



**HIRING PERSONS WITH DISABILITIES**  
**Legal Considerations for**  
**Federally Regulated Employers and for**  
**Employers Regulated in Ontario**

**APRIL 2023**

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As a national, non-profit organization, Trucking HR Canada advances modern HR solutions for the trucking and logistics workforce. One of our strategic priorities is to make a company's job easier by delivering a comprehensive collection of up-to-date guides, reports, templates and more to support effective human resource management, recruitment and retention efforts.

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## INTRODUCTION

**Every employee in Canada is protected from discrimination at work, including disability-related discrimination.**

While the laws and regulations that are applicable to you as an employer in the transportation and logistics sector depend on whether you are federally or provincially regulated, human rights laws in most Canadian jurisdictions are similar and apply many of the same principles. They protect persons with disabilities from discrimination and compel employers to provide reasonable accommodation in the workplace.

## FEDERALLY REGULATED FLEET EMPLOYERS

Canadians have the right to be free from discrimination and to be treated fairly in the workplace. Our country has laws and programs to protect this right. Federally regulated fleet employers must comply with any federal legislation when hiring and employing persons with disabilities.

**At the federal level, these laws fall under the following Acts:**

- *Canadian Human Rights Act*
- *Employment Equity Act*
- *Accessible Canada Act*

### Canada Human Rights Act

The *Canadian Human Rights Act* is an extensive piece of legislation that prohibits discrimination on several grounds, including against persons with disabilities. The Act protects employees from discrimination in the workplace and requires employers to treat all workers equally.

The Act also lays out the requirement for employers to make modifications to the workplace or work duties so an employee with a disability can complete their job satisfactorily, acknowledging that not all accommodations are possible, as in situations where making an accommodation would cause undue hardship to the employer.

**Duty to Accommodate:** The duty to accommodate requires employers to make modifications so that the workplace can meet the needs of employees with a disability. The goal of workplace accommodation is to allow employees with disabilities to carry out their work duties safely and effectively. Examples of workplace accommodation include adjusting the employee's job requirements, providing adjustments to tools and/or work areas, and allowing for more flexible schedules.



**Undue Hardship:** The employer does not have to make accommodations if the exercise creates undue hardship to the company. Undue hardship describes situations where accommodation adjustments to the workplace would create a detrimental financial impact to the company or create unnecessary risks to the health or safety of the employees.

**For more information:**

*Canadian Human Rights Act: The Act*  
<https://laws-lois.justice.gc.ca/eng/acts/h-6/>

*Canadian Human Rights Commission: Human Rights – Summary and Links*  
<https://www.chrc-ccdp.gc.ca/en/about-human-rights/human-rights-canada>

*Canada Human Rights Commission: Duty to accommodate and Undue Hardship*  
<https://www.chrc-ccdp.gc.ca/en/about-human-rights/what-the-duty-accommodate>

## **Employment Equity Act**

Canada's *Employment Equity Act* requires employers to take active measures to improve employment opportunities for specific groups of people in our country. Persons with disabilities are one of these identified groups.

Any business with at least 100 employees that is regulated by the federal government is required to comply with this act to help ensure that all Canadians have the same access to the labour market. Under the Act, employers are required to analyze their workforce, review employment systems, policies and practices to identify and eliminate barriers. They must also review policies and programs to correct under-representation and provide reasonable accommodation.

**For more information:**

*Employment Equity Act - The Act*  
<https://laws-lois.justice.gc.ca/eng/acts/e-5.401/page-1.html>

*Canadian Human Rights Commission*  
<https://www.employmentequitychrc.ca/en/about-employment-equity-act>



## Accessible Canada Act

In July 2019, the *Accessible Canada Act* came into force, laying the foundation to build a barrier-free Canada by 2040.

**To accomplish this, the Act has three main obligations for federally regulated private sector employers:**

- Prepare and publish accessibility plans
- Set up a process to receive feedback about accessibility
- Prepare and publish reports

**The deadlines for federally regulated private sector employers to have initial accessibility plans in place are as follows:**

- Employers with an average employee count over 100 – June 1st, 2023
- Employers with an average employee count of 10 – 99 – June 1st, 2024
- Employers with 9 or less employees are currently exempt

### For more information:

*Accessible Canada Act – A Summary*

<https://www.canada.ca/en/employment-social-development/programs/accessible-people-disabilities/act-summary.html>

*Accessible Canada Act – Guidance on the Accessible Canada Regulations*

<https://www.canada.ca/en/employment-social-development/programs/accessible-canada-regulations-guidance.html>



# PROVINCIALY REGULATED FLEET EMPLOYERS IN ONTARIO

Trucking and logistics employers that are provincially regulated must comply with any provincial legislation when hiring and employing persons with disabilities.

**In Ontario, these laws fall under the following Acts:**

- Ontario Human Rights Code
- *Accessibility for Ontarians with Disabilities Act*
- *Employment Standards Act*

## Ontario Human Rights Code

Under this provincial law, employers have the responsibility to ensure the work environment is safe and inclusive, and to prevent and address discrimination and harassment. Employers also have a legal duty to accommodate employees with disabilities up to undue hardship.

### For more information:

Ontario Human Rights Code – Code

<https://www.ohrc.on.ca/en/ontario-human-rights-code>

Ontario Human Rights Commission – Duty to Accommodate

<https://www.ohrc.on.ca/en/policy-preventing-discrimination-based-mental-health-disabilities-and-addictions/13-duty-accommodate>

Ontario Human Rights Commission – Undue Hardship

<https://www.ohrc.on.ca/en/policy-preventing-discrimination-based-mental-health-disabilities-and-addictions/14-undue-hardship>



## Accessibility for Ontarians with Disabilities Act

The purpose of *Accessibility for Ontarians with Disabilities Act*, which came into effect in 2005, is to create accessibility standards that organizations must follow to make an accessible province for all Ontarians. This Act allows those with disabilities to have access to employment, goods and services, information, public spaces and transportation.

As an employer, you are legally required to implement accessible practices for recruiting, hiring, managing performance and career development. You are also required to provide accommodations and to make information and communications available in an accessible format upon request.

### For more information:

*Accessibility for Ontarians with Disabilities Act – Guide to the Act*

<https://www.aoda.ca/guide-to-the-act/>

*Accessibility for Ontarians with Disabilities Act – Employment Standards*

<https://www.aoda.ca/integrated/#partiii>

*Accessibility for Ontarians with Disabilities Act – Information and Communication Standards*

<https://www.aoda.ca/integrated/#iacs>

## Employment Standards Act

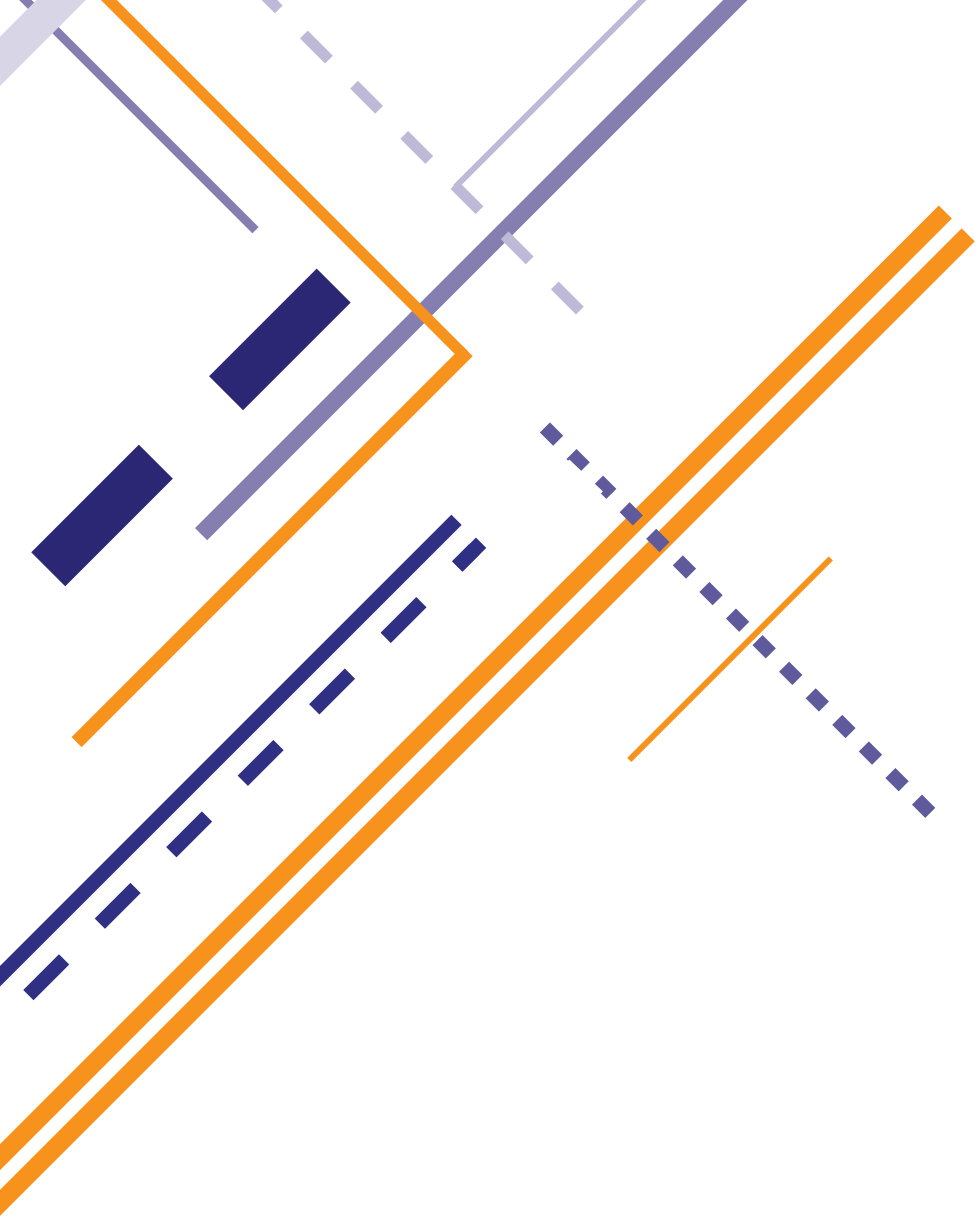
The *Employment Standards Act* is a law in Ontario that protects the rights of workers and tells employers how to treat their workers fairly. In situations where employees experience illness or injury that results in a disability and that requires them to take time off work for treatment and recovery, the *Employment Standards Act* requires employers to provide job protection. If accommodation is required upon the employee's return, the Ontario Human Rights Commission compels employers to provide reasonable accommodation.

### For more information:

*Employment Standards Act – Sick Leave*

<https://www.ontario.ca/document/employment-standard-act-policy-and-interpretation-manual/part-xiv-leaves-absence#section-14>





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**FUNDING PROVIDED BY:**

