# Monthly OHS New Laws & Cases Briefing for August 2026




Here are the key legal changes from July that Occupational Health and Safety (OHS) coordinators need to know and brief their CEOs about.

## Important New OHS Laws & Trends

Here are the key new laws and trends shaping OHS compliance that OHS coordinators need to know about.

### 1. Poisonous Wildfire Smoke Puts Canadian Workers in Danger

The hot and dry conditions are making for a wildfire nightmare. Less than one week into August, Canada's 2026 wildfire season has already seen over 3.8 million hectares (9.5 million acres) burned, outpacing the historical 30-year average of 2.7 million hectares. In addition to an environmental disaster, wildfires are belching poisonous smoke endangering people hundreds of miles away. The danger is especially great to workers who work outdoors or in poorly ventilated indoor locations.  Find out how to implement a Wildfire Smoke Protection Game Plan at your outdoor workplace that includes safety policies, safe work procedures, and other cutting-edge safety tools.

## 2. Ontario Case Demonstrates Need to Monitor Safety Performance of the Contractors You Hire

Companies aren't liable for work injuries when the victim is a worker employed by an outside contractor. At least that's the common perception. And it happens to be 100% wrong. OHS "employer" liabilities extend to all workers who perform for a company on its site. This is true even when the work is a multi-employer construction project overseen by a "prime contractor" or "constructor" in overall charge of the work's safety and OHS compliance. A new Ontario case involving the City of Greater Sudbury is an important reminder of this principle. The good news is that while still on the hook, the City was able to avoid liability for the fall of a contractor's worker from a lift basket caused by a hidden underground pipe on the site by showing it exercised due diligence to prevent the incident and pointing out the hazard to the contractor before the work began. The takeaway is that it's vital to implement measures to ensure that your own contractors are aware of the hidden hazards of your site and carry out the work safely. Find out How to Monitor the Safety Performance of the Contractors you hire.

## 3. Ontario Rolls Out New OHS Rope Access Fall Protection Requirements

Rope access enables workers to work from heights using ropes as the primary means of support, work positioning, and fall prevention. Rope access work is highly risky due to the physical isolation of the worker, heavy reliance on equipment, and constant exposure to gravity. Hazards include falls from broken anchors, falling tools hitting people below, high winds, and harness hang trauma (blood pooling in legs from long periods of suspension). Unlike most provinces, Ontario doesn't have OHS regulations that specifically address rope

access. However, the Ministry of Labour has recently proposed and will soon enact such regulations affecting any workplace where rope access work is performed. Find out how to implement a legally sound Fall Protection Compliance Game Plan at your site.

## 4. Summer Is the Time for OHS Coordinators to Conduct Mid-Year Fire Extinguisher Safety Review

Once a year isn't enough. While not specifically required by law, Best Practice dictates that companies carry out mid-year review of their fire safety program. Inspecting fire extinguishers and carrying out evacuation drills should be key parts of mid-year review. And the summer months are the ideal time to perform it. Find out how to implement a Mid-Year Fire Extinguisher Inspection and Evacuation Drill Review Game Plan.

## 5. New Tight-Fitting Respirator Requirements Take Effect in British Columbia This Fall

Revised OHS requirements for use of tight-fitting respirators will officially take effect in British Columbia on November 6. The new rules eliminate the term "clean shaven" and replace it with new language requiring employers to ensure that nothing is allowed to intrude between the skin of a worker's face or neck and the respirator seal, or otherwise interfere with the proper functioning of the respirator. In addition to the OHS liability implications, requiring workers who use tight-fitting respirators to be clean shaven can expose you to discrimination liability risks when shaving would violate a worker's religion. Find out more about workers' rights to safety policy exemptions and other reasonable accommodations and how far you must bend PPE rules to accommodate workers' religion.

# Important New OHS Cases

These were the Top 12 OHS court cases of the month.

## 1. British Columbia: Hotel Hit with Year-High $624,000 OHS Fine for Asbestos & Lead Hazards

An $8 billion hotel developer/manager was on the receiving end of the highest reported OHS fine in not just the province but all of Canada this year. The problems began when WorkSafeBC inspectors at a hotel renovation site observed asbestos-containing material (ACM) in the drywall, as well as mould on a wall and debris from paint containing lead. The renovation workers weren't trained or certified in asbestos abatement and most of them weren't using respiratory protection. There was no negative pressure containment or decontamination in place, and the firm didn't do hazard assessments or have exposure controls plans for asbestos and lead. Additional OHS violations included failure to ensure that hazardous materials were safely contained or removed or provide WorkSafeBC a notice of project at least 48 hours before certain work activities involving ACMs began, a repeat violation. The price tag: administrative monetary penalties of $624,051 [*Northland Properties Corporation*].

**Action Point:** Don't let this happen to you. Find out how to implement a legally sound Airborne Contaminant Exposure Control Plan at your workplace.

## 2. Ontario: Site Owner Who Notifies Contractor of Hidden Hazards Not Guilty of OHS Violations

A contractor hired by the City of Sudbury to repair silos at the historic Flour Mill site brought in a mobile elevating

work platform to do the work. As the main basket was descending, the left front wheel sank into an old, covered drinking fountain service box causing the basket to tip over and crash to the ground resulting in serious injuries to the worker inside. An Ontario trial court found the City guilty of two OHS violations stemming from its failure to tell the contractor about the presence of underground structures at the site—namely, failure as an employer to: i. provide necessary safety information, instruction, and supervision; and ii. acquaint a worker with any hazard in the work. But the appeals court overturned both convictions, finding that the City exercised due diligence to prevent the violations. Although it didn't do a walkaround of the entire site due to the overrun of vegetation that the contractor was hired to fix, the City did notify it that there was a fountain box with pipes underground. Even if conditions had allowed for walking the entire site, the underground structure that caused the accident wouldn't have been discovered because it was buried under topsoil. Thus, the City did make all reasonable efforts to provide information and a safe work site and wasn't guilty of either charge [*Ontario (Ministry of Labour, Immigration, Training and Skills Development) v. Greater Sudbury (City),* 2026 ONSC 3671 (CanLII), July 10, 2026].

**Action Point:** The moral of the case is that hiring contractors to carry out projects at your site doesn't relieve you of responsibility for injuries and safety incidents that occur during the work, especially when those injuries and incidents are the result of hazardous conditions on the property. Luckily, the City was able to avoid liability by proving that it exercised due diligence in warning the contractor of the danger. Find out how to use due diligence when entering into contractor agreements at your site.

## 3. Federal: Onboard Drug Inspection of

## Ship Officers' Bunks Is Valid Safety Measure

A merchant shipping company performed a surprise inspection of officers' cabins using drug sniffing resulting in the seizure of alcohol and cannabis products. The union cried foul, contending that the cabins were the officers' "homes" and that the random, warrantless, and unannounced search violated their privacy expectations. The company insisted the inspection was a reasonable safety measure given the dangers, not to mention illegality, of officers being high at sea. The federal arbitrator dismissed the grievance, finding that the search violated neither the law nor the collective agreement. And the company's interest in ensuring safety and complying with shipping laws onboard sobriety requirements outweighed the officers' privacy rights [*Canadian Merchant Service Guild v. Desgagnés Marine Cargo Inc*., 2026 CanLII 69369 (CA SA), July 10, 2026].

**Action Point:** Random testing is difficult to justify, even for safety-sensitive workers. The key to this case is the setting aboard a merchant ship. Find out how to implement a Drugs and Alcohol Testing Policy at your own workplace.

## 4. Ontario: OK to Terminate Safety-Sensitive Worker for Refusing Post-Incident Drug Testing

A mine operator demanded that an experienced heavy equipment operator undergo post-incident drug testing right after failing to follow lockout procedures. The worker refused. A week later, he got his termination notice. The Ontario arbitrator found just cause to terminate. Disobeying the lockout rules was a serious safety violation justifying post-incident testing. And refusing a valid testing order was a serious violation of the company's fitness for duty policy.

True, the operator did have a good 11-year service record. But reinstating him would send the wrong safety message and encourage other impaired workers to refuse drug and alcohol testing reasoning that while termination would be the result of testing positive, refusing to test might lead to lesser discipline [*Dome Mine Limited v United Steelworkers, Local 7980*, 2026 CanLII 78264 (ON LA), July 31, 2026].

**Action Point:** The key to the case is that the mine's no-drug and testing policy but the clear understanding that workers who perform safety-sensitive jobs must be fit for duty at all times. Find out how to create a legally sound Substance Abuse & Fitness Duty for Policy at your workplace.

## 5. Québec: No Duty to Accommodate Drug-Dependent Equipment Operator Who Declines Help

A mobile equipment technician returning from a drug-related disability leave admitted to smoking pot the night before taking his return-to-work drug test. Not surprisingly, he tested positive for cannabis. Two weeks later, he got a second chance but tested positive for benzodiazepines contained in the legally prescribed Atavin medication he told his employer about. The company gave him another week to get rid of the Atavin and come back for a retest. Even though he admitted to using cannabis a few days earlier, the test came back negative and the technician was allowed to return to work that day subject to random testing going forward. Seven months later, he failed a drug test after admitting to consuming cannabis the previous evening. So, the company terminated his employment. The Québec arbitrator upheld the decision. It should have been clear to the company that the technician was struggling with a drug dependency and that reasonable accommodation was in order. While not pursuing full medical evaluation, the company did at least offer him help, noted the arbitrator citing the HR manager's testimony that "I told him

that we would be there to support and help him if he needed it" the way it had when the technician first went on disability leave. In that situation, the technician accepted help leading to his successful rehabilitation. But this time he chose not to take advantage of the offer, thinking he could solve his cannabis problem by himself. At that point, the company's duty to accommodate ended and termination became justified [*United Steelworkers Local 5778 v. ArcelorMittal Mining Canada*, 2026 CanLII 70757 (QC SAT), July 9, 2026].

**Action Point:** While drug addiction is a disability for which employers must make "reasonable accommodation" under human rights laws, the duty to accommodate ends when workers offered help by their employers to deal with their addictions decline the offer. Use the OHS Insider Substance Abuse Compliance Game Plan to curb drugs and alcohol at your workplace without violating workers' rights to reasonable accommodations.

## 6. Alberta: Plumbing Firm Fined $330,000 for Trench Collapse Fatality

A construction crew was replacing sewer and waterlines from a house when the excavation caved in. One of the workers was killed. The victim's employer was fined $330,000 after pleading guilty to failing to ensure the worker was protected from the collapse of a wall of an excavation. All other charges were dropped under a plea bargain [*Mr. Mike's Plumbing Ltd.*, July 13, 2026].

**Action Point:** Find out how to implement a 10-step Excavations Safety and Compliance Game Plan at your workplace to prevent what happened to this company from happening to yours.

## 7. Ontario: Recycler, Employment Agency Fined $265,000 for Temporary Worker's

## Machine Death

An employment agency worker using a rake to remove debris from between the rollers and belt of an unguarded conveyor system on a cardboard baling line at a recycling facility got pulled into the machine and suffered fatal injuries. The recycling facility was fined $250,000 after pleading guilty of one OHS violation—failure to ensure that the conveyor was stopped and blocked during maintenance work; the employment agency was also fined $15,000 for failing to ensure the work area was free of debris [*Nexcycle Industries Inc., and Connect Place Inc.,* MOL Press Release, July 6, 2026].

**Action Point:** It's noteworthy that the victim in this case was a temp. Find out more about your OHS duties to protect temporary workers.

## 8. Alberta: Company Not Guilty of OHS Violations in Forklift Driver Fatality

The prosecution charged an equipment rental firm with 10 OHS violations stemming from an incident in which a truck driver suffered fatal injuries after falling from the upper deck of a trailer after being struck by a machine shaft that rolled off the forks of a telehandler. The Calgary trial court ruled that the Crown didn't prove the company committed the violations and acquitted it of all charges [*Stephenson's Rental Services Inc.,* Govt. Press Release, July 22, 2026].

**Action Point:** OHS requirements for Powered Mobile Equipment vary significantly by province. And that makes compliance challenging, especially for companies that operate in multiple jurisdictions. Get a handy summary of the PME requirements in each part of Canada.

## 9. Federal: Using Personal Cellphone on Job Is Just Cause to Fire Employee on Last Chance

Air Canada terminated a Cargo department employee for violating his Last Chance Agreement (LCA) by using a personal electronic device in a restricted area while operating potentially hazardous equipment. Even though it excluded a screenshot taken during a Microsoft Teams videoconference, the federal arbitrator found ample evidence that the employee was talking on his cell phone while in a tractor in an active work area. This was also a clear violation of the LCA for which Air Canada wasn't required to show any lenience [*Air Canada v Iam, District Lodge 140,* 2026 CanLII 70770 (CA LA), June 26, 2026].

**Action Point:** One reason Air Canada won is that it had clear written rules banning workers from using cellphones, headsets, and other personal devices that could interfere with communication or cause distractions that lead to accidents and injuries. Find out how to implement an effective Mobile Devices in the Workplace Policy at your workplace.

## 9. Québec: OK to Fire Worker on Last-Chance Agreement for Violent Outburst

An operations clerk admitted to kicking and damaging two filing cabinets but blamed his actions on the stressful conditions inside the crusher cab where he worked and promised never lose his self-control again. What might otherwise have been a satisfactory explanation was, however, unavailing because the clerk had already been suspended 14 days for similar conduct and was allowed to return only after signing a last-chance agreement promising to keep his nose clean for 270 days or face termination. As a result, the Québec arbitrator ruled that the employer had just cause to terminate. The last-chance agreement was clear and fair and the union and clerk

understood what they were doing when they signed it [*Quebec Iron Ore Inc. v. United Steelworkers, Local 9996*, 2026 CanLII 53076 (QC SAT), June 1, 2026].

**Action Point:** The key to this case is that the clerk had a history of violent outbursts and was on a last chance agreement when he erupted again. Find out how to implement an effective Workplace Violence and Harassment Prevention and Compliance Game Plan at your site.

## 10. Alberta: No Duty to Create New Job to Accommodate Employee's Permanent Disability

A radiology practice ended the employment of an ultrasound technician who had been on long term disability (LTD) leave for nearly four years based on a recent medical exam finding she was permanently disabled. The practice claimed frustration of contract; the technician claimed wrongful dismissal. The Alberta court sided with the practice. Frustration is justified when the employee can't perform the work due to a permanent disability. The permanent nature of the disability also relieved the practice of its duty to make reasonable accommodations under human rights laws. The duty to accommodate doesn't require an employer to create a new employment position—in this case, turn a sonographer into an MRI technician—that isn't required for its business [*Lai-Terke v EFW Radiology*, 2026 ABCJ 114 (CanLII), July 22, 2026].

**Action Point:** Although the employer won, the takeaway is that failing to accommodate the needs of injured workers may lead to liability under not just workers' compensation but also human rights laws, specifically the duty to make reasonable accommodations for disabilities. Find out how to implement a legally sound Return to Work Compliance Game Plan for injured workers.

## 11. British Columbia: Not Letting Temp with Office Allergies Work from Home Is Not Discrimination

Claiming that something in the office building was making her sick, a client service advisor hired under a temporary contract asked for permission to work from home. The company said no because the advisor's performance didn't meet the standards required for employees to be allowed to telecommute and because the doctor's note she provided was too vague to support her need to work from home. The advisor sued the company for failure to accommodate her disability, but the human rights commission dismissed the complaint. After a series of lost appeals, she took her claim to the BC Court of Appeal, which refused to second guess the lower court's upholding the company's decision to deny permission to work from home based on its telecommuting policy and lack of clear medical information as reasonable [*McNeil v. British Columbia (Human Rights Tribunal),* 2026 BCCA 296 (CanLII), July 10, 2026].

**Action Point:** Although the company prevailed, the case illustrates how indoor air quality complaints can lead to liability under not just OHS but also discrimination laws. Find out how to comply with OHS indoor air quality requirements.

## 12. Alberta: Firing of Truck Driver Who Expressed Safety Concerns Must Go to Trial

He was a model driver who had recently received a driver of the year award. But an incident occurred just before Christmas when he was assigned to drive a load. The forecast called for snow and the driver expressed concerns about whether the tires on his truck were safe enough. One thing led to another and by

the time the dust had cleared, the driver no longer had a job. The driver claimed he was wrongfully dismissed after engaging in a lawful OHS work refusal; the trucking company claimed he resigned voluntarily. The driver moved for summary judgment, that is, a ruling without a trial. But the Alberta court said no, saying that it was a close case with evidence supporting both sides. Result: The case had to go to trial and couldn't be decided based solely on the pleadings [*Carleton v Kootenay Wood Transport Ltd*, 2026 ABKB 497 (CanLII), July 7, 2026].

**Action Point:** Find out how to avoid reprisals liability when disciplining workers who commit infractions unrelated to their work refusals or previous exercises of OHS rights.