

What's new in OHSA?

ACES Client Seminar
Wednesday, February 26th, 2014

Presented by: Mark Geiger

Blaney
McMurtry
BARRISTERS & SOLICITORS LLP

Bill 146

- Introduced in legislature in late 2013
- Stronger Workplaces for Ontario Act
- Effects 5 different acts - including OHSA
 - ESA - no longer \$10,000 limit
 - temporary worker protection
 - 'self' audits
- OHSA - similar changes
 - increased support for vulnerable workers
 - includes trainees and volunteers

OLRA

- One significant change to open period in the Construction Sectors
- Change from 3 months to 2 months
 - At request of construction companies??
- Not sure of any real significance

Chief Prevention Officer

- Prevention now under Min of Labour
- George Gritziotis appointed April 1st, 2012
- Some of Bill 146 appears to be from his work
 - Vulnerable worker and small business task forces
 - New training program standards
 - 'Working at Heights' in construction
 - recommended by expert panel
 - Metron case probably crucial
 - after hours and weekend inspections
 - mandatory this summer
 - will be expanded to all sectors

Ontario Integrated Health and Safety Strategy

- Issued December 16th, 2013
- Developed from consultations and responses
 - 1150 consultations
 - 217 responses
- small businesses
- vulnerable workers
- delivery more effective and efficient
- raise awareness
- foster compliance
 - after hours and weekends

New Initiatives

- mandatory training
 - Height training appears to be the first
- the task forces
- the new inspections

Why?



Blaney
McMurtry
BARRISTERS & SOLICITORS LLP

Why?



Blaney
McMurtry
BARRISTERS & SOLICITORS LLP

Why?



Blaney
McMurtry
BARRISTERS & SOLICITORS LLP

Here's Why

- Metron
 - Supervisor and workers on scaffold without fall arrest
 - all under influence of marijuana
 - four workers killed including supervisor
 - charges under OHSA and Criminal Code
 - Owner and company convicted under OHSA
 - Company charged under Criminal Code because of actions of supervisor
 - Convicted - fine \$200,000
- ON APPEAL FROM CROWN
 - fine increased to \$750,000
 - even though company would go bankrupt

Other cases

- In our office - 2 fatalities in last year - improper working at heights
- one of the most common issues in OSHA inspections
- roofers, small constructors seem to be a major problem
- BUT
- Big companies as well

Other Important Cases

- *Scrocca* - Quebec case (2011)
 - Landscaping case
 - neglected to perform proper maintenance on backhoe
 - brakes failed, Scrocca collided into employee
 - CC s. 217.1 - convicted
 - costs plus conditions - failing which - 2 years!
- B.C. Ferry Case: Queen of the North (2013)
 - sinking of ferry in BC
 - May 2013 - convicted of criminal negligence causing death
 - sentenced to 4 years (under appeal)

Other Cases

- *Hritchuk: 2012 decision*
 - Supervisor on construction
 - gas explosion injured elderly man
 - unsafe transfer of gas permitted by him
 - given absolute discharge for reasons of good character and related factors
- *Wood: Elliot Lake mall collapse*
 - charges under OHSA for 'negligent advice'
 - now charges under criminal code with two counts of criminal negligence causing death + two counts of criminal negligence causing bodily harm

Take Aways

- Inspections increasing
 - Standards changing
 - Fines increasing
 - Jail time becoming more probable
-
- You are responsible, even if it's your supervisor who screws up!!