

ALBERTA BILL 30: CHANGES TO THE *OCCUPATIONAL HEALTH AND SAFETY ACT* ON THE HORIZON

Posted on January 2, 2018

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In December, 2017, *An Act to Protect the Health and Well-being of Working Albertans* (“Bill 30”) received Royal Assent, signaling a heightened focus on worker and workplace safety in Alberta. Bill 30 will introduce a new *Occupational Health and Safety Act*, (“OHSA”)[\[1\]](#) and is anticipated to take effect on June 1, 2018.

The revised OHSA expands responsibility for workplace safety by extending the classes of persons owed and owing protection obligations under OHSA, while increasing the depth of existing obligations owed. In this bulletin, we will highlight some of the most significant changes.

Key Changes to OHSA Obligations

Workplace Violence and Harassment

The revised OHSA will impose a positive duty on employers and supervisors to ensure that no workers (in the case of employers), and no workers under their supervision (in the case of supervisors) are subject to or participate in harassment or violence at the work site. The revised OHSA also imposes an obligation that workers refrain from causing or participating in workplace harassment or violence.

Protected Persons

Under the revised OHSA, the existing obligation to ensure the health, safety and welfare of workers engaged in the work of an employer, or present at the work site at which such work is carried out, will be extended to include other persons at or in the vicinity of the work site who may be affected by hazards originating from the work site.

In addition, the revised OHSA will include live-in domestic work under the scope of occupations that are covered by the OHSA (though are not covered under the *Occupational Health and Safety Code* 2009 (“OHS Code”)[\[2\]](#), except where expressly included).

Right to Refuse Unsafe Work

The onus to prevent unsafe work will be largely shifted to the employer in the form of a prohibition against

making a worker work in dangerous conditions where the employer or supervisor knows or ought to know of a condition that is or is likely to be hazardous to the health and safety of a worker.

This prohibition is accompanied by a corresponding right granted to workers to refuse work if the worker reasonably believes the work constitutes a danger to health and safety, and an entitlement to receive the same wages and benefits as they would, had the worker continued to work.

Obligations of Employers

The revised OHSA will impose specific positive duties on employers to ensure that workers are aware of their rights and duties, are adequately trained in all matters necessary to protect their health and safety, and have competent supervisors. Employers will also have an obligation to ensure that health and safety concerns raised are resolved in a timely manner.

Obligations of Workers

Worker obligations will include:

- take reasonable care to protect the health and safety of themselves and other persons at or in the vicinity of the work site;
- cooperate with any other person for the purposes of protecting the health and safety of workers on site;
- at all times as required, wear all devices and personal protective equipment;
- report to the employer or supervisor a concern about an unsafe or harmful work site act or condition.

Obligations of Prime Contractors

Every construction and oil and gas work site or work site designated by a Director, as appointed under section 42 of the OHSA, must have a prime contractor if there are two (2) or more employers or self employed persons. The prime contractor will be required to:

- establish a process to ensure compliance with applicable legislation;
- coordinate the health and safety programs of all employers on site; and
- coordinate, organize and oversee the performance of all work at the work site to ensure, as far as reasonably practicable, that no person is exposed to hazards as a result of activities of the work site.

Obligations of Contractors

Contractors will have an obligation to ensure, as far as reasonably practicable, that every work site and every work process performed pursuant to a contract that is under the control of the contractor does not create a risk to the health and safety of any person.

Obligations of Suppliers

As far as is reasonably practicable, suppliers will have an obligation to ensure that any equipment they supply is in a safe operating condition, any hazardous substances they supply are safe to use when used in accordance with the manufacturer's specifications, and any equipment they are contractually obligated to maintain is maintained in a safe condition in accordance with manufacturer's specifications and in compliance with the OHSA, the regulations, and the OHS Code. Suppliers will have a further duty, as far as reasonably practicable, to provide notice to employers and purchasers of equipment when the supplier becomes or ought to become aware that the hazardous substances or equipment does not comply with a standard under the regulations or the OHS Code.

Stop Work Orders and Stop Use Orders

While a stop work order is in effect, any worker who is directly affected by the order will be entitled to the same wages and benefits that they would have received had the stop work order not been issued.

Reporting Near Misses

Employers will be required to report any incidents that could have caused a serious injury.

Worksite Health and Safety Committees

Employers with 20 or more employees must have a joint worksite health and safety committee. Smaller employers with 5 to 19 employees will be required to have a health and safety representative.

New Classes of Persons with Obligations under OHSA

Obligations of Supervisors

Supervisors will have positive duties, as far as is reasonably practicable:

- to ensure that the supervisor is competent to supervise every worker under their supervision;
- to take all precautions necessary to protect the health and safety of every worker under their supervision;
- to ensure that workers under their supervision work in accordance with OHSA;
- to ensure that every worker under their supervision uses all hazard controls and personal protective equipment;
- to advise every worker under their supervision of all known or reasonably foreseeable hazards to health and safety; and
- to report to the employer a concern about unsafe or harmful work site acts or unsafe work site conditions that may exist.

Land Owners

As far as reasonably practicable, owners will have an obligation to ensure that land or premises provided are maintained in a manner that does not endanger the health and safety of workers or any other person.

Service Providers

Service providers will have an obligation to ensure, as far as reasonably practicable, that all services provided are performed by workers competent to provide these services, are in compliance with the OHSA, the regulations and the OHS Code, and that no person at or near a work site is endangered as a result of the service provider's activity.

Self Employed Persons

Self employed persons will have an obligation to conduct their work so as to ensure that they or any other person is not exposed to hazards from activities at the work site. The self employed person has a duty to report, to the extent reasonably practicable, to all affected employers a concern about an unsafe or harmful work site act or unsafe work site condition.

Temporary Staffing Agencies

Temporary staffing agencies will have to ensure, as far as reasonably practicable, that workers assigned to employers are suitable to perform the task for which they are assigned; that workers are equipped with any necessary personal protective equipment prior to deployment or will be equipped prior to commencing work activities; and ensuring that the employer is capable of ensuring the health and safety of the worker.

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[1] RSA 2000, c O-2.1. Bill 30 will also amend the Alberta Workers Compensation Act, RSA 2000, c W-15, effective January 1, 2018.[ps2id id='1' target='']

[2] Occupational Health and Safety Code 2009, as adopted by the Occupational Health and Safety Code 2009 Order (AR 87/2009).[ps2id id='2' target='']

A Cautionary Note

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

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