

OHS Insider Month in Review ? April 2018

Alberta



LAWS & ANNOUNCEMENTS

Key OHS Changes Under Bill 30 (Effective June 1, 2018)

OHS Provision	Summary of Changes
New Employer Duties	<ul style="list-style-type: none"> * Protect others at or near site who may be affected by hazards * Make workers aware of their OHS rights and duties * Ensure none of its own workers are subject to or participate in violence or harassment at site * Ensure supervisors are competent & familiar with OHS laws and work done at site * Consult & cooperate with JHSC * Give names of supervisors to prime contractor if one is required for site * Ensure workers are properly trained before doing work duties and after transfers, reassignments and changes to equipment or operations
Specific Supervisor Duties	Addition of express supervisor duties to OHS Act, including competent supervision, obeying OHS laws, taking reasonable precautions, ensuring proper PPE use, etc.
New Worker Duties	<ul style="list-style-type: none"> * Protect others at or near site who may be affected by work * Refrain from causing or participating in harassment or violence * Report unsafe conditions or concerns to supervisor
New Duties of Other Parties	<ul style="list-style-type: none"> * Suppliers * Service providers * Owners * Contractors & prime contractors * Self-employed persons

Safety Duties for Temporary Staffing Agencies	Alberta becomes first jurisdiction to add specific safety duties for temp agencies to its OHS laws, including taking 'reasonably practicable' steps to ensure safety of workers they place at clients' work sites
Mandatory Prime Contractors	Mandatory to appoint prime contractor at multi-employer oil and gas sites and other sites designated by Director
Safety Information	<p><u>New employer/prime contractor/self-employed person duty to:</u></p> <ul style="list-style-type: none"> * Make OHS Act, Regs. and Code and info on work site hazards, manufacturer specifications for equipment or harmful substances supplied and copies of any report, plan or procedures required 'readily available' to workers, JHSC et al. * Post OHS orders or Director notices in workplace
Beefed Up Role for Joint Health & Safety Committee (JHSC) and Health & Safety Representative (HSR)	<ul style="list-style-type: none"> * JHSC now required at sites with 20 or more workers where work expected to last 90 days or more * HSR required at sites with 5 to 19 workers where work expected to last 90 days or more * JHSC must have at least 4 members and meet at least quarterly <ul style="list-style-type: none"> * Employer or prime contractor must meet with HSR regularly * JHSC/HSR duties include <ul style="list-style-type: none"> 'Considering workers' safety concerns and complaints 'Participating in hazard identification 'Developing, promoting and monitoring safety measures & education programs 'Making recommendations 'Regularly inspecting the work site
Broader Work Refusal Rights	<ul style="list-style-type: none"> * Refusal easier to justify' must be reasonable grounds to believe danger exists (requirement that danger be 'imminent' eliminated) * Employer must still investigate but now, if reasonably practicable and not dangerous, refusing worker + JHSC worker co-chair (or HSR) must be present during investigation * Refusing worker gets paid (or may be reassigned with equal pay) while investigation takes place
Beefed Up Worker Reprisal Protections	<ul style="list-style-type: none"> * Protected activity includes refusing dangerous work, giving safety-related info to employer, supervisor, JHSC/HSR or govt., being on or trying to establish JHSC * New burden of proof on employers to show that disciplinary action is NOT reprisal * Stronger penalties for reprisals

Stricter & More Specific OHS Program Requirements	<p>* OHS Program now required at sites with 20 or more workers</p> <p>*Program must include:</p> <ul style="list-style-type: none"> o An OHS policy o Identification of hazards to workers (including harassment and violence) o Measures to eliminate, reduce or control hazards o An emergency response plan o Stated responsibilities of employers, supervisors and workers o A schedule and procedures for regular site inspections o Health and safety procedures o Worker & supervisor health and safety orientation & training o Procedures to investigate incidents, injuries and work refusals o Procedures for reviewing and revising OHS Program
Stricter Incident Reporting Requirements	Broader list of serious workplace injuries and incidents that must be reported, including near misses and incidents involving any hospital admission (elimination of requirement that admission must last 2 or more days)
Tougher OHS Enforcement	<p>*Expanded powers of govt. officers to inspect work sites or investigate injuries and incident, including power to interview persons not present at work site when incident occurred</p> <p>*Expanded powers of govt. to issue and enforce stop work order and stop use order (equipment) provisions</p> <p>*Right of workers to continue to be paid (or reassigned with equal pay) during a stop work order/stop use order</p> <p>*Greater power of courts to impose and oversee creative sentences for OHS violations</p> <p>*Revised procedures for appealing OHS fines and penalties</p>

OHS Scorecard

Reported 2018 Alberta OHS fines (so far):

FINE	VIOLATOR	VIOLATION(S)
\$95K	Nelson Lumber Company Ltd.	Failure to ensure hazardous work carried out by competent worker after worker using pull saw suffers serious injury when his hand contacts blade
\$90K	WSC Western Canadian Steel Inc.	Not ensuring that fall protection equipment was contained, restrained or protected resulting in anchor point failure leading to worker's 5.5 metre fall from roof
\$28,750 + 2 years' corporate probation	Rockshore Homes Ltd.	Failure, as prime contractor, to protect worker who fell 5 metres from a second storey work platform while installing a window in a single family home

Workers' Compensation'New Laws

April 1: The following Bill 30 changes take effect today:

- Extend presumption that PTSD and other psychological injuries are work-related (which current applies to EMT workers) to *all* workers
- Presumption that myocardial infarction is work-related extended to

paramedics

- PTSD presumption extended to correctional officers and emergency dispatchers

Other Bill 30 workers' comp changes taking effect on Sept. 1:

- Return-to-work mandatory unless workers don't cooperate or employer would suffer undue hardship
- New Code of Rights and Conduct for workers and employers dealing with WCB
- Interim relief for workers and employers while their cases are under appeal
- New process for estimating earning capacity requiring WCB to demonstrate every reasonable effort made to help injured worker's job search
- Removal of \$98,700 annual maximum insurable earnings cap'workers above cap to get 90% of earnings
- Increased long-term compensation rates for workers suffering severe injuries before age 25 who enroll in vocational rehab programs
- Appeals Commission window extended to 2 years.

Workers' Compensation'New Policies

Feb. 27: The WCB revised several policies to align with the above Bill 30 changes. Most of the changes are housekeeping, with 2 exceptions:

Policy	Change(s)
Policy 01-03, Part I, Benefit of Doubt	New section 17(4.1) specifying that benefit of doubt goes to worker when evidence is approximately equal (rule not new but language is clearer)
Policy 07-03, Financial Admin. of Safety Association Grants	New requirement that safety associations meet the new Bill 30 criteria for receiving OHS grants

Cannabis

April 9: Tougher traffic safety penalties for impaired driving in anticipation of cannabis legalization (under erstwhile Bill 29) take effect:

- New rules for appealing suspended licences of cannabis-impaired drivers
- Penalties for drivers found to be over federal limits for cannabis
- New rules for drug testing and confiscation of licences by peace officers
- Rules for use of drug screening equipment to test drivers.

Workplace Violence

June 1: New workplace violence protections for gas station and retail convenience stores under Bill 19 take effect, including:

- Pre-pay procedures minimizing handling of cash
- Workplace violence prevention plans
- Video monitoring
- Time-lock safes that can't be opened during night time hours
- Personal emergency transmitters for workers working alone
- Workplace violence prevention training for workers.