

Alberta Introduces Amendments to Employment Standards Code to Protect Tips and Gratuities earned by Employees

Michelle McKinnon

December 9, 2024

The Alberta Government is proposing amendments to the *Employment Standards Code* (the Code) which, when enacted, will provide protection to employees who receive tips and gratuities as part of their work for an employer. The amendments are being introduced through [Private Bill 210 Employment Standards \(Protecting Workers' Tips\) Amendment Act, 2024](#), which received its first reading on December 4, 2024 (Bill 210).

What amendments are being proposed through Bill 210?

Bill 210 will introduce the following amendments to the Code, as it relates to tips and gratuities (defined below):

1. Tips and gratuities will be the property of the employee;
2. Employers will be prohibited from:
 - a. treating tips or gratuities as a part of the employee's wages;
 - b. withholding tips or gratuities from the employee;
 - c. deducting any amount from tips or gratuities; or
 - d. requiring the employee to provide any part of the tips or gratuities to the employer.
3. An employer who deducts or withholds any amount from an employee's tips or gratuities could face a complaint and any amount unlawfully withheld or deducted will be treated as earnings and subject to enforcement through the enforcement mechanisms of the Code;
4. Two or more employees can enter into a "tip pooling" agreement, pursuant to which the employees can agree to pool their tips or gratuities and have those tips or gratuities redistributed between them according to the terms of the "tip pooling" agreement.
5. A "tip pooling" agreement must be in writing and include the following terms:
 - a. whether the employees agree to collect all or only a portion of their respective tips or gratuities;
 - b. if only a portion of their tips or gratuities is to be collected:
 - i. the portion to be collected;
 - ii. the period or periods during which the agreement applies to the employees who are subject to it; and

iii. the manner in which the pooled amount is to be redistributed among the employees who are subject to it.

6. A “tip pooling” agreement can authorize the employer to collect the tips or gratuities on behalf of employees and redistribute it in accordance with the “tip pooling” agreement;

7. An employer can only be a party to a “tip pooling” agreement if:

a. all the employees who are party to the “tip pooling” agreement agree that the employer can be a party;
b. the employer performs, to a substantial degree, the same work performed by:

i. some or all of the employees who are a party to the “tip pooling” agreement; or

ii. employees of other employers who work in the same industry and are customarily provided tips or gratuities during the course of their work.

What is included in tips and gratuities?

Bill 210 defines “tip or other gratuity” broadly to include the following:

1. A payment that a customer voluntarily provides to the employee, or the employer on the employee’s behalf:

a. in relation to the employee’s provision of a service to the customer;
b. that is separate from the cost of the service charged by the employer; and
c. that a person would reasonably assume the customer intended would be kept by or redistributed to the employee;

2. A service charge or similar charge that an employer requires a customer to pay and which the customer would reasonably assume is charged and collected for the sole benefit of the employer’s employees; and

3. Any other payment that is prescribed by regulation as a tip or gratuity.

Conclusion

Employers who employ employees who receive tips or gratuities should take note of these proposed amendments. We recommend that employers review their employment contracts and policies as they relate to tips or gratuities to ensure they do not contravene any of the proposed amendments.