



Employing Persons with Disabilities – The Legislative Landscape

Updated September 2024

DRAFT - Not for Distribution

ABOUT TRUCKING HR CANADA

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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WANT MORE?

Visit the **HR Resource Library** on Trucking HR Canada's website for up to date, practical HR management guides and tools designed specifically for trucking and logistics employers.

Employers participating in the 2024 THRC pilots of new tools can also refer to their [resource list](#) and are welcome to call their designated advisor for consultation and guidance.

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.

Key Principles and Terms

Some of the key principles across jurisdictions are:

Duty to Accommodate: The duty to accommodate requires employers to make modifications so that the workplace can meet the needs of employees who face a barrier in the workplace, due to any of the grounds protected under the relevant human rights legislation. The goal of workplace accommodation is to allow employees who might face barriers due to disability or other intersecting characteristics such as gender, age, race, etc. 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.

Duty to Inquire: It is not enough to wait for an employee to come forward with an accommodation request. When an employer is aware, or ought to be aware, that there may be something affecting a worker's job performance, the employer has a legal obligation (duty) to initiate a discussion (inquire) with the worker about a possible need for accommodation. Although this applies to any ground protected by human rights legislation, it often arises in situations involving disability. It is most common with invisible disabilities such as mental health, learning disabilities, or substance use disorders.

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 be prohibitively expensive for the company or would create unacceptable risks to health or safety. If the company's refusal to accommodate is challenged, a claim of undue hardship must be supported with facts and a detailed analysis of options.

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

Canadian 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 equitably.

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.

For more information:

[Canadian Human Rights Act: The Act](#)

[Canadian Human Rights Commission: Human Rights – Summary and Links](#)

[Canadian Human Rights Commission: Duty to Accommodate and Undue Hardship](#)

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. Federal regulation applies to many companies in the trucking and logistics sector. Under the Act, employers are required to analyze their workforce demographics and 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](#)

[Canadian Human Rights Commission – About the 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 and progress reports
- 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](#)

[Accessible Canada Act – Guidance on the Accessible Canada Regulations](#)

For help developing your ACA plans and reports, consult the following THRC tools:

[Accessible Canada Act: A Sample Accessibility Plan](#)

A Guide for Developing Your Progress Reports and Sample Template (Coming October 2024)

A Guide to Developing Your Feedback Process and Sample Template (Coming October 2024)

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](#)

[Ontario Human Rights Commission – Duty to Accommodate](#)

[Ontario Human Rights Commission – 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](#)

[Accessibility for Ontarians with Disabilities Act – Employment Standards](#)

[Accessibility for Ontarians with Disabilities Act – Information and Communication Standards](#)

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](#)

EMPLOYERS IN DIFFERENT JURISDICTIONS

For a starting point in exploring the specific requirements in your province or territory, or federally, refer to one or more of these sites:

Federal:

- [Canadian Human Rights Commission](#)

Provincial and Territorial:

- [Alberta Human Rights and Citizenship Commission](#)
- [British Columbia Human Rights Tribunal](#)
- [Manitoba Human Rights Commission](#)
- [New Brunswick Human Rights Commission](#)
- [Newfoundland and Labrador Human Rights Commission](#)
- [Northwest Territories Human Rights Commission](#)
- [Nova Scotia Human Rights Commission](#)
- [Nunavut Human Rights Tribunal](#)
- [Ontario Human Rights Commission](#)
- [Prince Edward Island Human Rights Commission](#)
- [Québec Human Rights Commission](#)
- [Saskatchewan Human Rights Commission](#)
- [Yukon Human Rights Commission](#)