

Ontario Bill 88 Increases OHS Penalties, Requires Naloxone Kits



The 4 things Ontario OHS coordinators must know about Bill 88.

Newly passed Ontario employment legislation, Bill 88, aka, the *Working for Workers Act, 2022*, makes significant changes to the *OHS Act* (OHSA), most of which take effect on July 1, 2022. Here's a quick briefing on what OHS coordinators in Ontario need to know about the law.

1. Higher OHS Penalties for Individuals

As in all parts of Canada, [OHS fines](#) in Ontario can be imposed on both companies and individuals. Historically, corporations account for most of the fine money because they have the deepest pockets. Of course, many corporate directors and officers are also pretty wealthy. But under previous law, the [maximum OHS penalty](#) is \$1.5 million for a corporation and only \$100,000 for an individual.

Bill 88 increases the maximum OHSA penalty for an individual to \$500,000. It also imposes a separate maximum \$1.5 million penalty on individuals who serve as corporate directors and officers.

2. New Aggravating Factors for Sentencing

Bill 88 also sets out aggravating factors for [sentencing](#) courts to take into account in increasing for an OHSA violation, including:

- The offence resulted in the death, serious injury or illness of one or more workers;
- The defendant committed the offence recklessly;
- The defendant disregarded an inspector's order;
- Previous convictions or a history of non-compliance;
- The defendant's lack of remorse;
- The defendant's conduct exhibited an element of moral blameworthiness;
- The defendant's motivation was to increase revenues or cut costs;
- The defendant tried to conceal or didn't cooperate with the MOL after committing the offence.

3. One Extra Year to Prosecute

Bill 88 increases the limitation period on bringing OHSA prosecutions from 1 to 2 years. The clock starts ticking either after the later of the occurrence of the last act or default on which the prosecution is based, or the day on which an inspector becomes aware of the alleged offence.

4. New Duty to Keep Naloxone Opioid Overdose Kits in Workplace

In addition to current first aid kits and equipment, employers must provide and maintain in good condition a naloxone kit in workplaces where they're aware, or ought to be aware, that there may be a risk of a worker having an opioid overdose. They must ensure that there's a worker in the vicinity of where the naloxone kit is kept who's in charge of the kit and who's been trained:

- How to recognize an opioid overdose;
- How to administer naloxone; and
- On the hazards of administering naloxone.