

Month In Review – Federal



LAWS & ANNOUNCEMENTS

COVID-19

Jan 5: As of today, all persons ages 2 and over must present proof of testing negative for COVID within the previous 2 days to travel to Canada by air from China, Hong Kong or Macao. Passengers who tested positive between 10 and 90 days of their departing flight can provide documentation of their prior positive, rather than a negative test result.

Action Point: Go to the OHSI website for a template policy on requiring workers to verify they've received the COVID vaccine

WHMIS

Dec 15: From now through Feb. 23, Health Canada will field public comments on a proposal to require suppliers and employers to provide WHMIS hazard and safety information on use of consumer products in the workplace. Because they're excluded from the *Hazardous Products Act*, consumer products aren't currently subject to WHMIS requirements. Health Canada wants to change that.

Action Point: Implement a WHMIS Training Compliance Game Plan at your workplace

New Laws

Jan 5: After accepting a record-high 405,000 permanent residents in 2021, Canada reached its target of welcoming 431,645 new permanent residents in 2022—all of this despite pandemic-related administrative backlogs.

Action Point: Find out whether you must provide multilingual safety training to your workers

Transportation Safety

Newly effective federal *Commercial Vehicle Drivers Hours of Service Regulations* require drivers of commercial buses and trucks that cross provincial/territorial lines to have an electronic logging device installed in their vehicle to accurately record their driving time and document that they're in compliance with maximum hours restrictions guarding against driver fatigue.

Transportation Safety

On the roads, quiet can be dangerous. That's why Transport Canada issued new regulations requiring hybrid and electric vehicles to emit minimum noise levels so that other motorists, cyclists and pedestrians can hear them coming and steer clear of traffic collisions and incidents.

Environmental

The national ban on manufacture and import of single-use plastics officially took effect covering checkout bags, cutlery, foodservice ware, stir sticks and straws. The ban on ring carriers is scheduled to take effect in June 2023.

CASES

Discipline: Mentally Impaired Delivery Driver Wins Reinstatement

After 3 warnings and a suspension, Canada Post fired a delivery person for violating the organization's secure vehicle policy by leaving his vehicle unlocked, doors-open and running while making a delivery. While acknowledging the worker's wrongdoing, the union asked for a lighter penalty and introduced a written statement from a psychologist diagnosing him with a DSM-5 disorder impairing his memory. The federal arbitrator accepted the expert opinion and reinstated the worker, provided he receive counseling and commit no further violations in the next 2 years [*Canada Post Corporation v Canada Union of Postal Workers*, 2022 CanLII 121430 (CA LA), December 14, 2022].

Action Point: How far can you go in disciplining workers for distracted driving?

Drugs & Alcohol: Smelling of Cannabis Not Enough to Prove Employee Was Actually High

Two facts were undisputedly true: 1. A cameraman backed up the company news van he was driving with the tailgate open; and 2. He reeked of marijuana when he pulled off the dangerous maneuver. The employer concluded that he must have been high and fired him. The cameraman denied the charge, contending that his jacket smelled of cannabis because he kept it in a part of his house where his nephew smoked pot. While dubious of the explanation, the federal arbitrator ruled that it **might have been** true and that the employer didn't meet its burden of proving the cameraman was impaired. **Result:** It knocked the penalty down to a 5-day suspension for unsafe driving [*Syndicat des communications de Radio-Canada v Société Radio-Canada*, 2022 CanLII 115408 (CA SA), November 24, 2022].

Action Point: Create a legally sound drugs and alcohol testing policy for your workplace