

1971 Bill 139

Fourth Session, 16th Legislature, 20 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 139

An Act to amend The Alberta Labour Act

MR. YURKO

First Reading

Second Reading

Third Reading

BILL 139

1971

AN ACT TO AMEND THE ALBERTA LABOUR ACT

(Assented to _____, 1971)

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

1. *The Alberta Labour Act is hereby amended.*

2. *Section 9, subsection (2) is amended by adding the following clause:*

(f) determine whether a person is an employee or an employer for the purpose of this Act.

3. *Section 30 is amended by adding the following subsections:*

(9) Notwithstanding the provisions of any other Act, a person to whom unpaid wages is due and owing by an employer, shall have first priority over the claims or rights, including the claims or rights of the Crown, of all preferred, ordinary or general creditors of the employer, to the extent of \$2,000.

(10) Every employer shall be deemed to hold vacation pay accruing to an employee in trust for the employee and for payment of the vacation pay over in the manner and at the time provided under this Act and the regulations, and the amount shall be a charge upon the assets of the employer or his estate in his hands or the hands of a trustee and shall have priority over all other claims.

4. *Section 31 is amended:*

(a) *by renumbering the section as subsection (1),*

(b) *by adding the following subsection:*

(2) Any agreement, arrangement or understanding by an employee with an employer or any term or condition of employment implied by law, that results in the whole or any part of the wages of an employee being retained by, returned to or accepted by the employer, either directly or indirectly, is null and void.

Explanatory Notes

1. This Bill will amend R.S.A. 1970 Chapter 196.

2. Determination of employee and employer.

3. Priority of claims.

4. 31. Withholding of wages.

5. *The following new Part is added:*

PART 8

TERMINATION OF EMPLOYMENT

139. This part applies to the Crown, every agency thereof and any Board, Commission, Authority, or Corporation that exercises any functions assigned or delegated to it by the Crown.

140. No employer shall dismiss or suspend an employee upon the ground that garnishment proceedings are or may be taken against an employee.

141. If an activity, business, trade, or undertaking is disposed of, transferred or sold in any manner or amalgamated, whether by agreement, will, instrument, transfer, including transfer of shares, or by operation of law, the period of employment of an employee of the activity, business, trade, or undertaking at the time of such disposition, transfer, sale, or amalgamation, shall be deemed to have been employment with the disposee, transferee, purchaser or amalgamation and the continuity of employment shall not be broken.

142. (1) No employer shall terminate the employment of a person who has been employed for three months or more unless he gives

- (a) one week's notice in writing to the person if his period of employment is two years;
- (c) four weeks' notice in writing to the person if his period of employment is five years or more but less than ten years; and
- (d) eight weeks' notice in writing to the person if his period of employment is ten years or more,

and such notice has expired.

(2) Notwithstanding subsection (1), the notice required by an employer to terminate the employment of fifty or more persons in any period of four weeks or less shall be given in the manner and for the period prescribed in the regulations, and until the expiry of such notice the terminations shall not take effect.

(3) Subsections (1) and (2) do not apply to

- (a) a person employed for a definite term or task;
- (b) a person who is temporarily laid off, as defined in the regulations;
- (c) a person who has been guilty of wilful misconduct or disobedience or wilful neglect of duty that has not been condoned by the employer and has been arbitrated through a grievance procedure established by labour management procedures;

5. 139. Application of part.

140. Garnishment not to be grounds for dismissal.

141. Continuity of employment.

142. Notice of termination.

- (d) a contract of employment that is or has become impossible of performance or is frustrated by a fortuitous or unforeseeable event or circumstance; or
- (e) a person employed in an activity, business, work, trade, occupation or profession, or any part thereof, that is exempted by the regulations.

(4) Where an employer is required to give the notice referred to in subsection (2), he shall co-operate with the Minister during the period of the notice in any action or program intended to facilitate the re-establishment in employment of the persons whose employment is to be terminated.

(5) Where the notice referred to in subsection (1) or (2) has been given

- (a) no employer shall alter the rates of wages or any other term or condition of employment of any person to whom notice has been given; and
- (b) upon the expiry of the notice, the employer shall pay to the person the wages and any unpaid vacation pay to which he is entitled.

(6) Notwithstanding subsections (1) and (2) the employment of a person may be terminated forthwith where the employer gives to the person notice in writing to that effect, and

- (a) pays to the person an amount equal to the wages to which the person would have been entitled for work that would have been performed by him at the regular rate for a normal non-overtime work week for the period of notice prescribed under subsection (1) or the regulations, as the case may be; and
- (b) pays to the person any unpaid vacation pay to which the person is entitled.

(7) Any amount payable under clause (a) of subsection (6) shall be deemed to be unpaid wages for the purposes of this Act.

(8) Where an employer

- (a) fails to give the notice in writing prescribed in subsection (1) or in the regulations, as the case may be;
- (b) fails to pay wages or any vacation pay to which an employee is entitled under clause (b) of subsection (5); or
- (c) fails to pay the moneys, to which an employee is entitled under subsection (6)

the Board may determine the amount or amounts which the employer is entitled to receive and shall take appropriate action in accordance with the powers assigned to it by this Act.

(9) Subject to subsection (10) an employee to whom notice has been given under subsection (2) shall not terminate his employment until after the expiry of

(a) one week's notice in writing to the employer if the period of employment is two years or more.

(10) An employee may terminate his employment forthwith upon notice where his employer has been guilty of a breach of the terms and conditions of employment.

(11) Nothing in this section affects any rights or benefits of an employee under any law, custom, agreement or arrangement that is more favourable to him than his rights or benefits under this section.

(12) The Lieutenant Governor in Council may make regulations respecting any matter or thing necessary or advisable to carry out the intent and purpose of this part regarding the termination of employment, and, without restricting the generality of the foregoing, may make regulations

(a) prescribing the length of notice of termination of employment to be given by an employer or class of employers to a class or classes of employees;

(b) prescribing the length of notice of termination of employment to be given by an employee or class of employees to an employer or class of employers;

(c) prescribing the manner of giving notice of termination of employment and the form and contents of such notice;

(d) defining "temporarily laid off", "termination of employment" and "employment for a definite term or task";

(e) prescribing what constitutes a period of employment; and

(f) exempting any activity, business, work, trade, occupation or profession, or any part thereof from the application of this part dealing with termination of employment.

6. This Act comes into force on the day upon which it is assented to.

6. Effective date.