

# PPE – 2023 Year in Review



## FEDERAL

### LAWS & ANNOUNCEMENTS

**Aug 1:** The International Safety Equipment Association (ISEA) announced plans to update ANSI/ISEA Z89.1, *American national standard for industrial head protection*, to clear up confusion on the scope of American and European safety helmets standards.

**Action Point:** Use the OHSI [PPE Head Protection Compliance Game Plan](#) to prevent head injuries and OHS penalties at your workplace.

### CASES

#### **PPE: Railway Can't Prove Terminated Signalers Committed a PPE Violation**

A railway company fired 2 signalers who were on probation for other safety violations for not wearing required PPE, namely slip-proof safety boots. The union contended that the decision was totally unreasonable. The federal arbitrator agreed and reinstated both workers finding that the company failed to meet its burden of proving that the signalers did anything wrong. The evidence suggested that at the time the alleged violation occurred both workers were actually on standby duty in their vehicle and thus not required to wear slip-proof boots or any other kind of PPE [[United Steelworkers, Local 2004 v Canadian National Railway Company](#), 2023 CanLII 13791 (CA SA), February 27, 2023].

**Action Point:** How to use [progressive discipline](#) effectively to enforce your workplace health and safety rules

## ALBERTA

### LAWS & ANNOUNCEMENTS

**Feb 1:** Reminder: OHS Code changes update the technical standards that items of PPE and fall protection must meet to promote harmonization and make life simpler for employers. Effective date: March 31, 2023.

**Dec 9:** OHS Code changes update the technical standards that items of PPE and fall protection must meet to promote harmonization and make life simpler for employers. Effective date: March 31, 2023.

## BRITISH COLUMBIA

### LAWS & ANNOUNCEMENTS

**Mar 16:** WorkSafeBC issued a new [guideline](#) (under Section 8.3 of the OHS Regulations) to help employers ensure that PPE properly fits all workers regardless of gender. The hazards created by ill-fitting PPE are particularly pronounced for women in traditionally male-dominated industries, such as construction, mining, and firefighting, the guideline explains.

**Apr 12:** The BC Human Rights Commissioner criticized the Public Health Officer for lifting indoor mask restrictions in healthcare settings, which she says compromises the safety of seniors and other vulnerable people at higher risk of contracting COVID. While masking remains voluntary, “those who are most vulnerable among us shouldn’t have to depend on the kindness of others to respect their fundamental rights,” according to the Commissioner’s letter.

**Oct 3:** With COVID-19 case numbers resurging, BC has once more

made medical masks mandatory for healthcare workers, contractors, and volunteers in patient care areas of hospitals and other health facilities and services locations.

**Action Point:** Find out about [keeping face masks mandatory](#) even if public health orders don't mandate it.

## NEW BRUNSWICK

### LAWS & ANNOUNCEMENTS

**Dec 16:** The New Brunswick Assembly passed [Bill 11](#) amending the *OHS Act* to require workers on fishing vessels to wear life jackets and personal flotation devices. The bill also clarifies that fishing vessels are a "place of employment" where PPE must be worn—at all times when the vessel doesn't have a deck or deck structure.

**Nov 30:** [Bill 11](#) amending the OHS Act to require workers on fishing vessels to wear life jackets and personal flotation devices, is out of Committee and likely to pass. The bill clarifies that fishing vessels are a "place of employment" where PPE must be worn—at all times when the vessel doesn't have a deck or deck structure.

## NEWFOUNDLAND & LABRADOR

### LAWS & ANNOUNCEMENTS

**Jan 19:** A new Public Advisory reminds residents that helmets and seatbelts (where installed by manufacturers) are now mandatory for the operation of all off-road vehicles in Newfoundland and Labrador. The only exception is for hunting and trapping activities involving speeds of less than 20 km per hour and frequent stops.

**Action Point:** Use the OHSI [PPE Head Protection Compliance Game Plan](#) to prevent head injuries and OHS penalties at your workplace.

# NORTHWEST TERRITORIES

## LAWS & ANNOUNCEMENTS

**Jul 5:** WSCC issued [new guidance](#) to help employers and workers prevent hand injuries. More than 20% of all workers comps filed in 2022 involved injuries to the fingers, arms and upper extremities, according to the agency.

**Action Point:** Implement a legally sound [hand and arm protection compliance game plan](#) at your site.

# NUNAVUT

## LAWS & ANNOUNCEMENTS

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**Action Point:** Implement a legally sound [hand and arm protection compliance game plan](#) at your site.

# ONTARIO

## LAWS & ANNOUNCEMENTS

**Mar 14:** Proposed changes to [OHS Construction Project Regulations](#) would require that PPE and protective clothing be properly fitted to women and workers of diverse sizes and body types. The new rules would take effect on July 1, 2023.

**Apr 15:** The Ontario MOL published [revisions](#) to *OHS Construction Project Regulations* requiring employers to ensure that PPE and protective clothing be properly fitted to women and workers of diverse sizes and body types. The new rules will take effect on July 1, 2023.

**Action Point:** Find out why [standard PPE leaves women workers exposed to injury risk](#).

**Jul 1:** Changes to [OHS Construction Project Regulations](#) requiring that PPE and protective clothing be properly fitted to women and workers of diverse sizes and body types take effect.

**Action Point:** Find out why [standard PPE leaves women workers exposed to injury risk](#).

**Jul 10:** Second Reading for [Bill 93](#), aka *Joshua's Law (Lifejackets for Life)*, 2023, which requires parents to ensure that their kids of age 12 or under wear a personal flotation device or lifejacket while on a "pleasure boat" that's underway or being towed, or face a fine of up to \$200.

**Sep 25:** It's on to Third Reading for [Bill 93](#), aka *Joshua's Law (Lifejackets for Life)*, 2023, which requires parents to ensure that their kids of age 12 or under wear a personal flotation device or lifejacket while on a "pleasure boat" that's underway or being towed, or face a fine of up to \$200.

**Action Point:** Implement a legally sound [drowning protection compliance game plan at](#) your workplace.

**Nov 16:** While mandatory mask protocols have lapsed, Ontario's Chief Medical Officer strongly recommends the use of masks indoors to prevent transmission of not only COVID-19 but other respiratory viruses like flu and monkeypox.

## **CASES**

### **PPE: Not Exempting Disabled Worker from COVID Mask Policy Isn't Discrimination**

During the COVID crisis, a food plant put a line production worker with a disability that made it impossible for her to comply with the company's mandatory face mask policy on unpaid leave. The union filed a disability discrimination grievance, claiming that the company's refusal to waive the face mask policy was a failure to accommodate. The employer insisted that allowing the worker, who because of her job was unable to maintain social distancing of 6 feet, to work without a mask

would be undue hardship to the extent it would compromise the health and safety of others at the plant. The Ontario arbitrator said it agreed with the employer's decision, noting that COVID was a novel issue that nobody completely understood. This wasn't a case where "the employer could examine historical data or experience to reliably evaluate the degree of risk posed by permitting the worker to return to work without a face mask" [[\*United Food and Commercial Workers Canada, Local 175 v Highbury Canco Corporation\*](#), 2023 CanLII 55400 (ON LA), June 21, 2023].

## PRINCE EDWARD ISLAND

### LAWS & ANNOUNCEMENTS

**Apr 21:** Wearing a mask is no longer required in hospitals, health centers, long-term care facilities or other Health PEI buildings. Those experiencing COVID symptoms should continue wearing a mask voluntarily, the government advises.

## QUÉBEC

### LAWS & ANNOUNCEMENTS

**Apr 6:** Québec eased COVID-19 face mask restrictions in healthcare settings. From now on, establishments must establish their own requirements and protocols on the basis of the circumstances and situation at their own particular site. Hand hygiene, cough etiquette and mask-wearing by those experiencing respiratory infection symptoms remain mandatory at all workplaces.

### CASES

#### **PPE: Refusal to Wear COVID-19 Facemask Not Grounds for Terminating Food Worker**

Did an agri-food plant have just cause to fire a worker for repeatedly refusing to wear a facemask during the COVID pandemic? The Québec arbitrator said no. Deliberate defiance

of the mandatory facemask policy was a serious offence warranting a severe penalty, especially at a public health-sensitive workplace like a food plant. The worker's arrogance and disdain for authority did little to help the union's case. However, the arbitrator concluded that termination was a "disproportional" and reduced the penalty to a one-year suspension [[\*Union of Agri-Food Employees of Ste-Claire v \(CSD\) Kerry \(Canada\) Inc.\*](#), 2023 CanLII 72157 (QC SAT), August 10, 2023].