

Administrative Monetary Penalties for OHS Violations Around the Provinces



How much you pay for an OHS offence may depend on where in Canada you commit it.

Getting hit with a fine isn't the only way OHS offences can take money directly out of your pocket. Six jurisdictions also give government safety officers the power to issue administrative monetary penalties (AMPs) against companies and individuals who disobey OHS laws. And many jurisdictions where AMPs don't currently exist are considering adopting them.

While far lower than the maximum penalty under the OHS Act, AMPs are harder to challenge and, in some cases, can be dished out on a daily basis for as long as an offence continues. The only good thing is that you generally can't be formally charged and prosecuted for the same offence for which you get the AMP.

AMP amounts and requirements differ by dramatically by jurisdiction. Here's a summary of the current rules in each part of Canada.

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FEDERAL

How High Can an AMP Be?

The maximum AMP for a federal OHS offence depends on: (1) the type of offence; and (2) who commits it. The Chart below sets out the full array of maximum penalties:

Maximum AMPs for Federal OHS Violations (effective January 1, 2021)

Type of Offence*	Individual	Small Business	Large Business or Department
A	\$200	\$500	\$5,000
B	\$500	\$1,500	\$6,000
C	\$1,000	\$3,000	\$12,000
D	\$2,000	\$7,000	\$25,000
E	\$4,000	\$15,000	\$50,000

*Offence Type Key

A. Administrative or technical

B. Low-risk hazards involving risk of minor injury or illness but not disabling injury

C. Medium-risk hazards involving risk of serious injury or

illness preventing employees from performing regular duties

D. High-risk hazards involving risk of fatality or serious injury

E. Immediate or life-threatening hazards or hazards known to cause latent occupational disease where employees have little to no opportunity to avoid injury, death or disease

ALBERTA

How High Can an AMP Be'

The maximum AMP in Alberta is \$10,000 per OHS offence and \$10,000 per day that the offence continues or recurs (OHS Act, Sec. 68(2)).

Can a Person Who Gets an AMP Be Charged and Prosecuted for the Same Offence'

No, as long as the person pays the AMP (OHS Act, Sec. 68(3)).

How Long After an Offence Occurs Can an AMP Be Imposed'

Up to 2 years (OHS Act, Sec. 68(4)).

BRITISH COLUMBIA

How High Can an AMP Be'

The maximum AMP in BC is:

- \$1,085 if the offence is failure to comply with an OHS order (Workers Comp Act, Sec. 94); and
- \$674,445.93 if: (a) employer fails to take sufficient precautions to prevent work-related injuries or illnesses; (b) employer doesn't comply with a law or applicable order; or (c) employer's workplace or working conditions are unsafe (Workers Comp Act, Sec. 95);

How Is the AMP Amount Calculated'

WorkSafeBC calculates the Sec. 95 AMP amount using a basic amount based on an employer's 'penalty payroll,' which is then multiplied by multipliers corresponding to the degree, severity or type of offence, e.g., the high-risk multiplier for high-risk offences or intentional multiplier for intentional offences (WorkSafeBC Policy P2-95-5)

Is Due Diligence a Defence Against an AMP'

An employer can't be hit with an AMP under Section 95, i.e., the one carrying the \$674,445.93 maximum, if it can prove due diligence; however, due diligence isn't a defence for the maximum \$1,085 AMP under Sec. 94 (Workers Comp Act, Sec. 95(3)).

Can a Person Who Gets an AMP Be Charged and Prosecuted for the Same Offence'

No (Workers Comp Act, Sec. 95(7)).

MANITOBA

How High Can an AMP Be'

The maximum AMP in Manitoba is \$5,000 (Workplace Safety and Health Act, Sec. 53.1(4))

How Is the AMP Amount Calculated'

The Regulations set out a Schedule listing AMP amounts ranging from \$1,000 to \$5,000 based on: (1) the offence; and (2) whether it's a first, second or third offence:

Maximum AMPs for Manitoba WSH Violations

Type of Offence*	First Offence	Second Offence	Third + Subsequent Offence
1	\$2,500	\$5,000	\$5,000

2	\$1,000	\$3,000	\$5,000
3	\$2,500	\$5,000	\$5,000
4	\$1,000	\$3,000	\$5,000
5	\$2,500	\$5,000	\$5,000
6	\$1,000	\$3,000	\$5,000
7	\$1,000	\$3,000	\$5,000

*Offence Type Key

1. Not complying with an improvement order requiring a control measure
2. Not complying with an improvement order not requiring a control measure
3. Resuming an activity that had been the subject of a stop work order after the stop work order was lifted
4. Getting an order for committing discrimination against a worker
5. Not complying with fall protection or guardrails requirements under the Operations of Mines Regulation
6. Not giving one of the following required notice: a. Notice to an electrical authority for work near overhead electrical lines; b. Notice of excavation to the WSH Branch for excavation work and owners of an underground facility; c. Notice of suspended work platform use to the WSH Branch
7. Not complying with WSH Reg. requirements for guardrails, fall protection systems, support structures in an open excavation or trench, deep foundation tunnel, shaft or tunnel or alteration, renovation or demolition involving asbestos containing material

Can a Person Who Gets an AMP Be Charged and Prosecuted for the Same Offence'

No, as long as the person pays the AMP (Workplace Safety and Health Act, Sec. 53.1(13)).

NEW BRUNSWICK

How High Can an AMP Be'

There are no AMPs for OHS offences in New Brunswick.

NEWFOUNDLAND

How High Can an AMP Be'

There are no AMPs for OHS offences in Newfoundland.

NORTHWEST TERRITORIES & NUNAVUT

How High Can an AMP Be'

There are currently no AMPs for OHS offences in Northwest Territories or Nunavut. However, the WSCC has called for the territories to change the law and allow for AMPs based on: 1. the offence; and 2. who commits it, according to the following schedule:

WSCC Proposed Ticketing & Fine Schedule for OHS Offences

Fineable Party	Fineable Offence (<i>Safety Act</i> Section(s))	Fine Amount
Employer	Failure to comply with direction issued by a safety officer (as required by Sec. 22(1)(b))	\$2,000
Worker	<u>Failure to:</u> *Use required safeguards, safety equipment and personal protective equipment; and/or *Follow required safe work practices and procedures required by or developed under these regulations (Sec. 13)	\$250
Worker	Violation of duty to not start powered mobile equipment until worker makes complete visual inspection of equipment and surrounding area to ensure a worker isn't endangered by start-up (Sec. 163(2))	\$250

Worker	Violation of duty to not deactivate a lockout process or remove a lockout device unless worker is designated by employer (Secs. 147(10) and (11))	\$250
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NOVA SCOTIA

How High Can an AMP Be'

The maximum AMP in Nova Scotia is \$2,000; but AMPs can also be issued for each day the offence continues (Workplace Safety and Health Reg, Sec. 31.5).

How Is the AMP Amount Calculated'

The Regulations set out a Schedule listing AMP amounts ranging from \$100 to \$2,000 based on: (1) the person who committed the offence; and (2) whether it's a first, second or third offence within a 3-year window:

Maximum AMPs for Nova Scotia OHS Violations

Type of Offender	First Offence	Second Offence	Third + Subsequent Offence
Employer, contractor, constructor, supplier, provider of occupational health or safety service, architect or professional engineer	\$500	\$1,000	\$2,000
Employee who has supervision responsibilities, owner or self-employed person	\$250	\$500	\$1,000
Employee	\$100	\$200	\$500

Can a Person Who Gets an AMP Be Charged and

Prosecuted for the Same Offence'

No (Workplace Safety and Health Reg, Sec. 31.11).

ONTARIO

How High Can an AMP Be'

There are no AMPs for OHS offences in Ontario.

PRINCE EDWARD ISLAND

How High Can an AMP Be'

There are no AMPs for OHS offences in PEI.

QUÉBEC

How High Can an AMP Be'

There are no AMPs for OHS offences in Québec.

SASKATCHEWAN

How High Can an AMP Be'

There are no AMPs for OHS offences in Saskatchewan.

YUKON

How High Can an AMP Be'

The maximum AMP in Yukon depends on whether the OHS violation is a first or second offence:

- First offence: Up to \$5,000 and up to \$500 per day that the offence continues;
- Second offence: Up to \$10,000 and up to \$1,000 per day that the offence continues (OHS Regs., Sec. 45(1)).

Can a Person Who Gets an AMP Be Charged and Prosecuted for the Same Offence'

No (OHS Regs., Sec. 45(1)).