

More Than Just a Gig? Bill 48 Will Offer Protections for Gig Workers in British Columbia

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With the rise of technology, Canada's gig economy has seen immense growth in recent years. Comprised of a flexible and independent workforce, such as ride-hailing drivers and food-delivery workers referred to as "gig workers," the gig economy is run via online and app-based platforms. To date, such workers have typically operated as independent contractors and do not receive any of the protections that are offered to employees under law, including laws relating to minimum wage.

On November 30, 2023, British Columbia's Bill 48 *Labour Statutes Amendment Act, 2023* (Bill 48) received royal assent. Bill 48 is not currently in force and will come into effect by regulation of the Lieutenant Governor in Council on a date that is yet to be determined.

Bill 48 will amend the *Employment Standards Act*, RSBC 1996, c. 113 (the ESA)¹ and the *Workers Compensation Act*, RSBC 2019, c. 1 (the WCA)² to add a definition of "online platform worker." An "online platform worker" is defined as a person who performs prescribed work that the person accepts through an online platform such as app-based ride hailing and food delivery services.³ Once Bill 48 comes into force, online platform workers *will be considered* employees of the operator of the online platform (Platform Companies) for the purposes of both statutes. *This will be the case regardless of whether or not the online platform worker is an employee under any other law.*⁴

Bill 48 will establish minimum employment standard regulations for the estimated 11,000 ride-hailing drivers and 27,000 food-delivery workers in BC,⁵ with the aim of bringing fairness and predictability to these types of jobs.⁶

Proposed Regulations

Although the regulations are not included in Bill 48, a background included in the Government of BC's press release highlights the proposed employment standards that are likely to be included as follows:

- Establishing and applying a minimum wage, which does not include tips;
- Establishing an additional compensation standard to recognize expenses workers incur when using a personal vehicle for work;
- Prohibiting Platform Companies from withholding tips or making deductions from tips;

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- Ensuring pay transparency by allowing workers to see earnings for completed assignments and by providing workers with wage statements every pay period;
- Ensuring destination transparency by requiring Platform Companies to provide pickup and delivery locations for each assignment;
- Providing protections to workers who are suspended or terminated; and extend workers' compensation coverage to workers from WorkSafeBC. Platform Companies will be responsible for registering for coverage with WorkSafeBC and paying premiums, among other requirements.

Takeaway

BC is one of the first jurisdictions in Canada to address the vulnerabilities faced by gig workers and it should be expected that other provinces will follow suit.

Despite numerous outstanding questions surrounding the precise content of the regulations, it is clear that Bill 48 will create new obligations for Platform Companies and will significantly alter their relationship such companies have with gig workers. With much on the horizon, the true impact of Bill 48 remains unknown.

We will continue to monitor the progress of Bill 48 and will provide updates as they become available. Companies who utilize gig workers in British Columbia should proactively monitor the status of Bill 48 and the forthcoming regulations to ensure they are actively compliant.

Please do not hesitate to reach out to a member of our Employment & Labour Group for assistance and information about these incoming changes.

¹ Bill 48, 2023: *Labour Statutes Amendment Act*, 2023, s.1.

² Bill 48, s. 8.

³ Bill 48, s. 1.

⁴ Bill 48, s. 2 and s. 9.

⁵ Government of BC, "Fairness coming for gig workers" (November 16, 2023).

⁶ Government of BC, "Legislative changes will bring fairness to app-based gig workers" (November 20, 2023).