

What's Happening to Our Children?
A Look at Child Work-Related Injury Claims in BC
Over the Past 10 Years

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Introduction

In 2003, the Government of British Columbia passed Bill 37 amending the *Employment Standards Act* and eliminating the requirement for employers to obtain a permit to employ children between the ages of 12 and 14. These amendments also removed the role of the Employment Standards Branch (in the Ministry of Labour) in predetermining the suitability of a work-site for a child employee in the same age group. A permit is still required to employ a child under the age of 12.

The new legislation requires only that children under 15 years have written permission from one parent or guardian in order to be employed at a particular workplace. These amendments established BC as the jurisdiction with the youngest work start age in North America, and in effect, placed parents in charge of determining work-site safety.¹

In 2003, child and youth advocates expressed concerns about these changes. Specifically they were worried that the changes would:

- a) leave children vulnerable to economic exploitation;
- b) increase pressure on them to assist with earning household income;
- c) increase the number of work-related injuries; and
- d) interfere with their ability to finish high school.

In order to determine if these concerns were justified, this paper set out to examine how many children under 15 years of age are in the workforce and whether the numbers have changed since the new law came into effect. Challenges related to gathering this data required an indirect approach: obtaining WorkSafeBC's accepted work-related injury claims for these age groups.

While the data examined here does not provide a conclusive estimate of the number of children working, it does reveal a disturbing, documented, and quantifiable trend: the number of accepted work-related injury claims for children between the ages of 12 and 14 has been steadily climbing since 2005.

This paper examines the specific concerns about work-related injuries that arose in the larger task of reviewing other concerns about the legislation.

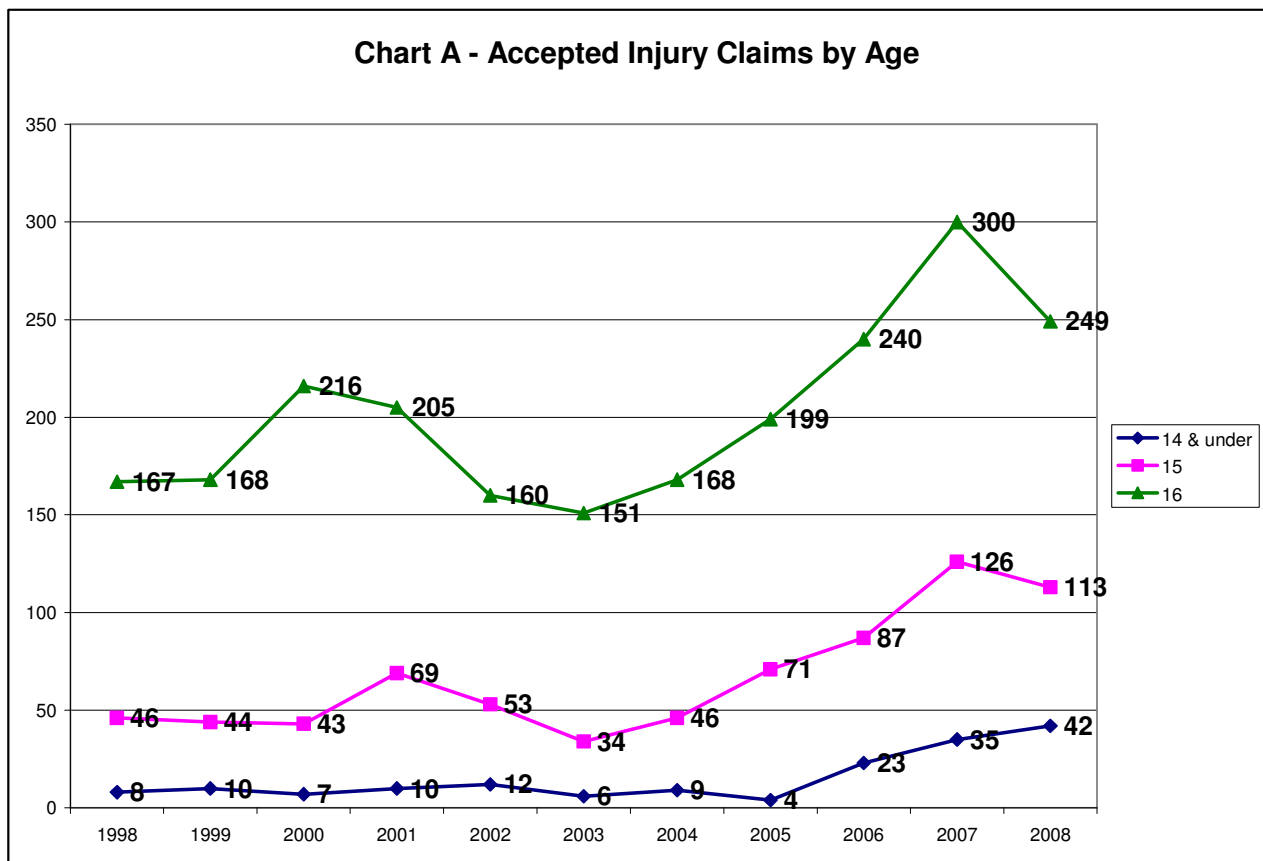
The data was provided by WorkSafeBC and covers a period of eleven years between 1998 and 2008. This period spans the six years leading up to the change in employment standards and the five years since. It should be noted that while the legislative amendments were passed at the end of 2003, they did not come into effect until 2004.

In examining the data, the goal was to identify what changes, if any, have occurred within the age group specifically affected by the legislation, namely children under the age of 15. For comparative purposes, data on 15- and 16-year-olds was also examined because in each year 14-year-olds "age" into the older group and reviewing trends within older age groups is relevant to understanding how children in BC have been affected by the legislative change.

Key Findings

- Prior to 2005, accepted injury claims for all age groups (14 and under, 15, and 16-years-old) fluctuated between 1998 and 2004. No particular trend was visible.
- Beginning in 2004, a year after the law was changed, accepted injury claims began to increase in all age groups.
- While the number of accepted claims for 15- and 16-year-olds dropped in 2008, injury claims for children under 15 continued to increase into 2008.
- For all age groups, injury claims were significantly higher after 2005 than they were at any time previous.

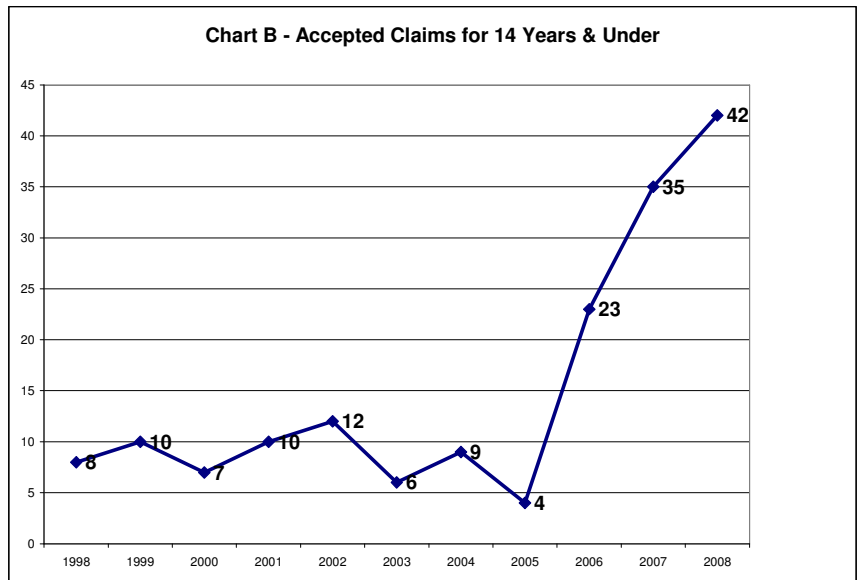
The following graph illustrates the trend in accepted workplace injury claims for children under sixteen over a ten-year period.



Of particular concern is the increasing number of accepted injury claims for children under 14 over the past ten years.

In 2005, WorkSafeBC accepted 4 claims for job-related injuries to children under the age of 14.

In contrast, claims for 42 children in the same age group were accepted in 2008. This represents a ten-fold increase in claims over a four-year period.



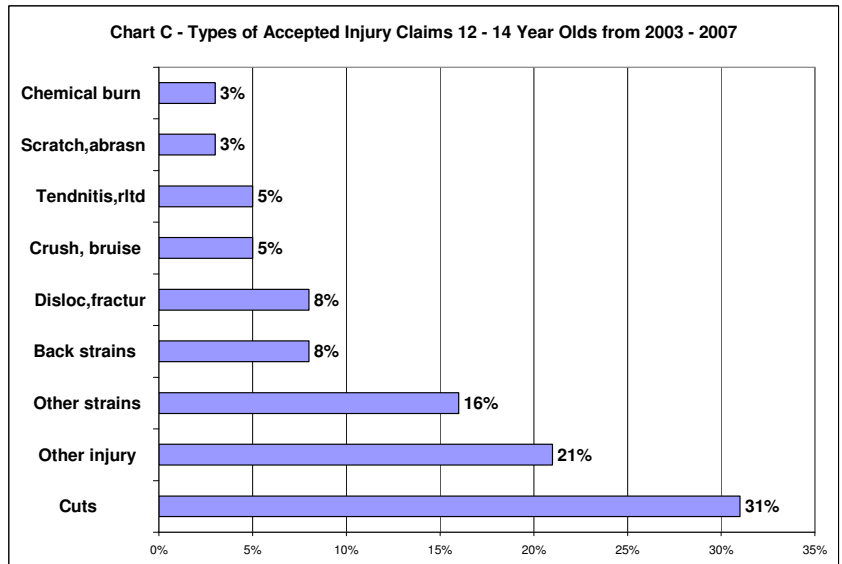
Types of Injuries Children are Sustaining

Information on the types of injuries children are sustaining at work is provided by WorkSafeBC and covers a four-year period between 2003 and 2007. Details about the injuries sustained in the 'other' categories were not provided.

12 – 14-Year-Olds

The top five categories of injury were:

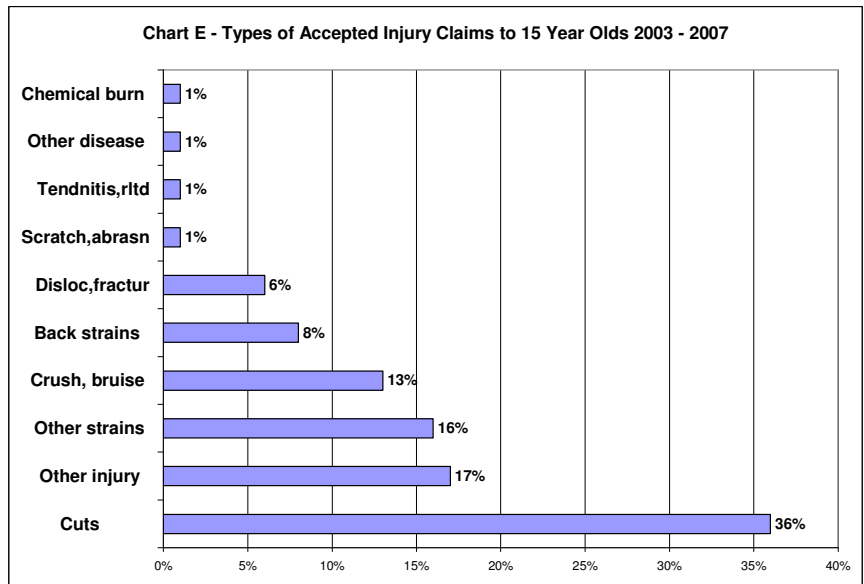
1. Cuts (24)
2. Other injury (16)
3. Other strains (12)
4. Back strains (6)
5. Dislocations and Fractures (6)



15-Year-Olds

The top five categories of injury for 15-year-olds were:

1. Cuts (129)
2. Other injury (62)
3. Other strains (60)
4. Crush and bruises (48)
5. Back strains (30)



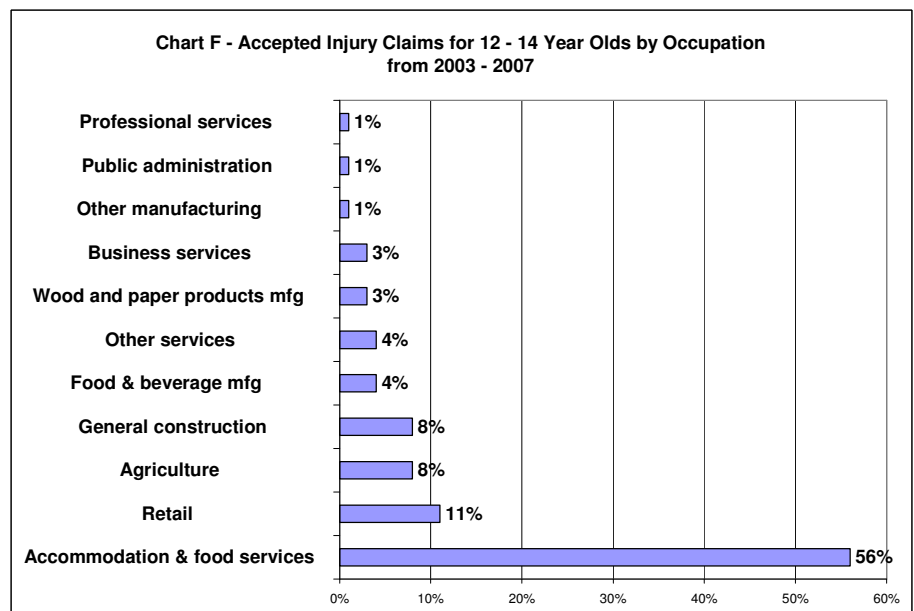
Occupations

12 – 14-Year-Olds

Over the period from 2003 to 2007, injury claims were accepted for 12 to 14-year-olds in the occupations listed.

The top five categories for occupational injury were:

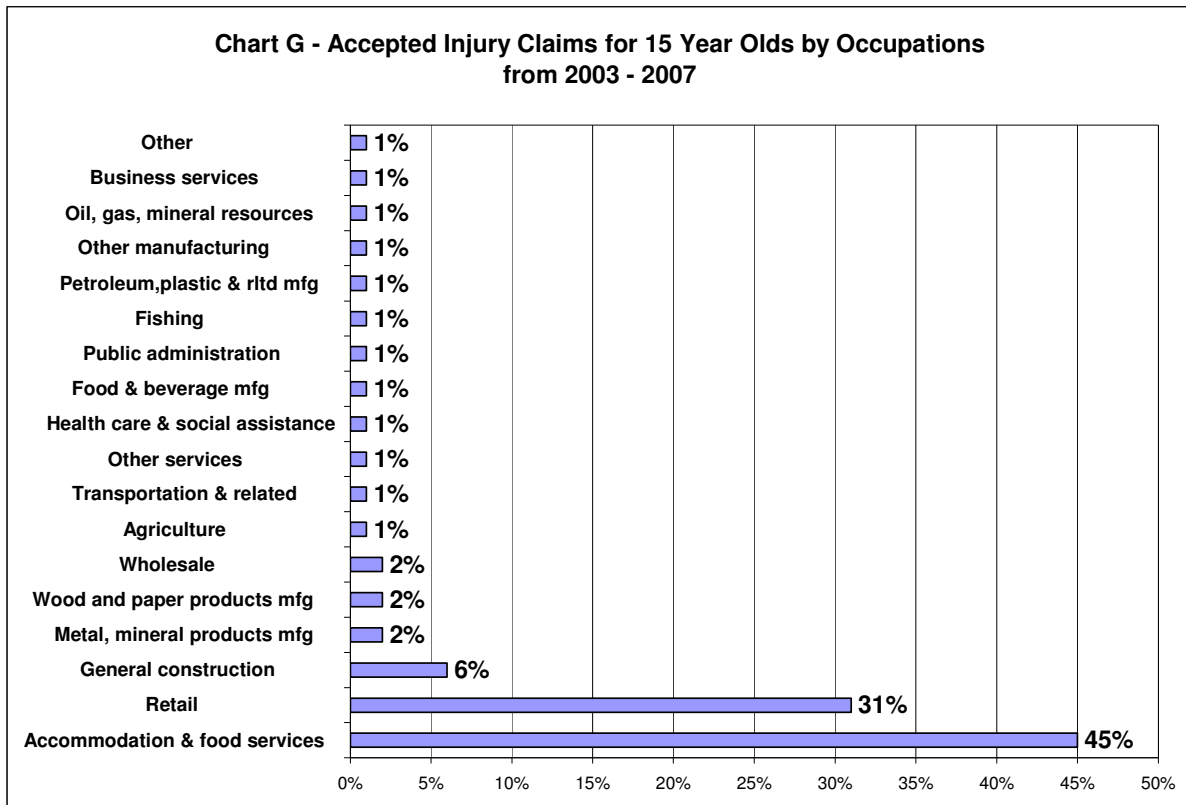
1. Accommodation and food services
2. Retail
3. Agriculture
4. General construction
5. Food and beverage manufacturing & “other” services



15-Year-Olds

Over the same period the top five categories of accepted claims for occupational injury for 15-year-olds were:

1. Accommodation and food services
2. Retail
3. General construction
4. Metal, mineral products manufacturing
5. Wood and paper products manufacturing



Observations - Why are Injury Claims Increasing?

Increase in work force participation

When BC abandoned the permit system overseeing the employment of children, it also abandoned keeping track of how many children are working. The permit system allowed government to have some knowledge about how many children were working and in what types of jobs.

Statistics Canada does not track the participation of under 15s in the workforce. Since most Canadian jurisdictions greatly restrict the employment of children under 15, Statistics Canada takes the view that the participation numbers are too small to produce statistically significant data.

Due to a lack of data, it is very difficult to estimate the number of children participating in the workforce. It is reasonable to assume, however, that the same pattern of participation and injury that applies in other age groups, applies to child workers.

In other age groups (i.e. young workers ages 16 – 24), the number of reported work-related injuries increases in direct proportion to the number of youth participating in the workforce. Workforce participation rates are gathered and reported by Statistics Canada and are used by researchers (including WorkSafeBC) to monitor whether or not more workers are getting injured relative to their number in the workforce. The correlation between workforce participation and injury rates (in all age groups) has been well documented by WorkSafeBC. The more people there are working, the more people there are who suffer injuries.

In the absence of other significant environmental changes, it seems evident that since the number of accepted injury claims for children aged 12 -14 increased ten-fold between 2005 and 2008, we can assume that either their participation in the workforce also increased ten-fold, or that the rate of injury has increased.

An increase in the number of child workers and an increase in injuries was predicted by child and youth advocates in 2003 when the government introduced Bill 37. In the report *Who's Looking Out for Our Kids? Deregulating Child Labour Law in British Columbia*² the authors warned: "An increase in the number of children working, without an increase in training or supervision, may lead to many more job related injuries, especially when there are no prohibitions against children working in hazardous occupations".

Lack of Protection and Government Oversight

Since the new law came into force in 2004, BC is the only province that does not place legislative or regulatory restrictions on the occupations, tasks, or time of day a child can work.

BC's laws overseeing children in the workforce do not protect children from injury and exploitation. In BC, an employer needs the permission of only one parent or guardian to employ a child as young as 12. While the law does contain a provision that a child be supervised by someone over the age of nineteen, anecdotally obtained information indicates this is not always the case.

In *The experience of young workers under BC's new policy regime*³ the authors observe, "... 22% of 12 to 14 year olds in BC reported no supervision while working. This lack of supervision occurs despite the new regulations in BC requiring the presence of an adult supervisor."

In addition, the same study found that while the new law requires a parent's consent for their children to work, "... 58.3 per cent of 12 to 14 year olds with jobs reported that their employer did not receive written approval from their parents."

Responsibility Shift

Bill 37 effectively shifted the responsibility of determining worksite safety from government to parents. This shift is evidenced by the elimination of the permit system that allowed employment

standards officers to determine worksite safety for children and the corresponding increase in WorkSafeBC education initiatives aimed squarely at parents.

In May 2004, after Bill 37 came into effect, WorkSafeBC conducted a focus group with parents at a meeting of the BC Confederation of Parent Advisory Councils. The goal of the session was to "collect opinions and ideas on current and required young worker resource materials aimed at parents." In their subsequent report on the session,⁴ the Ipsos Reid facilitators noted that "Parents first need to understand and take ownership of the young worker safety issues before they will offer to help promote prevention initiatives. Workplace safety is still perceived as the employer's responsibility."

The report goes on to say, "BCCPAC representatives are more involved with youth issues than the average parent. Nevertheless, these parents believe that employers are responsible for the children's health and safety at the workplace." Further, "The issue of young worker safety is not higher on the parent agenda because it is assumed that employers are responsible for their children at the workplace."

These statements reveal two interesting beliefs. One, the implicit belief that parents are misguided in believing that employers are responsible for workplace safety and two, that parents must 'take ownership' for young worker safety.

The focus on parent responsibility appears to be at odds with section 115 of the *Workers Compensation Act* which clearly states:

- “(1) Every employer must
 - (a) ensure the health and safety of
 - (i) all workers working for that employer, and
 - (ii) any other workers present at a workplace at which that employer's work is being carried out...”

WorkSafeBC has produced numerous materials since 2003 advising parents to become educated about on-the-job health and safety for their children. While greater education and awareness is always advisable, within the context of a virtually unregulated environment for child workers, education does not change the fact that once a child is on the worksite parents are powerless to ensure that the child is safe and that tasks are age appropriate.

In fact, the heightened efforts to raise awareness about workplace safety for children after the law changed also served to advertise the fact that 12-year-olds in BC could now work in all occupations and at all tasks.

Public education initiatives are no doubt well-intentioned, but the premise that parents, through communication with their children, will be able to keep them from harm is seriously flawed. Very few parents (or members of the general public for that matter) are qualified to assess the safety of a worksite and whether or not it is appropriate for a child to be there at all. Furthermore, parents do not have the legislative authority or standing to intervene and enforce safety standards with an employer.

A special area of concern is the situation of recent immigrant and refugee families. Many of these parents have limited English language skills and little, if any, knowledge of employment rights and

standards. Yet these are the same families who are over-represented in low income and unemployment statistics, and whose children may feel the greatest pressure to contribute to household income. The expectation of parent oversight of job safety for their children in these circumstances is even more unrealistic.

Background

Bill 37

In December 2003, the British Columbia Government passed Bill 37 amending the *Employment Standards Act*. These amendments ended over 50 years of direct government oversight in setting the conditions and restrictions on employing children between the ages of 12 and 14. With Bill 37, the BC government established the youngest work start age in North America.

Before Bill 37, BC used a permit system to oversee the participation of children under 15 in the workplace. Under the permit system an employer was required to obtain a permit from the Director of Employment Standards and consent from the child's parents and school authorities.

In providing a permit, the Director of Employment Standards had authority to impose conditions related to appropriate tasks, hours of work, and even transportation to and from the work site.

"Contrary to initial government claims, under the old system child work permits were routinely turned down due to safety concerns, or granted only after employers and/or parents had agreed to certain conditions."

"BC's deregulation of child labour certainly contravenes the spirit, and may contravene the letter, of a number of international treaties to which Canada and BC are signatories. International organizations, including the United Nations and the International Labour Organization (ILO), have approved international standards that oblige signatory nations (including those in the developed world) to create proactive legislation and regulations. Signatories are compelled to provide adequate enforcement mechanisms to protect children. BC's reduction of child labour standards is, therefore, clearly in conflict with the wealth of historic and international knowledge about why children and youth need protection in the workforce".⁵

Current BC Act and Regulations

The *Employment Standards Act* sets out the following conditions for employing children:

Part 7.1 — Conditions of Employment for Children

Limits on working hours

45.3 (1) In this section, school day means, in relation to a child, a day on which the child's school is in session.

(2) An employer of a child must not require or allow the child to work on a school day at a time when the child is scheduled to attend.

(3) An employer of a child must not require or allow the child to work

- (a) more than 4 hours on a school day,

- (b) more than 7 hours on a day that is not a school day, unless the employer receives prior written approval from the director,
- (c) more than 20 hours in a week that has 5 school days, and
- (d) in any case, more than 35 hours in a week.

Adult supervision required

45.4 An employer of a child must ensure that the child works only under the direct and immediate supervision of a person who has reached 19 years of age.

The regulations regarding the employment of children are detailed on the government's website and begin with a description of the parent or guardian's role as envisioned under the new legislation. The following replaces a manual of guidelines Employment Standards Officers used to judge the suitability of employment for children.

Parent or guardian written consent

An employer must receive the written permission of a young person's parent or guardian before employing a person under the age of 15. The parent or guardian is responsible for their children and must determine that the employment situation meets the best interests of the child and will not adversely affect the child's social, physical or educational needs.

The employer must have written consent on record to indicate the young person's date of birth and that the parent or guardian knows where the young person is working, the hours of work and the type of work.

Employment conditions

An employer must follow these conditions of employment set under the Employment Standards Regulation for young people aged 12 to less than 15 years of age:

- A young person must not be employed at the same time he or she is scheduled to attend school.
- A young person can work up to four hours on a school day and no more than 20 hours in a week that has five school days.
- A young person must not work more than seven hours a day on a non-school day unless the director has provided written approval.
- A young person may work up to 35 hours a week in any week containing less than five school days.
- A young person must be under the direct and immediate supervision of a person aged 19 or older at all times while working.

Employment of young people under 12 years of age

An employer must have the written permission of the Director of Employment Standards before employing a young person under 12 years of age.

Other Jurisdictions

Canadian provinces and territories are a patchwork of regulation and legislation when it comes to hiring children. While every other province has maintained higher child protection standards than BC, since BC deregulated child labour laws, some other Canadian jurisdictions have relaxed their standards as well.

In the report *Employment Patterns and Work Injury Experience Among Canadian 12 to 14 Year Olds*, the authors note,

"In recent years, there has been a trend in Canada towards fewer restrictions on formal employment for 12 to 14 year olds. In both British Columbia and Alberta, recent legislation places responsibility for deciding the nature and amount of work by 12 to 14 year olds on parents and the youth themselves."⁶

BC's Neighbour: Alberta

Since 2004, Alberta has lowered its work start age to 12 and like BC, requires only parental consent. However - and this is an important difference - Alberta restricts the occupations available to 12, 13, and 14-year-olds (adolescents), and in fact, restricts the occupations and tasks for 15, 16, and 17-year-olds (young persons) as well.

The Government of Alberta Employment and Immigration website⁷ states:

- A 12, 13, or 14-year-old may work in these jobs, but there are rules that apply to each:
- Delivery person for newspapers, flyers or handbills
- Delivery person for small goods or merchandise for a retail store
- Clerk in a retail store
- Clerk or messenger in an office
- Host/hostess in a restaurant or food service establishment
- Cashier in a restaurant or food service establishment
- Dishwasher in a restaurant or food service establishment
- Person who busses tables in a restaurant or food service establishment
- Server (waiter/waitress) in a restaurant or food service establishment
- Person who provides customer service in a restaurant or food service establishment
- Person who assembles orders in a restaurant or food service establishment
- Cleaner in a restaurant or food service establishment

Adolescents cannot work in other jobs unless the Director of Employment Standards approves the job first.

In addition, within each category of occupation, there are prohibited tasks. Many of these tasks involve the operation of machinery or equipment that often lead to work-place injuries (e.g.: deep fryers, grills, slicers and other dangerous equipment).

The approved occupation categories do not include resource, construction or manufacturing sector jobs – occupations where the most serious injuries to young and older workers alike often occur.

International Standards

The UN Convention on the Rights of the Child

The UN Convention on the Rights of the Child, to which Canada is a signatory, describes the government's role in protecting children from exploitation and injury in Article 32.

Article 32 states:

1. States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.
2. States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular:
 - (a) Provide for a minimum age or minimum ages for admission to employment;
 - (b) Provide for appropriate regulation of the hours and conditions of employment;
 - (c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.

As evidenced by the increasing number of injury claims, BC falls far short of this international, widely recognized standard to protect children from performing work that is harmful to their health.

The International Labour Organization

The International Labour Organization's Minimum Age Convention (Convention 138)⁸ sets out the minimum work-start age in Article 2, paragraph 3, as follows:

“The minimum age specified in pursuance of paragraph 1 of this Article shall not be less than the age of completion of compulsory schooling and, in any case, shall not be less than 15 years.”

Further, Article 3, paragraph 1 of the Convention specifies:

“The minimum age for admission to any type of employment or work which by its nature or the circumstances in which it is carried out is likely to jeopardize the health, safety or morals of young persons shall not be less than 18 years.”

One hundred and fifty-three countries have ratified this convention. The Government of Canada, claiming it does not have jurisdiction over provincially controlled labour laws, is one of 30 countries that has not ratified Convention 138. BC and Alberta are both guilty of setting work start ages below that which is accepted by the international community. BC is noteworthy as the only province that does not set out in law or regulation, the occupations, tasks or time of day (other than during school hours) for the employment of children.

Recommendations

In light of the year-over-year increase in the number of accepted injury claims for children under 15, we recommend the government take immediate action to ensure that children in BC are protected from injury and exploitation.

Develop and enact legislation in the next legislative session.

The international community has provided a framework for child protection standards documented in the Convention on the Rights of the Child.⁹ BC and Canada are signatories to this Convention. In order to protect children from further injury, the BC government must take seriously its responsibility to children. BC also has a responsibility to our global neighbours to maintain high standards that put the well-being of all the world's children at the centre of decision-making.

In light of anticipated, increased commercial activity related to hosting the Olympics, we recommend immediate interim measures that detail prohibited occupations and tasks in the employment of children.

These measures are needed to bring BC into compliance with the UN Convention on the Rights of the Child (Article 32) and ILO Convention 138 and establish a minimum work start age of 15 years. Further, the employment of children under 15 should include restrictions on occupations, tasks, time of day, and other criteria that serve the interest of protecting children from injury and other harms.

These restrictions must be enforced by the Employment Standards Branch and BC employers must understand and appreciate the special responsibilities that come with employing children.

Set a federal standard.

The Federal Government has an important role to play in encouraging uniform and high standards in all provincial and territorial jurisdictions. The Government of Canada must take seriously the well-being of children and should take steps to implement a minimum, national work-start age. All children in Canada should be afforded the same protections regardless of where they live.

Establish a multi-stakeholder advisory group.

BC's child and youth advocacy community was not consulted prior to, or since the law was changed in 2003. This community of individuals and organizations has expertise, experience and perspectives that can assist in crafting legislation and regulation that allow for appropriate first-work

opportunities while ensuring children are safe, protected and supported to finish their first phase of schooling.

We recommend the government immediately establish a child labour advisory group that includes a broad representation of child and youth advocates, including young people with recent work experience in the higher injury occupations.

Gather and monitor data.

As we have noted, it is difficult to gather information about how many children are working and at what occupations and tasks. Knowledge is the foundation of sound decision-making.

We strongly advise the government to find ways to keep track of the employment of children. Each accepted work-related injury claim represents a much higher number of other children working in BC. Understanding how children are participating in the work force is critical to managing their risk of injury and exploitation in an effective manner.

Conclusion

A ten-fold increase in accepted WorkSafeBC injury claims among children under 14 years of age over a four-year period in this province is cause for serious concern. At minimum it should prompt an immediate inquiry into how to reduce the number of children being injured at work. It is safe to assume that this data represents only a small fraction of the experiences of children in the workforce. It is also safe to assume that the changes made to the *Employment Standards Act* in 2003 have had a role to play in this alarming trend.

The UN Convention on the Rights of the Child and the International Labour Organization's Convention on Child Labour recognize that the first step in protecting children from injury and exploitation is a strong, enforced legislative and regulatory framework.

BC and Canada have a responsibility to establish a legislative and regulatory framework that meets or exceeds international standards for the protection of children's health and well-being in the labour force. A country with the economic strength of Canada has a moral obligation to adopt known best practices governing child labour where they exceed these minimum standards.

It is unrealistic and inappropriate to place the burden on parents to ensure workplace safety for children. Rising injury statistics are evidence that the current system of assumed parent oversight is not keeping children safe. The responsibility for regulating, monitoring and enforcing workplace safety standards rightly belongs to government.

It's time to place children's safety and healthy development at the top of the priority list and raise BC's child labour standards.

End Notes

1. BC Government, *Employment of Young People - A Resource Guide for Parents*, <http://www.labour.gov.bc.ca/esb/young/>
2. Helesia Luke & Graeme Moore, *Who's Looking Out for Our Kids? Deregulating Child Labour Law in BC*, March 2004, CCPA
3. John Irwin, Stephen McBride & Tanya Strubin, *The Experience of Young Workers Under BC's New Policy Regime*, September 2005, CCPA
4. Worksafe BC & Ipsos Reid, *Parent Prevention Initiatives: Keeping young workers safe – it's up to all of us. Views from BC Confederation of Parent Advisory Council Representatives Final Report*, May 2004.
5. Helesia Luke & Graeme Moore, *Who's Looking Out for Our Kids? Deregulating Child Labour Law in BC*, March 2004, CCPA.
6. Breslin FC, Koehoorn M, Cole DC, *Employment patterns and work injury experience among Canadian 12 to 14 year olds*, *Journal Canadian Journal of Public Health*, 2008, Volume 99 Issue 3
7. Government of Alberta, *Employment Standards, Employment of Adolescents*, <http://employment.alberta.ca/SFW/6225.html>
8. ILO, *Convention concerning Minimum Age for Admission to Employment* <http://www.ilo.org/ilolex/cgi-lex/convde.pl?C138>
9. UNICEF, *International Convention on the Rights of the Child* <http://www.unicef.org/crc/>