

1986 BILL 238

Fourth Session, 20th Legislature, 35 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 238

AN ACT FOR THE PROTECTION OF
VIDEO DISPLAY TERMINAL OPERATORS

MR. STRONG

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 238
Mr. Strong

BILL 238

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AN ACT FOR THE PROTECTION OF VIDEO DISPLAY TERMINAL OPERATORS

(Assented to , 1986)

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

Definitions

1 In this Act,

- (a) “flicker rate” means the rate, measured in Hertz, at which images on the screen of a terminal are refreshed;
- (b) “health” means,
 - (i) the promotion and maintenance of the highest degree of physical, mental and social well-being of workers, in their employment,
 - (ii) the prevention among workers of ill health caused by their working conditions,
 - (iii) the protection of workers in their employment from factors adverse to their health, and
 - (iv) the placing and maintenance of workers in occupational environments which are adapted to their individual physiological and psychological conditions;

- (c) “health effect” means,
- (i) a temporary or permanent deterioration of visual acuity,
 - (ii) a headache,
 - (iii) a burning sensation or other severe discomfort of the eyes,
 - (iv) a muscular or skeletal problem,
 - (v) a change in colour perception, and
 - (vi) such other symptoms as may be defined as health effects by the regulations;
- (d) “officer” means an officer appointed under the *Occupational Health and Safety Act* ;
- (e) “operator” means a person who does any work at a terminal;
- (f) “radiation” includes but is not limited to X-radiation, ultraviolet radiation, microwave radiation, ultrasound, infrared radiation, radio frequencies and electrostatic fields, and “radiation levels” has a corresponding meaning;
- (g) “terminal” includes an electronic video screen data presentation machine, commonly called a video display terminal or cathode ray tube, a plasma screen, and a liquid crystal display, but does not include a television or oscilloscope screen except to the extent that it is used as a terminal for the presentation of data;
- (h) “trade union” means a union as defined in the *Labour Relations Act* that has the status of exclusive bargaining agent under that Act in respect of any bargaining unit or units in a work place and includes an organization representing operators to whom this Act applies where such organization has exclusive bargaining rights under any other Act in respect of the operators.

Crown bound

2 This Act binds the Crown and every agency of the Crown.

Testing

3(1) No person shall sell or lease a terminal in Alberta that has not been,

- (a) tested to show that it does not emit radiation, other than visible light, in excess of the level prescribed by the regulations, and

(b) equipped with radiation shields conforming to the regulations.

(2) Every person selling or leasing a terminal shall deliver a full record of tests conducted in subsection (1)(a) to the purchaser or lessee of the terminal.

Duties of
employer

4(1) No employer shall permit any operator employed by him to work at a terminal unless the following conditions are met:

(a) the terminal is equipped with a detachable or movable keyboard or other device readily adjustable by the operator;

(b) the work station is equipped with a copy holder that is readily adjustable by the operator;

(c) the terminal is located on an adjustable table and the work station is provided with a chair that is readily adjustable for seat and backrest heights, angle and backrest tension by the operator when seated;

(d) the terminal is equipped with brightness and contrast controls that are readily adjustable by the operator;

(e) the terminal has character size and colour conforming to the regulations;

(f) the terminal is equipped with an anti-reflection filter;

(g) artificial and natural lighting in the office in which a terminal is located are readily adjustable, maximizing the use of indirect lighting and minimizing glare;

(h) the terminal is provided with an individual lighting unit equipped with a dimmer switch and readily adjustable by the operator;

(i) the terminal does not have a flicker rate lower than that prescribed by the regulations;

(j) the terminal does not have its primary heat exhausts within 1.5 metres of the position normally occupied by the operator unless there are intervening ducts, walls or insulation;

(k) the terminal is not situated in the same room or divided work area as a printer unless the printer is equipped with acoustic protection so as to reduce noise level to a reasonable level;

(l) the terminal does not emit radiation, other than visible light, at a level exceeding the standard prescribed by the regulations;

- (m) the terminal is equipped with radiation shields conforming to the regulations;
- (n) the terminal shall be equipped with an individual on-off switch controlled by the operator;
- (o) the terminal complies with any further standards prescribed by regulation.

(2) Where a terminal is in operation before the commencement of this Act, the employer shall comply with subsection (1) within 1 year of the day this Act comes into force.

Inspection and maintenance, testing for radiation levels

5(1) Every employer shall, at least once in each 6-month period,

- (a) cause each terminal in his possession to be,
 - (i) inspected and maintained by a qualified person, and
 - (ii) tested for compliance with section 4(1)(l), and
- (b) cause a full lighting survey of all working areas containing terminals to be carried out by a qualified person,

and shall cause full records of all inspections, maintenance, tests and surveys to be kept.

(2) The records kept under subsection (1) and section 3(2) shall be made available to all operators employed by the employer and to any representative selected by the trade union, if any, representing the operators.

Rest and hours of work

6(1) Every employer of an operator shall allow the operator a 15-minute rest period for each hour that the operator works at a terminal and shall not cause or permit the operator to work at a terminal continuously for more than 1 hour.

(2) No employer shall cause or permit an operator to work at a terminal for more than 5 hours in a 24 hour period.

(3) An operator whose contract of employment provides for normal working hours exceeding the maximum permitted by subsection (2) has the right to perform reasonable alternative work without loss of pay, seniority or other benefits during the balance of the normal working hours.

(4) Every employer of an operator shall provide a rest area that is not located adjacent to a terminal.

Pregnancy of operator

7(1) An operator,

(a) who believes she may be pregnant, may, until it has been established that she is not pregnant, subject to subsection (2), or

(b) who provides her employer with the certificate of a legally qualified medical practitioner indicating that she is pregnant may, during her pregnancy,

request not to work at a terminal, without loss of pay, seniority or other benefits, and the employer shall grant the request.

(2) Where an operator requests not to work at a terminal under subsection (1)(a), and does not provide her employer with the certificate referred to in subsection (1)(b) by a day 90 days from the day of her refusal, the employer may require her to resume work at a terminal.

Refusal to work **8** An operator who provides his employer with the certificate of a legally qualified medical practitioner indicating that he suffers from any physical condition that may be caused by operation of a terminal may request not to work at a terminal, without loss of pay, seniority or other benefits, until that terminal has been,

(a) inspected by a qualified person and repaired if necessary;

(b) tested for radiation levels;

(c) shown to comply with section 4(1).

Alternative work **9** Upon an operator's request not to work at a terminal under section 7(1) or section 8, the employer may require him to perform reasonable alternative work.

Eye testing **10(1)** Every employer of an employee shall permit the employee to undergo an ophthalmological examination during working hours without loss of pay before becoming an operator.

(2) Every employer of an operator shall permit the operator to undergo at least 1 ophthalmological examination in each 6-month period during working hours without loss of pay.

(3) The employer shall reimburse an employee or operator for any costs incurred in respect of the ophthalmological examinations which are not covered by the Alberta Health Care Insurance Plan or by a group plan and for any lenses and frames, prescribed for the employee or operator because of or in anticipation of need for work at a terminal.

(4) Where an operator has been assigned to work at a terminal before the commencement of this Act, the employer shall permit the operator to undergo an ophthalmological examination during paid working hours within 90 days of the day this Act comes into force.

(5) No employer shall use the results of ophthalmological examinations to screen prospective employees.

(6) Employees shall be advised of results of each test under this section.

Operator education

11 Every employer of an operator shall,

(a) post a notice that this Act applies to terminal operators at each work station with a terminal and keep a copy of the Act posted at a location accessible to all employees in every place of employment where an employee operates a terminal;

(b) provide the operator with notice of health effects and with information about the means of alleviation of health effects; and

(c) provide the operator with training in the safe operation of terminals.

Limitation of individual monitoring

12 No employer of an operator shall use that operator's terminal to monitor the productivity of that operator on an individual basis.

Health and safety committee

13(1) Every employer of an operator shall establish a health and safety committee consisting of at least 2 persons of whom at least half shall be operators to be selected by the operators they represent or, where there is a trade union or trade unions representing the operators, by the trade union or trade unions.

(2) The health and safety committee shall,

(a) investigate conditions causing health effects in the workplace and make recommendations to the employer for their correction;

(b) participate in the employer's decisions for acquisition of equipment;

(c) investigate, record and communicate to the employer the concerns of operators regarding health effects and working conditions.

Discipline, complaints and arbitration

14(1) No employer or person acting on behalf of an employer shall,

(a) dismiss or threaten to dismiss an operator;

(b) discipline or suspend or threaten to discipline or suspend an operator;

- (c) impose any penalty upon an operator;
- (d) intimidate or coerce an operator,

because the operator has acted in compliance with this Act or the regulations or an order made thereunder or has sought the enforcement of this Act or the regulations.

(2) Where an operator complains that an employer or person acting on behalf of an employer has contravened subsection (1), the operator may either have the matter dealt with by final and binding settlement by arbitration under a collective agreement, if any, or file a complaint with the Alberta Labour Relations Board in which case any regulations governing the practice and procedure of the Board apply, with all necessary modifications, to the complaint.

(3) The Alberta Labour Relations Board may inquire into any complaint filed under subsection (2) and section 21 of the *Labour Relations Act* applies with all necessary modifications, as if such section is enacted in and forms part of this Act.

(4) On an inquiry by the Alberta Labour Relations Board into a complaint filed under subsection (2), sections 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19 and 20 of the *Labour Relations Act* apply, with all necessary modifications.

(5) On an inquiry by the Alberta Labour Relations Board into a complaint filed under subsection (2), the burden of proof that an employer or person acting on behalf of an employer did not act contrary to subsection (1) lies upon the employer or the person acting on behalf of the employer.

(6) The Alberta Labour Relations Board shall exercise jurisdiction under this section on a complaint by a Crown employee that the Crown has contravened subsection (1).

(7) Where on an inquiry by the Alberta Labour Relations Board into a complaint filed under subsection (2), the Board determines that an operator has been discharged or otherwise disciplined by an employer in violation of subsection (1) for cause and the contract of employment or the collective agreement, as the case may be, does not contain a specific penalty for the infraction, the Board may substitute such other penalty for the discharge or discipline as to the Board seems just and reasonable in all the circumstances.

(8) Notwithstanding subsection (2), a person who is subject to a rule or code of discipline under the *Police Act* shall have his complaint in relation to an alleged contravention of subsection (1) dealt with under that Act.

Enforcement, RSA 1980, C. O-2	15 Sections 6, 7, 8, 9, 9.1, 10, 11, 12, 23, 25, 26, 27 and 28 of the <i>Occupational Health and Safety Act</i> apply, with all necessary modifications to the enforcement of this Act.
Offence	16 Every person who contravenes any provision of this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not more than \$25 000.
Regulations	<p>17(1) The Lieutenant Governor in Council may make such regulations for the fulfillment of the purposes of this Act as are advisable to protect the health and safety of operators.</p> <p>(2) Without limiting the generality of subsection (1), the Lieutenant Governor in Council may make regulations,</p> <ul style="list-style-type: none"> (a) prescribing character size and colour to be used in terminals; (b) prescribing specifications for radiation shields to be installed or used in conjunction with terminals; (c) prescribing a minimum flicker rate for terminals; (d) prescribing a maximum radiation level for terminals; (e) respecting the testing of terminals for radiation levels; (f) defining qualified persons; (g) defining health effects; (h) prescribing standards for terminals; (i) authorizing the conducting of comprehensive epidemiological studies of operators and studies of the synergistic effects of exposure to radiation from terminals; (j) authorizing research for the development of improved instruments for radiation analysis, providing that money has been appropriated to that purpose by the Legislature.
Coming into force	18 This Act comes into force on Proclamation.