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CONSULTATION DRAFT

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AN ACT TO AMEND THE EMPLOYMENT STANDARDS ACT

NOT READY FOR PRINTING

BILL NO.

2017

BE IT ENACTED by the Lieutenant Governor and the Legislative Assembly of the Province of Prince Edward Island as follows:

1. Clause 2(4)(g) of the *Employment Standards Act R.S.P.E.I. 1988, Cap. E-6.2*, is repealed and the following substituted:

(g) those provisions relating to the protection of complainants or informants as contained in sections 30, 35, 36 and 36.1;

2. Section 35 of the Act is amended by the deletion of the words “discriminate against” and the substitution of the words “take or threaten to take any reprisal, or discriminate or threaten to discriminate, against an employee”.

3. The Act is amended by the addition of the following after section 36:

36.1 Prohibition against reprisal for reporting offence or testifying

(1) No employer shall take or threaten to take any reprisal, or discriminate or threaten to discriminate, against an employee because the employee

(a) reported or proposed to report to a lawful authority an activity that is or is likely to result in an offence pursuant to an Act or an Act of the Parliament of Canada; or

(b) testified or may be called on to testify in an investigation or proceeding pursuant to an Act or an Act of the Parliament of Canada.

Exception, frivolous or vexatious actions

(2) Subsection (1) does not apply where the actions of an employee under clause (1)(a) or (b) are frivolous or vexatious.

“Lawful authority” defined

(3) In this section, “lawful authority” means

(a) a police or law enforcement agency, with respect to an offence within its power to investigate;

(b) a person whose duties include the enforcement of federal or provincial law, with respect to an offence within the person’s power to investigate; or

(c) a person directly or indirectly responsible for supervising the employee.

EXPLANATORY NOTES

SECTION 1 provides for the new section 36.1 of the Act to apply to employees who are subject to a collective agreement.

SECTION 2 amends the wording in section 35 of the Act to be consistent with the new section 36.1 of the Act.

SECTION 3 adds a new section 36.1 to the Act, which prohibits an employer from taking any reprisal or discriminating against an employee, or threatening to do so, for reporting an offence to a lawful authority or testifying in an investigation or proceeding pursuant to a provincial or federal Act, except where the actions of the employee are frivolous or vexatious. It also defines “lawful authority”.