



Canadian Vehicle
Manufacturers' Association
Association canadienne
des constructeurs de véhicules

STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

July 21, 2017

**CANADIAN VEHICLE MANUFACTURERS' ASSOCIATION
(CVMA)**

**SUBMISSION REGARDING
BILL 148 – AN ACT TO AMEND THE EMPLOYMENT
STANDARDS ACT, 2000 AND THE LABOUR RELATIONS ACT
AND TO MAKE RELATED AMENDMENTS TO OTHER ACTS
(2017)**

**CVMA SUBMISSION TO THE ONTARIO LEGISLATIVE COMMITTEE ON
FINANCE AND ECONOMIC AFFAIRS REGARDING
BILL 148: AN ACT TO AMEND THE EMPLOYMENT STANDARDS ACT, 2000 AND THE
LABOUR RELATIONS ACT, 1995 AND TO MAKE RELATED AMENDMENTS TO OTHER
ACTS (2017)**

SETTING THE CONTEXT:

The Canadian Vehicle Manufacturers' Association (CVMA) appreciates the opportunity to submit written comments on Bill 148 which is being reviewed by the Standing Committee on Finance and Economic Affairs. The CVMA is the national industry association representing FCA Canada Inc., Ford Motor Company of Canada, Limited, and General Motors of Canada Company. Collectively our members produce almost 60% of the vehicles manufactured annually in Canada. In Ontario, our members operate five vehicle assembly plants, engine and component plants, and parts distribution centres.

Ontario's auto industry is an important contributor to Ontario's economy and its competitiveness. The automotive industry is a uniquely trade sensitive sector with a complex and deeply integrated supply chain across North America. Unique changes in one jurisdiction can have significant negative impacts on jobs and future investments. This is especially critical as Canada, the United States and Mexico begin to renegotiate the North American Free Trade Agreement (NAFTA).

The industry directly employs an estimated 130,000 people and for each vehicle assembly job there is a multiplier effect of 7 to 9 additional jobs that benefits Ontario. The direct contribution to the Canadian economy is over **\$20 billion** to the GDP. The Canadian auto manufacturing industry plays a critical role to Ontario's economy through its ability to provide well paying, stable jobs for families; contribute to the fiscal sustainability of communities; and provide millions in tax revenues to all levels of government. The industry operates globally and our member companies compete within their respective organizations to secure new investments and ensure that current production is maintained. Ninety percent (90%) of Ontario's automotive production is exported, making the sector very trade sensitive and exposed to any cost increases. The sustainability of our members requires a commitment to innovation and constant technological improvements to become more productive and competitive.

CVMA recognizes and supports the original mandate of the Changing Workplace Review, and the intent of Bill 148, which was to address precarious employment situations and protect vulnerable workers. CVMA participated in the Changing Workplaces Review and spoke with the Co-Chairs on two occasions. It was apparent from these discussions that our industry, a more "traditional" workplace that provides jobs to our employees which provide competitive pay and benefits in excess of the standards outlined in the *Employment Standards Act, 2000*, was not the intended target.

However, Bill 148 proposes broad, wide-sweeping amendments to the existing Ontario workplace framework that will impose substantial additional costs, negatively impact our members' ability to manage operations in an efficient and flexible manner and greatly erode our competitiveness and ability to operate in Ontario, as outlined below. The timing of the changes, which would be unique to Ontario's auto sector, could not occur at a more sensitive time as NAFTA re-negotiations commence.

In addition, the proposed amendments will directly and adversely impact the interconnected automotive supply chain by imposing additional costs and restricting the supply chain's ability to manage its operations in an efficient and flexible manner. These costs and inefficiencies will ultimately result in increased costs to our members' operations.

Overall competitiveness in Ontario is already challenged on a number of different fronts including managing the highest electricity costs for our sector throughout North America, significant uncertainty about the long-term carbon costs as a result of the Cap and Trade program, and a number of unique regulatory and legislative burdens. Adding costs and creating inefficiencies through the Bill 148 amendments will further impact competitiveness. Competitiveness issues are an extremely sensitive matter and even more delicate for Ontario's automotive sector and suppliers at this time.

To our knowledge, a thorough regulatory impact study or economic analysis of the full impact of the amendments has not been completed. CVMA recommends that such a study be completed prior to implementation of any of the proposed amendments to avoid any unintended consequences.

In 2016, CVMA members successfully negotiated new extensive collective agreements. These agreements provide workers with job security and competitive pay and extensive benefits. The proposed changes in Bill 148 will have unnecessary unintended negative impacts on our sector and the job security of our workers. Ontario unionized workers are not precarious workers, however, if we fail to remain competitive in our integrated North American auto industry, it will impact the job security of our workers. For these reasons and to maintain the competitive labour environment in Canada versus the United States, Ontario needs to recognize companies that already meet or surpass the minimum standards being considered in these reforms and ensure that these companies are not impacted. Our primary issues with the Bill 148 reforms are outlined below.

BILL 148 – CVMA ISSUES/CONCERNS & RECOMMENDATIONS:

Bill 148 outlines a number of amendments that will impact CVMA members, directly and indirectly. Notwithstanding concern regarding Bill 148 and given the comprehensive collective agreements of our members including the extensive paid leaves and vacation currently provided, key concerns include the proposed amendments under the *Employment Standards Act, 2000* related to Scheduling, Leaves including Personal Emergency Leaves, Holidays and Vacation and Assignment Employees.

ISSUE 1: REQUESTS FOR CHANGES TO SCHEDULE OR WORK LOCATION AND SCHEDULING

The auto industry's ability to remain competitive is heavily reliant on an effective "just in time" delivery supply chain. As indicated, this complex supply chain is extremely time-sensitive and production is integrally tied to a deep and interconnected global supply chain.

Our members operate with regular work hours and days of work as set out in our members respective Collective Labour Agreements. The scheduling provisions were negotiated with a sophisticated and experienced labour union and strike an agreed upon balance between offering appropriate protections to employees and providing our members with the required flexibility to efficiently manage their operations.

Schedules are generally predictable; but scheduling changes are required from time to time for legitimate and important business reasons. Decisions to schedule or cancel shifts, including overtime shifts, are made based on numerous factors, including parts availability along with managing supply, production and inventory requirements. The very inflexible, prescriptive, and administratively burdensome proposed scheduling provisions (Parts VII.1 and VII.2) will negatively impact the automotive industry's just in time delivery system and the industry's interconnected global supply chain. This will result in increased costs to operations, add unnecessary administrative burdens, and negatively impact the required flexibility and efficiency to remain competitive. These

prescriptive scheduling provisions in the Bill also enhance the perception of Ontario being laden with burdens and not ideal for manufacturing investments.

Special Advisors Mitchell and Murray in their Final Report specifically acknowledged that scheduling “cannot be the same for all employees employed in all businesses. Scheduling can be a very complex and difficult subject...one size does not fit all”. Recommendation 90 is that “government should adopt a sector-specific approach to the regulation of scheduling”. CVMA supports this recommendation and encourages the Committee to implement this recommendation in the Bill.

A targeted approach would mitigate unintended consequences for the auto industry. If the Committee is not prepared to address scheduling on a sector by sector basis, at minimum, the CVMA asks that the automotive sector be omitted from these provisions of Bill 148.

ISSUE 2: LEAVES: PERSONAL EMERGENCY LEAVES, HOLIDAYS, VACATION

CVMA members provide employees with various entitlements for paid time off, including vacation, paid absences, and non-statutory holidays which exceed the minimum standards currently contained in the Act, and when considered in total, the proposed minimum standards in Bill 148. In addition, our members have comprehensive sickness and accident benefits. For example, in addition to paid vacation, our sector provides paid shut down in December and three four day weekends over Easter, the Victoria Day weekend and Labour Day.

Requiring CVMA members to offer two (2) additional paid days of personal emergency leave, additional paid vacation days, and inflexible holiday provisions without consideration of the days currently provided increases costs, negatively impacts our members’ competitiveness and fails to account for the generous paid absences available to employees. While we do recognize that there may be precarious workplaces where such types of paid absences/leaves are not provided, the proposed changes are prescriptive and should not apply to our sector.

The intention of the *Employment Standards Act, 2000* is to provide a minimum baseline of entitlements. As CVMA members provide leaves (paid days off, holidays, vacation, etc.) that significantly exceed the minimum standard, we recommend clarification of the application of the “greater right or benefit” to avoid uncertainty, agreed to by the Union representing employees, for a public holiday.

With respect to the public holiday provisions, parts produced in Ontario are supplied not only to assembly plants in the province but to plants across North America. Closing operations for a day (e.g. Family Day) means that Ontario parts manufacturers would not be able to meet obligations under complex and time sensitive supply chain requirements outside Ontario. This places Ontario manufacturers at significant competitive disadvantage compared to other North American manufacturing jurisdictions.

With respect to paid personal emergency leave (PEL), CVMA recognizes that the paid PEL will provide a new benefit for employees who receive only the minimum benefits under the *Employment Standards Act, 2000*. However, employers that offer more than the minimum standards through comprehensive benefit programs should not be required to provide additional paid days off.

Many employers, including those in the automotive sector, offer generous leave packages including leaves such as: paid bereavement leave, paid vacation in excess of the minimum standards, and a variety of other paid leaves for the same reasons contemplated by personal emergency leave. As drafted, it is our concern that without language clarifying the concept of greater right or benefit, two additional paid days of would be added **on top** of existing generous benefit packages for the sole

reason that a collective agreement for benefit program may not specify an identical list of possible reasons for paid leave. The effect of this change, without clarification, means providing each employee with 2 additional paid days of leave. This will cost the industry millions of dollars without regard for the greater rights and benefits already enjoyed by auto sector employees.

We recommend that the provisions be examined to ensure that that they are not applicable to our industry.

Also, notwithstanding that these proposed amendments should not apply to the automotive manufacturing sector, CVMA requests a review of paragraph 50(8)(a), which states an employee who takes a paid PEL is entitled to “the wages the employee would have earned had they not taken the leave”. If an employee takes a paid PEL on a shift that is considered overtime (i.e. Saturday), the proposed paragraph 50(8)(a) would require payment to the employee of the overtime rate for the paid PEL. We are concerned that this provision could result in employees predominantly taking paid PELs on overtime shifts particularly since an employer is no longer able to request proof or justification for a PEL. This would further inflate the negative impacts outlined above and would require to increase staffing requirements for overtime shifts in anticipation of employees taking a PEL. This section should be amended to “regular wages”.

ISSUE 3: ASSIGNMENT EMPLOYEES PROVISIONS

Temporary agencies play an important role in supporting our members’ operations by providing necessary personnel and/or expertise to meet short term and/or defined needs that are inherent to the automotive manufacturing sector.

The proposed provisions represent an uncertain and unquantifiable cost to our members’ operations that will negatively impact the cost (financially and administratively) of doing business in Ontario. Any increases to the rate of pay for assignment workers under this provision will ultimately be incurred by our members by way of the temporary help agency increasing the charges or by way of the joint and several liability for unpaid wages under the Act.

For the reasons outlined above, section 42.2 will limit our members’ ability to retain the necessary expertise and resources to support its operations at a certain and quantifiable cost. The proposed amendments in section 42.2 should be revisited to target the specific sectors that employ vulnerable assignment employees. Targeting those sectors that are known to employ vulnerable assignment employees will minimize the unintended consequences the current language would impose on responsible employers that utilize temporary help agencies and assignment employees for legitimate business purposes. Again, these requirements should not apply to our sector.

CONCLUDING REMARKS:

CVMA recognizes and supports the government’s position on precarious employment and vulnerable workers. However, not all employment is precarious nor are all employees vulnerable. Bill 148 and related communications suggest that all employers engage in negative employment practices. We know that this is not the case. Our members understood that they were not a targeted company, or part of a targeted industry whose employees require enhanced protection. Notwithstanding, our members will incur increased costs if the draft legislation is not amended to include exclusions or clarity on various topics. We have taken the opportunity to outline a few of the major areas of concern with Bill 148. However, numerous other provisions in Bill 148 will render our members’ Ontario operations less competitive.

We again note that Bill 148 has not undergone a Regulatory Impact Review to determine the potential impact to Ontario generally or to manufacturing. Given the various economic uncertainties currently facing the industry, CVMA recommends that a serious review and analysis must be undertaken to avoid unintended consequences such as increased costs and decreased competitiveness in Ontario.

CVMA appreciates the opportunity to share our views and perspectives on Bill 148 with the Committee. We would be pleased to address any questions or provide any necessary clarifications.

Yours sincerely,

A handwritten signature in black ink, appearing to read "M. Nantais". The signature is fluid and cursive, with a period at the end.

Mark A. Nantais
President
Canadian Vehicle Manufacturers' Association

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