

March 24, 2022

Ms. Natalia Kusendova, MPP, Chair, Standing Committee on Social Policy
99 Wellesley Street West Room 1405, Whitney Block
Toronto, Ontario M7A 1A2
natalia.kusendova@pc.ola.org

RE: Standing Committee on Social Policy and Bill 88, *Working for Workers Act*, 2022

On behalf of Canadian Manufacturers & Exporters, I am writing to provide the input on Bill 88, *Working for Workers Act*, 2022.

CME's membership network accounts for an estimated 82 per cent of total manufacturing production and 90 per cent of Canada's exports. As some of Ontario's main employers, our member companies have extensive insights to inform the development of legislation impacting employment standards and health and safety, as seen with the first *Working for Workers Act* passed last Fall. We believe the final statute is stronger due to employer feedback and would like to thank the committee for providing a similar opportunity to comment on Bill 88.

Our input relates to the following four components:

1. Schedule 2 – Requiring a written policy with respect to electronic monitoring of employees
2. Schedule 3 – Establishing timelines within which regulated professions must respond to applications for registration
3. Schedule 4 – Availability of naloxone kits
4. Schedule 4 – Other amendments to the *Occupational Health and Safety Act* (penalties, aggravating factors, and limitation period for non-compliance)

1. Written Policy on Electronic Monitoring

Ontario manufacturers currently face considerable challenges due to the combined effect of supply chain disruptions, enduring labour shortages and protectionist policies in the United States. In this context, regulatory certainty is important for companies, which do not have equal capacity in developing policies, especially for those closer to the minimum 25 employee limit. For example, last December, a similar requirement to create policies on 'disconnecting from work' was established under Bill 27. However, guidelines for employers were not published until February 18, 2022, creating uncertainty for two and a half months.

Therefore, we ask that the term 'electronic monitoring' be explicitly defined in legislation. This definition should apply to the monitoring of employee location or activities through company devices such as laptops or smartphones but exclude matters like the physical surveillance of company premises through video cameras, where the primary function is not to monitor employees. Guidance on how to achieve compliance should also be published shortly after Royal Assent with an opportunity for employers to seek clarifications and guidance prior to implementation.

2. Establishing Timelines to Respond to Applications for Registration

Access to skilled labour remains the most urgent issue faced by Ontario manufacturers. Today, there are over 31,000 job vacancies in manufacturing in Ontario, and those vacancies act as an impediment to innovation and profitability. For this reason, CME saluted the FARPACTA amendments contained in Bill 27 which removed requirements related to Canadian experience for international professionals.

We similarly support the establishment of timelines for the application of skilled professionals trained in other Canadian provinces and accelerate their entry in the workforce. We call on the Ontario government to implement those provisions without delay.

3. Availability of Naloxone Kits

CME believes all employers benefit from improved health and safety and supports reasonable precautions to prevent opioid overdoses. Where precautions are mandated under legislation, impacted workplaces should be clearly identified, to promote regulatory certainty. However, in Bill 88, as currently drafted, the naloxone kit requirements appear to apply to all employers. This should be clarified.

Further, we believe the language in section 25.2 (1) about employers' awareness 'that there may be a risk of a worker having an opioid overdose at a workplace' should be qualified based on privacy considerations and the limited ability of employers to foresee personal tragedies in the lives of their employees. These challenges are well-known in the context of policing general employee drug use, and not just with regards to overdoses. Given those complexities, we respectfully ask to be consulted on what workplaces are mandated to maintain naloxone kits and, on any regulations resulting from the Bill.

4. Other Amendments to the Occupational Health and Safety Act (OHSA)

Delivering clarity on the scope of Bill 88 is especially important considering the severe consequences introduced for non-compliance with the OHSA.

We are particularly concerned by the maximum fine (\$1.5 million) for individual directors and officers and the \$500,000 personal fine for an individual which seem disproportionate. As highlighted by Prevention Employer Partners (PEP) in their submission, these amounts could be tantamount to bankrupting an individual worker. The proposed increased maximum fine amount for supervisors also adds to the level of risk that is attendant with this position and will make recruitment more difficult than it already is. We agree with PEP's recommendation that fines remain unchanged.

We also share PEP concerns on increasing the limitation period for prosecutions under the Act from 1 to 2 years. Investigations are currently completed within three or four months, and this is ample time to allow for charges to be laid within the current one-year period. We ask the government to maintain the current limitation period.



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Finally, with regards to aggravating factors, the fact an offence resulted in the death, serious injury or illness of one or more workers should not be a factor on its own. All the other enumerated aggravating factors relate to things the offender is in control of. An offender is typically not directly in control of the ultimate impact of an offence (i.e., whether the result is death, serious injury or illness). As such, this factor should have to be accompanied by at least one other listed factor to be considered an aggravating factor.

Thank you in advance for considering our input on Bill 88.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Mathew Wilson', with a stylized flourish at the end.

Mathew Wilson

Senior Vice President, Policy, Government Relations & Ontario Division

Cc: Ms. Tanzima Khan, Clerk

Ms. Bhutla Karpoche, MPP, Vice-Chair, Standing Committee on Social Policy

Mr. Michael Gravelle, MPP, Member, Standing Committee on Social Policy