

BILL

No. 60

An Act to amend *The Saskatchewan Employment Act*

(Assented to _____)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows:

Short title

1 This Act may be cited as *The Saskatchewan Employment Amendment Act, 2021*.

SS 2013, c S-15.1 amended

2 *The Saskatchewan Employment Act* is amended in the manner set forth in this Act.

Section 3-1 amended

3(1) **Subsection 3-1(1) is amended:**

(a) **by repealing clause (l) and substituting the following:**

“(l) **‘harassment’** means:

(i) any inappropriate conduct, comment, display, action or gesture by a person towards a worker:

(A) that either:

(I) is based on any prohibited ground as defined in *The Saskatchewan Human Rights Code, 2018* or on physical size or weight; or

(II) subject to subsections (4) and (5), adversely affects the worker’s psychological or physical well-being and that the person knows or ought reasonably to know would cause the worker to be humiliated or intimidated; and

(B) that constitutes a threat to the health or safety of the worker; or

(ii) any conduct, comment, display, action or gesture by a person towards a worker that:

(A) is of a sexual nature; and

(B) the person knows or ought reasonably to know is **unwelcome”; and**

(b) by repealing clause (gg) and substituting the following:

“(gg) **‘worker’** means, subject to subsection (6):

- (i) an individual, including a supervisor, who is engaged in the service of an employer; or
- (ii) a member of a prescribed category of individuals;

but does not include an inmate, as defined in *The Correctional Services Act, 2012*, of a correctional facility as defined in that Act who is participating in a work project or rehabilitation program within the correctional facility”.

(2) Subsection 3-1(4) is amended in the portion preceding clause (a) by striking out “paragraph (1)(1)(i)(B)” and substituting “subparagraph (1)(1)(i)(A)(II)”.

(3) Subsection 3-1(5) is amended by striking out “paragraph (1)(1)(i)(B)” and substituting “subparagraph (1)(1)(i)(A)(II)”.

(4) The following subsection is added after subsection 3-1(5):

“(6) For the purposes of clause (1)(1), subsections (4) and (5), clause 3-8(d), clause 3-9(c) and clause 3-10(b), a worker includes:

- (a) a person who is enrolled in a secondary or post-secondary educational institution and who:
 - (i) is permitted by an employer, directly or indirectly, to perform work or services; or
 - (ii) is being trained by an employer;
- (b) a volunteer that an employer permits, directly or indirectly, to perform work or services; and
- (c) an independent or dependent contractor”.

Section 6-1 amended

4 Clause 6-1(1)(o) is repealed.

Section 6-11 amended

5(1) Subsection 6-11(1) is amended in the portion preceding clause (a) by adding “including a bargaining unit comprised of supervisory employees, as defined in clause 6-1(1)(o) of this Act as that clause read before the coming into force of *The Saskatchewan Employment Amendment Act, 2021*,” after “another bargaining unit,”.

(2) Subsections 6-11(3) to (6) are repealed.

Section 6-104 amended

6 Clause 6-104(2)(i) is amended by adding “as defined in clause 6-1(1)(o) of this Act as that clause read before the coming into force of *The Saskatchewan Employment Amendment Act, 2021*” after “supervisory employee”.

New section 6-128**7 The following section is added after section 6-127:****“Transitional re irrevocable elections and removal or exclusion of supervisory employees**

6-128(1) In this section, ‘**supervisory employee**’ means a supervisory employee as defined in clause 6-1(1)(o) of this Act as that clause read before the coming into force of *The Saskatchewan Employment Amendment Act, 2021*.

(2) For the purposes of this Part, if employees were removed or excluded from a bargaining unit as a result of a determination, in accordance with subsections 6-11(3) to (6) of this Act as those provisions read before the coming into force of *The Saskatchewan Employment Amendment Act, 2021*, that the employees were supervisory employees, the employer named in a certification order or the union that is named in a certification order may apply to the board, in the form and manner specified by the board, to amend a certification order.

(3) Any irrevocable election allowing supervisory employees into a bargaining unit that was made pursuant to clause 6-11(4)(a) of this Act as that clause read before the coming into force of *The Saskatchewan Employment Amendment Act, 2021* is deemed to be null and void.

(4) An employer or union that made an irrevocable election mentioned in subsection (3) may apply to the board, in the form and manner specified by the board, to amend a certification order.

(5) On an application pursuant to subsection (2) or (4), the board shall:

- (a) issue an amended certification order; or
- (b) affirm the certification order.

(6) On an application pursuant to subsection (2) or (4), in addition to an order pursuant to subsection (5), the board may make any order it considers appropriate, including an order determining the seniority of employees affected by the order or deferring deciding any matter if the board considers that the matter could be resolved by mediation, conciliation or an alternative method of resolution”.

New section 9-10.1**8 The following section is added after section 9-10:****“Protection from liability re employers and COVID-19 measures**

9-10.1(1) In this section, ‘**good faith effort**’ includes an honest effort, whether or not that effort is reasonable.

(2) Subject to the regulations, no action or proceeding lies or shall be commenced or maintained against an employer with respect to any act or omission of the employer if:

- (a) the employer acted or made a good faith effort to act in accordance with *The Public Employers’ COVID-19 Emergency Regulations* or *The Employers’ COVID-19 Emergency Regulations*; and
- (b) the act or omission of the employer does not constitute gross negligence.

(3) Subsection (2) applies regardless of whether the cause of action on which the proceeding is purportedly based arose before, on or after the day on which this section comes into force.

(4) Any action or proceeding mentioned in subsection (2) that is commenced before the day on which this section comes into force is deemed to have been dismissed, without costs, on the day on which this section comes into force.

(5) No person is entitled to any compensation or any other remedy or relief for the extinguishment or termination of rights pursuant to this section.

(6) This section applies, with any necessary modification, with respect to a person who is vicariously liable for the acts or omissions of another person if subsection (2) negates the liability of the other person in relation to the act or omission.

(7) The Lieutenant Governor in Council may make regulations for the purposes of this section, including regulations respecting the scope of protection provided pursuant to subsection (2) or imposing terms and conditions on the protection.

(8) A regulation made pursuant to subsection (7) may be made retroactive to a day not earlier than October 1, 2021”.

Coming into force

9 This Act comes into force by order of the Lieutenant Governor in Council.

SECOND SESSION

Twenty-ninth Legislature

SASKATCHEWAN

B I L L

No. 60

An Act to amend *The Saskatchewan Employment Act*

Received and read the

First time

Second time

Third time

And passed

Honourable Don Morgan
