

2024 Bill 210

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First Session, 31st Legislature, 3 Charles III

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# BILL 210

**EMPLOYMENT STANDARDS (PROTECTING  
WORKERS' TIPS) AMENDMENT ACT, 2024**

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MS GRAY

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First Reading . . . . .

Second Reading . . . . .

Committee of the Whole . . . . .

Third Reading . . . . .

Royal Assent . . . . .

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# BILL 210

2024

## EMPLOYMENT STANDARDS (PROTECTING WORKERS' TIPS) AMENDMENT ACT, 2024

(Assented to \_\_\_\_\_, 2024)

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

### Amends RSA 2000 cE-9

**1 The *Employment Standards Code* is amended by this Act.**

**2 Section 1(1) is amended by adding the following  
immediately after clause (v):**

(v.1) “tip or other gratuity”, with respect to an employee, means  
each of the following:

- (i) a payment that a customer voluntarily provides to the  
employee, or the employer on the employee’s behalf,
  - (A) in relation to the employee’s provision of a service to  
the customer,
  - (B) that is separate from the cost of the service charged by  
the employer, and
  - (C) that a person would reasonably assume the customer  
intended would be kept by or redistributed to the  
employee;
- (ii) a service charge or similar charge that an employer  
requires a customer to pay and which the customer would  
reasonably assume is charged and collected for the sole  
benefit of the employer’s employees;

## Explanatory Notes

**1** Amends chapter E-9 of the Revised Statutes of Alberta 2000.

**2** Section 1(1)(v) presently reads:

*1(1) In this Act,*

*(v) “third party” means a person to whom a Director’s demand is issued, and includes the Crown in right of Alberta;*

- (iii) any other payment prescribed by regulation as a tip or other gratuity;

**3 The following Division is added immediately after section 24:**

**Division 4.1  
Tip or Other Gratuity**

**Definitions**

**24.01** In this Division,

- (a) “pooling agreement” means an agreement between two or more employees that is made in accordance with section 24.04;
- (b) “pooled amount”, in respect of a pooling agreement, means the total amount of tips or other gratuities that are collected and redistributed under the pooling agreement.

**Tip or other gratuity property of employees**

**24.02** Subject to a pooling agreement to which an employee is a party, the tips or other gratuities of the employee are the property of that employee.

**No withholding or treating as wages**

**24.03(1)** Except in accordance with this Division, an enactment of the Legislature or Parliament, or a court order, an employer must not, in respect of an employee’s tips or other gratuities,

- (a) treat those tips or other gratuities as a part of the employee’s wages,
- (b) withhold those tips or other gratuities from the employee,
- (c) deduct any amount from those tips or other gratuities, or
- (d) otherwise require the employee to provide any part of those tips or other gratuities to the employer.

**(2)** If an employer contravenes subsection (1), the amount of the tip or other gratuity described in that subsection is to be considered as

**3** Division 4.1 Tip or Other Gratuity.

- (a) a debt owing from the employer to the employee, and
- (b) enforceable as if it were earnings to which the employee is entitled under this Act.

### **Pooling agreements**

#### **24.04(1)** A pooling agreement

- (a) must be in writing,
  - (b) must include terms that specify
    - (i) whether the employees agree to collect all or only a portion of their respective tips or other gratuities,
    - (ii) if only a portion of their tips or other gratuities is to be collected, the portion to be collected,
    - (iii) the period or periods during which the agreement applies to the employees who are subject to it, and
    - (iv) the manner in which the pooled amount is to be redistributed among the employees who are subject to it,
  - (c) may, if each employee who is subject to the agreement agrees, authorize the employer to, on the employees' behalf, collect and redistribute the employees' tips or other gratuities in accordance with the pooling agreement, and
  - (d) may include the employer as a party to the agreement, but only in accordance with subsection (3).
- (2)** An employee who is a party to a pooling agreement must, as soon as practicable after entering into the agreement, provide a copy of it to the employer.
- (3)** An employer may be a party to a pooling agreement only if
- (a) all the employees who are a party to the agreement agree that the employer may be a party, and
  - (b) the employer performs, to a substantial degree, the same work performed by



- (i) some or all of the employees who are a party to the pooling agreement, or
- (ii) employees of other employers who work in the same industry and are customarily provided tips or other gratuities during the course of their work.

**4 The following is added immediately after section 138(1)(a.7):**

- (a.71) for the purpose of the definition in section 1(1)(v.1), prescribing a payment as a tip or other gratuity;

**4** Section 138(1)(a.7) presently reads:

*138(1) The Lieutenant Governor in Council may make regulations*

*(a.7) restricting the meaning of “employee”, including regulations providing that an individual who is a member of a described class of individuals is not an employee;*





