

Bill 6

- Amendment:
 - On December 1, 2015, the government announced it would introduce an amendment to clarify the application of these new rules. The amendment does not fundamentally alter the bill, the expansion of rights thereunder or the workers covered by the new regime. It merely expressly states the intention to regulate only employment relationships and commercial farm activities or work.
 - It confirms that obligations under labour and employment legislation will only apply to farms with one or more paid employees, leaving family farms to operate as they always have. Where there are no paid employees, Bill 6 will not create any new obligations for WCB, OHS or employment standards compliance. Family members are free to continue teaching their children to farm and carrying on their duties as a community of helpers.
- Bill 6, the *Enhanced Protection for Farm and Ranch Workers Act*, was introduced on November 17, 2015. It amends four pieces of legislation to remove the sections formerly excluding farm workers.
- Bill 6 will mean that basic rights and protections are expanded to farm workers on the following timelines:
 - Occupational Health and Safety Act (and regulations) effective January 1, 2016
 - Workers' Compensation, effective January 1, 2016
 - Labour Relations, effective spring 2016
 - Employment Standards, effective spring 2016
 - Occupational Health and Safety Code (technical requirements), effective in 2017
- Bill 6 only covers farm workers. That is to say, employees on a farm. It does not create additional obligations with regard to family members or those community members lending a quick hand. The bill creates minimum standards for worker equality, access to labour rights and occupational health and safety expectations for those working on a farm.
 - OHS protections will apply to all paid or unpaid workers, but other legislative protection will not apply to anyone who is not in an employment relationship.
- Bill 6 only applies to farming work. In other words, typical household activities that occur on family farms do not trigger any obligations under Bill 6. Children can still help paint fences, tend to the backyard vegetable garden and fully participate in all their typical household chores. Any work that is done on a farm that is non-commercial is not considered farm work as per Bill 6 and can continue to be done as it has always been done on each individual farmstead.
- Bill 6 extends the rights that all other workers in Alberta currently have to farm workers. It will allow inspections and investigations when workers are injured, it will allow employees to refuse unsafe work, and it will require owner/operators to provide proper training and safety equipment

to their employees. It will allow employees the option to engage in collective activities in accordance with their constitutional right to freedom of association, but it will not mandate any such organization. It will expand WCB protection so that injured workers are compensated and farm owners/operators are not sued for amounts that could bankrupt their family business.

- Technical rules and regulations will be developed in consultation with the farm and ranching industry in the following year in order to encompass the specific needs of farming operations.
 - For example, specific provisions might be developed to ensure that employment standards protections around hours of work, overtime and overtime pay, holidays and general holiday pay, vacations and vacation pay, restrictions on employment of children and minimum wage are applied fairly but comprehensively on farms around certain times of year (calving or harvesting time, for example).
 - Exceptions are currently carved out in Bill 6 for the OHS Code (the technical rules) so that the government can consult and develop the rules to come into effect in January 2017, which will allow changes to the Code so that it is better equipped to handle the unique workplaces of farms and ranches. The Code will be amended again in about a year to bring farming and ranching fully under the rules.
 - In the meantime, the provisions of the OHS Act still apply (right to refuse, general duty), but not the Code while consultations are under way to come up with a set of technical rules for farming and ranching.
 - Furthermore, employment standards rules around the employment of youth including parental consent, supervision, limited approved occupations and restricted hours of work for children will be created in consultation with Albertans and affected employers.
- WCB will cover anyone who does farming work on a farm, even if it's unpaid. (For example, if a farmer with WCB coverage gets his cousin from the farm next door to come help with branding for a few hours and she is injured while she's helping with the branding, she will be covered under his WCB.) In other words, Bill 6 does not in any way prevent farmers and friends from helping one another in the typical community spirit of rural Alberta.
 - Workers include any people working on the farm who are not business owners, e.g., full-time and part-time employees and any subcontractors who do not have their own WCB coverage.
- Owner/operators can opt in to WCB coverage for themselves, though they are not obligated to. There is a grace period up to April for owner/operators to sign up for WCB, but the workers themselves will be covered immediately on January 1.
- Currently, there are no exceptions built into Bill 6, so all employees working on farms and ranches across Alberta will be covered. However, in other provinces, often the technical rules or regulations guide the application of employment and labour rights to the realities of farming life.
 - In Manitoba, family farms are excluded from full mandatory WCB coverage through regulations to the Act. Family farms are defined in regulation (see below for full definition).
 - Similarly, in British Columbia, the technical rules and policies are set out in the OHS Code and in regulations as they apply to workers' compensation. While there is no blanket exclusion for family farms, the formulation of these rules allows for specific measures applying to different types of farms or agricultural operations, so that the framework reflects the needs and characteristics of the wide range of farming work that exists while maintaining a basic level of protection for farm worker safety, rights and wellbeing.
- The government has launched an online survey which can be filled out here:
<https://extranet.gov.ab.ca/opinio6/s?s=28168>

Background Basics

- WCB estimates that mandatory WCB premiums pursuant to Bill 6 will only cost farmers between \$850 and \$1,485 per year per employee.
- Alberta remains the only place in Canada that excludes agriculture workers from employment standards, health and safety legislation and the right to unionize.
- Agricultural workers are exempt from most of the basic employment protections all other Albertans take for granted. These workers have:
 - No basic employment protections, such as minimum wage, limits on hours of work, rest breaks, overtime or statutory holiday pay;
 - No health and safety protection;
 - Right to refuse, right to be informed of hazards, right to protective equipment, right to training on the use of hazardous materials or machinery
 - No WCB when they get injured; and
 - No right to unionize.
- The exemption dates back to a time when farming in the province was markedly different, consisting mainly of smaller scale family farms. Today, farming is a big industry, dominated by corporate-owned, large-scale monopolies conglomerates. As the size and type of operations has changed and as the duties and equipment of workers has changed, the exemption is no longer relevant.
- Farms today are businesses that employ Albertans to do dangerous and physically difficult work. These workers need WCB and OHS coverage, not just for accidents which do happen, but also to reflect the reality that, like all other employees who do primarily physical work, they are vulnerable to wear-and-tear injuries over time, affecting their ability to continue working and earning. We would not accept the exemption of a rig driller, firefighter or nurse, who also do physical work.
- The only reason it has been extended this long is the strong influence of powerful interests over PC politicians.
- The AFL continues to urge the inclusion of all workers under the Occupational Health and Safety Act, Workers' Compensation Act, Employment Standards Code and Labour Code as the only equitable course of action.
- In 2008, after investigating the workplace death of Kevan Chandler, Justice Peter Barley recommended that farm workers be included in Alberta's legislation to prevent future workplace injuries and deaths.
- Justice Barley, wrote in his report, "No logical explanation was given as to why paid employees on a farm are not covered by the same workplace legislation as non-farm employees."
- Farm work can also be precarious and low paid, meaning the protection of Employment Standards or Labour Code provisions is equally important for these workers.

The Numbers

Fatalities, Injuries and WCB Coverage

- There are approximately 60,000 paid and unpaid workers on Alberta farms.
- Since 1997, there have been 331 farm fatalities. None of these have been investigated by Occupational Health and Safety.
- There 25 farm fatalities last year and 112 since Justice Barley's fatality inquiry report. For the past 25 years, the annual number ranges from the high teens to mid-20s, and the average is 18.

- Agriculture ranks as Canada's third most hazardous industry.
- In British Columbia, since 1993 when mandatory WCB coverage was introduced, there have been 67 per cent fewer farm deaths, 53 per cent fewer injuries on farms and 41 per cent fewer serious injuries.
- Since 2009, when Manitoba introduced mandatory WCB coverage for farm workers, the number of annual fatalities has decreased from seven to three (or by 57 per cent).
- About 1,400 of Alberta's 40,000 farms already have voluntary WCB coverage, covering approximately 7.5% of paid farm workers.
- For farms with voluntary WCB coverage, there were 125 injury claims in 2015 to date and 140 in 2014. Over the past five years, the average per year is 115 claims. Roughly half of these are lost time claims. Of these, the most common types of injury, in order, are: falls, struck by object, assaults/violent acts/harassment, contact with objects and equipment and overexertion.

Farms

- Farms of 1120 or more acres comprised 26.4 per cent of all farms. These farms employed 52.9 per cent of all paid workers and were responsible for 59.4 per cent of all weeks of paid work. The largest category of farms (≥ 2880 acres) comprised only 8.9 per cent of all farms, but employed 28.9 per cent of all paid workers and was responsible for 37.6 per cent of all weeks of paid work.
- Farms with gross annual receipts above \$250,000 comprised 20.0 per cent of farms. These farms employed 67.3 per cent of all paid workers and accounted for 81.2 per cent of all weeks of paid work. The largest category of farms ($\geq \$2$ million) comprised only 1.8 per cent of farms but employed 21.5 per cent of all paid workers and accounted for 33.0% of all weeks of paid work. These farms employed an average of 10.4 workers each.
- These figures suggest an increasing consolidation of farms into large-scale operations, as well as an increasing concentration of paid, full-time employees working on large, corporate farms as opposed to a multitude of smaller, family-owned farms.
- Of farm fatalities each year, about 70 per cent are machinery-related (roll-overs, run-downs, caught in machine, collisions, pinned by machinery). Drowning, contact with animals and falls account for most of the rest. About 2 per cent of fatalities are caused by asphyxiation by grain or soil.
 - (This does not account for illnesses developed through continuous exposure to chemicals, dusts, and other substances on farms.)
- Nearly 20 per cent of farm fatalities in Alberta are children.
- There were 61 fatalities involving minors on Alberta farms between 1997 and 2013. Requiring farms to adhere to OHS standards for their employees would also reduce the risk of injury to everyone. The causes broadly mirror national data on child farm deaths:
 - Machine runovers: 41.9 per cent
 - Drownings: 15.2 per cent
 - Machine rollovers: 11.1 per cent
 - Animal-related: 6.5 per cent
 - Crushed under an object: 5.1 per cent
- Canada's agricultural industry has among the highest fatality rates of any Canadian occupation.
- Farm workers face a heightened risk of various kinds of cancer, including melanoma, non-Hodgkin's lymphoma, leukemia, and multiple myeloma, as well as brain, cervical, esophageal, oral, prostate, and stomach cancers.

Legislative Changes

- Including farm workers in Employment Standards does not add significantly to a family farm's financial or administrative burden. The number of workers they employ is small, and often for restricted periods of time.
- Much of the protection under the Code is about rest periods, days off and eligibility for unpaid leave. These are not hard costs, where the farmer pays out of pocket.
- However, some provinces have instituted exemptions for very small, family-owned and operated farms in order to balance protecting workers and protecting family farms.
- These exemptions, if built into legislation, must be narrowly drafted to ensure that they do not create loopholes vulnerable to exploitation of larger or corporate-owned farms.
- The presumption should always be in favour of coverage of all statutes (WCB, OHS, Employment Standards and Labour Code) with the onus on the employer to prove that an exemption from WCB coverage is necessary.
- Manitoba requires mandatory WCB coverage for most farms, with exemptions only for family-owned farms. Optional coverage is available for these farms, designed specifically for the needs of small, family farms. Manitoba also includes farm workers under OHS protections.
- Since 2009, when Manitoba introduced mandatory WCB coverage for farm workers, the number of annual fatalities has decreased from seven to three.
- In Manitoba, regulations exempt farms that are owned or operated by the farmer, by a family farm corporation — being a corporation (i) that is primarily engaged in the business of farming, (ii) that is under the control, in fact, of the farmer, a family member of the farmer or any combination of them, and (iii) of which a majority of the issued and outstanding shares of each class of shares are legally and beneficially owned by the farmer, a family member of the farmer or any combination of them.
- Family members are defined as:
 - Family member, in relation to a farmer, means:
 - (a) a spouse or common-law partner of the farmer;
 - (b) a child of the farmer or a child of the farmer's spouse or common-law partner;
 - (c) a parent of the farmer or a spouse or common-law partner of the parent;
 - (d) a brother, sister, step-brother, step-sister, uncle, aunt, nephew, niece, grandchild or grandparent of the farmer or of the farmer's spouse or common-law partner;
 - (e) a parent of the farmer's spouse or common-law partner;
 - (f) a current or former foster parent of the farmer or of the farmer's spouse or common-law partner;
 - (g) a current or former foster child, ward or guardian of the farmer or of the farmer's spouse or common-law partner;
 - (h) the spouse or common-law partner of a person mentioned in any of items (d) to (g); and
 - (i) any other person whom the farmer considers to be like a close relative, whether or not they are related by blood, adoption, marriage or common-law relationship.
- In BC, farm workers have coverage under employment standards, health and safety and workers' compensation legislation. WCB coverage was granted in 1972 and specific regulations for health and safety of farm workers were introduced in 1993. The Workplace Hazardous Materials Information System (WHMIS) was also extended to agriculture. In 2004, WorkSafeBC issued new regulations (effective January 1, 2005) that removed the last distinctions between farm workers and the majority of other BC workers, incorporating agriculture into general health

and safety regulations. All farm workers are presumed to be included unless the Board itself orders an exemption.

- However, rights to statutory holiday pay and annual vacations are reduced for farm workers who are paid hourly and rights to minimum hours to be paid are also reduced for workers who are transported to their farms by their employers. Farm workers are excluded from rights to overtime pay.
- There are special rules that apply to specific things like transportation of farm workers, those who work in confined spaces, personal protective equipment, and specific farm hazards, like pesticides. There are significant portions of the health and safety regulations that protect farm workers.