

# Employer's Guide to Occupational Health and Safety

## *The Occupational Health and Safety Act*

The purpose of this Safety Bulletin is to help you understand the *Occupational Health and Safety Act (OHS Act)*. In the event of a difference between this Safety Bulletin and the *OHS Act*, the *OHS Act* prevails. Please consult the original *OHS Act*, OHS Regulation and OHS Code for all purposes of applying the law. This Safety Bulletin is to help you understand your role in ensuring health and safety at the work site.

### **OUR GOAL – HEALTH AND SAFETY**

A safe and healthy work environment is a goal everyone shares. For that reason Alberta's *OHS Act* is an important piece of legislation that affects you. The *OHS Act* sets standards to protect and promote the health and safety of workers throughout Alberta. It outlines your responsibilities as an employer, as well as the responsibilities of others working at or involved with the work site. This Safety Bulletin describes the major sections of the *OHS Act*. It will help you understand how to comply with the legislation and make your work site a healthier and safer place.

### **Does the *OHS Act* apply to me?**

The *OHS Act* affects most workers and employers in the Province of Alberta. The major exceptions are:

- Domestic workers (such as nannies and housekeepers);

- Federal government workers
- Workers in federally-regulated industries (for example; Canadian Chartered banks, interprovincial transportation companies, and television and radio broadcasters)

You are an employer if you employ one or more workers, if you are designated to represent an employer, or if your responsibility is to oversee worker's health and safety for your corporation. If you are self-employed, you are treated as an employer under the *OHS Act*. In certain situations, prime contractors, contractors and suppliers also have OHS responsibilities at a work site.

As of January 1, 2016, farms and ranches with at least one waged, non-family worker are covered by the basic safety standards set out in the *OHS Act* and OHS Regulation, OHS standards will only apply to an operation if a paid worker is present on the farm or ranch, and then only in relation to those waged individuals

### **The *OHS Act* and Regulations**

The *OHS Act* gives the government authority to make regulations and codes (or rules) about health and safety in the workplace. Under the legislative framework, the *OHS Act* prescribes basic duties and obligations of employers and workers.

# Employer's Guide - OHS Act

The OHS Regulation addresses requirements related to general administrative matters and health and safety rules and regulations. The OHS Code specifies detailed technical standards and safety rules that employers and workers must comply with to fulfill their obligations. Technical requirements cover areas such as equipment safety, noise, chemical hazards and first aid, to name a few.

## OHS Officers

The *OHS Act*, Regulation and Code provide “rules” to help keep your work site safe and healthy. The *OHS Act*, Regulation and Code are enforced by OHS Officers. They are authorized to enter and inspect your work site, take samples of products, conduct tests, take pictures and recordings, and look at and copy relevant documents. OHS Officers will help guide you and your workers to ensure that the rules are followed to prevent work-related injuries and illnesses, and provide resources to help workers and employers educate themselves about OHS responsibilities.

If an Officer believes a work site is unsafe, he or she can call for a variety of corrective measures that may include stopping work at a worksite or ordering that equipment be shut down if it appears unsafe to operate. Officers also check work sites and follow up on incidents and complaints.

## OHS and WCB differences

Sometimes people mistake Alberta Labour's OHS program for the Workers' Compensation Board (WCB). While both report to the minister responsible for labour, the OHS program is a separate entity from the WCB.

The WCB's role is to see that the *Workers' Compensation Act* is followed, provide rehabilitation programs for workers suffering from job-related injuries and illnesses, and work with the OHS program, industry and labour to help reduce the number of workers getting hurt or sick. The WCB oversees the insurance plan funded by employers that pays workers who are injured on the job or develop illness caused by their work.

## It is your responsibility

The *OHS Act* states that you, as an employer, must do everything you reasonably can to protect the health and safety of your workers. This means that you must do a hazard assessment of your work site and implement effective measures to eliminate or control the hazards identified. In addition, you must ensure that all workers who may be affected by the hazards are familiar with the necessary health and safety measures or procedures before the work begins.

Are you doing everything you can to protect the health and safety of the workers you employ?

Equipment at your work site must be maintained in safe working order, and dangerous chemicals must be properly labeled and stored. You must set up safe-work practices at your site and make sure these practices are followed. It is up to you to make sure workers have the skills and training needed to do their jobs safely.

# Employer's Guide - OHS Act

If controlled products (such as dangerous substances or chemicals) are made, stored or used at your work site, you must provide labels and Safety Data Sheets (SDSs) and train your workers how to use controlled products safely. In some cases, specific health examinations of the workers may be required.

## A WORKER'S RESPONSIBILITY

Workers also have duties under the *OHS Act*. They must work in a safe manner, be safety conscious on the job and cooperate with you in the health and safety measures you set up. The *OHS Act* requires you to make your workers aware of their duties. More details about the worker's rights and responsibilities are described in the publication: [Worker's Guide to Occupational Health and Safety](#) (LI008).

## Imminent danger

"Imminent danger" refers to any danger that is not normal for a job; or to any dangerous conditions that a worker would not normally perform his or her work under. An example would be a worker, who has not been trained to work with electricity, being asked to do electrical work.

Workers must not perform any job or operate any equipment if they believe there is or will be imminent danger. When a worker notifies you that he or she refuses to do a job due to a belief that there is imminent danger, you are required to look into and eliminate the danger if it exists. You may temporarily send the worker to another job, but at no loss of pay. You cannot discipline workers for refusing to do work due to a belief that there is imminent danger. Asking a worker to work in a situation of imminent danger is against the law.

Workers have the right to call or write to OHS if they believe they have been disciplined or fired because they refused work due to a belief that there was imminent danger. The employer has a duty to prepare a written record of the worker's notification, the investigation, and any action(s) taken to the worker.

If the job is dangerous only because the worker is not qualified to perform it, you may get the job done by finding a qualified worker to do the work. The new worker should be told that another worker refused to do the job due to health and safety concerns. The new worker also has a right to refuse to do the work if it presents an imminent danger.

## What if there's a serious incident?

When something happens that results in – or might have resulted in – serious injury to a worker, you must notify the OHS Contact Centre. This notification is separate from any notice you are required to give to the WCB or other local authorities, like the police. A "serious incident" is defined in the *OHS Act*;

An OHS Officer may look into the incident. The Officer may talk to witnesses and gather evidence to determine what happened. You and your workers are required to cooperate with the Officer. The Officer will prepare a report on the incident. You are also required to carry out your own investigation of the incident and make your report available to the Officer. For more information, see the health and safety bulletin, [Reporting and Investigating Injuries and Incidents](#) (LI016).

# Employer's Guide - OHS Act

## Acceptances

The OHS Regulation and the Code specify required procedures and equipment. If you want to do things in a different way, you may apply for “acceptance” requesting permission to follow a different way. If you can satisfy OHS that your choice is just as safe or better than the requirements specified in the legislation, you may be allowed to go ahead. An application for an acceptance must be in writing and provide specific details for OHS to make a decision. For more information, see the bulletin: *OHS Acceptances* (LI030).

## Let's cooperate

You and your workers can cooperate to make the work site a safer and healthier place. One way is through a joint work site health and safety committee. Such a committee is made up of workers and management. It meets to inspect the work site, talk about incidents and illness prevention, and promote health and safety programs.

### Flexibility – it's YOUR work site

Employers often know best how to make the work site a healthy and safe place. The *OHS Act*, Regulation, and Code are designed in a manner that reflects this. They establish general principles along with some specific provisions that you are required to observe. In many cases, you have flexibility to meet these principles

Although most workplaces are not required to form joint work site health and safety committees in Alberta, the Minister responsible for OHS has the power to require that a committee be formed at any work site. If workers and management agree to work cooperatively, then it is more likely that any committee set up will be effective. Even if your workplace is not required to have a committee, you are encouraged to form one on a voluntary basis.

## The *OHS Act* has teeth

It is in everyone's best interests to provide safe work sites and proper training, and to make sure that your workers follow safe and healthy practices. However, if you and your workers don't take the necessary steps to do so, the *OHS Act* can be used to compel both you and your workers to follow the rules.

### LEGAL PENALTIES

If you or your employer break the rules of the *OHS Act*, Regulation or Code, or ignore what an Officer says, you or your employer could be charged. Problems may be resolved in court if people ignore the law or do not cooperate and fix OHS problems. Conviction on a first offense can lead to a fine up to \$500,000, plus \$30,000 per day continuing offence and/or a jail term of up to six months per violation. A second conviction can result in a fine of up to \$1,000,000 plus \$60,000 per day continuing offence and/or a jail term of up to one year per violation.



# Employer's Guide - OHS Act

In certain cases involving serious injury or death, criminal negligence charges can be laid. In such cases, the maximum jail penalties are 10 years for each person injured and life imprisonment for each person killed as per Bill C-45, federal legislation that amended the Canadian Criminal Code and became law on March 31, 2004, that established new legal duties for workplace health and safety and imposed serious penalties for violations that result in injuries or death.

## TICKETING AND ADMINISTRATIVE PENALTIES

OHS Officers have authority to write immediate, on-the-spot tickets for specific contraventions of OHS legislation against employers and workers who put health and safety at risk. Ticket amounts range from \$100 to \$500 per violation. A 15% victim surcharge is applied to each ticket.

Preventive in nature, administrative penalties encourage compliance and are issued by OHS for serious or repeat non-compliance with OHS legislation. For example, when an OHS Officer observes either a contravention of OHS legislation or non-compliance with an order, acceptance or approval at a work site, the officer may refer a regulated work site party for an administrative penalty.

Administrative penalty amounts are a maximum of \$10,000 per day, per contravention, and are determined on a case-by-case basis.

Some of the factors that are considered in deciding an administrative penalty are:

- the severity of the contravention;
- risk of harm resulting from the contravention;
- the regulated party's compliance history, including:
  - orders.
  - violation tickets.
  - other interactions with OHS.
  - whether there is a demonstrated commitment to health and safety.

## THE OHS COUNCIL

The OHS Council advises the Minister responsible for occupational health and safety on health and safety matters, including recommending future legislation changes. The Council is appointed by the Minister and is made up of members representing workers, employers and the general public.

If you wish to appeal an order given by an Officer, you should contact OHS within 30 days of being given that order

It also hears appeals of Orders and administrative penalties issued by an officer and can make rulings on imminent danger, disciplinary and firing matters. To appeal an Officer's Order, the OHS Director of Inspection must be contacted, care-of the OHS Council, within 30 days of being given the Order.

# Employer's Guide - OHS Act

## Contact Us

### OHS Contact Centre

Edmonton & Surrounding area

- 780-415-8690

Throughout Alberta

- 1-866-415-8690

Deaf or hearing impaired:

- 780-427-9999 (Edmonton)
- 1-800-232-7215 (Alberta)

### Website

[work.alberta.ca/ohs-contact us](http://work.alberta.ca/ohs-contact-us)

## Get Copies of OHS Act, Regulation and Code

### Alberta Queen's Printer

[www.qp.gov.ab.ca](http://www.qp.gov.ab.ca)

### Occupational Health and Safety

[work.alberta.ca/ohs-legislation](http://work.alberta.ca/ohs-legislation)

## FOR MORE INFORMATION:

[Violation Tickets](#)

[Administrative Penalties](#)

[Reporting and Investigating Injuries and Incidents](#)

[Workers Guide to Occupational Health and Safety](#)

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If in doubt with respect to any information contained within this material, or for confirmation of legal requirements, please refer to the current edition of the Occupational Health and Safety Act, Regulation and Code or other applicable legislation. Further, if there is any inconsistency or conflict between any of the information contained in this material and the applicable legislative requirement, the legislative requirement shall prevail.

This material is current to February 2017. The law is constantly changing with new legislation, amendments to existing legislation, and decisions from the courts. It is important imperative that you and keep yourself informed of the current law in this area.

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