

1983 BILL 51

First Session, 20th Legislature, 32 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 51

**OCCUPATIONAL HEALTH AND SAFETY
AMENDMENT ACT, 1983**

HON. MR. DIACHUK

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 51

1983

OCCUPATIONAL HEALTH AND SAFETY AMENDMENT ACT, 1983

(Assented to _____, 1983)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

1 *The Occupational Health and Safety Act is amended by this Act.*

2 *Section 1 is amended*

(a) *by renumbering clause (a) as (a.01) and by adding the following before clause (a.01):*

(a) "code of practice" means a code of practice described in section 26;

(b) *by adding the following after clause (d):*

(d.1) "disciplinary action" means an action that adversely affects a worker with respect to terms or conditions of employment;

(c) *by repealing clause (e) and substituting the following:*

(e) "employer" means

(i) a person who is self-employed in an occupation,

(ii) a person who employs 1 or more workers,

(iii) a person designated by an employer as his representative, or

(iv) a director or officer of a corporation who oversees the occupational health and safety of the workers employed by the corporation;

(d) *by adding the following after clause (e.3):*

(e.4) "licence" means a licence, certificate or permit issued under this Act;

(e) *by adding the following after clause (f):*

Explanatory Notes

1 This Bill will amend chapter O-2 of the Revised Statutes of Alberta 1980.

2 Section 1 presently reads in part:

1 In this Act,

(e) "employer" means

(i) a person who employs one or more workers, or

(ii) a person who is self-employed in an occupation;

(j) "principal contractor" means the person, partnership or group of persons who enter into a contractual arrangement with an employer under which workers in the employ of that employer carry out their occupations at a work site that the person, partnership or group of persons owns or for which that person, partnership or group of persons is primarily responsible;

(f.01) “new project” means a project defined in the regulations as a new project for the purposes of this Act;

(f) *by repealing clause (j) and substituting the following:*

(j) “principal contractor” means a person, partnership or group of persons who, pursuant to a contract, an agreement or ownership, direct the activities of 1 or more employers involved in work at a work site;

(g) *by adding the following after clause (k):*

(k.1) “qualifications board” means a qualifications board established under the regulations;

3 Section 2 is amended

(a) *by repealing subsection (1) and substituting the following:*

2(1) Every employer shall ensure, as far as it is reasonably practicable for him to do so,

(a) the health and safety of

(i) workers engaged in the work of that employer, and

(ii) those workers not engaged in the work of that employer but present at the work site at which that work is being carried out, and

(b) that the workers engaged in the work of that employer are aware of their responsibilities and duties under this Act and the regulations.

(b) *in subsection (4) by striking out “the standards prescribed or adopted by”.*

4 Section 3 is amended in subsection (1) by striking out “a Director of Inspection, a Director of Medical Services, a Director of Occupational Hygiene” and substituting “1 or more Directors of Inspection, Directors of Medical Services, Directors of Occupational Hygiene”.

5 Section 6 is amended

(a) *in subsection (1)(b) by adding “subject to subsection (1.1),” before “require”;*

(b) *by adding the following after subsection (1):*

(1.1) Only a Director of Medical Services or a person authorized in writing by the Director may require the produc-

3 Section 2 presently reads in part:

2(1) Every employer shall ensure, as far as it is reasonably practicable for him to do so, the health and safety of

(a) workers engaged in the work of that employer, and

(b) those workers not engaged in the work of that employer but present at the work site at which that work is being carried out.

(2) Every worker shall, while engaged in an occupation,

(a) take reasonable care to protect the health and safety of himself and of other workers present while he is working, and

(b) co-operate with his employer for the purposes of protecting the health and safety of

(i) himself,

(i.1) other workers engaged in the work of the employer, and

(ii) other workers not engaged in the work of that employer but present at the work site at which that work is being carried out.

(4) Every supplier shall ensure that any tool, appliance, equipment, designated substance or hazardous material that he supplies complies with the standards prescribed or adopted by this Act or the regulations.

4 Section 3 presently reads in part:

3(1) In accordance with the Public Service Act, there may be appointed a Director of Inspection, a Director of Medical Services, a Director of Occupational Hygiene, occupational health and safety officers and any other employees necessary for the administration of this Act.

5 Section 6 presently reads in part:

6(1) For the purposes of this Act an officer may

(b) require the production of any records, books, plans or other documents which relate to the health or safety of workers and may examine them, make copies of them or remove them temporarily for the purposes of making copies;

tion of, or examine and make copies of, medical reports or records or remove them temporarily for the purpose of making copies.

6 *Section 7 is amended by adding the following after subsection (2):*

(3) Measures specified in the order referred to in subsection (2), where the order is made in respect of the failure by a person to comply with section 25(6) or 28, may require one or more of the following:

(a) that the disciplinary action cease;

(b) reinstatement of the worker to his former employment under the same terms and conditions under which he was formerly employed;

(c) payment to the worker of money not more than the equivalent of wages that the worker would have earned if he had not been dismissed or received disciplinary action;

(d) removal of any reprimand or other reference to the matter from the worker's employment records.

(4) If the worker has worked elsewhere while the dismissal or disciplinary action has been in effect, those wages earned elsewhere shall be deducted from the amount payable to him under subsection (3)(c).

7 *The following is added after section 9.1:*

9.2(1) A licence may be issued in accordance with the regulations.

(2) A Director may, in accordance with the regulations, cancel or suspend

(a) a licence, or

(b) a certificate or permit issued to a worker under the *Coal Mines Safety Act* or the *Quarries Regulation Act*.

8 *The following is added after section 10:*

10.1 A person who is about to begin a new project may be required to file notice in accordance with the regulations.

9 *Section 11 is amended*

(a) *by repealing subsection (1) and substituting the following:*

(1) A person

(a) to whom an order is issued under section 7, 8, 9, 9.1, 10, 20 or 26,

(b) whose licence has been cancelled or suspended, or

6 Section 7 presently reads:

7(1) When an officer is of the opinion that work is being carried out in a manner which is unhealthy or unsafe to the workers engaged in the work or present where the work is being carried out, the officer may in writing order the person responsible for the work being carried out

(a) to stop the work which is specified in the order, and

(b) to take measures as specified in the order that are, in the opinion of the officer, necessary to ensure that the work will be carried out in a healthy and safe manner,

or either of them, within the time limits specified in the order.

(2) When an officer is of the opinion that this Act or the regulations are not being complied with, he may in writing order the person who, in his opinion, is not complying with the Act or the regulations to take measures as specified in the order that are, in the opinion of the officer, necessary to ensure that this Act and the regulations will be complied with, within the time limits specified in the order.

7 Issuing, suspension and cancellation, of licences, certificates and permits.

8 New project notification.

9 Section 11 presently reads in part:

11(1) A person to whom an order is issued under section 7, 8, 9, 9.1, 10, 20 or 26 may appeal the order to the Council.

(3) After considering the matter being appealed, the Council may by order confirm, revoke or vary the order being appealed.

(7) When an appeal is commenced under subsection (1), the commencement of that appeal does not operate as a stay of the order being appealed

(c) whose certificate or permit issued under the *Coal Mines Safety Act* or the *Quarries Regulation Act* has been cancelled or suspended under section 9.2,

may appeal the order, cancellation or suspension to the Council.

(b) *by repealing subsection (3) and substituting the following:*

(3) After considering the matter being appealed, the Council may by order

- (a) confirm, revoke or vary the order being appealed,
- (b) confirm the cancellation or suspension,
- (c) reinstate the cancelled licence, certificate or permit,
- (d) substitute a suspension for a cancellation, or
- (e) remove or vary a suspension.

(c) *in subsection (7) by adding “, cancellation or suspension” after “order”.*

10 Section 13 is amended

(a) *by repealing subsection (1) and substituting the following:*

13(1) If a serious injury or an accident that has the potential of causing serious injury to a person occurs at a work site, the employer responsible for that work site shall

- (a) forthwith notify a Director of Inspection as to the time, place and nature of the serious injury or accident,
- (b) carry out an investigation into the circumstances surrounding the serious injury or accident,
- (c) prepare a report in accordance with the regulations, outlining the circumstances of the serious injury or accident and the corrective action, if any, undertaken to prevent a recurrence of the serious injury or accident, and
- (d) ensure that a copy of the report is readily available for inspection by an officer.

(b) *by adding the following after subsection (2):*

(2.1) The employer shall retain the report referred to in subsection (1) for 2 years after the serious injury or accident.

(2.2) A report prepared under this section is not admissible as evidence for any purpose in a trial arising out of the serious injury or accident, an investigation or public inquiry under the *Fatality Inquiries Act* or any other action as defined in the *Alberta Evidence Act* except in a prosecution for perjury or for the giving of contradictory evidence.

from except insofar as the chairman or a vice-chairman of the Council so directs.

10 Section 13 presently reads in part:

13(1) If a serious injury or an accident that had the potential of causing serious injury to a person occurs at a work site, the employer responsible for that work site shall

(a) by telephone or similar means immediately notify the Director of Inspection as to the time, place and nature of the accident or injury, and

(b) within 48 hours of the accident forward a written report of the accident or injury to the Director of Inspection.

(2) For the purposes of subsection (1) "serious injury" has the meaning given to it in the regulations.

11 The following is added after section 25:

25.1 An employer or principal contractor, if required by regulation, shall

- (a) state his policy in writing for the protection and maintenance of the health and safety of his workers on the work site,
- (b) state the arrangements to implement that policy, and
- (c) as far as is reasonably practicable, inform his workers of the policy.

12 Section 26 is amended by repealing subsection (1) and substituting the following:

26(1) A principal contractor or employer responsible for a work site may be required

- (a) by a written order of a Director, or
- (b) by regulation

to establish a code of practice and to supply copies of it to a Director.

(1.1) A code of practice shall include practical guidance on the requirements of the regulations applicable to the work site, safe working procedures in respect of the work site and other matters as required by a Director or the regulations.

13 The following is added after section 26:

26.1(1) A Director may, in accordance with the regulations, issue in writing an acceptance to an employer or principal contractor if, in his opinion, an alternative tool, appliance, equipment or work process at a work site provides equal or greater protection than that provided for by regulation to persons affected by the tool, appliance, equipment or work process.

(2) A Director may impose terms and conditions he considers necessary on the acceptance and those terms and conditions are part of the acceptance.

(3) An acceptance is in effect only during the period prescribed in it and, notwithstanding anything in this Act or the regulations, during that period the terms, conditions or requirements set out in it apply with respect to the tool, appliance, equipment or work process at the work site to which the acceptance applies.

(4) An employer or principal contractor who is issued an acceptance shall ensure that the acceptance is complied with.

(5) The *Regulations Act* does not apply to an acceptance issued by a Director.

11 Written health and safety policies.

12 Section 26 presently reads:

26(1) A Director may, in writing, order a principal contractor or employer responsible for a work site to establish a code of practice specifying safe working procedures in respect of that work site.

(2) A code of practice shall be posted on the work site in a location where it is conspicuous to the workers and other persons at the work site.

(3) A Director may from time to time require that the code of practice be revised.

13 Acceptances.

14 Section 27 is amended

(a) in subsection (1)

(i) in clause (a) by striking out “when” and substituting “if, on reasonable and probable grounds, he believes that”;

(ii) in clauses (b) and (c) by striking out “that will” and substituting “if, on reasonable and probable grounds, he believes that it will”;

(b) by adding the following after subsection (2):

(3) A worker who

(a) refuses to carry out work, or

(b) refuses to operate a tool, appliance or equipment

pursuant to subsection (1) shall, as soon as practicable, notify his employer at the work site of his refusal and the reason for his refusal.

(4) On being notified under subsection (3), the employer shall

(a) investigate and take action to eliminate the imminent danger,

(b) ensure that no worker is assigned to use or operate the tool, appliance or equipment or to perform the work for which a worker has made a notification under subsection (3), unless

(i) the worker to be so assigned is not exposed to imminent danger, or

(ii) the imminent danger has been eliminated,

(c) prepare a written record of the worker’s notification, the investigation and action taken, and

(d) give the worker who gave the notification a copy of the record described in clause (c).

(5) The employer may require a worker who has given notification under subsection (3) to remain at the work site and may assign him temporarily to other work assignments that he is reasonably capable of performing.

(6) A temporary assignment under subsection (5), if there is no loss in pay, is not disciplinary action for the purposes of section 28.

15 The following is added after section 28:

28.1 A worker who has reasonable cause to believe that he has been dismissed or subjected to disciplinary action in contravention of section 25(6) or 28 may file a complaint with an officer.

14 Section 27 presently reads:

27(1) No worker shall

(a) carry out any work when there exists an imminent danger to the health or safety of that worker,

(b) carry out any work that will cause to exist an imminent danger to the health or safety of that worker or another worker present at the work site, or

(c) operate any tool, appliance or equipment that will cause to exist an imminent danger to the health or safety of that worker or another worker present at the work site.

(2) In this section, "imminent danger" means in relation to any occupation

(a) a danger which is not normal for that occupation, or

(b) a danger under which a person engaged in that occupation would not normally carry out his work.

15 Complaint to officer.

16 Section 30 is repealed and the following is substituted:

30(1) For the purpose of defraying part of the costs of administering this Act,

(a) the Minister shall, if authorized by the regulations, make assessments on employers, or

(b) The Workers' Compensation Board shall, if an agreement is entered into under subsection (2)(b), pay to the Provincial Treasurer amounts that may be prescribed by the Lieutenant Governor in Council.

(2) The Minister and The Workers' Compensation Board may enter into an agreement under which the Board is required to either

(a) collect on behalf of the Crown in right of Alberta assessments made on employers by the Minister, or

(b) pay to the Provincial Treasurer amounts that may be prescribed by the Lieutenant Governor in Council.

17 Section 31 is amended

(a) in subsection (1)

(i) by repealing clause (a.1) and substituting the following:

(a.1) prescribing health and safety rules or standards to be observed at a work site or at different classes of work sites;

(ii) by adding the following after clause (a.1):

(a.2) requiring an employer or principal contractor to ensure the availability of tools, appliances, equipment, protective clothing or materials for the use of workers;

(a.3) requiring that tools, appliances, equipment and hazardous materials and their mode of preparation, erection, assembly, use, testing, maintenance, repair, adjustment, dismantling, deactivation and abandonment

(i) comply with the specifications of their manufacturer,

(ii) comply with a code adopted by or rules or standards prescribed by regulation, or

(iii) be certified as safe by a person or agency designated by regulation;

(a.4) governing the use of signals on a work site;

(a.5) governing communication between different work sites;

16 Correction of a Revision oversight.

17 Section 31 presently reads in part:

31(1) The Lieutenant Governor in Council may make regulations

(a.1) prescribing health and safety standards to be maintained at a work site or at different classes of work sites;

(b) prescribing standards for tools, appliances or equipment;

(n) prescribing the form and content of either of them for a code of practice or classes of codes of practice established under section 26;

(t) governing the instruction, training or supervision of persons

*(i) engaged in occupations designated as hazardous occupations,
or*

(ii) working at or on work sites designated as hazardous work sites;

(u) requiring and governing the posting of

(i) health and safety notices issued by a Director,

(ii) orders made under this Act or the regulations,

(iii) names of members of a joint work site health and safety committee, or

(iv) the recorded minutes of a meeting of a joint work site health and safety committee meeting;

(w) governing the supply, transportation, use, storage and disposal, or any of them, of a designated substance or a hazardous material;

(x) prohibiting any person other than those licensed by a Director from transporting, using, storing or disposing of a designated substance or a hazardous material;

(a.6) governing the identification of tools, appliances or equipment approved pursuant to rules or standards prescribed by or adopted by the Act, regulations or acceptances;

(iii) *in clause (b) by adding “rules or” before “standards”;*

(iv) *by adding the following after clause (b.1):*

(b.2) requiring for safety reasons the clothing or tools, appliances or equipment to be worn or carried or not worn or carried by workers;

(b.3) governing acceptances referred to in section 26.1;

(v) *by adding the following after clause (h):*

(h.1) requiring the establishment of mine rescue stations, rescue training and evacuation routes;

(h.2) requiring the establishment of a system for reporting unsafe conditions in mines;

(h.3) governing mine ventilation, water control, lighting and use of electricity in a mine;

(vi) *by adding the following after clause (k):*

(k.1) defining “new project” for the purposes of this Act;

(k.2) respecting the forms, contents and filing of new project notifications;

(k.3) prescribing with respect to which new project or classes of new projects a person must file notice under section 10.1;

(vii) *by repealing clause (n) and substituting the following:*

(m.1) requiring employers, classes of employers, principal contractors or classes of principal contractors to comply with section 25.1 or 26, or both;

(n) governing the form and content of a code or class of codes of practice;

(viii) *in clause (t)*

(A) *by adding “, direction, education, qualifications” after “instruction”;*

(B) *in subclause (ii) by adding “at mines or quarries or” after “working”;*

(ix) *in clause (u) by striking out “or” at the end of subclause (iii), adding “or” at the end of subclause (iv) and adding the following after subclause (iv):*

(v) codes of practice;

(y) prescribing records, documents, plans, designs and reports that must be maintained by employers;

(z) requiring the preservation of records, documents, plans, designs and reports that must be maintained by employers;

(z.2) governing the qualifications and certification of workers at coal mines and quarries;

(z.3) providing for the appointment of qualifications boards to prescribe qualifications and certification for workers at coal mines and quarries;

(z.5) prohibiting the employment of workers at coal mines or quarries unless those workers meet the qualifications prescribed by regulations under clause (z.2) or by a board appointed under clause (z.3);

(z.6) specifying which work sites are coal mines or quarries for the purposes of this Act.

(x) in clause (w) by adding “, preparation, firing, deactivation, abandonment” after “storage”;

(xi) in clause (x) by adding “, preparing, firing, deactivating, abandoning” after “storing”;

(xii) by repealing clause (y) and substituting the following:

(y) respecting the contents and maintenance of records, documents, plans, designs and reports;

(xiii) clause (z) is amended by striking out “that must be maintained by employers”;

(xiv) by repealing clause (z.2) and substituting the following:

(z.2) governing the qualifications and licensing of workers at mines, quarries and work sites designated as hazardous work sites;

(z.21) designating different classes or types of licences;

(z.22) respecting the conditions under which a licence may be issued, suspended or cancelled;

(z.23) governing the suspension or cancellation of certificates or permits issued under the *Coal Mines Safety Act* or the *Quarries Regulation Act*;

(z.24) respecting maintenance of a registry of licensed workers, mine owners and managers;

(xv) by repealing clause (z.3) and substituting the following:

(z.3) providing for the appointment of qualifications boards to prescribe licensing requirements for workers at mines, quarries and work sites designated as hazardous work sites;

(xvi) by repealing clause (z.5) and substituting the following:

(z.5) prohibiting the employment of workers at mines or quarries who are required to be licensed unless those workers are licensed;

(xvii) in clause (z.6) by striking out “coal”;

(xviii) by adding the following after clause (z.6):

(z.7) regulating the conduct, duties and responsibilities of workers, employers, managers and principal contractors at mines, quarries and work sites designated as hazardous work sites.

(b) by adding the following after subsection (1):

(1.1) Any regulation made under subsection (1) may be made to apply generally or to a particular work site, employer, prin-

principal contractor, supplier or worker or a class of work sites, employers, principal contractors, suppliers or workers.

18 Section 32 is amended in subsection (1) by adding “or an acceptance issued under this Act” before “is”;

19 The following provisions are amended by striking out “the Director” wherever it occurs and substituting “a Director”:

section 1(a.2), (b), (c), (d) and (k)(v);
section 3(2);
section 6(3);
section 10(1), (2), (3);
section 11(2);
section 13(3);
section 15;
section 17;
section 18(1), (2);
section 19(1), (3);
section 24(1), (3);
section 31(1)(o), (2);
section 33.

20 The following provisions are amended by striking out “The Director” and substituting “A Director”:

section 10(2), (3);
section 15;
section 31(2).

21 The Occupational Health and Safety Amendment Act, RSA 1980 c.15(Supp.) is amended

(a) in section 17

- (i) by striking out “coal”;*
- (ii) by striking out “certified” wherever it occurs and substituting “licensed”;*

(b) in section 26

- (i) in clause (a) by striking out “section 1(1)(c) and (j)” and substituting “section 1(1)(j)”;*
- (ii) by repealing clause (d);*

(c) by adding the following after section 26:

26.1 The Coal Conservation Act is amended by striking out section 1(1)(c) and substituting the following:

18 Section 32 presently reads in part:

32(1) A person who contravenes this Act or the regulations or fails to comply with an order made under this Act or the regulations is guilty of an offence and liable

(a) for a first offence, . . . etc.

19 Consequential amendments.

20 Consequential amendments.

21 The Occupational Health and Safety Amendment Act presently reads in part:

17 The following is added after section 19:

19.1 A Director may require that a worker who is employed at a coal mine or quarry

(a) must be qualified or certified or undertake instruction, training or supervision as prescribed by the regulations, and

(b) shall produce evidence that he is so qualified or certified or that he has undertaken the prescribed instruction, training or supervision.

26 The following provisions are amended by striking out "Coal Mines Safety Act" wherever it occurs and substituting "regulations under the Occupational Health and Safety Act":

(a) the Coal Conservation Act, section 1(1)(c) and (j);

(b) the Electrical Protection Act, section 11;

(c) “certificate of competency” means a certificate granted under the *Coal Mines Regulation Act* or the *Coal Mines Safety Act*, or a licence under the *Occupational Health and Safety Act*, entitling the holder to perform the duties of the occupation or office in respect of which the certificate or licence is granted;

22 *Sections 8 and 11 come into force on Proclamation.*

In accordance with section 4(1) of the Interpretation Act, this Bill, except sections 8 and 11, comes into force on the date it receives Royal Assent.

(c) the Land Surface Conservation and Reclamation Act, section 1(j);

(d) the Land Surveyors Act, section 52(2)(b).

The Coal Conservation Act presently reads in part:

1(1) In this Act,

(c) "certificate of competency" means a certificate granted under the Coal Mines Regulation Act or the Coal Mines Safety Act and entitling the holder to perform the duties of the occupation or office in respect of which the certificate is granted;