

April 30, 2019

BC Chamber of Commerce Statement on:

Employment Standards Act – Summary of Major Amendments

BC's Employment Standards Act is the law that sets minimum standards for workplaces in the province. The act has not been significantly updated for 15 years; therefore, the provincial government focused on several areas where they felt changes are both needed and overdue.

The main highlights of what is being proposed is below:

Stronger child employment protections

- This legislation will broadly raise the age a child may work to 16 (from 12 currently) and better protect the safety of 16- to 18-year-olds by putting restrictions on the type of hazardous work they can be asked to perform.
- Additionally, the legislation does provide exemptions that allow 14-year-olds and 15-year-olds to perform "light work" as prescribed by the Lieutenant Governor in Council (aka regulation via Cabinet) that is safe for their health and development (an example given is stocking shelves at a grocery store) with parental consent. To perform "any other work" will require permission from the Director of Employment Standards.
- The legislation maintains existing regulations that allow children to work in recorded and live entertainment with parental consent.

Expanded job-protected leaves

- Currently, workers who are trying to escape from domestic violence have no ability to take time from their jobs to find the solutions they need to make life safer for themselves and their kids.
- Changes in the new legislation will provide up to 10 non-consecutive days of unpaid job-protected leaves for those workers, so they can look for a new home, go to medical appointments, etc.
- Additionally, workers will have a second option that will see them receive up to 15 weeks of consecutive unpaid leave.
- Government will carry out an engagement process to determine next steps in making improvements to leave for workers escaping domestic violence.
- The legislation also creates a new unpaid job-protected leave for those caring for critically-ill family members that will align with federal employment insurance benefits — allowing workers to take up to 36 weeks to care for a critically ill child and up to 16 weeks to care for an adult.

Improved wage recovery

- The legislation establishes a legal framework for regulating tips and tip pooling and protecting workers' rights with respect to tips and gratuities.
- It prohibits employers from withholding tips or other gratuities from workers, deducting amounts from them, or requiring them to be turned over to the employer.
- It permits tip pooling but specifies that the employer may not share in the tip pool except when the employer performs the same work as workers who share in the pool.
- The legislation also extends the recovery period for which workers can recover owed wages from their employer from six months to 12 months — with the possibility of extending the period to 24 months under some circumstances, such as in cases involving wilful or severe contraventions of the act.
- It also makes collective agreement provisions subject to the minimum requirements of the Employment Standards Act.

Modernized Employment Standards Branch services

- Under the new legislation, the self-help kit is being eliminated as a required step before filing a complaint.
 - The legislation will require the Director of the Employment Standards Branch to investigate all complaints accepted for resolution by the branch — improving on the current process of forgoing needed investigations in favour of speedy resolutions.
 - It modernizes several other areas related to services provided by the Employment Standards Branch — including allowing the branch to waive or raise penalties, requiring employers to inform workers of their rights and requiring licensing for temporary help agencies.
 - Government will also augment with non-legislative improvements to the branch, including increased education and outreach, adding multilingual capacity and providing enhanced service delivery to workers and employers with visual and hearing impairments.
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