

# Spot the OHS Violation: Welding on Empty Fuel Containers



## Situation

A supervisor at a manufacturing plant orders a worker to use a hot torch to cut an empty steel drum that previously contained a combustible oil lubricant. The drum has a proper WHMIS label warning of heat, sparks and flames. There's also a proper company label. But the drum is lying on its side and the labels are concealed. Moreover, the supervisor doesn't tell the worker what was in the drum or warn of any danger. The drum explodes soon after the worker begins welding and the worker suffers severe burns.

## Question

**Which of the following best describes the company's liability'**

1. The company didn't violate WHMIS because the drum was properly labeled
2. The company violated WHMIS because the worker couldn't see the labels
3. The company didn't violate WHMIS but did violate the general duty clause of the OHS law requiring employers to warn workers about hazardous substances they handle

4. The company violated both WHMIS and the general duty to warn

## Answer

4. The company violated both WHMIS and the general duty to warn of hazardous substances.

## Explanation

A combustible lubricant is a hazardous product requiring a WHMIS label (Class B—Flammable & Combustible Material). The drum had a label but it was on its side and the worker couldn't see it. And WHMIS regulations require employers to ensure that the label is prominently displayed, clearly visible and legible. Because the label in this case didn't meet these standards, the employer would be liable for a WHMIS violation.

OHS laws also include a general duty clause requiring employers to warn of hazardous chemicals and other dangers on the job. Failing to warn a welder that a drum he was about to cut with a hot torch used to contain combustible material is a clear failure of that duty. This example is based on an actual Ontario case where a company was fined \$90,000 for committing such a violation.

## Why Wrong Answers Are Wrong

- 1) **is wrong** because just slapping a proper WHMIS label on a container doesn't help if the worker can't actually see it.
- 2) **is wrong** because it mentions only the WHMIS violation, the duty to warn under the general duty clause.
- 3) **is wrong** because the first part of the statement is incorrect—the company did, in fact, violate WHMIS

requirements.