

2019 Bill 26

First Session, 30th Legislature, 68 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 26

FARM FREEDOM AND SAFETY ACT, 2019

THE MINISTER OF AGRICULTURE AND FORESTRY

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 26

2019

FARM FREEDOM AND SAFETY ACT, 2019

(Assented to _____, 2019)

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

Agricultural Operation Practices Act

Amends RSA 2000 cA-7

**1(1) The *Agricultural Operation Practices Act* is amended by
this section.**

**(2) Section 1 is amended by adding the following after clause
(b.7):**

- (b.71) “family member”, in relation to a shareholder, sole proprietor or partner, means
- (i) the spouse or adult interdependent partner of the shareholder, sole proprietor or partner, or
 - (ii) whether by blood, marriage or adoption or by virtue of an adult interdependent relationship, a child, parent, grandparent, sibling, aunt, uncle, niece, nephew or first cousin of the shareholder, sole proprietor or partner or of the shareholder’s, sole proprietor’s or partner’s spouse or adult interdependent partner;
- (b.72) “farming or ranching employer” means the employer of a farming or ranching worker;

Explanatory Notes

Agricultural Operation Practices Act

1(1) Amends chapter A-7 of the Revised Statutes of Alberta 2000.

(2) Adds definitions.

- (b.73) “farming or ranching industry” means an industry listed in Schedule D of the *Workers’ Compensation Regulation* (AR 325/2002);
- (b.74) “farming or ranching operation” means a farming or ranching employer’s operation in a farming or ranching industry;
- (b.75) “farming or ranching worker” means a worker in a farming or ranching industry when working on a farming or ranching operation, but does not include the following persons when working on a farming or ranching operation:
 - (i) a person to whom no wages, as defined in the *Employment Standards Code*, are paid for the performance of farming or ranching work;
 - (ii) a person to whom wages, as defined in the *Employment Standards Code*, are paid for the performance of farming or ranching work and who is
 - (A) a shareholder of a corporation engaged in a farming or ranching operation of which all shareholders are family members of the same family,
 - (B) a family member of a shareholder of a corporation engaged in a farming or ranching operation of which all shareholders are family members of the same family,
 - (C) a family member of a sole proprietor engaged in a farming or ranching operation, or
 - (D) a family member of a partner in a partnership engaged in a farming or ranching operation where all partners are family members of the same family;

(3) The following is added after section 1.1:

(3) Part 0.1, Insurance re Farming and Ranching Workers.

Part 0.1 Insurance re Farming and Ranching Workers

Choice of coverage

1.2(1) A farming or ranching employer must ensure that the farming or ranching workers employed by the farming or ranching employer either

- (a) have private insurance coverage authorized by the regulations, or
- (b) have coverage under the *Workers' Compensation Act*.

(2) Despite subsection (1), this Part does not apply with respect to farming or ranching workers who are employed in a farming or ranching operation, or to a farming or ranching employer while acting in the capacity of employer of those workers, if the operation employs 5 or fewer workers, not including

- (a) family members, and
- (b) farming or ranching workers who are employed by the farming or ranching employer for fewer than 6 consecutive months.

Insurance referral to practice review committee

1.3(1) The Minister may on receipt of a written request from a person or on the Minister's own initiative request consideration as to a farming or ranching employer's compliance with section 1.2 and the regulations under this Part.

(2) A written request under subsection (1) must be in writing and must contain a statement of the nature of the request, the name and address of the applicant, the location of the farming or ranching operation, the name and address of the farming or ranching employer, if known, and the steps taken, if any, to resolve the matter.

(3) The parties to a request under subsection (1) are the applicant, the farming or ranching employer and any other person the Minister considers appropriate.

Regulations

1.4 The Lieutenant Governor in Council may make regulations

- (a) defining any word or expression used in this Part but not defined;
- (b) respecting the private insurance referred to in section 1.2(1)(a), including, but not limited to, the type and amount of insurance required;
- (c) respecting the proof of private insurance referred to in section 1.2(1)(a) and any other information that may or must be provided in respect of this Part.

(4) Section 5(1) and (2) are repealed and the following is substituted:

Practice review committee

5(1) On receipt of a request under section 1.3, an application under section 3 or a referral under section 38.1, the Minister may

- (a) refuse to consider the request, application or referral if, in the Minister's opinion,
 - (i) the subject-matter of the request, application or referral is without merit, frivolous or vexatious,
 - (ii) the subject-matter of the request, application or referral has already been considered by a practice review committee,
 - (iii) the subject-matter of the application or referral is the subject-matter of an enforcement order under section 39, a review being held by the Board under section 41 or an emergency order under section 42.1,
 - (iv) the request, application or referral is not made in good faith, or
 - (v) the applicant or person aggrieved does not have a sufficient connection to the subject-matter of the application,

(4) Section 5(1) and (2) presently read:

5(1) On receipt of an application under section 3 or a referral under section 38.1 the Minister may

- (a) refuse to consider the application or referral if, in the Minister's opinion,*
 - (i) the subject-matter of the application or referral is without merit, frivolous or vexatious,*
 - (i.1) the subject-matter of the application or referral has already been considered by a practice review committee,*
 - (i.2) the subject-matter of the application or referral is the subject-matter of an enforcement order under section 39, a review being held by the Board under section 41 or an emergency order under section 42.1,*
 - (ii) the application or referral is not made in good faith, or*
 - (iii) the applicant or person aggrieved does not have a sufficient connection to the subject-matter of the application,*

or

- (b) appoint 3 persons as an agricultural practice review committee to consider the application or referral, 2 of whom must have experience in the type of farming operation to which the application or referral relates.*

or

- (b) appoint as an agricultural practice review committee to consider the request, application or referral,
 - (i) in the case of a request under section 1.3, up to 3 qualified persons, and
 - (ii) in the case of an application under section 3 or referral under section 38.1, 3 persons, 2 of whom must have experience in the type of farming operation to which the application or referral relates.

(2) One or more practice review committees may exist and consider requests, applications and referrals and mediate at the same time.

(5) Section 8(2) is repealed and the following is substituted:

(2) The practice review committee may inquire into and assist the parties in resolving the matter and, if the matter is not resolved, may recommend to the Minister

- (a) whether a farming or ranching employer is in compliance with section 1.2 and the regulations, or
- (b) what should constitute a generally accepted agricultural practice in respect of an agricultural operation.

(6) This section comes into force on January 31, 2020.

Employment Standards Code

Amends RSA 2000 cE-9

2(1) The *Employment Standards Code* is amended by this section.

(2) Section 2.1 is amended

(a) by repealing subsection (2) and substituting the following:

(2) Despite subsection (1), this Act does not apply to

(2) One or more practice review committees may exist and consider applications and referrals and mediate at the same time.

(5) Section 8(2) presently reads:

(2) The practice review committee may inquire into and assist the parties in resolving the dispute and, if the matter is not resolved, may recommend to the Minister what should constitute a generally accepted agricultural practice in respect of that agricultural operation.

(6) Coming into force.

Employment Standards Code

2(1) Amends chapter E-9 of the Revised Statutes of Alberta 2000.

(2) Section 2.1 presently reads in part:

(2) Despite subsection (1), this Act does not apply to employees described in subsection (3) who are employed in a farming or ranching operation referred to in subsection (4) or to their employer while acting in the capacity of employer of those employees.

- (a) employees described in subsection (3) who are employed in a farming or ranching operation referred to in subsection (4), or to their employer while acting in the capacity of employer of those employees, and
- (b) employees who are employed in a farming or ranching operation referred to in subsection (4), or to their employer while acting in the capacity of employer of those employees, if the operation employs 5 or fewer employees, not including
 - (i) employees described in subsection (3), and
 - (ii) employees who are employed by the employer for fewer than 6 consecutive months.

(b) by repealing subsection (4) and substituting the following:

(4) For the purposes of subsections (1) and (2), an employee is employed in a farming or ranching operation if the employee's employment is directly related to

- (a) the primary production of eggs, milk, grain, seeds, fruit, vegetables, mushrooms, sod, trees, shrubs, plants, honey, livestock, diversified livestock animals within the meaning of the *Livestock Industry Diversification Act*, poultry or bees,
- (b) the primary production of a product referred to in clause (a) in a greenhouse or nursery, or
- (c) any other primary agricultural operation specified in the regulations.

(3) Section 138(1) is amended

(a) by adding the following after clause (a.7):

- (a.8) specifying an operation to be a "primary agricultural operation" for the purpose of section 2.1(4)(c);
- (a.9) further clarifying the phrase "farming or ranching operation" in section 2.1(4) and specifying what does or

(4) For the purposes of subsections (1) and (2) an employee is employed in a farming or ranching operation if the employee's employment is directly related to

(a) the primary production of eggs, milk, grain, seeds, fruit, vegetables, honey, livestock, diversified livestock animals within the meaning of the Livestock Industry Diversification Act, poultry or bees, or

(b) any other primary agricultural operation specified in the regulations.

(3) Adds regulation-making powers.

does not constitute a farming or ranching operation for the purposes of that section;

(b) by repealing clause (l).

(4) This section comes into force on January 31, 2020.

Labour Relations Code

Amends RSA 2000 cL-1

3(1) The *Labour Relations Code* is amended by this section.

(2) Section 1 is amended

(a) in subsection (1)(l) by repealing subclause (iv) and substituting the following:

(iv) a person employed on a farming or ranching operation as determined under subsection (2) whose employment is directly related to the farming or ranching operation;

(b) by repealing subsections (2) and (3) and substituting the following:

(2) For the purposes of subsection (1)(l)(iv), “farming or ranching operation” means, subject to the regulations,

(a) the primary production of eggs, milk, grain, seeds, fruit, vegetables, honey, livestock, diversified livestock animals within the meaning of the *Livestock Industry Diversification Act*, poultry or bees,

(b) an operation that produces cultured fish within the meaning of the *Fisheries (Alberta) Act*, and

(c) any other primary agricultural operation specified in the regulations,

but does not include the operation of a greenhouse, mushroom farm, nursery or sod farm.

- (4) Coming into force.

Labour Relations Code

- 3(1)** Amends chapter L-1 of the Revised Statutes of Alberta 2000.

- (2) Section 1 presently reads in part:

1(1) In this Act,

- (l) “employee” means a person employed to do work who is in receipt of or entitled to wages and includes a dependent contractor, but does not include*
 - (iv) a person employed on a farm or ranch who is a family member of the farm or ranch employer as determined under subsections (2) and (3);*
- (2) For the purposes of subsection (1)(l)(iv), a person is employed on a farm or ranch when the person’s employment is directly related to*
- (a) the primary production of eggs, milk, grain, seeds, fruit, vegetables, honey, livestock, diversified livestock animals within the meaning of the Livestock Industry Diversification Act, poultry or bees, or*
 - (b) any other primary agricultural operation specified in the regulations under the Employment Standards Code.*
- (3) For the purpose of subsection (1)(l)(iv),*
- (a) “farm or ranch employer” means*
 - (i) a corporation engaged in a farming or ranching operation where all shareholders are family members of the same family,*

(3) The Lieutenant Governor in Council may make regulations

- (a) further clarifying the phrase “farming or ranching operation” in subsection (2) and specifying what activities do or do not constitute a farming or ranching operation for the purposes of this Act;
- (b) specifying an operation to be a “primary agricultural operation” for the purpose of subsection (2)(c).

(3) Section 4(2) is amended by adding the following before clause (f):

- (e.1) a person employed on a farming or ranching operation as set out in section 1(1)(l)(iv), or to their employer while the employer is acting in the capacity of their employer;

(4) This section comes into force on the day the Bill to enact the *Farm Freedom and Safety Act, 2019* receives first reading.

Power to amend regulations

4(1) In this section, “regulation” means a regulation authorized by one of the following:

- (a) the *Agricultural Operation Practices Act*;
- (b) the *Employment Standards Code*;
- (c) the *Labour Relations Code*;

- (ii) *a sole proprietor engaged in a farming or ranching operation, and*
- (iii) *a partnership engaged in a farming or ranching operation where all partners are family members of the same family;*
- (b) *“family member”, in relation to a shareholder, sole proprietor or partner referred to in clause (a), means*
 - (i) *the spouse or adult interdependent partner of the shareholder, sole proprietor or partner, or*
 - (ii) *whether by blood, marriage or adoption or by virtue of an adult interdependent relationship, a child, parent, grandparent, sibling, aunt, uncle, niece, nephew or first cousin of the shareholder, sole proprietor or partner or of the shareholder’s, sole proprietor’s or partner’s spouse or adult interdependent partner,*

and includes any other person who is a member of a class of persons designated in the regulations under the Employment Standards Code.

(3) Section 4(2) presently reads in part:

(2) *This Act does not apply to*

- (f) *employees employed in domestic work in a private dwelling or to their employer while the employer is ordinarily resident in the dwelling and acting in the capacity of their employer.*

(4) Coming into force.

4 Power to amend regulations.

(d) the *Occupational Health and Safety Act*;

(e) the *Workers' Compensation Act*.

(2) Where multiple regulations are to be enacted or amended at the same time for the purposes of consistency with or the implementation of this Act, the Lieutenant Governor in Council may enact or amend those regulations notwithstanding that one or more of the regulations was made by a member of the Executive Council.

(3) Nothing in this section authorizes an amendment to a regulation that would not have been authorized by the Act under which the regulation was made.

RECORD OF DEBATE

Stage	Date	Member	From	To
		Questions and Comments	From	To
Stage	Date	Member	From	To
		Questions and Comments	From	To
Stage	Date	Member	From	To
		Questions and Comments	From	To
Stage	Date	Member	From	To
		Questions and Comments	From	To