

November 15, 2019

Ministry of Labour

Via email: childemployment@gov.bc.ca



Submission on Employment Standards Regulations for Children

Thank you for the opportunity to provide feedback on employment standards for children and youth in BC.

We were pleased to see government act on our previous recommendation to raise the formal work start age and bring BC's legislation and regulation into alignment with international standards last spring. Our many years of advocacy on this issue is informed by our research and belief that children and youth have the right to be protected from exploitation and injury.

First Call strongly recommends the Ministry of Labour take an evidence-based approach to establishing employment regulations aimed to reduce the number of accidents and injuries to minors.

Since 2004, BC has had very few regulations in place overseeing the employment of children. We can see from WorkSafeBC data since then, where and how children and youth are getting injured at work. This data provides a road map for a regulatory framework.

We refer you to our submission to the Law Institutes Review of Employment Standards and Minister Bains in August 2018¹ and to their subsequent report² supporting both the principle of greater protections and many of our specific recommendations. We also suggest that findings in our report *Child Labour is No Accident: The Experience of BC's Working Children*³ provides a useful starting place to read about the experiences of under 15s who have been injured on the job.

We know that cognitive development (in addition to physical strength) is a primary consideration in determining safe tasks and work environments for minors. It is well established that children and young workers are far less likely to identify unsafe work or conditions, challenge authority figures about their concerns, and speak up or report their concerns to an external authority. These are universal characteristics that inform state and international laws against child labour – and the rationale for establishing minimum ages that protect the greatest number of children rather than the impossible task of evaluating each individual child's capacity.

We note that the current rules do not prevent the type of casual work (occasional baby-sitting, refereeing in amateur youth sports, paid household chores, etc.) common among adolescents and children. This type of work is not regulated by the Employment Standards Act and we are not suggesting that it should be.

We recognize that youth benefit from age appropriate and safe work opportunities. We also know that it is our job through legislation, regulation and enforcing a culture of health and safety in the workplace, to protect them from exploitation and injury that occurs when the rules are insufficient.

putting children and youth first

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¹ First Call Child Employment Standards Recommendations, August 2018 https://firstcallbc.org/wordpress/wp-content/uploads/2018/07/First-Call-Child-Employment-Standards-Policy-Recommendations-FINAL-Aug_31_18.docx.pdf

² BCLI Report on the Employment Standards Act 2018 <https://www.bcli.org/publication/report-on-the-employment-standards-act-2>

³ <https://firstcallbc.org/wordpress/wp-content/uploads/2015/08/Child-Labour-Is-No-Accident-FirstCall-2013-05.pdf>

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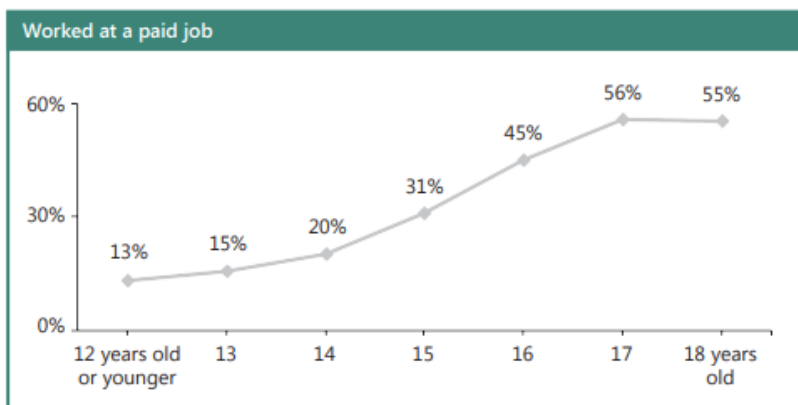
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Background

Children and Youth Are Working

The most recent McCreary BC Adolescent Health Survey⁴ (2018 data) collected information from over 38,000 young people aged 12–19 in 58 of BC’s 60 school districts. According to the findings, a third (33%) of students had worked at a paid job during the school year.

“This was an increase from 29% in 2013 but lower than a decade earlier (41%). In 2018, 9% worked less than 5 hours a week, 13% worked 5 to 12 hours, 9% worked 13 to 20 hours, and 3% worked in excess of 20 hours a week. Older students were more likely than younger ones to have been employed and to have worked more than 20 hours a week. For example, 8% of 18-year-olds worked 21 or more hours a week, compared to 3% of 16-year-olds and 1% of 14-year-olds.”



Note: The difference between 17- and 18-year-olds was not statistically significant.

WorkSafeBC Data

Each year, First Call requests data from WorkSafeBC on the number of accepted claims for under 15s injured on the job. We can see consistent patterns, year-over-year.⁵

Top five sectors with the highest number of accepted disability claims for under 15s⁶:

1. Sector 72 - Construction
2. Sector 71 - Manufacturing
3. Sector 74 - Trade
4. Sector 76 - Service
5. Sector 70 - Primary Resources

Top five sectors with the highest number of accepted health care claims for under 15s⁷:

1. Sector 76 – Service
2. Sector 74 – Trade
3. Sector 72 – Construction
4. Sector 71 – Manufacturing
5. Sector 70 – Primary Resources

⁴ *Balance and Connection in BC: The health and well-being of our youth*, McCreary Centre Society https://www.mcs.bc.ca/about_bcahs

⁵ Claims cost statistics for ages 15 & under, by sector, 2007-2017, and Counts of accepted claims for ages 15 and under, 2007-2017 WorkSafeBC https://firstcallbc.org/wordpress/wp-content/uploads/2018/07/claim_costs_ages_15_under_bysector_2007-2017_25APR18.pdf, https://firstcallbc.org/wordpress/wp-content/uploads/2019/05/counts_ages_15_under_2007-2017_13APR18.pdf

⁶ WorkSafeBC

⁷ WorkSafeBC

Injury Hospitalization Data

Injury Hospitalization data tells us that youth between the ages of 15 – 19 died of injuries sustained in the following “places of occurrence” since 2001. This data does not indicate whether or not the deceased was employed at the location of injury however patterns in types of injuries illustrates hazards related to those locations. The number of deaths recorded in the following table are suppressed as they are less than five per year.

Year	Types of Injuries	Place of Occurrence	Number of Deaths
2001	Multiple injury Poisoning/toxic effects Traumatic amputation	Trade and service area Industrial and construction area	*
2002	Poisoning/toxic effects	Trade and service area	*
2003	Asphyxia/strangulation	Industrial and construction area	*
2005	Poisoning/toxic effects Crushing injury Fracture Multiple injury	Trade and service area Industrial and construction area	*
2006	Multiple injury	Industrial and construction area	*
2008	Asphyxia/strangulation Effect of foreign body entering orifice Multiple injury Poisoning/toxic effects	Trade and service area Industrial and construction area Farm	*
2009	Crushing injury Multiple injury	Industrial and construction area Farm	*
2010	Complication of medical or surgical care Early complication of trauma Intracranial injury	Trade and service area Industrial and construction area	*
2011	Multiple injury Open wound Poisoning/toxic effects	Trade and service area Industrial and construction area	*
2012	Multiple injury	Industrial and construction area	*
2014	Multiple injury	Industrial and construction area	*

Source: Injury Data Online Tool, November 14, 2019 | * represents number less than 5 | years with 0 deaths not included in table

Recommendations

General

Acceptable ‘light work’ and the conditions of work, including tasks and workplaces, should not threaten the health and safety, or hinder the education of children (12-13) and younger adolescents (14-15).

- Limits should be placed in both regulations and in the permitting process on the time-of-day for work, appropriate to age groups. For example, late night and over-night work shifts should be prohibited for all those under 16.
- The employment of all children and youth under the age of 16 should require the consent of a parent or guardian.

Work Hours and Time of Day

Hours of work and during what times of the day are important factors work conditions.

12-13-Year-Olds

- The restrictions on hours of work for 12 and 13-year-olds should be specified in conditions set out in the permit by an employment standards officer but should not exceed the minimum standard for younger adolescents (14-15-year-olds).

14–15-Year-Olds

For a younger adolescent (14-15), the minimum standard should be the following:

- No work on a school day during scheduled school hours.
- No longer than 2 hours on a school day
- No longer than 5 hours on a non-school day
- Only between the hours of 6 am and 9 pm on any day
- A maximum of 20 hours a week when there is a school day
- A maximum of 25 hours a week when there is no school day

Acceptable Light Work and Tasks

While employment at service and retail sector locations may not seem hazardous, tasks required in those workplaces may be unsuitable for a child or youth.

12-13-Year-Olds

- We recommend that permit applications for 12-13-year-olds should require that potential employers conduct and submit a hazard/risk assessment, list of proposed tasks, and a supervision and training plan to assist the ESB in considering whether or not the worksite and occupation is safe. The Government of Alberta developed a hazard assessment form⁸ for the employment of youth that may be a useful reference.
- Allowable tasks and work conditions set in permits for the employment of 12-13-year-olds should not exceed the minimum standard for younger adolescents (14-15-year-olds).

14-15-Year-Olds

The list of safe, acceptable light work should not include tasks more likely to result in burns, cuts, falls, getting hit by falling objects (concussion), fractures and muscle strain.

- We recommend the following tasks be prohibited to youth in this age group at all work sites
 - working at heights
 - operating commercial industrial machinery and vehicles or work where this equipment is used
 - operating deep fryers, commercial cutting or slicing machinery, and other dangerous equipment or near where this equipment is used, and
 - working with chemical cleaners or other toxic substances
 - work in an auto repair garage or automotive service station
 - work in areas where smoking is permitted
 - work in industries where the production of goods or services cannot be legally purchased or consumed by a minor (e.g. the production and/or sale of cannabis, alcohol or tobacco products, in bars or clubs that restrict entry to over 19, and in the production, sale or distribution of pornography)
- We recommend the Ministry undertake additional research on acceptable ‘light work’ lists in other jurisdiction including California’s Child Labor Regulations⁹.

⁸ Youth employment laws - Employees under 18 years old have specific rules under Alberta’s laws
<https://www.alberta.ca/youth-employment-laws.aspx#toc-5>

⁹ Title 29: Labor Part 570—Child Labor Regulations, Orders and Statements of Interpretation Subpart C—Employment of Minors Between 14 and 16 Years of Age (Child Labor Reg. 3)

- In addition, we recommend the Ministry review potential conflicts with the Ministry of Education’s Youth Work in Trades program¹⁰ and ensure standards are consistent.

Hazardous Workplaces Off-limits to Everyone Under 19

Hazardous work should be defined by injury data and standards set out in the International Labour Organization’s R190 - Worst Forms of Child Labour Recommendation, 1999 (No. 190)

II. Hazardous work

3. In determining the types of work referred to under Article 3(d) of the Convention, and in identifying where they exist, consideration should be given, inter alia, to:

- (a) work which exposes children to physical, psychological or sexual abuse;*
- (b) work underground, under water, at dangerous heights or in confined spaces;*
- (c) work with dangerous machinery, equipment and tools, or which involves the manual handling or transport of heavy loads;*
- (d) work in an unhealthy environment which may, for example, expose children to hazardous substances, agents or processes, or to temperatures, noise levels, or vibrations damaging to their health;*
- (e) work under particularly difficult conditions such as work for long hours or during the night or work where the child is unreasonably confined to the premises of the employer.*

4. For the types of work referred to under Article 3(d) of the Convention and Paragraph 3 above, national laws or regulations or the competent authority could, after consultation with the workers' and employers' organizations concerned, authorize employment or work as from the age of 16 on condition that the health, safety and morals of the children concerned are fully protected, and that the children have received adequate specific instruction or vocational training in the relevant branch of activity.

The decision about which workplaces are hazardous should be informed by data from WorkSafeBC on the frequency and severity of accepted injury claims submitted by under 19s, by national data and by the ILO’s definitions of hazardous work.

- Based on the number and severity of serious injury claims, we recommend that construction, manufacturing, industrial and primary resource sector work sites including forestry be off-limits to those under 18 as is the case in most other jurisdictions in North America.

Mandatory Supervision

- In the case of all minors, direct and immediate supervision must be provided at all times by someone who is not less than 19 years of age.
- A supervisor must not be expected to supervise more than five younger or older adolescents at any one time. Note that direct and immediate supervision means within sight and sound distance.

Establish an Advisory Committee

- For the purpose of developing the regulations needed to implement the recommended changes to BC’s child labour regime, First Call proposes the Minister of Labour appoint an advisory committee that includes at least three young people (under 25, with work experience) to ensure their perspective informs the decision-making about such things as the types of hazards that would make a workplace unsafe for young people and

https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=cd5b63c7dc9a46a852421b38682d68cb&mc=true&n=sp29.3.570.c&r=SUBPART&ty=HTML#se29.3.570_133

¹⁰ BC Graduation Program Policy Guide July 2019 <https://www2.gov.bc.ca/assets/gov/education/kindergarten-to-grade-12/support/graduation/graduation-policy-guide.pdf>

common ways young people are exploited by their employers. The committee could include a number of persons nominated by external parties.

Training Requirements

Our research indicates that one-off training is not effective at mitigating the risk of injury to children and youth in the workplace. A culture of ongoing training, supervision and vigilance is needed to reduce accidents and injuries.

- WorkSafeBC should take immediate measures to enforce the training requirements for new and young workers and make it paid time.

Enforcement

- WorkSafeBC should ensure that appropriate orders and fines are levied when employers are found not to be in compliance with the training requirements for new and young workers.
- WorkSafeBC should undertake a study to identify those industries where workers under the age of 15 are more likely employed and to develop targeted strategies to educate employers in those groups of the risks and requirements for young workers.

Record Keeping

- The employer of a child should keep a copy of applicable permits at the place where the child works.
- As part of the employer’s regular (usually quarterly) reporting to WorkSafeBC, the employer must report the number of workers employed that are under 19.

Monitoring and Reporting

- WorkSafeBC should change its reporting and include injury, disability, health costs and other statistics on all people working in BC, including children under 15.

Ministry of Labour Survey Questions

Family-owned Businesses

The ownership of a business is not a factor in determining the safety or suitability of a workplace for that employs children and youth. If the nature of the work or workplace is not safe and suitable for a child, then it is not safe and suitable for anyone’s child.

- We recommend that government exempt light work tasks, as defined including maximum work hours and limits on times of day regarding the employment of 14 and 15-year-olds. The permitting process for 12 and 13-year-olds should not set standards lower than those for the employment of 14 and 15-year-olds.

The nature of the work, the workplace and data about associated risks that should inform regulations.

Agriculture Sector

In general, no one industry or sector of the economy should be granted weaker rules or exemptions. Again, we urge government to look at the evidence in BC and across Canada. Our research indicates that two teenagers sustained

fatal injuries on farms in BC over the past ten years. Please see our response under hazardous work. Across Canada, the number of children killed and injured on farms¹¹ indicates there is a significant risk related to employment.

“Agriculture is unique in that children and the elderly sustain significant numbers of severe work-related injuries.”

Canadian Agricultural Injury Report 2016

¹¹ Canadian Agricultural Injury Reporting (CAIR), 2016 <https://www.cair-sbac.ca/wp-content/uploads/2017/02/CASA-CAIR-Report-English-FINAL-Web.pdf>

According to the Canadian Agricultural Injury Report, *Agriculture-Related Fatalities in Canada 2016* the leading causes of death on farms include machine rollovers, machine runovers and machine entanglements, being struck by an animal or an object, drownings (mainly in children), falls from height, and exposure to toxic substances.

The modern commercial farm bears more resemblance to an industrial worksite than to a nostalgic family-run enterprise.

- For these reasons, we recommend that the employment of all those under 16 on farms be restricted to tasks, hours and locations that do not include exposure to pesticides, operating machinery including conveyer belts, working on or near farm vehicles, and working at heights.
- We recommend that government develop a list of safe, light work tasks specific to farms as well as maximum work hours and limits on times of day with respect to the employment of 14 and 15-year-olds. The permitting process for 12 and 13-year-olds should not set standards lower than those for the employment of 14 and 15-year-olds.
- Health and safety regulations including those that oversee transportation to and from worksites must be strictly enforced.

Babysitting

Babysitting usually refers to casual work caring for children during short periods of parental absence. We believe that with suitable training (e.g. the Canadian Red Cross babysitting course) and maturity, babysitting is an acceptable form of casual employment for those under 15. Babysitting should not be conflated with care giving for adults or with the provision of ongoing childcare – employment that should be undertaken by adults and not exempt from employment standards.

Refereeing, Coaching and Camp Counseling

In the course of our research over the past fifteen years, we have not seen a pattern of injury or exploitation or heard reports from young people about negative experiences refereeing or coaching children's amateur sports or as camp counsellors. Of course, health and safety should be the upmost concern at all activities organized for children and youth whether they are participants, volunteers or receiving a stipend/honorarium in a leadership role. We don't see a substantive difference between youth participating in these activities and youth participating as referees for a nominal fee (stipend) that is not based on an hourly rate of compensation or regular wage.

Thank you for the opportunity to respond. We are happy to participate in further consultations on regulations for the employment of children and youth.

Sincerely,



Adrienne Montani
Provincial Coordinator