

12 June 2020

Louise Kim
Senior Manager, Policy, Regulation and Research Division
WorkSafeBC
P.O. Box 5350, Stn. Terminal
Vancouver, B.C. V6B 5L5

By email to: policy@worksafebc.com

Subject: Response to Proposal to Add Presumption for Communicable Viral Pathogens to Schedule 1 of the Workers Compensation Act

Dear Louise,

Retail is Canada's largest private sector employer. Over 308,000 British Columbians worked in our industry before the onset of the crisis precipitated by the COVID-19 pandemic. The sector annually generates over \$11 billion (2018 data) in wages and employee benefits for British Columbians. Core retail sales (excluding vehicles and gasoline) in B.C. were \$56.4 billion in 2019. Retail Council of Canada (RCC) is a not-for-profit industry-funded association that represents small, medium and large retail businesses in every community across the country. As the Voice of Retail™, we proudly represent more than 56,000 British Columbian storefronts in all retail formats, including department, grocery, pharmacy, specialty, discount, independent retailers and online merchants.

The health and safety of our customers and employees has been foremost in the minds of retailers during the COVID-19 pandemic. RCC and our members are pleased to provide a response to the proposal advanced by the WorkSafeBC Board of Directors.

One over-arching response from retailers to this proposal, is that in four short months our understanding of COVID-19, its impacts upon health, the treatments for those with COVID-19, and the science behind the spread of COVID-19 have changed significantly – and society's understanding of the evidence is still early. This is a time for prudence and caution – rather than haste.

Early WorkSafeBC data on COVID-19 claims for the retail industry does not support adding this presumption.

For certainly, it is our position that every worker in British Columbia who is disabled from COVID-19 from *proven* exposure in their workplace is entitled to compensation.

Our position is that there is not currently adequate scientific evidence, nor has there been adequate study of the potential financial impacts to either the system or to employers, to add this presumption. Therefore, we support Option 1, the status quo.

Better public policy options are available to address Government concerns

Our understanding is that, at the root cause of this proposal, is a desire to protect workers from viruses, and, to ensure compensation and care for workers who become sick due to workplace cause.

At this time, it appears that the virus exists in our community and B.C.'s Provincial Health Officer has expressly acknowledged that there is "community spread." Our assertion is that prevention measures are more appropriate to protect workers in the workplace.

Currently there are a wide array of prevention measures available in the workplace through means such as physical barriers or changes to administrative procedures. But the most effective method of prevention is to prevent ill, symptomatic, or asymptomatic persons from entering the workplace. There is no method currently available to employers to assess whether an individual is an asymptomatic carrier of the virus or not.

As already set out in WorkSafeBC policies, in the case of a disease spread through community, it should be viewed as a public health concern, not a disease due to the nature of any particular employment, and therefore compensation for workers should be found under general systems relating to sickness benefits, not under workers compensation.

However, our position is there are more appropriate public policy options available to prevent ill or symptomatic persons from entering the workplace – notably, physical barriers and administrative changes, and changes to the Canada Emergency Response Benefit or Employment Insurance system. These routes would be far more appropriate at this early stage of our understanding of the virus causing COVID-19.

The proposal is premature because of a lack of scientific knowledge

Although the crisis is not yet over, our experience thus far is very relevant to this discussion. The scientific understanding of how the virus is transmitted and, how to most effectively limit or prevent transmission, have both changed significantly over the last two months. Our view is that there will be further significant changes to best practices over the coming months and, possibly, years.

As the epidemiological understanding of the disease progresses, so too will our understanding of how the virus is spread and which individuals in society are vulnerable – and the reasons behind their vulnerability. In addition, we do not at this point even have a good understanding as to the possibility of creating herd immunity through vaccination.

WorkSafeBC's own Rapid Review concluded the current level of evidence as to whether workers in any occupation are at greater risk of COVID-19 is low. They also generally concluded there is no consistent association between workers in specific occupations and a greater risk of COVID-19 infection.

Thus, one argument to remain with the status quo is to allow both the scientific community worldwide, and, WorkSafeBC's own experts, to gain a better understanding of how this virus is spread, how transmission can be prevented, and, whether there is the prospect of a vaccine. After that happens would surely be the most appropriate time to determine whether a proposal has merit.

Potential financial impacts to B.C.'s workers compensation system are significant and unknown

The single paragraph in the section titled "preliminary costing estimates" does not provide convincing evidence to the financial impacts to the system. Our expectation is that if British Columbia's

experience had been, or becomes, more similar to Ontario or Quebec's experience, the financial impacts to the system and to employer assessment rates could be very significant. Initially allowing all claims could potentially overwhelm the claims process and cause significant delays to claim adjudication, equating to an increase in costs for employers.

Retail businesses can already attest that the COVID-19 pandemic has resulted in the closure of a significant number of retail businesses, resulting in a initial job loss greater than 70,000 British Columbians in the retail industry alone, and is proven to have had a dramatic impact upon the financial health of retail businesses.

Given the very significant potential financial impacts, our assertion is that it would be prudent for WorkSafeBC to undertake an in-depth examination of the potential costs to the system and the potential impacts to assessment rates should such a presumption be added. WorkSafeBC may wish to consider the extent to which COVID-19-related claims are ultimately compensable under the WorkSafeBC regime: given nature of disease and community spread or transmission – claims costs should NOT impact industry rates, or the experience rating of the individual employer (in Nova Scotia the costs are to be spread over the general collective liability). This would assist in preventing unfair financial burdens on employers who have not caused nor are able to control the overall community spread of the disease.

With absolute certainty, any increase in the assessment rates at this time would result in the closure of additional retail businesses and greater job losses.

In closing, to reiterate, we support the status quo. If the Board of Directors opts to continue consideration of adding the presumption, we strongly encourage WorkSafeBC to choose a timeline and process that allows more exploration of the science and the financial impacts to the system.

The Retail Council of Canada is a member of the Employers' Forum. We also support the Forum's separate submission.

Thank you for the opportunity to provide input.

Yours truly,



Greg Wilson
Director of Government Relations (B.C.)

Copy: Hon. John Horgan, Premier
Hon. Harry Bains, Minister of Labour
Hon. Michelle Mungall, Minister of Jobs, Economic Development and Competitiveness