

1981 BILL 86

Third Session, 19th Legislature, 30 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 86

**EMPLOYMENT STANDARDS AMENDMENT
ACT, 1981 (NO. 2)**

MR. WEISS

First Reading
Second Reading
Committee of the Whole
Third Reading
Royal Assent

Bill 86
Mr. Weiss

BILL 86

1981

EMPLOYMENT STANDARDS AMENDMENT ACT, 1981 (NO. 2)

(Assented to , 1981)

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

1 The Employment Standards Act is amended by this Act.

*2 Section 1(g) is amended by striking out “and” at the end of
subclause (viii) and by adding “and” at the end of subclause (ix)
and by adding the following after subclause (ix):*

*(x) any other day designated by an employer in accordance with
an agreement as a general holiday for his employees;*

3 Section 15 is amended

(a) by renumbering it as section 15(1);

*(b) in subsection (1) by striking out “place in Alberta” and
substituting “place”;*

Explanatory Notes

1 This Bill will amend chapter 62 of the Statutes of Alberta, 1980.

2 Section 1(g) presently reads:

1(1) In this Act

(g) "general holiday" means

(i) New Year's Day,

(ii) Good Friday,

(iii) Victoria Day,

(iv) Dominion Day,

(v) Labour Day,

(vi) Thanksgiving Day,

(vii) Remembrance Day,

(viii) Christmas Day, and

(ix) any other day designated as a general holiday by the Lieutenant Governor in Council under this Act;

3 Section 15 presently reads:

15 An employer may, with the written consent of the Director, maintain employment records in whole or in part at his principal place of business in Alberta or at any other place in Alberta that the Director may designate.

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

(2) A consent under subsection (1) is subject to any terms and conditions that the Director may prescribe.

4 *Section 34 is amended*

(a) *in subsection (1)*

(i) *by striking out “section 35” and substituting “sections 35 and 39.1”, and*

(ii) *by striking out “subsection (2)” and substituting “subsections (2) and (3)”;*

(b) *by repealing subsection (2) and substituting the following:*

(2) The vacation pay payable for each week of vacation to an employee who is paid by the month is an amount equal to the wage of the employee for his normal hours of work in a month divided by 4 1/3.

(3) The vacation pay payable for each 2 weeks of vacation to an employee who is paid other than by the month is an amount equal to 4% of the employee’s wages for the year of employment with respect to which the vacation is given.

5 *The following is added after section 39:*

39.1 If an agreement provides an employee with an annual vacation or vacation pay greater than that provided in this Division, the employer shall give his employee, after each year of employment of the employee, an annual vacation and vacation pay in accordance with that agreement.

6 *Section 43 is amended by adding “or to any greater amount that the employee is entitled to by agreement” after “wage of the employee”.*

7 *Section 46(a) is amended by adding “or, by agreement with his employer, on another day that the employee would have worked after his annual vacation and before his next annual vacation” after “vacation”.*

4 Section 34 presently reads:

34(1) Subject to section 35, an employer shall give to each of his employees, after each year of employment of the employee, an annual vacation of at least 2 weeks with vacation pay calculated in accordance with subsection (2).

(2) The vacation pay payable for each week of vacation shall be calculated as follows:

(a) if an employee is paid by the month, the wage of the employee for his normal hours of work in a month divided by 4-1/3,

(b) if an employee is paid by the hour, day or week, the wage of the employee calculated on the basis of the actual rate of wages for the week preceding the employee's vacation, or

(c) if an employee is paid wholly or partly on a piece work basis or on a commission basis, the average weekly wage of the employee during

(i) his term of employment with the employer, or

(ii) the 12 months preceding his vacation,

whichever is the shorter period.

5 Greater vacation benefits under agreement.

6 Section 43 presently reads:

43 If a general holiday falls on a day that would, but for the general holiday, have been a working day for an employee, and the employee does not work on that day, the employer shall pay the employee, for that day, general holiday pay that is at least equal to the average daily wage of the employee.

7 Section 46 presently reads:

46 If a general holiday falls within the annual vacation of an employee, the employer shall, if the general holiday is one to which the employee

8 *Section 96(2) is amended by striking out “employees” and substituting “employers”.*

9 *The following is added after section 99:*

99.1(1) If the Lieutenant Governor in Council is satisfied that reciprocal provisions will be made by another province of Canada for the enforcement of orders of officers or umpires issued under this Act, he may, by order,

(a) declare the province to be a reciprocating province for the purpose of enforcing orders, certificates or judgments for the payment of wages, overtime pay or entitlements made under an enactment of that province, and

(b) designate an authority within that province as the authority who may make applications or certificates under this section.

(2) If an order, certificate or judgment for the payment of wages, overtime pay or entitlements has been obtained under an enactment of a reciprocating province, the designated authority may apply to the Director to enforce the order, certificate or judgment.

(3) On receiving a copy of the order, certificate or judgment for the payment of wages, overtime pay or entitlements

(a) certified to be a true copy by the court in which the order, certificate or judgment is registered, or

(b) if there is no provision in the reciprocating province for

would have been entitled if he had not been on his annual vacation, give the employee

(a) a holiday on what would have been the first day the employee would have worked after his annual vacation, and

(b) general holiday pay of a sum that is at least equal to the average daily wage of the employee.

8 Section 96(2) presently reads:

(2) With respect to an appeal from a declaration that 2 or more employees or persons are a single employer for the purpose of this Act,

(a) an umpire may, if he is satisfied that a business, undertaking or other activity is carried on or has been carried on by or through more than one employer or person, confirm or vary the order or revoke it and substitute for it a declaration that, for the purposes of this Act, the employers or persons named in the declaration are a single employer, or

(b) the umpire, if he is not satisfied under clause (a), shall revoke the declaration.

9 Reciprocal enforcement of orders from other provinces.

registration of the order, certificate or judgment in a court, certified to be a true copy by the designated authority,

and on being satisfied that the wages, overtime pay or entitlements are still owing, the Director shall file the copy of the order, certificate or judgment with the clerk of the Court of Queen's Bench and the order is then enforceable and has the same priorities as an order of an officer or umpire filed in the Court of Queen's Bench.

10 Section 105 is amended by adding the following after clause (d):

(d.1) contravenes section 68(1) or (2) or a regulation made under section 68(4),

In accordance with section 4(1) of The Interpretation Act, 1980, this Bill comes into force on the date it receives Royal Assent.

10 Section 105 presently reads:

105 An employer, employee or other person who

(a) contravenes or fails to comply with an order, declaration or determination of an umpire,

(b) contravenes or fails to comply with an order, directive, declaration or determination, permit, approval or notice of an officer or a demand of the Director,

(c) delays or obstructs an officer in the exercise of a power or duty given to him under this Act,

(d) requires an employee to work hours in excess of the hours of work permitted under this Act,

(e) falsifies any employment record,

(f) gives any false or misleading information in respect of employment records,

(g) makes a complaint to an officer knowing it to be untrue, or

(h) fails to maintain or retain an employment record required to be maintained and retained under this Act

is guilty of an offence.