

An Act to enable students to receive instruction from the postsecondary institutions that they attend. Hereinafter referred to as the "Act"

[APPENDIX - June 6, 2012]

This document is not to be considered legal counsel or advice. It is primarily a source of information aimed at increasing understanding of - and thereby democratizing - the applicable provisions of the legal framework

This document is an abridged version of the explanatory document of the Act prepared by the CLASSE Legal Committee. **It is aimed at student activists who do not occupy a "function" in a student association or federation of associations.**

QUESTIONS-ANSWERS

I am participating in a demonstration without having participated in the organization of that demonstration. Could I be subject to a fine under the Act?

No.

Excerpt from Section 17 of the Act: **(concerning participation in a demonstration)**

"17. A person, a body or a group that is the organizer of a demonstration and a student association or a federation of associations taking part in the demonstration without being its organizer must employ appropriate means to ensure that the demonstration takes place in compliance with the information provided [...]"

Article 17 of the Act states that only the student associations and federations of associations that participate in a demonstration without being the organizers are subject to a fine if the demonstration is not conducted in compliance with the information provided (date, time, place, route, etc.). In other words, it is not the responsibility of an individual participant to "employ appropriate means" to ensure that a demonstration takes place in compliance with the information provided.

I am participating in a cessation of classes or hard picket in order to interrupt or disrupt the classes and academic activities of a college or university (whether or not this establishment is one that I attend). Could I be subject to a fine under the Act?

What about my student association?

Yes, you could be subject to a fine.

The fine ranges from \$1,000 to \$5,000 per day or part of a day of the violation. In other words, if you participate in more than one day of a cessation of classes or hard picket, the amount of the fine would be multiplied by the number of days (or parts of

days) during which you took part in that class cessation or hard picket. For example, if a hard picket lasts for two days, the total fine would range from \$2000 to \$10000. In addition, the fine is doubled for any subsequent offence. Note that all the foregoing is provided for in Section 26 of the Act.

Section 13 of the Act: (concerning cessation of classes)

"13. No one may, by an act or omission, deny students their right to receive instruction from the institution they attend or prevent or impede the resumption or maintenance of an institution's instructional services or the performance by employees of work related to such services, or directly or indirectly contribute to slowing down, degrading or delaying the resumption or maintenance of such services or the performance of such work."

Section 14 of the Act: (concerning hard pickets)

"14. No one may, by an act or omission, deny a person access to a place if the person has the right or a duty to be there in order to obtain services from or perform functions for an institution.

Without restricting the generality of the first paragraph, any form of gathering that could result in denying such access is prohibited inside any building where instructional services are delivered by an institution, on the grounds of such a building or within 50 metres from the outer limits of such grounds. "

Excerpt from Section 15 of the Act:

" [...] A student association must employ appropriate means to induce the students it represents not to contravene sections 13 and 14. "

What about my student association?

Pursuant to article 15, reproduced above, if it is established that the association of students of which you are a member has not taken "appropriate means" to ensure that there are no cessations of classes or hard pickets at its establishment (it is therefore relevant whether your action took place at an institution you actually attend), the association could be subject to a fine ranging from \$25,000 to \$125000 for each day or part of a day during which the violation takes place. The fine is doubled for any subsequent offence. Note that all the foregoing is provided for in Section 26 of the Act.

Also, this same association of students would lose its dues payments and its facilities, display tables, etc., for one semester for each day or part of day the violation lasts. Note that all the foregoing is provided for in Section 18 of the Act.

I used social networking to invite my friends and acquaintances to participate in a demonstration, cessation of classes, or hard picket. Could I be subject to a fine under the Act?

Possibly, yes.

Excerpt from Section 30 of the Act: (helping or inducing another person to commit an offence)

"30. Anyone who helps or induces a person to commit an offence under this Act is guilty of the same offence and is liable to the fine prescribed [...] "

The fine ranges from \$1,000 to \$5,000 and would be doubled in the case of any subsequent offence. Note that if the violation lasts for more than a day (or part of a day) the amount of the fine would be multiplied by the number of days (or parts of days) of the violation. For example, if a hard picket lasts for two days, the total fine would be \$2000 to \$10000. Note that all the foregoing is provided for in Section 26 of the Act.

Cessation of classes and hard pickets

Cessations of classes and hard pickets are prohibited by Sections 13 and 14 of the Act. Consequently, "helping or inducing" another person to take part could be considered an "incitement" to commit an offence under section 30 of the Act.

Demonstrations

With respect to a demonstration, it is far from certain that you would be *de facto* subject a fine. Several hypothetical situations may be considered. For example:

- You are aware that the organizers of the demonstration have provided the required information to the police and you do not invite your friends and acquaintances to cause a departure or "diversion" from the provided information:
You would not be subject to a fine in these circumstances.
- In contrast, if you know that the organizers of the demonstration have provided the required information to the police and you nonetheless invite your friends and your acquaintances to "divert" the demonstration:
It is conceivable that Section 30 applies in this case. You could be subject to a fine if:
 - The organizers or one of the organizers of the demonstration, or the student associations or federations of associations involved cause a "diversion" of the demonstration. In effect, since the participants in a demonstration are not required to "employ appropriate means" to ensure that it takes place in compliance with the information provided (see Section 17 of the Act), the mere fact that the demonstration is diverted would not be sufficient to subject you to a fine.
- You know that the organizers of the demonstration have not provided the required information to the police, and despite this you invite your friends and acquaintances to participate in the event:
It would be quite conceivable that Section 30 applies in this case. You could be subject to a fine.

I received a statement of offence during an arrest (or by mail). What do I do?

You must contest it. The statement of offence indicates how to proceed. You must do so within 30 days of receiving the statement. Note that if you do not do so within these 30 days, you will have pled guilty and you will be required to pay the fine indicated in the statement of offence.

Contact the CLASSE Legal Committee to obtain the services of a lawyer to defend you (legal@asse-solidarite.qc.ca).

The CLASSE Legal Committee also has funds to cover the legal fees incurred by student movement arrestees. Note that **the CLASSE Legal Committee cannot pay your fine, but could cover the costs of contesting it.**

Contesting the offence will take you to court. Count on it taking approximately 4 to 5 months before a judgement is handed down. The court must, however, determine **beyond a reasonable doubt** if you have actually committed the offence. Among other factors, if the evidence is insufficient, you would not be required to pay the fine. Otherwise, if you're found guilty, you will have a minimum period of 30 days to pay. That being said, it may also be possible to make an arrangement for the payment of the fine (in instalments, for example). Note that if you fail to pay the fine, compensatory (or community) work may be required or your assets and your property could be seized. It is only as a last resort that imprisonment could come into play.

Finally, a penal conviction does not result in a criminal record.