

Poll Results on Best Way to Deter OHS Violations



It seems like the fines imposed on employers for violations of the workplace safety laws continue to get larger, with six-figure fines for serious violations and fatalities almost standard in some jurisdictions. Of course, some would argue these fines still aren't high enough. But are hefty fines against companies really the most effective way to deter OHS violations'

We recently asked what you thought was the best way to deter workplace safety violations. The results were interesting.

Focusing on individuals was the most popular approach. For example, 31% of respondents said they thought that fines for individuals, such as managers and supervisors, was the best deterrence tool, while another 31% selected 'tickets' for workers. And it does appear that the government has become more active in going after individuals rather than companies for safety offences'and not just in Ontario.

For example, in Saskatchewan, a supervisor recently pleaded guilty to one safety violation and was fined \$840 [*Chad Knusdon*, Govt. News Release, Feb. 6, 2014] and a shift boss pleaded guilty to an OHS violation and was fined \$2,100 [*Steve Strickland*, Govt. News Release, Jan. 29, 2014].

And in Yukon, a supervisor was convicted of safety offences related to a workplace fatality [*Yukon (Director of Occupational Health and Safety) v. Yukon Tire Centre Inc.*, [2014] YKTC 4 (CanLII), Jan. 29, 2014].

Targeted inspection blitzes was the choice of 25% of voters. Such blitzes have been the norm in Ontario for a while now, but as the targets and timing of such blitzes are announced months in advance, it's unclear how effective they really are. Other jurisdictions, such as AB, BC, PEI and SK, have also conducted focused blitzes. So it's likely that this approach to deterring safety violations will continue and may likely spread.

A mere 8% thought that high fines for employers was the best way to deter safety violations and just 4% thought jail sentences for individuals was the way to go. In a recent case from Ontario, a court discussed both approaches, concluding

that there was a need for jail sentences as a deterrence when high fines had failed to improve compliance.

In that case, a roofer fell to his death from a ladder. The owner of the roofing company, who was working as a supervisor, was convicted. In sentencing him, the court noted the staggering number of falls 'many fatal' in the roofing industry each year.

The main reason the court imposed a 15-day jail sentence on the owner was to deter *others* from ignoring the legislated fall protection requirements, explaining that 'the reality is that fines have not been sufficient deterrence for these offences,' added the court [*R. v. Roofing Medics Ltd.*, [2013] ONCJ 646 (CanLII), Nov. 21, 2013].

Bottom line: One approach to deterrence isn't enough. Jurisdictions will continue to use a combination of all these methods in the hope of perfecting a formula that effectively discourages safety violations and encourages compliance with the OHS laws. But as high fines against organizations don't seem to be working, don't be surprised if the government starts to focus even more on individuals who commit safety offences and for courts to get more comfortable sending such violators to jail.