

Safety for All Farm and Ranch Workers

Alberta Beef Producers (ABP) Policy Position on Labour Legislation

Alberta Beef Producers (ABP) is a democratic and representative organization that speaks and works on behalf of close to 20,000 cattle and beef producers in Alberta. We are a producer organization that is owned by producers, led by producers, and works for producers. The grass roots producers on the ABP Board of Directors established a Bill 6 Task Force to develop a strategy and policy position for our organization in the discussions and consultations on labour relations, employment standards, and Occupational Health and Safety (OH&S) standards arising from the *Enhanced Protection for Farm and Ranch Workers Act* (Bill 6). The positions and recommendations in this paper were prepared by the ABP Bill 6 Task Force, but really reflect the work that ABP has done on farm and ranch health and safety over the past six years.

The cattle and beef producers of Alberta and ABP strongly support enhanced protection of the health and safety of all people working on farms and ranches. We believe that awareness, education, and training are more effective than legislation in creating the culture of safety that will make farms and ranch workers more healthy and safe. We also acknowledge the need for an appropriate legislative and regulatory framework within which a culture of safety can be enhanced. However, farming and ranching are not like other industries that are covered by current labour legislation and it is essential that legislation, regulations, and standards affecting farm and ranch work reflect that unique and diverse nature of farm and ranch work. This critical need is the fundamental basis for the policy positions in this paper.

Labour Relations

On proclamation of section 4(1) of Bill 6, the Labour Relations Code will apply to farm and ranch employees, giving these employees the right to be a member of a trade union and to bargain collectively with employers through a bargaining agent. While ABP supports the constitutional rights of employees to organize and form associations, as upheld by the Supreme Court of Canada, we do not believe that these rights should include joining unions and collective bargaining. Unions and collective bargaining would create substantial problems for primary agricultural production and there are very good reasons why other provinces in Canada have not allowed farm and ranch workers to be a member of a union.

Unlike most other industries, farming and ranching involves the production of perishable biological products that usually become part of our food supply. The production of these products generally occurs through a single cycle of production in a season that is virtually impossible to delay or stop once it has been started. Disruptions to this cycle as a result of labour disputes could cause the complete loss of an entire season of production. This loss of production could not only destroy a business, but also could represent an irresponsible waste of food in a hungry world and in the case of livestock production, an animal welfare catastrophe.

Agricultural producers also must be able to manage input costs on their operations. They have almost no ability to influence the price they receive for their products or to adjust prices to offset increased costs. These producers are not able to interrupt their production during a cycle or to continue operating under the burden of costs that make their production uncompetitive.

The preceding paragraphs illustrate the degree to which agricultural operations are especially vulnerable to actions that are commonly associated with union membership and collective bargaining. Clearly, the possibility of a strike or a lockout is intolerable for an agricultural operation, with the potential for devastating impacts on the employer, animals, and the food being produced on the operation. The provisions of the Labour Relations Code are intended to allow employees to put pressure on employers through the collective bargaining process, not destroy the business. Destruction of the business is not in the best interests of either the employer or the employee and ABP does not think that the right to join unions and bargain collectively would be good for farmers, ranchers or their employees.

Since farms and ranches are not able to tolerate strikes or lockouts and the demand for farm workers already gives employees sufficient ability to bargain effectively with employers, ABP believes that changes in the Labour Relations Code should not provide farm and ranch workers with the ability to join unions and bargain collectively.

Employment Standards

Many of the provisions in the Employment Standards Code applied to farm and ranch workers already, but Bill 6 removes the exemption from the application of the divisions respecting hours of work, overtime, holidays, vacations, minimum wage, and restrictions on employment of children. ABP accepts the removal of this exemption as long as provisions are made in the Employment Standards Code and Employment Standards Regulation to recognize the unique and diverse nature of farm and ranch work. As previously stated, agricultural operations produce perishable biological outputs and the production of these outputs often does not fit normal work days or weeks. When animals require care or at critical times of crop production, the work must be done regardless of the time required or the day on which the need arises.

Part 3 of the Employment Standards Regulation contains Special Provisions for Specific Industries and Occupations. ABP believes that a division within Part 3 must be created to provide special provisions for farms and ranches. Some of the specific provisions that we think must be included in this division are outlined below.

Hours of Work: As is the case with Division 6 Oilwell Servicing, ABP believes that Section 16 of the Employment Standards Code, the section that confines hours of work, should not apply with respect to farm and ranch work. Farmers and ranchers understand the importance of providing employees with sufficient rest, but confining hours of work during critical production periods is not practical. The days of rest provisions in Section 19 may create issues for crop producers, but should not generally be a problem for cattle and beef producers.

Overtime and Overtime Pay: ABP believes that the provisions for overtime hours in Division 6 Oilwell Servicing (in excess of 12 hours each work day or in excess of 191 hours in a work month) would be reasonable and practical for farms and ranches. Agricultural operations will need the ability to use overtime agreements as described in Section 23(1) of the Employment Standards Code to provide time off with pay instead of overtime pay.

General Holidays and Holiday Pay: ABP accepts the provisions regarding general holidays for permanent employees, but does not believe that these provisions should apply to employees hired seasonally for critical and busy operations such as seeding, harvesting, and calving.

Seasonal Employees: ABP believes that there should be provisions in this division for the unique situation of seasonal employees. These would be employees that are contracted for a period of no more than four months within a period of 12 consecutive months. The provisions in the Employment Standards Code for general holidays and overtime would not apply to these employees, but the employees and employers would establish contractual agreements dealing with these two matters.

Restrictions on Employment of Children: Our interpretation of Bill 6 suggests that restrictions on the employment of children would apply only to paid, non-family employees. Under these circumstances, ABP accepts the provisions of Division 9 of the Employment Standards Code and Part 5 of the Employment Standards Regulation.

Minimum Wage: ABP accepts the application of minimum wage provisions for adult employees, but believes that there should be provisions to adjust the wages of younger workers (under 18 years of age) to reflect the significant training and mentorship elements that accompany the employment of these workers. For many young workers, the work is more about education than employment and we believe that the wage for these workers could be some percentage of the minimum wage. Possible examples would be 75% of the minimum wage for young persons (aged 15 to 18 years) and 50% of the minimum wage for adolescents (aged 12 to 15 years).

Occupational Health and Safety (OH&S)

Bill 6 brings paid, non-family employees under the *Occupational Health and Safety Act* and provides an exemption for farming and ranching operations from the Occupational Health and Safety Code. The key obligation of employers under the OH&S Act is to ensure, as far as it is reasonably practicable for the employer to do so, the health and safety of workers engaged in the work of that employer and other workers at the work site. ABP believes that farmers and ranchers accept this obligation and will feel an obligation to ensure the health and safety of all workers, not just paid, non-family employees. However, there is a high level of anxiety and uncertainty in the agriculture community about what exactly it will mean to ensure the health and safety of workers.

The OH&S Act does not define the reasonably practicable steps to ensure the health and safety of workers, while the massive OH&S Code contains prescriptive and extensive specifications that provide guidance for meeting this obligation. Based on the Government of Alberta proposal for technical working groups in the next phase of the Bill 6 consultation process, it seems that the government intends to revise the Code to include considerations appropriate for farm and ranch work and then begin applying the Code on farms and ranches. ABP has very serious concerns about the application of the Code to farms and ranches. There are extreme variations in the size of farm and ranch operations, wide geographical distribution of these operations across the

province, and tremendous diversity in the work done among farms and in a given day on a specific farm.

ABP believes that these challenges would make the effective development and consistent application of OH&S Code standards on farms and ranches extremely difficult or impossible. We also see an issue with farmers and ranchers finding the Code overly intimidating and onerous. Furthermore, farmers and ranchers have expressed strong concerns about potentially dealing with OH&S inspectors who have limited knowledge and understanding of farm and ranch operations. For these reasons ABP is recommending that the agriculture industry and the government work together on the development of a Code of Practice for Farm and Ranch Health and Safety instead of a process of trying to force agricultural considerations into an OH&S Code that is not well suited to our industry or the people in it.

The Code of Practice could include general mandatory requirements in key OH&S areas and recommended practices that would reflect best practices used in the agriculture sector. The mandatory requirements would be the basis for judging whether an employer is meeting the obligation to ensure the health and safety of workers. These mandatory requirements effectively would represent the reasonably practicable steps to ensure this safety. The recommended practices would be excellent educational tools that would support a culture of safety on farms and ranches. The development of a Code of Practice could represent the results of the efforts of three of the technical working groups proposed for the next phase of the Bill 6 consultation process.

The Code of Practice would not have the same explicit legislative authority as the OH&S Code, but would have significant force of law as the basis for compliance with the OH&S Act. Outside of the courts, decisions related to compliance with the Code of Practice could be made by a farm and ranch safety council. A council with strong producer representation and technical expertise from the OH&S sector would be able to judge the degree to which the practices on a farm or ranch meet the requirements of the Code of Practice.

There are many advantages to using a Code of Practice instead of the OH&S Code. The agriculture industry has a long history of successfully using codes to improve performance in areas such as environmental protection and animal welfare. Farmers and ranchers generally would be more willing to work with a Code of Practice than the prescriptive OH&S Code and the results for workers would very likely be better. The Code of Practice could be applied much more effectively than the OH&S Code on farms and ranches of all sizes and would reduce the need for exemptions from the OH&S Act. With strong support from farmers, ranchers, and the industry, we would expect that use of the Code of Practice would reduce injuries and save lives while contributing to the awareness, education and training that will do the most to make farms and ranches more healthy and safe.