Changes Coming For Online Platform-Based Food Delivery And Ride Share Gig Workers In B.C.



On November 20, 2023, the Government of British Columbia introduced Bill 48 – 2023 Labour Statutes Amendment Act.

The proposed bill would amend the *Employment Standards Act* and the *Workers' Compensation Act* (the "Acts") to include online app-based gig workers as employees for the purposes of both Acts. In the future, the government also intends to pass further regulations to make specific changes to gig workers' working conditions. Online platform-based companies should be aware of these proposed changes to ensure that they comply with the newly amended legislation and any subsequent regulations once enacted.

What does this mean for online platform-based companies?

Companies should note that, if passed, the proposed bill's amendments to the Acts would have the following direct impacts to affected companies:

1. requirements to register with and begin paying premiums to WorkSafeBC so that gig workers are covered by workers' compensation for on-the-job injuries.
2. general compliance with the *Workers' Compensation Act*'s health and safety rules.
3. requirement to refrain from withholding or making deductions from gig workers' tips in compliance with the *Employment Standards Act*.

Companies should also note that the Government of British Columbia intends to make the following additional changes:

Establishing a minimum earnings standard for "engaged time"

"Engaged time" is time that the worker spends from accepting an assignment until that assignment's completion. Companies must pay gig workers at least $16.75 per hour of "engaged time." Where a gig worker's earnings in a pay period do not meet that minimum earnings standard, the company must top up the difference. It is important to note that gig workers' tips do not count towards meeting the minimum earnings standard.

Termination or suspension of a gig worker's account

When a company wants to deactivate a gig worker's account on the company's app, the company must provide that gig worker with written reasons. Companies must also provide a review process in which the account holder can present their side of the story accompanied by supporting evidence. A company must provide final written reasons when responding to a request for review. When a company deactivates a gig worker's account without asserting just cause, they must provide the gig worker with notice or with payment in lieu of notice. The amount of notice or pay in lieu is based on the gig worker's length of service.

Destination and pay transparency

When a gig worker is offered an assignment, the offer must include that assignment's full earnings value, as well as all pickup and delivery locations for the assignment. Companies must also issue gig workers with a pay statement for each pay period.

Gig worker expenses when using personal vehicles

The Ministry of Labour will consult with gig workers and companies to establish a fair standard for compensating gig workers who use their personal vehicles.

No changes at this time in the following areas

The Government of British Columbia is not currently implementing changes in the following areas: hours of work and overtime; statutory holidays; and paid leaves and annual vacation.

Potential tax implications stemming from the proposed changes

Finally, it is worth noting that the proposed changes may have some impact on how affected companies manage their payroll and remit taxes and other deductions to the CRA.

The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.

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