

# Bigger roles for health and safety committees

The provincial government's Bill 35, amending the *Workers Compensation Act* (the Act), expands the role of joint occupational health and safety committees in workplace safety and adds a new type of incident for employers to report.

The changes in Bill 35 build on the legislative changes made last year under Bill 9, which strengthened WorkSafeBC's ability to promote and enforce workplace health and safety.

Other legislative changes are associated with Bill 9 and they include OHS citations. A new policy and Regulation concerning OHS citations is expected to take effect February 1, 2016.

## What has changed for health and safety committees?

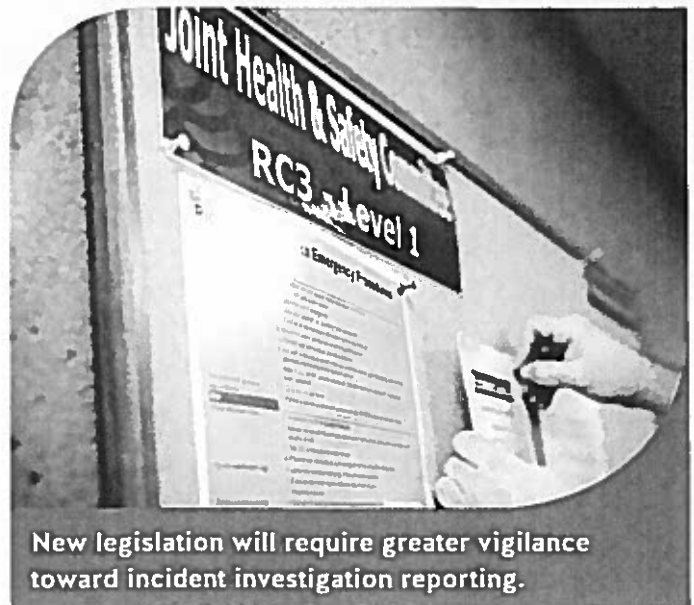
Bill 35 expands the role of these committees to strengthen the partnership between workers and employers in creating safer workplaces. Effective January 1, 2016, a joint occupational health and safety committee is expected to advise the employer on significant proposed equipment and machinery changes that may affect worker health and safety.

The Act stipulates that employer incident investigations must be carried out with the participation of employer and worker representatives. The new legislation provides specific examples of what that participation includes, and allows WorkSafeBC to identify other examples by regulation.

In addition, the legislation allows WorkSafeBC to take a proactive role in assisting committees to resolve disagreements over health and safety matters, even if the committee has not formally reported these matters to WorkSafeBC.

## How will this affect you?

Now, the new legislation specifies that the participation of an employer representative and worker representative



in the employer's investigation of a work-related incident includes, but isn't limited to, the following:

- Viewing the incident scene with the persons carrying out the investigation
- Offering advice on the investigation's scope and methods
- Taking part in other activities set out by WorkSafeBC in the Regulation

The new legislation also confirms that a duty of the joint committee includes advising the employer on any significant changes to machinery or equipment. If, for example, a factory is planning to add a new machine for production, the joint committee may advise the employer on health or safety aspects of the change.

If worker and employer representatives on a committee can't agree, for example, on engineering controls to reduce a hazard, WorkSafeBC can intervene, even without being formally asked to investigate the issue and try to resolve it.

## What has changed in incident reporting?

New provisions in the Act require employers to do as follows:

- Immediately report to WorkSafeBC all workplace fires or explosions that have the potential to seriously injure a worker
- Provide both preliminary and full investigation reports to the company's joint occupational health and safety committee or worker representative,

as applicable, or, if neither exist, post these reports at the worksite

## How will this affect you?

The Act changes add a requirement that employers must immediately report to WorkSafeBC any explosion or fire that had a potential to cause serious injury to a worker. They must also continue to meet the existing requirement to investigate in accordance with sections 175 and 176 of the Act and related policies.

Previously, employers could voluntarily provide preliminary and full investigation reports to health and safety committees or worker representatives. Now, it's mandatory to do so. Employers that are not required to have a health and safety committee or a worker representative must post investigation reports in the workplace. The goal is to keep joint committees fully informed of investigation findings so they can fulfill their role to enhance health and safety in the workplace.

## What are OHS citations?

OHS citations — an additional type of administrative penalty — will be effective February 1, 2016. They are intended to increase compliance with orders.

The new policy allows for OHS citations in the following instances:

- Failure to comply with a non-high-risk order
- Failure to send, prepare, or distribute a compliance report when required

The first citation is for \$500. If another citation is issued to the employer within a three-year period, that second citation is for \$1,000. At any time, an employer could receive an OHS penalty instead of a citation. (OHS penalty amounts are calculated as set out in policy and have a statutory maximum of more than \$621,000.)

## How does this affect you?

Employers won't receive a citation unless they've been warned that they could get an OHS citation or OHS penalty for failing to comply with an order and they still fail to comply.

For example, an employer could be ordered to provide an updated Safety Data Sheet (SDS) for a chemical in the workplace in a non-high-risk situation. If the employer doesn't comply, WorkSafeBC will issue a follow-up order and may warn the employer that an OHS citation or OHS penalty will result if the employer fails to comply with the follow-up order.

## Legal changes to review timelines

An article in the November/December "Policy notes" section of WorkSafe Magazine incorrectly stated that a WorkSafeBC policy (D12-196-7) provided new timelines for employers to request reviews of decisions related to prevention orders and penalties, as well as claim cost levies imposed under section 73(1) of the *Workers Compensation Act*. This new timeline of 45 days can instead be found in the new Time Period for Review Regulation at [bclaws.ca/civix/document/id/complete/statreg/164\\_2015](http://bclaws.ca/civix/document/id/complete/statreg/164_2015). (Note that requests for reviews of claims and assessment decisions, unrelated to section 73(1) of the Act, can still be filed within 90 days.)

If the employer still fails to provide the updated SDS, WorkSafeBC could issue a \$500 citation. Continued failure to comply with the order would result in a further citation, for \$1,000. An OHS penalty could be imposed instead of a citation at any time during this process.

Once an employer has received a citation, any further citation within a three-year period would be \$1,000. For example, an employer might receive a citation for failing to comply with an order to make a copy of the Act available. If, within three years, the employer received a second citation for failing to comply with an order to provide an up-to-date SDS, the second citation would be for \$1,000.

## Where can you get more information about the new requirements?

A summary of the board of director decisions on consequential Occupational Health and Safety Regulation amendments for employer incident investigations and the policy and regulation related to OHS citations can be found at [www.worksafebc.com/regulation\\_and\\_policy/policy\\_decision/board\\_decisions/2015/oct/default.asp](http://www.worksafebc.com/regulation_and_policy/policy_decision/board_decisions/2015/oct/default.asp). On February 1, an update to the Prevention Manual and a copy of the new Lower Maximum Administrative Penalties Regulation will be available. For a copy of Bill 35, go to [www.worksafebc.com/regulation\\_and\\_policy/legislation\\_and\\_regulation/default.asp](http://www.worksafebc.com/regulation_and_policy/legislation_and_regulation/default.asp) ○