

# Occupational Health & Safety Bulletin

## New Violence in the Workplace Requirements Coming Soon

It has been talked about and most employers have heard about it and now it's nearly here. Bill 168 will amend the Occupational Health and Safety Act (OH&SA) to include violence and harassment in the workplace. First government reading took place on April 20, 2009. Bill 168 is expected to pass in the spring of 2010.

For your convenience we have summarized Bill 168 as presented on April 20, 2009 and how it will affect the OH&SA.

### Definitions

1) Subsection 1(1) of the OH&SA will be amended by adding the following definitions.

“workplace harassment” means engaging in a course of vexatious comment or conduct against a worker in A WORKPLACE THAT CAUSES OR COULD CAUSE physical injury to a worker AND

“an attempt to exercise physical force against a

worker in a workplace that could cause physical injury to the worker”

2) Section 25 of the Act will be amended by adding that any explanatory material referred to under the Bill will require a posting explaining the Bill. It is not clear whether the posting will be part of the poster required under Section 2 of the Employment Standards Act or if postings will be issued by employers.

3) The act will be amended by adding Section 32.0.1 (1). An employer shall,

- (a) prepare a policy with respect to workplace violence;
- (b) prepare a policy with respect to workplace harassment, and
- (c) review the policies as often as necessary, but at least annually.

In addition, the employer will be required to implement the policy by including in the policy:

- a) to include measures and procedures for summoning immediate assistance when workplace violence occurs or is likely to occur, or when a threat

of workplace violence is made;

- b) include measures and procedures for workers to report incidents or threats of workplace violence to the employer or supervisor
- c) include measures and procedures to control the risks identified required under Subsection 32.0,3 (1) as likely to expose the worker to physical injury.
- d) Set out how the employer will investigate and deal with incidents, complaints or threats of workplace violence; and
- e) Include any prescribed elements.

### Domestic Violence

In addition to the above, the ministry has added an additional Subsection 32.0.5 (1) that includes domestic violence. The revision says that if an employer becomes aware, or ought reasonably to be aware, that domestic violence that would likely expose a worker to physical injury may occur in the workplace, the employer shall take every precaution reasonable in the circumstances for the protection of the worker.



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***Contact us for a copy of the draft roles and responsibilities in Bill 168. Just send us an email to request a copy.***

### **Next Steps**

In our opinion, it's not surprising that violence is now a recognized hazard in the workplace. Employers should ensure that workers, supervisors and contractors are trained properly and informed of their responsibilities for reporting and dealing with this issue.

But what are the implications of the bill. Are we the keepers of our employees? Are we expected to report domestic violence as a workplace issue? When does the Act go so far as to expect us to assume the role of chaperone for

employees? In addition, who's qualified to investigate in the first place? Certainly, we operate our business or the supervisor manages the meat department, but the Act puts us in a position to become investigators and experts in recognizing these issues.

We should train for people to report and have a process to investigate, but leave it to the experts. For minor cases of complaint, we can probably handle it by saying "do not do that again" and recording it. But for anything else, call the police then send the accused away until further investigation.

The bottom line is that violence and harassment

in the workplace are a serious issue as it can affect worker performance and productivity. However, if the complaint is serious enough, then contact the right people (i.e. police). Business owners and managers are not investigators or physiologists nor should they be put into that position. If the employee is filing a legitimate complaint then calling the proper authorities should not be intimidating. In fact encourage it and GET IT OFF YOUR DESK.

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## **Ministry of Labour Blitz for Slips and Falls**

The MOL is now posting its workplace hazard blitz schedule a year ahead of time, with slips, trips and falls slated for this fall. Actually it's posted to start in September.

Here are some facts that can initiate such a blitz:

- 1) 60,000 Canadian workers are injured from slips, trips and falls each year...that's about 15% of all lost time injuries across the country.
- 2) In 2008, almost 19% of all workplace injuries in the service sector (3,259 lost time injuries) were caused by slips and falls.
- 3) For retail and wholesale, the new claim cost per injury is \$16,110; in other service sectors, it's \$13,893.

These numbers clearly illustrate the hazard, especially for the retail industry.

### **What They Are Looking For**

MOL inspectors will be looking for checklists that will help control the hazard and the employer's acknowledgement that the hazard exists. You can do this through postings and policies and procedures, and proof of training just to list two. It is also a good time to look at your personal protective equipment such as non-slip shoes and ladder protection.

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