



NATIONAL ASSEMBLY

FIRST SESSION

FORTY-FIRST LEGISLATURE

Bill 178

An Act to amend various legislative provisions concerning consumer protection

Introduction

**Introduced by
Madam Lise Thériault
Minister responsible for Consumer Protection and
for Housing**

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EXPLANATORY NOTES

This bill proposes various amendments to protect consumers.

The bill makes amendments to the Act respecting prearranged funeral services and sepultures. It makes the inclusion of certain information compulsory in contracts relating to funeral services or a sepulture intended for a deceased person that are entered into after the person's death, and consequently amends the title of the Act since the Act will no longer be restricted to contracts entered into before death.

The bill confers on the Minister responsible for the administration of the Act the powers necessary for the Minister to create a register of prearranged funeral services contracts and prepurchased sepulture contracts and to determine the terms governing its operation.

The bill also proposes amendments to the Consumer Protection Act to introduce a protection regime governing contracts relating to timeshare accommodation rights whose object is, in particular, to enable consumers to obtain accommodation rights that allow them to use an accommodation unit, or points or another medium of exchange that can be exchanged for accommodation rights.

The bill introduces rules specific to the making of that type of contract and sets out the compulsory information such a contract must include. It prohibits making the entering into or the performance of such a contract conditional on the entering into of a credit contract. It provides that any accessory contract entered into on the making of or in relation to a contract relating to timeshare accommodation rights is subject to the same obligations as the principal contract. It grants consumers the right to resolve the contract without charge or penalty within 10 days of signing it and specifies the circumstances in which that right is extended to one year.

The bill imposes on merchants who enter into a contract relating to timeshare accommodation rights the obligation to establish a payment schedule for each year covered by the contract. It sets out the elements to be included in the schedule as well as the terms and conditions applicable to the payments. Furthermore, the bill introduces a disclosure obligation related to the promotion by merchants engaged in the business of such contracts, prohibits certain stipulations and provides that such contracts may not be automatically renewed.

The bill makes the Consumer Protection Act applicable to contracts relating to the resale of tickets entered into between two merchants. It requires resellers to inform the consumer of the place or seat the resold ticket authorizes the holder to occupy, and of the fact that the price paid for the ticket will be refunded to the consumer under certain circumstances. It prohibits the resale of tickets when they are not in the possession or under the control of the reseller. It also prohibits the use or sale, for the purpose of purchasing tickets, of software that circumvents a safety measure or a control system put in place by the producer of a show or by the authorized seller, and prohibits the resale of tickets obtained using such software.

The bill provides that a merchant or the latter's representative may not solicit credit card applications in person from consumers in certain educational institutions. However, it provides that the prohibition does not apply to a merchant who engages in solicitation in the latter's establishment if it is located in an educational institution.

Lastly, the bill makes certain technical amendments to the Travel Agents Act and the Consumer Protection Act.

LEGISLATION AMENDED BY THIS BILL:

- Travel Agents Act (chapter A-10);
- Act respecting prearranged funeral services and sepultures (chapter A-23.001);
- Consumer Protection Act (chapter P-40.1).

Bill 178

AN ACT TO AMEND VARIOUS LEGISLATIVE PROVISIONS CONCERNING CONSUMER PROTECTION

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

ACT RESPECTING PREARRANGED FUNERAL SERVICES AND SEPULTURES

1. The title of the Act respecting prearranged funeral services and sepultures (chapter A-23.001) is amended by replacing “prearranged” by “arrangements for”.

2. Section 2 of the Act is amended

(1) by inserting “, subject to section 81.1,” after “except” in the first paragraph;

(2) by replacing “person” in the first paragraph by “buyer”;

(3) by adding the following sentence at the end of the first paragraph: “This Act, except Chapters II, III, IV and V, also applies, with the necessary modifications, to contracts relating to funeral services or a sepulture entered into after a death.”

3. Chapter II of the Act is amended by replacing the portion before section 3 by the following:

“CHAPTER II

“PREARRANGED FUNERAL SERVICES CONTRACTS AND PREPURCHASED SEPULTURE CONTRACTS

“DIVISION I

“PRELIMINARY PROVISIONS

“2.1. This chapter applies to prearranged funeral services contracts and prepurchased sepulture contracts.”

4. The Act is amended by inserting the following chapter after section 18:

“CHAPTER II.1

**“CONTRACTS RELATING TO FUNERAL SERVICES OR A
SEPULTURE ENTERED INTO AFTER DEATH**

“18.1. This chapter applies to contracts relating to funeral services or a sepulture intended for a deceased person that are entered into after the person’s death.

“18.2. Every contract must be evidenced in writing and the rules governing the making of contracts set out in sections 24 to 28 and 30 to 33 of the Consumer Protection Act (chapter P-40.1) apply, with the necessary modifications, to such a contract, including any modification to it.

“18.3. Every contract must set forth

- (1) the name and address of the buyer and those of the deceased person;
- (2) the name and address of the seller and, if applicable, those of his representative;
- (3) the number and date of the contract and the address where it is signed;
- (4) the description of each item of goods and service;
- (5) the price of each item of goods and service and the charges exigible under federal or provincial law;
- (6) the total amount the buyer must pay for goods, the total amount he must pay for services and the total price of the contract;
- (7) the terms and conditions of payment; and
- (8) any other information prescribed by regulation.

Every contract modification must identify the contract and describe the changes to which the parties have agreed, including any resulting changes in the information required under subparagraphs 5, 6 and 7 of the first paragraph. Every contract modification is deemed to form part of the contract.”

5. Section 64 of the Act is amended

- (1) by replacing “referred to in section 4” in paragraph 1 by “referred to in sections 4 and 18.2”;

(2) by inserting the following paragraph after paragraph 3:

“(3.1) fails to indicate, in a contract referred to in Chapter II.1 or in a modification to such a contract, any particular prescribed by section 18.3 for the contract or modification;”.

6. The Act is amended by inserting the following section after section 81:

“81.1. The Minister may, by regulation, establish a register of prearranged funeral services contracts and prepurchased sepulture contracts. The regulation may prescribe

(1) the contracts and the information they contain that must be entered in the register;

(2) the conditions, terms and periods for making or cancelling entries in the register;

(3) the persons authorized to consult or modify the register and the terms for consulting or modifying it;

(4) the seller’s obligation, prior to entering into a contract, to consult the register and inform the buyer of any contract already entered into concerning the person for whom the goods and services stipulated in the proposed contract are intended;

(5) the fees for making, modifying and cancelling entries in the register and for consulting the register;

(6) any other measure for the efficient use and operation of the register; and

(7) the provisions of the regulation whose violation constitutes an offence and, for each offence, the minimum and maximum amounts of the fine to which the offender is liable, without exceeding \$10,000.

Despite section 2, the regulation may apply to contracts entered into between a buyer and the operator of a religious cemetery.

The Minister may assume the operations management of the register or entrust it to a body subject to the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1). The Minister shall enter into a written agreement with that manager.”

CONSUMER PROTECTION ACT

7. Section 1 of the Consumer Protection Act (chapter P-40.1) is amended by inserting the following subparagraph after subparagraph *d* of the first paragraph:

“(d.1) “ticket” means any document or instrument that, on presentation, grants the ticket holder admission to a show, sporting event, cultural event, exhibition or any other kind of entertainment;”.

8. The Act is amended by inserting the following section after section 2.1:

“2.2. Despite section 2, sections 236.1, 236.2, 236.4, 261 and 263 to 267, Chapter III of Title IV and Title V also apply, with the necessary modifications, where a merchant enters or proposes to enter into a contract for the resale of tickets with other merchants.”

9. Section 23 of the Act is amended by inserting “187.14,” after “158,”.

10. Section 54.12 of the Act is amended by replacing “another merchant” in the third paragraph by “a third-party merchant”.

11. Section 62 of the Act, amended by section 9 of chapter 24 of the statutes of 2017, is again amended

(1) by replacing “another merchant” in the second paragraph by “a third-party merchant”;

(2) by replacing “other merchant” in the third paragraph by “third-party merchant”.

12. Section 150.22 of the Act is replaced by the following section:

“150.22. In addition to the information that may be required by regulation, a contract of lease with guaranteed residual value must contain or state the following, presented in conformity with the model prescribed by regulation:

(a) a description of the goods to be provided under the contract;

(b) the retail value of the goods and, if applicable, the payment on account paid by the consumer and the amount of the net obligation;

(c) the value of any goods given in exchange;

(d) the implied credit charges claimed from the consumer and the consumer’s maximum obligation under the contract;

(e) the term of the contract;

(f) the implied credit rate;

(g) the date on which the implied credit charges begin to accrue, or how that date is determined;

(h) the amount and due date of each payment;

(i) if entering into an insurance contract is a condition for entering into the contract, a statement that the consumer has the right to use an existing insurance policy or to purchase insurance from the insurer and insurance representative of the consumer's choice, subject to the merchant's right to disapprove the insurance selected or held by the consumer on reasonable grounds; and

(j) the date of delivery of the goods.”

13. The Act is amended by inserting the following division after section 187.9, enacted by section 44 of chapter 24 of the statutes of 2017:

“DIVISION V.3

“CONTRACT RELATING TO TIMESHARE ACCOMMODATION RIGHTS

“187.10. For the purposes of this division, a contract relating to timeshare accommodation rights is a contract whose object is to obtain, by onerous title,

(a) one or more accommodation rights, allowing the use of an accommodation unit or item of goods, whether situated in Québec or not, for a determinate or determinable period, with or without the possibility of exchanging the right as consideration for another determinate or determinable item of goods or service, including another accommodation unit;

(b) points or any other medium of exchange conferring on the consumer the right to exchange them as consideration for one or more accommodation rights defined in subparagraph *a*;

(c) a right to participate in an exchange system that allows the consumer to obtain, as consideration for the goods or services contemplated in subparagraphs *a* and *b*, another accommodation right, item of goods, service or advantage.

This division does not apply to a contract whose term is less than one year unless, by way of a clause of renewal or another stipulation, the contract could extend beyond a one-year period.

A consideration referred to in the first paragraph may be accompanied by an advantage, service or medium of exchange allowing the acquisition of goods or services and it may be offered by the merchant or by a third-party merchant with whom the merchant cooperates with a view to granting goods, services or other advantages under the contract relating to timeshare accommodation rights.

“187.11. This division, except section 187.13, applies, with the necessary modifications, to any contract not otherwise contemplated in this division and entered into by the consumer, even with a third-party merchant, on the making of or in relation to a contract relating to timeshare accommodation rights.

“187.12. Divisions V.1 and V.2 do not apply to contracts relating to timeshare accommodation rights.

“187.13. A contract relating to timeshare accommodation rights is deemed to be a service contract.

“187.14. A contract relating to timeshare accommodation rights must be evidenced in writing. In addition to the information that may be required by regulation, it must contain or state the following, presented in conformity with the model prescribed by regulation:

(a) a statement, in the title and before any other indication, that the contract is a contract relating to timeshare accommodation rights;

(b) the date on which the contract is made and the address where it is signed;

(c) the consumer’s name, address, telephone number and, if applicable, technological address;

(d) the merchant’s name, the address and telephone number of the merchant’s principal establishment in Québec and, if applicable, the merchant’s fax number, technological address and Québec business number assigned under the Act respecting the legal publicity of enterprises (chapter P-44.1);

(e) if applicable, the name, address and telephone number of any accommodation establishment mentioned in the contract where the consumer obtains mainly an accommodation right or, as the case may be, the location of any item of goods where the consumer obtains mainly such a right;

(f) if applicable, the name, address, telephone number, technological address and, if any, fax number of each representative of the merchant, or of any enterprise and each of its representatives acting on behalf of the merchant, that made representations to the consumer or negotiated or signed the contract;

(g) the date on which the merchant must begin to perform his principal obligation and, if applicable, the start and end dates of any period during which the merchant is required to perform the obligations stipulated in the contract;

- (h) the term and expiry date of the contract;
- (i) a detailed description of the goods and services to be provided under the contract, including a description of any other goods and services put at the consumer's disposal, as well as the conditions for the consumer to benefit from them, including, if applicable, the deadline for the consumer to set the date on which he will exercise his accommodation right during a performance period and the fees to benefit from optional goods or services;
- (j) the fees to obtain an accommodation right, their amount on an annual basis if they are calculated on a basis other than annual, and the total of such amounts for the entire term of the contract;
- (k) a detailed description of the compulsory associated costs under the contract, other than those referred to in subparagraph *n*, as well as their amount on an annual basis if they are calculated on a basis other than annual, and the total of such amounts for the entire term of the contract;
- (l) if applicable, a detailed description of the rights granted under the exchange system and the conditions applicable to the exercise of those rights;
- (m) if applicable, the name of the third-party merchant providing an exchange system, and that merchant's address, telephone number and, if any, technological address and fax number;
- (n) if applicable, a detailed description of the fees charged for participation in the exchange system, including membership fees and compulsory associated costs, their amount on an annual basis if they are calculated on a basis other than annual, and the total of such amounts for the entire term of the contract;
- (o) the total amount to be paid by the consumer under the contract, including any credit charges;
- (p) if applicable, the total amount to be paid by the consumer under any contract entered into with a third-party merchant on the making of the contract relating to timeshare accommodation rights, including any credit charges;
- (q) the total of the amounts referred to in subparagraphs *o* and *p*;
- (r) the terms and conditions of payment, including a payment schedule that complies with section 187.17 and the currency in which all amounts owing are payable if not Canadian dollars;
- (s) if the contract is also a credit contract, the terms and conditions of payment indicated as provided for in section 115, 125 or 150, as the case may be;
- (t) a statement that the merchant may not collect payment from the consumer before beginning to perform his obligation;

(u) the right granted to the consumer to resolve the contract at his sole discretion within 10 days after that on which each of the parties is in possession of a duplicate of the contract; and

(v) the other circumstances in which the consumer may resolve or resiliate the contract, any applicable conditions and the time within which the merchant must refund the consumer.

The merchant must attach a Statement of consumer resolution rights and a resolution form that are in conformity with the model prescribed by regulation to the duplicate of the contract which he remits to the consumer.

For the purposes of subparagraph *d* of the first paragraph, “principal establishment” means the establishment or office in which the merchant mainly carries on business. The merchant must, after the signing of the contract, notify the consumer of any change regarding that place.

“187.15. Any stipulation that results in the automatic renewal of a contract relating to timeshare accommodation rights is prohibited.

“187.16. The merchant may not make the entering into or the performance of a contract relating to timeshare accommodation rights dependent upon the entering into of a credit contract.

“187.17. The total of the amounts referred to in subparagraph *q* of the first paragraph of section 187.14 is divided into approximately equal annual instalments.

The annual instalments must appear in a payment schedule stating the total to be paid each year and the dates on which the instalments must be paid.

“187.18. Any stipulation that results in a departure from the conditions provided for in section 187.17 is prohibited.

“187.19. The merchant may not collect a partial or full payment from the consumer before the expiry of the resolution period provided for in the first paragraph of section 187.21.

“187.20. The merchant must send the consumer a statement of account at least 21 days before the date on which the creditor may demand payment of the annual instalment concerned.

The statement of account must mention the amount payable and, if applicable, the deadline for the consumer to fulfill his obligation without being required to pay credit charges.

The statement of account may be sent to the consumer’s technological address if expressly authorized by the consumer. The consumer may withdraw his authorization at any time by notifying the merchant.

The statement of account must be sent in such a way that the consumer is able to easily retain it by printing it or otherwise.

“187.21. The contract may be resolved at the discretion of the consumer within 10 days following that on which each of the parties is in possession of a duplicate of the contract.

That period is, however, extended to one year from the date on which the contract is made in any of the following cases:

(a) the contract is inconsistent with any of the rules set out in sections 25 to 28 for the making of contracts, or one of the particulars required under section 187.14 does not appear in the contract; or

(b) a Statement of consumer resolution rights and a resolution form that are in conformity with the model prescribed by regulation were not attached to the contract at the time the contract was made.

“187.22. The consumer avails himself of the right of resolution by returning the form provided for in section 187.14 or by sending the merchant another written notice to that effect.

“187.23. The contract is resolved by operation of law from the sending of the form or notice.

“187.24. Any contract entered into by a consumer, even with a third-party merchant, on the making of or in relation to a contract relating to timeshare accommodation rights and that results from an offer, representation or other action by the merchant who is party to the contract relating to timeshare accommodation rights forms a whole with the latter contract and is resolved or resiliated by operation of law at the time the contract relating to timeshare accommodation rights is resolved or resiliated.

“187.25. Within 15 days after resolution of the contract relating to timeshare accommodation rights, the merchant must refund all sums paid by the consumer under the contract and under any other contract contemplated in section 187.24, including sums paid to a third-party merchant.

Within 15 days after resolution of the contract, the consumer must, if applicable, make restitution to the merchant of the goods provided under the contract in the condition in which they were received by the consumer.

The merchant shall assume the costs of restitution.

“187.26. The consumer may, at his discretion, resiliate the contract without cost or penalty before the merchant begins performing his principal obligation.

“187.27. If the parties to a contract relating to timeshare accommodation rights agree to amend the contract and if the amendment increases the consumer’s obligation or reduces the merchant’s obligation, the merchant must sign a new contract containing the amendments agreed on and provide it to the consumer for signature.”

14. The Act is amended by inserting the following sections after section 229:

“229.1. No person may, when making or promoting a contract relating to timeshare accommodation rights, make representations implying that the contract is an investment, unless the person gives the consumer a document showing the truthfulness of the representations.

“229.2. No merchant engaged in the business of contracts relating to timeshare accommodation rights may make representations to directly or indirectly promote timeshare accommodation rights without indicating that the merchant is engaged in such business.”

15. Section 236.1 of the Act is amended

(1) by adding the following subparagraph at the end of the second paragraph:

“iii. of the place or seat the ticket authorizes the holder to occupy, unless no specific place or seat is assigned by the ticket.”;

(2) by striking out the third paragraph.

16. The Act is amended by inserting the following sections after section 236.1:

“236.2. No person may sell or use software enabling the purchase of tickets by circumventing a security measure or control system put in place by the producer of a show or by the seller authorized by the producer.

No person may resell, or facilitate the resale of, a ticket obtained using software referred to in the first paragraph.

“236.3. No person may resell a ticket without first informing the consumer that the price paid for the ticket will be refunded to the consumer in any of the following situations:

(a) the event to which the ticket grants admission is cancelled;

(b) the ticket does not grant the buyer admission to the event for which the ticket was purchased; or

(c) the event to which the ticket grants admission, the place or seat the ticket authorizes the ticket-holder to occupy or the value of the ticket does not correspond to the advertising or representations made to the consumer.

“236.4. No person may resell a ticket that is not in his possession or under his control.”

17. The Act is amended by inserting the following section after section 245.2, enacted by section 56 of chapter 24 of the statutes of 2017:

“245.3. No merchant may, personally or through a representative, in an educational institution referred to in any of paragraphs *a*, *b* and *e* to *g*.1 of section 188, solicit consumers in person so that they acquire a credit card.

The first paragraph does not apply where the solicitation takes place in the establishment of a merchant that is situated in an educational institution.”

TRAVEL AGENTS ACT

18. Section 36 of the Travel Agents Act (chapter A-10), amended by section 71 of chapter 24 of the statutes of 2017, is again amended by replacing “maintenance” in subparagraph *b.2* of the first paragraph by “renewal”.

TRANSITIONAL AND FINAL PROVISIONS

19. Unless the context indicates otherwise, in any Act, regulation or other document, a reference to the Act respecting prearranged funeral services and sepultures (chapter A-23.001) becomes a reference to the Act respecting arrangements for funeral services and sepultures.

20. The provisions of this Act do not apply to contracts in force at the time those provisions come into force, except contracts relating to timeshare accommodation rights for the purposes of sections 187.10, 187.13, 187.24 and 187.26 of the Consumer Protection Act (chapter P-40.1), as enacted by this Act.

Stipulations in contracts in force that are contrary to section 187.15 of the Consumer Protection Act, as enacted by this Act, are without effect for the future.

21. This Act comes into force on (*insert the date of assent to this Act*), except section 1, paragraph 3 of section 2 and sections 3 to 5, 9, 12 to 14, 18 and 19, which come into force on the date or dates to be set by the Government.

