

1990 BILL 269

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Second Session, 22nd Legislature, 39 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

**BILL 269** 161990

"WHISTLE BLOWER'S" PROTECTION ACT

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MR. McINNIS

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First Reading .....

Second Reading .....

Committee of the Whole .....

Third Reading .....

Royal Assent .....

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Bill 269  
Mr. McInnis

## BILL 269

1990

### "WHISTLE BLOWER'S" PROTECTION ACT

(Assented to \_\_\_\_\_, 1990)

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

1 The purpose of this Act is to protect persons who report pollution violations, complain to the Ombudsman, or who contact Members of the Legislative Assembly.

2(1) *The Legislative Assembly Act is amended by this section.*

(2) *Section 10(2) is amended by adding the following after clause (b):*

(b.1) penalizing, disciplining, dismissing, coercing, intimidating, attempting to; coerce or intimidate any person by reason of the person contacting or attempting to contact a Member.

3(1) *The Ombudsman Act is amended by this section.*

(2) *Section 13 is amended by adding the following at the end of it.*

(3) No person shall dismiss, discipline, penalize, coerce, intimidate, attempt to coerce or attempt to intimidate any complainant because the complainant has written to or otherwise contacted the Ombudsman.

4(1) *The Employment Standards Code is amended by this section.*

(2) *The following is added after section 116.*

## **Explanatory Notes**

1 The purpose of this Act is to protect persons who report pollution violations, complain to the Ombudsman, or who contact Members of the Legislative Assembly.

2 This section will amend chapter 1-10.1 of the Statutes of Alberta, 1983.

3 This section will amend chapter O-7 of the Revised Statutes of Alberta, 1980.

4 This section will amend chapter E 10.2 of the Statutes of Alberta, 1988.

Adds a new section dealing with the protection of workers who comply with the law or who refuse to act in violation of the law.

116.1(1) No employer shall dismiss, discipline, penalize, coerce or intimidate or attempt to coerce or intimidate an employee

(a) because the employee has complied or may comply with any law, including, but not limited to any provision of or regulation under or any order, certificate, licence, permit, or direction pursuant to:

- (i) Hazardous Chemicals Act
- (ii) Oil and Gas Conservation Act
- (iii) Oil Sands Conservation Act
- (iv) Public Health Act
- (v) Special Waste Management Corporation Act
- (vi) Wilderness Areas, Ecological Reserves and Natural Areas Act
- (vii) Clean Air Act
- (viii) Clean Water Act
- (ix) Water Resources Act
- (x) Ombudsman Act
- (xi) Legislative Assembly Act
- (xii) Forests Act
- (xiii) Forest and Prairie Protection Act
- (xiv) Land Surface Conservation and Reclamation Act
- (xv) Mines and Minerals Act
- (xvi) Energy Resources Conservation Act
- (xvii) Public Utilities Board Act
- (xviii) Wildlife Act

(b) because the employee has sought or may seek the enforcement thereof or has given or may give information to the Department of Environment or the appropriate ministry or a Provincial officer or because the worker has been or may be called upon to testify in a proceeding related thereto.

(c) because the employee refuses to do work or operate or cause to be operated any tool, appliance equipment, machinery or process, when the employee has reasonable cause to believe that in doing so the employee would be participating in a violation of those Acts, regulations and other items set forth in section 4.

(2) In a case described in subsection (1)(c),

(a) the employee who refused to carry out work shall forthwith report the circumstances of the pollution violation



to his or her supervisor or employer;

(b) the supervisor or employer shall forthwith investigate the matter and ensure that any pollution violation is remedied without delay or, alternatively, if in the opinion of the supervisor or employer the report is not valid he or she shall so inform the person who made the report;

(c) when the procedure under clause (b) does not resolve the matter, the supervisor or employer shall investigate the matter in the presence of the employee who made the report and in the presence of

(i) an employee representative of the health and safety committee,

(ii) a worker selected by a trade union representing the employee, or

(iii) when there is no health and safety committee or the employee is not represented by a trade union, any reasonably available worker selected by the employee;

(d) when the investigation under paragraph (c) does not resolve the matter, the employee may forthwith notify the Minister of the Environment who shall appoint a person to investigate the matter without undue delay and the Minister shall thereafter issue whatever order he deems necessary;

(3) Loss of pay shall be considered discipline action under this Act and no employee shall lose pay for acting in compliance with an Act or a regulation or an order made by an officer of the Department of Environment, however, temporary assignment to alternative work is not deemed to constitute discipline.

(4) An employee complaining of a contravention of this section or whose complaint has not been satisfactorily resolved pursuant to subsection (2) may forthwith notify an employment standards officer who shall investigate the matter without undue delay and issue whatever order the officer deems necessary.

(5) An officer who is authorized to inquire into the complaint shall make the inquiry forthwith and shall endeavour to effect a settlement of the matter complained of and shall report the results of the inquiry and endeavours to the parties affected.

(6) An officer who investigates a complaint may request that an employee of the Department of Environment participate in the investigation.

(7) An officer who is unable to effect a settlement of the matter complained of may issue an order which has the status and meaning of an order of the Employment Standards Code.