

April 18, 2017

Hon. Christina Gray
Minister of Labour
Government of Alberta
107 Legislature Building
10800 97 Avenue
Edmonton, AB T5K 2B6

Dear Minister:

The Alberta Hotel & Lodging Association (AHLA) represents over 840 hotels, which employ some 30,000 Albertans. We appreciate the opportunity to provide input on changes proposed to Alberta's Employment Standards Code.

Tourism has the potential to be a key economic driver in Alberta. It is an \$8 billion industry that supports 19,000 businesses and employs more than 127,000 people across the province. The AHLA is pleased to be a partner in Alberta Culture and Tourism's goal of growing tourism revenue to \$10 billion by 2020.

Unlike products created in the agriculture, forestry, and petroleum industries, Alberta's tourism product is not shipped to customers around the world. Our customers come to us, bringing billions to the provincial economy. Environmentally sustainable and economically resilient, tourism is one of the fastest growing sectors in the world. The growth of tourism and leisure markets is a bright spot for our provincial economy, which has helped to buoy a hospitality industry that is also closely tied to travel for business, including the oil & gas sector.

Alberta's hospitality industry is as diverse as the guests it serves. Business levels and guest expectations are constantly changing, demanding that hotels and tourism businesses respond accordingly. From rustic lodges to budget motels to luxury hotels, secure and satisfied employees are essential to the success of any business. In the hotel business, this means having staff available 24 hours per day, 7 days a week, 365 days per year. It also means that in almost all operations, employees are required around the clock, whether or not there are guests:

- High guest demand can create peak periods that can last from a few hours to a few months.
- Low guest demand can create quiet periods that can last from a few hours, to a few months.
- One area of a hotel can be busy at the same time that another area is quiet.

The AHLA has reviewed the proposed changes and has a number of observations and recommendations on their economic and operational impacts. These are based on the nature of the hospitality industry, which relies on people to provide accommodation, meals, and a satisfying guest experience.

Promoting Family Friendly Workplaces

The AHLA recognizes the importance of work-life balance and encourages hoteliers to ensure they respect this balance in their day to day operations. Our members recognize that from time to time, critical and unanticipated situations emerge where employees need to take time to care for their families. We believe the vast majority of these situations are already accommodated by employers through the flexible scheduling the hospitality industry offers.

The flexibility offered by hospitality industry makes it attractive to students, single parents, and mature workers. Layering on additional legislation will reduce the flexibility that employees, particularly millennials, want and expect from their employers. In 2016, 281 hotels representing 38% of guest rooms and 44% of accommodation industry employees responded to the AHLA's annual wage survey. 85% of respondents indicated that they offer flexible scheduling.

Aligning Job Protection for Unpaid Leaves with Federal EI Benefits

The AHLA supports requiring employers to protect the employee's job during the waiting period for maternity, parental, and compassionate care benefits. The AHLA does not support aligning job protection for unpaid leaves with federal Employment Insurance benefits.

Unpaid Job-Protected Leave for Parents of Critically Ill or Injured Children

The AHLA recommends a 90-day qualification period for unpaid job-protected leave for parents of critically ill or injured children.

Earned Sick Leave

Legislating earned sick days for hourly employees will significantly alter the employer-employee relationship. It will increase costs for employers who are already challenged by the significant increases that have been announced for Alberta's minimum wage. Unlike work performed by most salaried workers, the work done by most hourly workers will not wait until they return to work. In February 2017, one hotel with 400 employees had 300 hours of sick time. Presently, employers accommodate hourly workers who are sick by adjusting the schedule as needed to give them the time they need to recuperate.

The AHLA is unequivocally opposed to legislating earned sick days. We believe this will create a culture of entitlement and incent absenteeism. Earned sick days will result in increased:

- Absenteeism,
- Overtime & payroll costs,
- Administration of employee sick time,
- Employee health benefits costs, and
- WCB premiums.

The current practice of allowing a sick employee to trade shifts with a colleague and stay home to get well does not require further intervention. If earned sick days are legislated, employers will expect absent employees to provide notes from doctors, especially if they suspect sick days are not being used for the purpose intended. This will result in employees having to sit in waiting rooms and pay out of their own pockets to get a doctor's note. We expect this would also increase the demands on emergency rooms that are already overburdened and the entire health care system.

Maternity, Parental, and Compassionate Care Leaves

The AHLA believes that the qualifying period for Maternity and Parental Leaves should be no less than 26 weeks. The AHLA supports reducing the qualification period for Compassionate Care Leaves to 90 days.

Notice Requirements for Compassionate Care Leave

The AHLA recommends requiring a medical certificate and notice of leave as soon as possible for the commencement of compassionate care leave, and recommends that employees be required to provide two weeks' notice before returning to work.

Work schedules are typically established two weeks prior to the first day of the schedule. Requiring employers to schedule an employee who is returning from leave with little or no notice would unfairly result in lost hours for other employees. A two week notice period would not prohibit employers from scheduling an employee who wanted to return earlier, if they are able to do so without negatively impacting other staff members.

Unpaid, Job-Protected Leaves for Family Responsibilities or Personal Emergencies

The AHLA recognizes that people may need time off from work for a wide variety of reasons. The amount of time needed can depend on the person and their circumstances. Legislating a specified amount of leave is an inflexible approach to what is often a fluid situation. These situations can be accommodated for valued employees by flexible scheduling.

The AHLA believes that when an employee needs time off, they should be able to work with their employer to find a mutually agreeable solution based on the unique

circumstances involved. If additional unpaid, job-protected leaves are added to the Employment Standards Code, government should:

- Limit these to employees who have completed their 90 day probationary period, and
- Clearly define how employees qualify for the leave, the length of time permitted, and supporting documentation required.

Guests expect to be served regardless of whether an employee is on a job-protected leave. These positions need to be filled, and short-term positions can be costly and difficult to hire for. If employers are unable to fill these positions, they may have to operate short-handed which may result in lower levels of customer service, increased overtime, and a greater risk of accidents and associated health care and WCB costs.

Modernizing & Simplifying Existing Standards

Banked Overtime

The current policy gives employees the choice of whether they want to be paid the regular overtime rate, or take a day off with pay. Changing this would significantly increase costs and discourage employers from offering the flexibility that employees want. The AHLA opposes increasing banked overtime to 1:1.5, and believes that extensions to the allowable period to bank overtime should be permitted by mutual agreement between the employer and the employee.

Compressed Work Weeks

In the hospitality industry, where shifts and workdays can be irregular, a compressed work week provides flexibility to both the employer and the employee. The AHLA recommends that overtime be calculated after every 88 hours over a two week cycle. This would align with most payroll periods.

Rest Periods

The AHLA believes that breaks are important, particularly in the hospitality industry where friendly and efficient service is essential. The nature of positions such as front desk agent, where the employee may be the only staff member on duty, can make taking a formal break unworkable. The AHLA recommends that the government continue to allow exceptions for urgent work, accidents, unforeseeable circumstances, or if it is not reasonable for an employee to take a break.

Average Daily Wage Calculation

The AHLA recommends changing the average daily wage to the employee's wages earned in the 28 day period immediately preceding the general holiday pay, divided by the days worked.

Deductions from Wages

The AHLA recommends no change to the existing legislation.

Regular/Irregular Work Days & Eligibility for Holiday Pay

Irregular hours and days of work are the norm in the hospitality industry, where staffing levels are based on guest demand. The AHLA believes that those who work on the holiday, and those for whom the holiday falls on a regular work day, should be entitled to holiday pay. The cost of paying all employees their average daily wage or providing a day off with pay would be enormous, as shown by actual revenues and wages at two hotels on the 2017 Family Day holiday.

Family Day labour costs: <i>150 room hotel with restaurant, <50 employees:</i>	Current Formula, current wages	Proposed Formula, current wages
Operating revenue	\$10,840	\$10,840
Wages paid, net of benefits & deductions	\$4,280	\$6,220
Wage cost	40%	57%
<i>300 room full service hotel, >300 employees:</i>		
Operating Revenue	\$24,205	\$24,205
Wages paid, net of benefits & deductions	\$26,500	\$37,100
Wage cost	109%	153%
<i>100 room rooms only hotel, <30 employees:</i>		
Operating Revenue	\$4,220	\$4,220
Wages paid, net of benefits & deductions	\$1,750	\$3,172
Wage cost	41%	75%

Over a year of statutory holidays, this works out to an additional \$20,000 for the first property, over \$125,000 for the second property, and \$12,800 for the third property at current wage levels. These costs will escalate as minimum wage increases to \$15 per hour. Eliminating the regular/irregular work day distinction will not only have crippling financial impacts, but will also cause employers to hire fewer people, especially those who want part time or casual work.

The AHLA strongly recommends maintaining the regular/irregular work day distinction for statutory holidays, and reducing the eligibility requirement to 90 days of employment with the same employer.

Youth Employment

Current legislation defines Adolescents as 12-14 years of age, though the survey refers to Young Workers as 13-15 years of age. The AHLA believes that allowing 12-14 year olds to legally enter the labour market helps them develop basic life and employment skills and build networks outside of school and home. Properly trained and supervised, all positions listed under Non-Hazardous Jobs for Youth could be

appropriate, and would enable adolescents to learn job skills and start earning income. When Alberta's economy recovers, these employees will be needed in the labour market.

The AHLA recommends allowing those 12 – 14 to work legally. We encourage the government to implement a lower minimum wage for all workers under the age of 16, as these individuals are new to the job market and require more training and supervision than older employees. The planned \$15/hour minimum wage will discourage many hotels from hiring adolescents and young workers.

Group Termination Notice & Graduated Notice Requirements

The AHLA recommends no changes be made to the existing legislation.

Enforcement & Administration

Administrative Penalties

The AHLA supports a system of one warning followed by progressive penalties for employers who incur multiple infractions for the same or similar violation over a given period of time. An employer who incurs infractions should have their record re-set if they have no infractions after five years. The implementation of administrative penalties must be preceded by a comprehensive industry campaign to educate employers about their obligations under the Employment Standards Code and must include a fair and reasonable appeal process.

Permits

Establishing criteria for the Director of Employment Standards will restrict their ability to apply their judgement in special circumstances. The AHLA supports allowing the Director to use their discretion for unique work situations. The Auditor General should have the authority to review permits issued by the Director to assure that such permits do not create undesirable exceptions to minimum standards and make recommendations as appropriate.

Options for Enforcement Tools

The AHLA supports all options proposed in this section, with the exception of:

- Extending the time period for employees to file complaints, and
- Extending the time period to recover earnings from an employer.

The implementation of new or enhanced enforcement tools should be preceded by a comprehensive industry-wide campaign to educate employers about the Employment Standards Code.

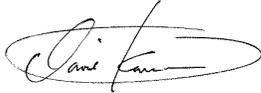
The AHLA is deeply concerned that the online survey did not indicate the financial and operational implications of the proposed changes. We hope you will contemplate these as you review the Employment Standards Code.

Some of the changes proposed will result in dramatic cost increases for employers who are already struggling to cope with the mandated increases to Alberta's minimum wage in a severe economic downturn. The consequences will be:

- Increased unemployment,
- Reduced compensation and/or benefits,
- Reduced service levels and higher costs to visitors,
- Outright closure of businesses that are struggling to remain afloat in the current economy, and
- Less investment in Alberta's economy.

The AHLA believes the Employment Standards Code needs to be win-win for employees and employers alike. Employees need businesses to be successful if they want to have employment. Employers need good employees to make their businesses successful. If one side loses, in the end, both sides will lose. We ask that the workplace legislation consultation be extended to allow government to give thorough consideration to all of the impacts of the changes being considered.

Yours truly,



Dave Kaiser, CHA
President & CEO

- cc. Hon. Deron Bilous, Minister of Economic Development & Trade
Hon. Joe Ceci, President of Treasury Board and Minister of Finance
Hon. Ricardo Miranda, Minister of Culture & Tourism
Mr. Glenn van Dijken, MLA, Barrhead-Morinville-Westlock
Mr. Richard Gotfried, MLA, Calgary-Fish Creek