

VIA EMAIL/March 29, 2022

Standing Committee on Social Policy
c/o Vanessa Kattar, Clerk
Legislative Assembly of Ontario, Procedural Services Branch
Room 1405, Whitney Block
Queen's Park
Toronto, Ontario
M7A 1A2

Re: Bill 88 (Working for Workers Act, 2022)

Dear Standing Committee Members and other MPPs considering Bill 88:

On behalf of our 38,000 small- and medium-sized business members in all sectors across Ontario, we welcome the opportunity to comment on Bill 88 (Working for Workers Act, 2022).

Schedule 3 (Fair Access to Regulated Professions and Compulsory Trades Act, 2006)

More than half of Ontario small businesses report labour shortages having a significant impact on their operations. As we look towards COVID recovery, finding ways to improve and expand the labour pool will be crucial. Legislating timelines to encourage regulated profession oversight bodies to respond to out-of-province applicants more quickly is a significant red tape cut and should allow more Canadians to come to Ontario and begin working in their chosen fields faster.

Schedule 2 (Employment Standards Act, 2000 – Mandatory Employee Electronic Monitoring Policy)

The main questions we've been hearing from business owners are, "Why?" and "What is the government trying to achieve with this new policy?" The legislation mandates businesses to report if and how employees are being electronically monitored and allows businesses to use the information, but it does not outline exactly how employers may or should use the information. The main concern is that this policy would only serve to pit employee against employer.

Several small business owners that are above the 25-employee threshold, and would therefore require the policy, have already asked, "What if I don't actively monitor my employees?" Should these businesses create policies that say they don't actively electronically monitor their employees? Or should they indicate in a written policy that they *could* monitor employees given the technology available, but choose not to?

The key lesson learned from the yet-to-be-enforced mandatory Right to Disconnect policy is that the government must be clear about its intentions and requirements around mandatory policies. We certainly do not wish for the government to impose additional regulatory burdens on businesses,

especially where there is no clear purpose or clear policy guidelines. While flexibility is appreciated, some guidance is still needed on how to prepare a policy that would be up to compliance standards to avoid any fines or penalties.

We strongly urge the government to assess the policy goals before proceeding. Should they decide to move forward, the government should provide templates to help ensure compliance and to save legal fees for small businesses.

The 25-employee threshold should exempt most smaller businesses from the requirement to develop a written policy on electronically monitoring employees. However, we are concerned that once this policy is enacted, it will be expanded to include more businesses in future.

Schedule 4 (Occupational Health and Safety Act – Requiring Naloxone kits at certain workplaces)

The legislation does not specify exactly which sectors/firms require naloxone kits on site. Some small businesses have raised concerns about how an employer is supposed to become “aware, or ought reasonably to be aware” of the risk of an opioid overdose in the workplace if they are not part of a sector like construction. This sector, while not mentioned in the legislation, has been identified by government as having to comply with this policy.

Once again, the language in the legislation is vague, and most small businesses do not have HR departments or lawyers on speed dial. Inquiries into identifying which employees have an increased risk of potential overdoses could lead to Human Rights and privacy concerns and complaints.

Once the legislation passes, government must be clear on how this policy will play out on the ground. What kind of training will be required, and will the government provide the training and develop training standards? Who will take on the cost? How many trained employees will be required on site at any given time? Where will businesses be permitted to get Naloxone? Where and how is it supposed to be stored? What are the rules for safe disposal of expired or used doses? These are only a few of the questions that have already come up and will need to be addressed clearly and broadly before implementation.

Thank you again for the opportunity to share CFIB’s views on Bill 88. We look forward to our continued work with government and MPPs of all parties on labour measures that help Ontario’s small businesses survive COVID-19, recover, and thrive.

Sincerely,

Original signed by

Ryan Mallough
Senior Director, Provincial Affairs, Ontario

Original signed by

Julie Kwiecinski
Director, Provincial Affairs, Ontario