

**Executive Summary**  
**Alberta Federation of Labour**  
**Submission to the Employment Standards Review**  
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# Introduction

The Alberta Federation of Labour is pleased to offer a comprehensive analysis and set of recommendations to the Employment Standards Review process.

The Employment Standards Code has not been substantively revised for 26 years. In that time, women have tripled their presence in the workforce. Hundreds of thousands of Temporary Foreign Workers have come to Alberta to work. Part-time work in the service sector, particularly in the restaurant, hospitality, and retail industries has exploded. It is time for Alberta to update its basic rules around employment to reflect economic and social reality.

Our full report follows the Discussion Guide and provides a full analysis of the issues identified in the Discussion Guide. Our analysis forms the basis of reasonable and gradual changes to Employment Standards in Alberta. We wish to underline that our recommendations form the basis of a **starting point** for better standards for Alberta workers. We can, and should, continue to build on these basic standards for better and more productive workplaces.

For brevity, we've organized our recommendations into a summary below.

## 1. End secretive, behind-closed-doors decisions about the Minimum Wage and end the special rules for friends and insiders

### Minimum Wage – take out the politics

The minimum wage should be tied to increases should be enshrined in Regulation for increases every year on April 1 – no excuses.

### Permits – No more special rules for friends and insiders

There have been no substantive changes to Employment Standards since the 1980s but plenty has changed behind closed doors. Employers can get a permit for almost anything– child labour, breaking minimum wage rules, or denying workers breaks or overtime. There should be one set of rules for everyone and no special treatment.

## 2. End discrimination against domestic workers, farm workers, and people with disabilities

### Domestic workers

Domestic workers – also referred to as “nannies” – should have the same rights as anyone else. These workers are very vulnerable to exploitation and abuse. Basic protections are the least we can do for people who do some of the world’s most important work: caring for children.

### Farm workers

Alberta is the only province in Canada where rural farm workers are not protected under *Employment Standards*. People who work at feedlots and industrial farming operations don't have

the same rights to minimum wage, breaks, overtime, and other basic protections. It's time for Alberta to end the discrimination and the national embarrassment, and include farm and ranch workers in Employment Standards laws.

## **People with disabilities**

There should be no exception for workers with disabilities – a worker is a worker. End the exceptions and let no employer pay people with disabilities less than the minimum wage. It's a human rights issue and embarrassing for our province.

### **3. Get tough on employers who abuse Temporary Foreign Workers**

#### **Make sure employers aren't using TFWs to drive down wages and working conditions**

The AFL has advocated for Temporary Foreign Workers in our province for a decade. In that time, we've seen every kind of abuse imaginable: failing to pay agreed-upon wages or overtime, appalling housing, and unscrupulous recruiters and employment agencies, and employers outright lying to TFWs if they complain about their wages or working conditions.

Alberta can do far more to protect Temporary Foreign Workers, and the example we should follow is in Manitoba.

Every employer who hires a TFW should be registered with Employment Standards. Inspectors should be able to conduct proactive, unannounced inspections of TFW housing arrangements. Inspectors should have the resources to do spot checks of pay stubs, overtime, and other basic entitlements. Inspections should also be empowered to interview TFWs to ensure they know their rights.

We also need reform to employment agencies. Alberta has very lax rules around these agencies, and we constantly hear stories about TFWs being lied to and ripped off by people looking to make a fast buck off TFWs who just want to work for a better life. Employment agencies should be strictly regulated: they should be registered with ES, they should have to post a surety of at least \$10,000 with Employment Standards, should be subject to spot-checks by inspectors, and should be outlawed from charging for "settlement services" – a loophole they've exploited to get around Alberta's lax rules.

Whenever an employer gets away with cheating a Temporary Foreign Worker, it makes it ever-more attractive to hire a TFW instead of a Canadian citizen or permanent resident who may not be afraid to advocate for themselves. Alberta's lax enforcement of rules protecting Temporary Foreign Workers makes the playing field unfair for all of us, displaces Canadian workers, and drives down wages and working conditions for everyone.

## 4. Enforce the rules and punish employers who try to cheat the system

### Ticketing

Alberta's Employment Standards inspectors should be able to issue tickets to employers who break the rules. It's an easier and simpler way to make sure everyone is following the basics on pay, overtime and breaks. Right now, if an employer breaks the rules they usually get away with it, unless a worker initiates a complaint and goes through a long process. Ticketing would make the process faster, simpler, and fairer.

### Inspections

Even if there is good reason to believe an employer is breaking the rules (such as media reports), an Employment Standards officer cannot do anything about it unless an employee makes a complaint. We should give inspectors the power to conduct unannounced, proactive inspections. Employers who don't break the rules will welcome it – it will level the playing field and make sure no one gets an unfair advantage by exploiting workers.

### Fines and prosecutions

There are not enough consequences for employers who break the rules. We need tougher fines for the worst offenders to make sure no one profits off cheating the system.

## 5. Fairness for people who work in restaurant, retail, and hospitality industries

### Illegal deductions

We need clearer rules for service and retail staff about uniform deductions, dine-and-dash funds, and deductions for other losses (breakage, etc). Right now, service industry workers are left at the mercy of employers, and the rules are murky and unenforceable. Let's clear up the confusion and end illegal deductions.

### Clear rules for tips

Tips belong to servers, not to employers who take them and give them to back-of-the-house staff so they don't have to pay their kitchen staff a decent wage. It's a blatant cashgrab and it happens all the time. The solution is simple: a one-sentence addition to the law that states that tips belong to the server. Period.

### End the two-tier minimum wage

Service industry staff deserve the same minimum wage as everyone else. The two-tier minimum wage is abused by employers all the time – people who have never touched alcohol in establishments that never serve it, or minors, even – are being paid the lower minimum wage.

With no enforcement, there's no incentive for employers to follow the rules on the two-tier minimum wage.

The two-tier "alcohol server" minimum wage is a cashgrab by many service employers, it's a bad experiment gone wrong, and the Alberta government should abolish it.

## 6. End the confusion on stat pay and overtime

### Statutory holiday pay

Alberta's rules around statutory holidays are confusing and difficult to understand. Workers are often cheated out of statutory holiday pay, either due to honest mistakes or employers deliberately bending the rules.

The rules should be clear. The best way is to do what Saskatchewan has done: everyone gets stat pay. No more service eligibility requirements or bizarre "usual day of work" calculations. It's an easy fix to a complicated problem.

### Overtime

Alberta has lax overtime laws, but Albertans work harder and longer than anyone in Canada. Our overtime laws should reflect how hard we work.

We should keep the maximum of 12 hours a day and standard work hours of 8 hours per day. This is the best way to make sure we are safe on the job. We should also ensure employees get at least 9 hours between shifts, as adequate sleep is proven to be the biggest factor in workplace accidents.

We should harmonize Alberta's weekly hours with most of Canada and lower weekly hours to 40 hours, from 44, provide for double time for work over 12 hours per day or 50 hours per week.

Alberta should make it legal for workers to refuse overtime, similar to Saskatchewan.

## 7. End – don't expand – child labour in Alberta

Alberta has been the unfortunate home to child labour experiments since 2005, when the government allowed children as young as 12 to work in restaurants and retail. It appears that the province is now looking to expand the number of jobs 12-14 year olds can do, including handling hazardous cleaning materials and more work in restaurants and retail establishments.

We believe all mainstream work for 12-14 year olds should be against the law. Babysitting and paper routes are appropriate, but anything more than that introduces a level of stress, workplace hazards and interference with school that is not appropriate for adolescents.

Alberta should also introduce a special program of required training for 15-17 year old workers and conduct random spot-checks of employers in industries that hire young workers.

## Recognize we are all juggling work and family

### Maternity and paternal leave

Alberta has some of the stingiest maternity and parental leave rules in Canada. We need to up our game if we want to make sure we can compete in the global economy, where workers are recognized as having family responsibilities.

At the very least, Alberta should adjust our language so that women on maternity leave don't lose their benefits, we should waive restrictions on leave for pregnancy and birth complications, and we should get in line with many other province and over the number of weeks required for eligibility for maternity or parental leave.

### Other leaves

Alberta hasn't had a major change to its Employment Standards since the 1980s and it shows. We should amend our Employment Standards Code to reflect the fact that everyone is juggling work and family, and no one should lose their job due to circumstances they cannot control.

Alberta should allow for the following leaves from work:

- Emergency Leave of five days per year, which can be accumulated for three years.
- Bereavement leave of five days when a close family member dies.
- Sick leave of at least five days per year when the employee has to miss work due to a minor illness, which can be accumulated for three years.
- Critically ill child leave when the employee's child is critically ill.
- Death or disappearance of a child as a result of crime leave.
- Citizenship leave to attend the employee's citizenship ceremony.
- Organ donor leave when the employee donates an organ.

## 8. Level the playing field for women and young workers

### Outlaw gender-based wage discrimination

When we look at Employment Standards across Canada, we find that Alberta sticks out in all the wrong ways. Alberta is one of only four provinces without a direct prohibition on gender-based wage discrimination.

It should be a no-brainer that men and women are paid the same for the same job, but we see in many cases this is not reality.

The Employment Standards Code should be amended to prohibit gender-based wage discrimination and there should be enforceable remedies if wage discrimination is found. The complaint process must be clearer and easier than the current Human Rights Code process, which is difficult for workers to access. The right place for making sure men and women earn the same wage for the same job is in the Employment Standards Code.

## Rules for interns

Employers are starting to use unpaid and low-paid internships at an alarming rate. They're a way for employers to exploit young people that are graduating with crushing student debt into an uncertain labour market, where they find fewer full-time jobs with benefits and a proliferation of precarious, part-time work. The Baby Boomer generation never had to contend with this kind of labour market, and it's reality for a great many young people.

There have been high-profile cases of internship exploitation in Alberta, and it is clear our murky, ill-defined rules allow plenty of space for unscrupulous employers to get away with cheating young people out of wages, breaks, overtime, and maximum hours of work/rest between shifts.

The changes are simple and have already been made in other provinces: simply insert a definition of "intern" in the Act, and make it so that there is no distinction between work an intern does and any other worker. This way, an intern is entitled to at least minimum wage and maximum hours of work, breaks and overtime. A definition of a "practicum" as something that is "for school credit" and therefore not "work" would also be helpful for post-secondary institutions and those with whom they partner.

Respectfully submitted,

**THE ALBERTA FEDERATION OF LABOUR**

