

2016 Bill 208

Second Session, 29th Legislature, 65 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 208

OCCUPATIONAL HEALTH AND SAFETY (PROTECTION FROM WORKPLACE HARASSMENT) AMENDMENT ACT, 2016

MR. COOLAHAN

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 208
Mr. Coolahan

BILL 208

2016

OCCUPATIONAL HEALTH AND SAFETY (PROTECTION FROM WORKPLACE HARASSMENT) AMENDMENT ACT, 2016

(Assented to _____, 2016)

Preamble

WHEREAS all Albertans deserve to work in a safe and inclusive workplace that is free from violence or harassment;

WHEREAS psychological harassment and bullying in the workplace can have long-lasting effects on the well-being of Albertans;

WHEREAS employers need to ensure there are proper policies in place to protect workers from bullying and harassment; and

WHEREAS employers are under an obligation to prevent harassment and if they are aware of offending behaviour, they must put a stop to it;

THEREFORE HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

Amends RSA 2000 cO-2

1 The *Occupational Health and Safety Act* is amended by this Act.

2 Section 1 is amended

(a) by renumbering it as section 1(1);

(b) in subsection (1) by adding the following after clause (k.1):

EXPLANATORY NOTES

1 Amends chapter O-2 of the Revised Statutes of Alberta 2000.

2 Definition added.

(k.2) “harassment” means any inappropriate conduct, comment, display, action or gesture by a person

(i) that either

(A) is based on race, religious beliefs, colour, gender, gender identity, gender expression, physical disability, mental disability, age, ancestry, place of origin, marital status, source of income, family status or sexual orientation, or

(B) subject to subsections (2) and (3), adversely affects the worker’s psychological or physical well-being and that the person knows or ought reasonably to know would cause a worker to be humiliated or intimidated

and

(ii) that constitutes a threat to the health or safety of the worker;

(c) by adding the following after subsection (1):

(2) To constitute harassment for the purposes of subsection (1)(k.2)(i)(B), either of the following must be established:

(a) repeated conduct, comments, displays, actions or gestures;

(b) a single, serious occurrence of conduct, or a single, serious comment, display, action or gesture, that has a lasting, harmful effect on the worker.

(3) For the purposes of subsection (1)(k.2)(i)(B), harassment does not include any reasonable action that is taken by an employer relating to the management and direction of the employer’s workers or the work site.

3 Section 2 is amended

(a) in subsection (1) by striking out “and” at the end of clause (a)(ii) and by adding the following after clause (a):

(a.1) that the employer’s workers are not exposed to harassment with respect to any matter or circumstance arising out of the workers’ employment, and

3 Section 2(1) and (2) presently read:

Obligations of employers, workers, etc.

2(1) Every employer shall ensure, as far as it is reasonably practicable for the employer to do so,

(a) the health and safety of

(i) workers engaged in the work of that employer, and

(b) in subsection (2) by striking out “and” at the end of clause (a) and by adding the following after clause (a):

- (a.1) refrain from causing or participating in the harassment of another worker, and

4 The following is added after section 10(1):

Workplace harassment

10.1(1) Every employer shall establish and administer a workplace harassment policy in accordance with the regulations.

(2) Every employer has a responsibility to investigate workplace harassment complaints.

(3) If a worker is not satisfied with the outcome of the complaint resolution process followed pursuant to the employer’s workplace harassment policy, the worker may file a complaint with an officer.

(4) Section 8 is applicable with all necessary modifications to an officer who receives a complaint under subsection (3).

(5) An officer who receives a complaint under subsection (3) may

- (a) determine that there is no merit to the complaint,
- (b) endeavour to mediate a resolution of the matter, or

- (ii) *those workers not engaged in the work of that employer but present at the work site at which that work is being carried out, and*
 - (b) *that the workers engaged in the work of that employer are aware of their responsibilities and duties under this Act, the regulations and the adopted code.*
 - (2) *Every worker shall, while engaged in an occupation,*
 - (a) *take reasonable care to protect the health and safety of the worker and of other workers present while the worker is working, and*
 - (b) *co-operate with the worker's employer for the purposes of protecting the health and safety of*
 - (i) *the worker,*
 - (ii) *other workers engaged in the work of the employer, and*
 - (iii) *other workers not engaged in the work of that employer but present at the work site at which that work is being carried out.*

4 Section added concerning workplace harassment.

- (c) if mediation is not successful and the complaint is substantiated, order the employer to undertake corrective action,

and the officer shall provide a report on the officer's findings to the worker and the employer.

(6) A worker or employer who receives a report under subsection (5) and who is not satisfied with the report's findings may request a review of the matter by the Council by serving a notice of appeal on a Director of Inspection within 30 days from the date of receipt of the report.

(7) After considering the matter, the Council may by order

- (a) dismiss the request for a review, or
- (b) require the employer or worker to undertake certain action.

(8) An appeal lies to the Court of Queen's Bench from an order of the Council on a question of law or a question of jurisdiction and on hearing the matter, the Court may make any order, including the awarding of costs, that the Court considers proper.

(9) An appeal under subsection (8) shall be made by way of application within 30 days from the date that the order of the Council is served on the person appealing the order of the Council.

(10) The commencement of an appeal under subsection (8) does not operate as a stay of the order of the Council being appealed from except insofar as a judge of the Court of Queen's Bench so directs.

5 Section 40(1) is amended by adding the following after clause (a):

- (a.1) establishing requirements for policies and procedures concerning the prevention of harassment;

5 Section 40(1) presently reads in part:

Lieutenant Governor in Council regulations

40(1) The Lieutenant Governor in Council may make regulations

- (a) establishing general health and safety rules for or in connection with occupations and work sites, including*
 - (i) reporting, medical and health requirements, and*
 - (ii) the making available of notices issued by a Director and of orders made under, and other information and documents required by, this Act, the regulations or an*

6 This Act comes into force on Proclamation.

adopted code;

6 Coming into force.

Record of Debate

STAGE	DATE	MEMBER	FROM	TO	TOTAL	CUMULATIVE TOTAL