

## MAY 2024 MONTH IN REVIEW

# Ontario

### LAWS & ANNOUNCEMENTS

#### Labour Standards

May 16: [Bill 190](#), *Working for Workers Five Act, 2024*, which is through Second Reading, would require employers to disclose in job postings whether the job is an existing position and provide follow-up communication with all applicants who interview for the position, while also doubling the maximum fine for an *Employment Standards Act* violation from \$50,000 to \$100,000.

#### Leaves of Absence

May 16: New legislation ([Bill 190](#), *Working for Workers Five Act, 2024*) is working its way through the Assembly that will ban employers from requiring employees to provide a doctor's note, i.e., certificate from a qualified health practitioner, to take sick leave.

#### New Laws

May 16: Second Reading for new legislation ([Bill 190](#), *Working for Workers Five Act, 2024*) designed to make it easier for people to enter the skilled trades by creating a new: i. Focused Apprenticeship Skills Training ("FAST") program for high school students to get apprenticeship training alongside their regular studies; ii. Online job portal to help apprentices, journeypersons, and employers to connect for networking and job opportunities; and iii. Alternative paths into skilled trades for career changers allowing individuals with professional experience to bypass strict academic requirements.

## Workplace Harassment

May 16: Ontario is getting set to pass new legislation called the *Working for Workers Five Act, 2024* ([Bill 190](#)) that will add cyber and virtual harassment to the definitions of “workplace harassment” and “sexual harassment” contained in the *OHS Act*.

## Health & Safety

May 16: New legislation ([Bill 190](#), *Working for Workers Five Act, 2024*) proposes important changes to OHS laws: i. New employer duty to provide menstrual products at construction sites with at least 20 workers for projects expected to last 3 months or more; and ii. New employer to provide clean and sanitary washrooms for workers, along with records of cleaning activities.

## Privacy

May 13: Ontario tabled significant new legislation, [Bill 194](#), that would create privacy, cyber security and ethical standards for handling of AI and digital public information by government officials. Among other things, *The Strengthening Cyber Security and Building Trust in the Public Sector Act*, requires public agencies to establish policies for collecting, use and disclosure of private information, strengthen cybersecurity and report data breaches.

**Action Point:** Find out how to guard against ChatGPT and AI risks by implementing a legally sound [workplace artificial intelligence use policy](#)

## Workplace Harassment

May 10: Ontario is investing nearly \$875,000 to [train high school coaches](#) in the Coaching Boys into Men program, focusing on youth dating- and gender-based violence, consent, and healthy relationships. Led by Interval House of Hamilton, up to 23 VAW agencies across the province were certified to train 400 coaches/teachers to engage students aged 12 and up on these topics.

**Action Point:** Use the HRI [template](#) to create your own workplace harassment and violence policy

## Leaves of Absence

May 6: The provincial government ended public consultations on the [possibility](#) of creating a new unpaid long-term critical illness leave of absence. Under the current *Employment Standards Act*, employees get 3 days of unpaid sick leave for illness,

injury or medical emergency. The MOL is considering a new leave of up to 27 weeks to align the ESA with federal Employment Insurance sickness benefits.

**Action Point:** Find out about the [current paid sick leave rules across Canada](#)

## Accessibility

May 21: The provincial government is investing up to \$1.5 million in the [EnAbling Change Program](#) to support projects improving accessibility. [Applications](#) for the 2024-25 program, open until June 27, 2024, included initiatives enhancing community programs, online resources, and educational tools. Funded projects included promoting disability employment, resources for neurodiverse students, guides for apprenticeships, and accessible healthcare training. Details were available on the Ministry for Seniors and Accessibility's website.

**Action Point:** Find out more about [accessibility laws across Canada](#)

## Drugs & Alcohol

May 17: The federal government rejected [Toronto Public Health's proposal](#) to decriminalize drug possession in Toronto, citing public health and safety concerns. The overdose crisis, driven by a toxic drug supply, remains a major public health threat in Canada.

**Action Point:** Use the [Substance Abuse Compliance Game Plan](#) to curb drugs and alcohol at your workplace

## New Laws

May 23: From now through July 19, Ontario will be seeking [public feedback](#) on [improving its current anti-human trafficking strategy](#). Should we stay the course, revise the strategy or adopt a whole new plan, the government wants to know.

## Workers Comp

May 16: Proposed workers comp changes contained in [Bill 190, Working for Workers Five Act, 2024](#), would expand presumptive coverage for occupational cancers, heart injuries and post-traumatic stress disorder to wildland firefighters and fire investigators. It would also add primary-site skin cancer to the list of presumed to be work-related for firefighters and investigators with at least 10 years of service before being diagnosed.

**Action Point:** Find out about [workers comp coverage of mental stress claims](#) across Canada

## CASES

### **Labour Relations: Law Banning Transit Workers from Going on Strike Is Unconstitutional**

After the Canadian Supreme Court handed down a landmark 2015 ruling finding that the right to strike is an integral part of the Charter right to freedom of association, the transit unions filed a lawsuit challenging the constitutionality of Ontario legislation eliminating TTC workers' right to strike. After 8 years of litigation, the court sided with the union. So, the TTC appealed to the province's highest court. Result: The TTC lost. The Court of Appeal held that the lower court's ruling that the Ontario law's ban on TTC workers' strike rights was unconstitutional was reasonable and refused to overturn it [[Amalgamated Transit Union, Local 113 v. Ontario](#), 2024 ONCA 407 (CanLII), May 23, 2024].

### **Termination: Lack of Candor & Sensitivity Costs Company \$50,000 in Wallace Damages**

After working full time for the company for nearly 30 years, a 59-year-old maintenance supervisor making \$72,864 got fired without notice cause. Adding insult to injury, the supervisor got the bad news 2 hours into his first day of returning to work after medical leave. The supervisor claimed that termination was not only wrongful but carried out in bad faith and in a manner that caused him to suffer severe mental stress. The Ontario court agreed and ordered the company to pay aggravated or "Wallace" damages of \$50,000. The company acted in bad faith by demonstrating a lack of candor in explaining its reasons for termination, blaming the decision on undocumented financial circumstances. In addition to being untruthful, the boss' behaviour during the termination meeting was "unduly insensitive." Just as importantly, the supervisor produced medical evidence documenting that he suffered mental damage, including anxiety, depression, fear, poor sleep, frustration and helplessness, as a result of the way he was treated during the termination process [[Krmptic v. Thunder Bay Electronics Limited](#), 2024 ONCA 332 (CanLII), May 2, 2024].

**Action Point:** Find out about the [5 ways you can get socked with punitive "Wallace" damages](#) for bad faith termination

### **Termination: Safety Violations Are Just Cause to Fire Veteran Streetcar Operator**

The TTC fired a streetcar operator for moving a vehicle without authorization and

driving through 2 directional switches while exiting the station. The union claimed that the penalty was too harsh, especially given the operator's 20 years of service. The Ontario arbitrator found just cause to dismiss. In addition to finding the operator "evasive" while testifying, the arbitrator said that the operator's claim to have had authorization to move the vehicle lacked credibility and consistency with the evidence. "He has a demonstrated inability or unwillingness to follow his training, the TTC's policies, and directions of management, all of which must be followed in pursuit of the safe operation of a streetcar, both on and off the streets of Toronto," the arbitrator concluded in dismissing the grievance [[\*Toronto Transit Commission v Local 113 Amalgamated Transit Union\*](#), 2024 CanLII 37604 (ON LA), April 26, 2024].