm at night, unless it is in a closed case or placed in the trunk of the vehicle or the hold of the aircraft.”

12. The said Act is amended by inserting, after section 70, the following section:

“**70.1** Notwithstanding sections 69 and 70, the Minister may, on the conditions determined by him, issue a permit authorizing the sale or purchase of fish or animal flesh for consumption on the premises by the persons who take part in a special activity described in the permit.

The holder of the permit shall comply with the conditions prescribed therein.”

13. Section 71 of the said Act is amended by replacing the last three lines by the following “in contravention of any provision of section 27, 28, 30, 30.1, 31, 32, 34, 38, 39, 41, 42, 60, 68, the first paragraph of section 56, 69 or 70, subparagraph 2 of the first paragraph of section 57 or a regulation made under section 56.”

14. Section 72 of the said Act is amended by inserting, after the word “transports” in the first line, the words “or is in possession of”.

15. Section 85 of the said Act is amended by striking out the words “, by regulation,” in the first line.

16. Section 86 of the said Act is amended by adding the following paragraph:

“He may also lease exclusive trapping rights in a wildlife management area or in a wildlife preserve.”

17. Section 93 of the said Act is amended

(1) by replacing the first line of the first paragraph by the following:

“**93.** Upon the revocation or non-renewal of a lease pursuant to section 90, or where”;

(2) by replacing the first line of the second paragraph by the following: “The lessee whose lease is revoked or not renewed retains his right of occupation”.

18. Section 95 of the said Act is amended by replacing the second paragraph by the following paragraph:

“Where the Minister or the new lessee does not acquire the buildings, the lessee whose lease is revoked or not renewed shall, within one year of the date of revocation or non-renewal of the lease, demolish or remove them, failing which the Minister may cause them to be removed or demolished at the expense of the lessee.”

19. Section 97 of the said Act is amended

(1) by striking out paragraphs 1, 2, 4 and 5;

(2) by replacing paragraph 3 by the following paragraph:

“(3) the maximum value of the structures or improvements that the holder of an exclusive trapping rights lease may make;”.

20. Section 104 of the said Act is amended

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

“**104.** The Government may establish wildlife management areas on Crown land for the development, harvesting and conservation of wildlife or a species of wildlife.”;

(2) by striking out the words “, by regulation,” in the first line of the second paragraph;

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

“Where private land is included in a wildlife management area, a copy of the decree establishing it and a copy of the agreement referred to in the second paragraph shall be registered by deposit in the registry office of the registration division in which the land is situated and an entry of the registration shall be made in the index of immovables.”

21. Section 110 of the said Act is amended by adding, at the end, the following paragraph:

“The maximum fees exigible determined under this section may vary according to the category of persons concerned, the activity practised or the species of wildlife sought.”

22. Section 111 of the said Act is amended

(1) by striking out the words “, by regulation,” in the first line of the first paragraph;

(2) by replacing the word “regulation” in the second line of the third paragraph by the word “order”.

23. Section 118 of the said Act is amended by replacing the second paragraph by the following paragraph:

“He may also, on the conditions he determines in a contract with the person, association or body concerned, authorize the person, association or body to organize activities or provide services in view of the development or utilization of wildlife in a wildlife preserve.”

24. The said Act is amended by inserting, after section 120, the following section:

“**120.1** The Minister may determine the maximum number of persons who may hunt, fish or trap in the parts of the territory of a wildlife preserve indicated by him.”

25. Section 121 of the said Act is amended

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

“(1) determine the conditions on which hunting, fishing or trapping activities are permitted, fix, according to the category of persons concerned, the activity carried on or the species of wildlife sought or according to the place where the hunting, fishing or trapping activity is carried on, the amount of the fees exigible for carrying on such activities, or prohibit such activities;”;

(2) by adding, at the end of paragraph 3, the words “according to the category of persons”.

26. Section 122 of the said Act is amended

(1) by striking out, in the first line of the first paragraph, the words “, by regulation,”;

(2) by inserting, after the word “habitat” in the fourth line of the first paragraph, the words “or the habitat of a species of wildlife”;

(3) by replacing the word “regulation” in the second line of the third paragraph by the word “order”.

27. Section 125 of the said Act is amended

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

“(1) determine the conditions on which hunting, fishing or trapping activities are permitted, fix, according to the category of persons concerned, the activity carried on or the species of wildlife sought or according to the place where the hunting, fishing or trapping activity is carried on, the amount of the fees exigible for carrying on such activities, or prohibit such activities;”;

(2) by adding, at the end of paragraph 2, the words “according to the category of persons”.

28. Section 127 of the said Act is amended by replacing the second paragraph by the following paragraph:

“The Minister may also, on the conditions he determines in a contract with the person, association or body concerned, authorize the person, association or body to organize activities or provide services in view of the development or utilization of the wildlife habitat.”

29. Section 162 of the said Act is amended

(1) by striking out paragraph 17;

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

“(25) determine, for the purposes of section 171.1, the species of fish or animals that are threatened or endangered.”

30. Section 163 of the said Act is replaced by the following section:

“**163.** Every draft regulation prepared under this Act, except draft regulations or by-laws under Chapter V or paragraph 19 of section 162, must be published by the Government in the *Gazette officielle du Québec*, with a notice that at the expiry of a period of not less than 45 days following the publication thereof with or without amendments, it will be submitted to the Government for adoption.”

31. Section 164 of the said Act is amended

(1) by replacing the words “on their date of” in the second line by the words “fifteen days after the date of their”;

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

“Any government order made under section 85, 104, 111 or 122 comes into force on the date of its publication in the *Gazette officielle du Québec* or on any later date indicated in the order.”

32. Section 165 of the said Act, amended by section 25 of chapter 58 of the statutes of 1986, is replaced by the following section:

“**165.** Every person who contravenes

(1) in respect of big game, any provision of section 30, 38, 59 or 67 or of a regulation made under paragraph 4 or 5 of section 56;

(2) in respect of fish or animals other than big game, any provision of section 27, the first paragraph of section 56, paragraph 2 of section 57, the first paragraph of section 69, section 71 or of a regulation made under paragraph 1, 2 or 3 of section 56;

(3) any provision of section 30.2, 42, 43, 46, 48, 49, 50, 52, 53, 55, 72, 99 or 101 or paragraph 1 or 3 of section 57;

is guilty of an offence and is liable, in addition to costs, for a first offence, to a fine of not less than \$400 nor more than \$1 200 and, for any subsequent offence within three years under the same provision, to a fine of not less than \$1 200 nor more than \$3 600.

In the case of a subsequent offence, the judge may sentence the offender to imprisonment for a term of not more than 90 days.”

33. Section 166 of the said Act, amended by section 26 of chapter 58 of the statutes of 1986, is replaced by the following section:

“**166.** Every person who contravenes

(1) in respect of fish or animals other than big game, any provision of section 30, 34, 38 or 67, or

(2) any provision of section 26, 39, 41, 45 or 68 or of a regulation under section 29

is guilty of an offence and is liable, in addition to costs, for a first offence, to a fine of not less than \$200 nor more than \$600 and, for any subsequent offence within three years under the same provision, to a fine of not less than \$600 nor more than \$1 800.”

34. Section 167 of the said Act, amended by section 27 of chapter 58 of the statutes of 1986, is replaced by the following section:

“**167.** Every person who contravenes

(1) in respect of big game, any provision of section 27, 28, 30.1, 34 or 60, the first paragraph of section 56, subparagraph 2 of section 57, the first paragraph of section 69, section 71 or of a regulation made under subparagraph 1, 2 or 3 of the third paragraph of section 56, or

(2) any provision of section 31 or 32, the third paragraph of section 47, the first paragraph of section 70, section 176 or of a regulation made under paragraph 1 or 3 of section 73,

is guilty of an offence and is liable, in addition to costs, to a fine of not less than \$1 500 nor more than \$4 500 for the first offence.

For any subsequent offence within three years of conviction for an offence under the same provision, the offender is liable, in addition to costs, to a fine of not less than \$4 500 nor more than \$13 500 and the judge may, in addition, condemn him to imprisonment for a term of not more than one year.

For the application of the penalty prescribed in the case of a subsequent offence in respect of big game, a previous conviction for an offence under any of sections 27, 28, 31, 32 and 60 or under subparagraph 2 of section 57 constitutes a first offence.”

35. Section 171 of the said Act, amended by section 29 of chapter 58 of the statutes of 1986, is replaced by the following section:

“171. Every person who contravenes

(1) in respect of animals other than big game, any provision of a regulation made under subparagraph 4 or 5 of section 56, or

(2) any provision of section 12, 22, 33, 36, 40, 61, 96, 105, 112 or 123, the second paragraph of section 70.1, the first paragraph of section 175 or of a regulation for which no penalty is specifically provided,

is guilty of an offence and is liable, in addition to costs, to a fine of not less than \$200 nor more than \$600 for the first offence, and, for any subsequent offence within three years of conviction for an offence under the same provision, to a fine of not less than \$600 nor more than \$1 800.”

36. The said Act is amended by inserting, after section 171, the following section:

“171.1 Notwithstanding the provisions of sections 165 to 171, where an offence is committed in respect of an animal of a threatened

or endangered species determined by regulation of the Government, the maximum penalty shall be twice the penalty prescribed for the offence.”

37. Section 172 of the said Act is replaced by the following section:

“**172.** A conviction for an offence committed contrary to this Act or the regulations thereunder may entail, as the judge decides, the suspension of the offender’s certificate or hunting or trapping licence or licence of another class or, as the case may be, a prohibition against applying therefor for a period of not more than 24 months from the date of conviction.

Notwithstanding the first paragraph, in the case of big game, any conviction for an offence committed against a provision of section 27, 28, 30, 30.1, 30.2, 31, 32, 34, 38, 59, 60 or 71, the first paragraph of section 56, subparagraph 2 of section 57, the first paragraph of section 69 or of the regulations made under section 56, entails, *pleno jure*, the revocation of any certificate or hunting or trapping licence held by the offender or, as the case may be, a prohibition against applying therefor for a period of 24 months from the date of conviction.

In the case of a subsequent offence within three years of conviction for an offence under the same provision, the period of suspension, revocation or prohibition shall be twice the period provided in this section.

In the case of a third offence within three years of the first conviction for an offence under the same provision, the period of suspension, revocation or prohibition shall be three times the period provided in this section.”

38. Section 174 of the said Act is amended by adding, at the end, the following paragraph:

“Every person prohibited from holding a certificate or a licence who is convicted of an offence under this Act or the regulations while the prohibition is in effect shall be prohibited from applying for a certificate or a licence for an additional period of twenty-four months subsequent to the first period of prohibition.”

39. Section 176 of the said Act is replaced by the following section:

“**176.** In no case may a person whose certificate or hunting or trapping licence or licence of another class has been revoked or

suspended or a person prohibited from holding a certificate or licence apply, during the period of revocation, suspension or prohibition, for a certificate or licence of the same class issued under this Act.”

40. The said Act is amended by inserting, after section 191, the following section:

“191.1 Regulations made by the Government under sections 85, 104, 111 and 122 of this Act before (*insert here the date of coming into force of sections 16, 21, 23 and 27 of this bill*) shall continue to be in force until they are replaced, amended or repealed by an order of the Government.”

41. Section 1 of the Parks Act (R.S.Q., chapter P-9) is amended by replacing the words “national park” in the first line of paragraph *c* by the words “conservation park”.

42. Section 3 of the said Act is amended by replacing the words “national park” in the second line by the words “conservation park”.

43. Section 7 of the said Act is amended by adding, after the word “hunting” in subparagraph *a* of the first paragraph, the words “or trapping”.

44. Section 11 of the said Act is replaced by the following section:

“11. Every person who infringes subparagraph *a* of the first paragraph of section 7 in respect of big game within the meaning of the Act respecting the conservation and development of wildlife (R.S.Q., chapter C-61.1) is liable, in addition to costs, to a fine of \$1 500 to \$4 500 for the first offence and to a fine of \$4 500 to \$13 500 for any subsequent offence within three years of conviction for an offence under the said provision in respect of big game, and the judge may, in addition, sentence the offender to imprisonment for a term of not over one year.”

45. Section 11.1 of the said Act is replaced by the following section:

“11.1 Every person who infringes subparagraph *a* of the first paragraph of section 7 in respect of animals other than big game within the meaning of the Act respecting the conservation and development of wildlife is liable, in addition to costs, to a fine of \$400 to \$1 200 for the first offence and to a fine of \$1 200 to \$3 600 for any subsequent offence within three years of conviction for an offence under the said provision in respect of animals other than big game and the judge may, in addition, sentence the offender to imprisonment for a term of not over three months.”

46. Section 11.2 of the said Act is amended by replacing the word and figures “\$200 to \$5 000” in the third line by the word and figures “\$250 to \$5 750”.

47. Section 11.3 of the said Act is amended by replacing the word and figures “\$25 to \$1 000” in the third line by the word and figures “\$30 to \$1 150”.

48. Section 11.6 of the said Act is replaced by the following section:

“11.6 Any conviction for an offence committed in contravention of subparagraph *a* of the first paragraph of section 7 may entail, as the judge decides, the suspension of every certificate or hunting or trapping licence held by the offender or, as the case may be, a prohibition against applying therefor for a period of not more than twenty-four months from the date of conviction.

In the case of big game, any conviction for an offence committed in contravention of subparagraph *a* of the first paragraph of section 7 entails of right the cancellation of every certificate or hunting or trapping licence held by the offender or, as the case may be, a prohibition against applying therefor for a period of twenty-four months from the date of conviction.

In the case of a subsequent offence in respect of the same class of animals, either big game or animals other than big game, within three years of the previous conviction, the period of suspension, cancellation or prohibition shall be twice the period provided in this section.

In the case of a third offence in respect of the same class of animals within three years of the first conviction, the period of suspension, cancellation or prohibition shall be three times the period provided in this section.”

49. Section 11.7 of the said Act is amended by adding, at the end, the following paragraph:

“Every person prohibited from holding a certificate or a hunting or trapping licence who is convicted of an offence under subparagraph *a* of the first paragraph of section 7 while the prohibition is in effect shall be prohibited from applying for such a certificate or licence for an additional period of twenty-four months subsequent to the first period of prohibition.”

50. Section 68 of chapter 58 of the statutes of 1986 is repealed. This section has effect from 19 June 1986.

51. The provisions of this Act will come into force on such date or dates as may be fixed by the Government.