

# Consumer Protection in Québec



*The legal framework applicable to consumer protection in Québec is primarily governed by the Consumer Protection Act, RSQ, c P-40 (the “CPA”), and the Regulation respecting the application of the Consumer Protection Act, CQLR c. P-40.1, r. 3 (the “Regulation”). Knowledge and understanding of the CPA and its Regulation are particularly important for merchants, manufacturers, and distributors (including wholesalers, importers, or suppliers of products) doing business in Québec, a jurisdiction recognized as being particularly consumer-friendly. Indeed, the requirements of the CPA and its Regulation expose these market players to a higher risk of litigation compared to other Canadian provinces or other jurisdictions.*

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## Scope of Application of the CPA

The CPA applies to any contract entered into between a consumer and a merchant in the course of the merchant’s business and relating to goods or services. For the purposes of the CPA, the term consumer means a natural person, other than a merchant who obtains goods or services for the purposes of their business.

As for the term merchant, although not defined generally under the CPA, the Court of Appeal has identified two essential criteria to establish such status:

- i. engaging in an activity with a view to making a profit; and
- ii. the activity must be carried out on a permanent basis, without necessarily being the person’s principal or exclusive activity, provided that it is carried out “habitually rather than occasionally.”

The term manufacturer encompasses any person engaged in the business of assembling, producing, or processing goods, including:

- i. a person who represents themselves to the public as the manufacturer of a good;
- ii. where the manufacturer has no establishment in Canada, a person who imports or distributes goods manufactured outside Canada, or a person who permits their trademark to be used on a good.

This broad definition thus subjects to the CPA manufacturers with no establishment in Québec, or even in Canada, as long as their products are distributed in Québec or accessible to Québec consumers, including through e-commerce platforms.

## General Obligations of Merchants

The CPA governs both business practices and merchants' disclosure obligations toward consumers. Without purporting to cover all of its provisions, some of the core obligations may be highlighted.

First, with respect to goods sold to consumers, its provisions provide for a warranty of quality against latent defects, a warranty of use and a warranty of durability considering the price, contract and normal conditions of use of the product, in addition to prohibitions respecting false representations in the contract or in advertisements.

These statutory warranties may be exercised by the purchaser as well as the subsequent purchaser of the goods directly against any actor involved in the chain of distribution of a good, including the manufacturer, merchant/seller and any distributor of the good (including any importer and wholesaler).

The CPA also regulates several categories of contracts, including: distance contracts (such as online purchases), contracts concluded by itinerant merchants, credit contracts (including high-cost credit), long-term leases, prepaid card contracts, loyalty programs, service contracts involving sequential performance for instruction, training or assistance, extended warranties, and debt settlement service contracts.

In addition, the CPA requires that contracts be drafted in French. They may, however, be drafted in another language if that is the express wish of the parties, but a French version must first be provided to the consumer.

## Prohibited Clauses

Another distinctive feature of the CPA lies in the express prohibition of certain contractual clauses. These prohibitions may come as a surprise to merchants from other Canadian provinces or the United States, where such clauses are often allowed. Prohibited clauses include, among others:

- a stipulation by which a merchant disclaims liability for their own acts or those of their representative;
- a clause requiring the consumer to submit a dispute to arbitration, restricting their right to take legal action, including a class action, or preventing them from being a member of a class;
- a clause requiring the consumer to submit a dispute to a court outside the province of Québec;

- a stipulation imposing on the consumer, in case of default, the payment of charges other than accrued interest;
- a clause subjecting the contract, in whole or in part, to a law other than a law of Canada or Québec;
- a stipulation excluding or limiting the statutory warranties under the CPA;
- a stipulation excluding or limiting the binding effect of a written or verbal representation made by a merchant's or manufacturer's representative;
- a stipulation excluding or limiting the consumer's right to bring a claim against both the merchant and the manufacturer for latent defects or to enforce statutory warranties under the CPA;
- generally, a clause providing for an expiration date on a prepaid card (or gift card);
- a clause providing that loyalty points received under a loyalty program may expire at a given date or with the passage of time;
- any stipulation that, by any means whatsoever, results in a false or misleading representation to a consumer.

## Remedies and Sanctions

Where a provision of the CPA is violated, the consumer has several remedies, including:

- cancellation of the sales or lease contract;
- reduction of the consumer's obligations (price reduction);
- specific performance of the contractual obligation or authorization to have it performed at the merchant's or manufacturer's expense;
- compensatory damages; and
- punitive damages, which may result in costly litigation, including class actions.

In addition to civil remedies, the CPA also provides for penal sanctions. Fines may reach \$125,000 or 5% of the worldwide turnover of the previous fiscal year for a legal person. These fines, following an investigation by the Office de la protection du consommateur ("**OPC**"), are referred to the Director of Criminal and Penal Prosecutions ("**DCPP**"), who decides whether to initiate proceedings before the Court of Québec.

Since January 2025, the OPC has also had the power to directly impose administrative monetary penalties ("**AMPs**") to punish "objectively observable" breaches of the CPA, the Regulation, or a voluntary undertaking. This new regime supplements the penal fines regime and allows the president of the OPC to impose a monetary sanction without having to go through the DCPP.

AMPs may not exceed \$1,750 for a natural person, or \$3,500 for a legal person, per day for which the breach continues.

The OPC is the governmental body responsible for enforcing the CPA and for receiving consumer complaints. The president of the OPC is vested with investigatory powers concerning any matter relating to the application of the CPA or its regulations. This includes the ability to conduct inspections or examinations at a merchant's, manufacturer's, or advertiser's place of business. The OPC is also responsible for issuing permits to itinerant merchants, money lenders governed by the CPA, operators of health studios, and merchants offering or concluding extended warranties related to automobiles or motorcycles.

## Recent Reforms and New Obligations



### Bill 29

In October 2023, Québec's National Assembly adopted and assented to Bill 29, *An Act to protect consumers against planned obsolescence and to promote the durability, repairability and maintenance of goods* ("**Bill 29**"). This new Act further strengthens the CPA and the obligations arising thereunder, of which manufacturers and merchants doing business in Québec should be aware.

The measures under Bill 29 have come into force gradually, some extending until October 2026. Key measures include:

- banning the sale of goods designed with planned obsolescence, i.e., goods for which means have been employed to reduce their normal operating life (in force: October 5, 2023);
- adopting a "lemon law" measure for automobiles to protect consumers against "seriously defective vehicles" (in force: October 5, 2023);
- imposing an obligation on merchants offering consumers an extended warranty to inform them that they have 10 days to cancel it at no cost or penalty (in force: October 5, 2023), along with increased disclosure obligations before proposing an extended warranty covering goods already subject to a warranty (in force: October 5, 2026);
- strengthening the right to repair by enhancing the guarantee of availability of replacement parts and repair services already provided for in the CPA, and prohibiting techniques that make maintenance or repair more difficult, including for automobiles (in force: October 5, 2025);
- creating a warranty of good working order, applicable to several goods (refrigerators, dishwashers, televisions, tablets, heat pumps, air conditioners, etc.), granting consumers an automatic right to free repair if the good malfunctions during the relevant period (in force: October 5, 2026).

In August 2024, the Québec government also published two draft regulations clarifying the AMP regime and increasing penal fines, which may now reach up to \$125,000 or 5% of the worldwide turnover of the previous fiscal year for a legal person. With few exceptions, these new provisions came into force on January 5, 2025.

## Bill 72

In parallel, on September 12, 2024, the Québec government introduced Bill 72, *An Act to protect consumers from abusive commercial practices and to improve price and credit transparency* (“**Bill 72**”). Bill 72 seeks to make several significant amendments to the CPA and related regulations, particularly regarding practices related to tipping, food price display, credit and long-term lease contracts, and itinerant commerce. Most provisions of Bill 72, and thus the amendments it makes to the CPA, came into force on November 7, 2024, the date of assent.

## Complying with the CPA

For businesses subject to the CPA, and especially in light of the changes introduced by Bill 29 and Bill 72, the challenge often lies in the details. Several provisions use general terms and refer to more specific standards that will be clarified or supplemented by regulation. Merchants and manufacturers must therefore exercise heightened vigilance to ensure compliance.

In this context, businesses operating in Québec would be well advised to begin reviewing their practices now. This process involves identifying, within their range of products and services, those already covered or likely to be covered by the new requirements. It must also include a review of contractual documentation, maintenance and repair guides, and internal compliance procedures. The goal is to anticipate necessary changes, rather than risk non-compliance once the new rules take effect.

It remains essential to closely monitor the development of implementing regulations, which will clarify the practical application of many of these obligations. Businesses that prepare proactively and in a structured manner will be better positioned to adapt, limit legal risks, and preserve consumer trust.

### Important

At Fasken, we are closely following these developments and regularly assist clients in analyzing their obligations and implementing tailored compliance strategies. Our team specializing in consumer law and product liability is available to advise you, whether for assessing your business practices, reviewing your contracts and documents, implementing internal policies, or managing litigation arising under the CPA. We are here to help you navigate this complex regulatory framework and turn these obligations into levers of trust and transparency with your clients.

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