

1978 BILL 248

Fourth Session, 18th Legislature, 27 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 248

AN ACT TO AMEND THE OCCUPATIONAL HEALTH AND
SAFETY ACT

MR. NOTLEY

First Reading -----

Second Reading -----

Committee of the Whole -----

Third Reading -----

Royal Assent -----

Bill 248
Mr. Notley

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AN ACT TO AMEND THE OCCUPATIONAL HEALTH AND SAFETY ACT

(Assented to _____, 1978)

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 2 is amended in subsections (1), (3) and (4) by
striking out "reasonably practicable" wherever it occurs and sub-
stituting "reasonably possible".*

*3. Section 4(1) is amended by adding "of whom at least 6
shall be workers" after "not more than 12 persons."*

4. The following is added after section 10:

10.1 Where an order is issued under section 7, 8, 9 or 10, the
employer shall be responsible for payment of any ordinary wages
of a worker lost in consequence of the issuance of the order.

5. Section 11 is amended

(a) by repealing subsections (5), (6) and (8), and

*(b) in subsection (7) by striking out "chairman or vice-
chairman of the".*

6. Section 20 is amended

*(a) in clause (a)(i) by adding "where no joint work site
health and safety committee exists" before "require;"*

(ii) by striking out "and" at the end of the clause;

and

Explanatory Notes

1. This Bill will amend chapter 40 of the Statutes of Alberta, 1976.

2. Section 2 presently reads:

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) 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.
- (3) Every supplier shall ensure, as far as it is reasonably practicable for him to do so, that any tool, appliance or equipment that he supplies
 - (a) is in safe operating condition, and
 - (b) complies with the standards, if any, prescribed or adopted by the regulations.
- (4) Every principal contractor engaged in a project shall ensure, as far as it is reasonably practicable for him to do so, that every employer and every worker performing work in respect of that project complies with this Act and the regulations.

3. Provides 50% worker representation on the Occupational Health and Safety Council.

Section 4(1) presently reads:

4. (1) There shall be a council called the "Occupational Health and Safety Council" which shall consist of not more than 12 persons appointed by the Lieutenant Governor in Council.

4. Provides that employees shall not suffer economic loss as a consequence of the failure of an employer to fulfill his obligations under this Act.

5. Removes appeal to the Supreme Court. Provides that only the Council may order a stay of execution.

Section 11 presently reads:

11. (1) Any person to whom an order is issued under section 7, 8, 9, 10, 20 or 26 may appeal the order to the Council.
- (2) An appeal under subsection (1) shall be commenced by serving a notice of the appeal upon the Director of Inspection within 30 days from the date that the order being appealed from was served upon the person making the appeal.
- (3) Upon considering the matter being appealed, the Council may by order confirm, revoke or vary the order being appealed.
- (4) Where an appeal is made to the Council under subsection (1), the Council shall hear the appeal and render a decision as soon as practicable.
- (5) An appeal lies to the Supreme Court of Alberta from an order of the Council upon a question of law or a question of jurisdiction and upon hearing the matter the Court may make such order, including the awarding of costs, as the Court considers proper.
- (6) An appeal under subsection (5) shall be made by way of originating notice within 30 days from the date that the order of the Council is served upon the person appealing the order of the Council.
- (7) Where an appeal is commenced under subsection (1), the commencement of that appeal does not operate as a stay of the order being appealed from except insofar as the chairman or a vice-chairman of the Council so directs.
- (8) Where an appeal is commenced under subsection (5), the commencement of that appeal does not operate as a stay of the order of the Council being appealed from except insofar as a judge of the Supreme Court so directs.

6. Involves joint work site committees in regular inspections.

Section 20(a) presently reads:

20. The Director of Occupational Hygiene may, by written order,
 - (a) require a principal contractor or an employer to inspect regularly any work site under the control of that principal contractor or employer for health hazards, and

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

- (a.1) where a joint work site health and safety committee exists, require the committee to carry out an inspection or program of inspection and recommend methods of eliminating health hazards, and

7. Section 25 is amended

(a) *in subsection (1)*

(i) *by striking out* “The Minister may by order require that there be established at any work site” *and substituting* “In every work site at which 10 or more workers are employed, the employer shall cause to be established”,

(ii) *by striking out* “and” *at the end of clause (c), and*

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

(e) accompany the Director of Inspection or an officer during inspection of a work site, and

(f) carry out periodical inspection of the work site.

and

(b) *by adding the following after subsection (5):*

(5.1) The Director of Inspection or an officer shall provide a copy of every order, report or decision made in respect of a particular work site to the joint work site health and safety committee for that work site.

8. Section 27 is repealed and the following substituted:

27. (1) A worker may refuse to do any act or to omit any act or refuse to order any other worker to do any act or omit any act at a work site where he has reasonable grounds to believe that the act or omission is unusually dangerous to his health or safety or the health and safety of any other person at the work site until sufficient steps have been taken to satisfy him otherwise, or until the joint work site health and safety committee or the Director of Inspection or an officer has investigated the matter and advised him otherwise in writing.

(2) No employer or contractor shall take any action which adversely affects a worker with respect to any terms or conditions of employment or opportunity for promotion or shall dismiss, lay-off, suspend, demote, transfer, relocate, reduce the wage of, change the hours of work of or reprimand any worker by reason of the fact that he has exercised the right conferred by subsection (1).

(3) Subsection (1) shall not be deemed to place any liability or responsibility or duty of care upon any worker with respect to the exercise or non-exercise of his rights thereunder that would not otherwise exist.

(4) Where any action listed in subsection (2) is taken against a worker who within the previous 12 months has exercised the right conferred by subsection (1), there shall be a presumption

7. Requires joint work site and health and safety committees for every work site having 10 or more employees. Clarifies the role of a committee in the inspection process. Ensures a committee will be informed of decisions affecting it.

Section 25(1) presently reads:

25. (1) The Minister may, by order require that there be established at any work site a joint work site health and safety committee which shall
- (a) identify situations which may be unhealthy or unsafe in respect of the work site,
 - (b) make recommendations to principal contractors, employers and workers for the improvement of the health and safety of workers at or upon the work site,
 - (c) establish and maintain educational programs regarding the health and safety of workers at or upon the work site, and
 - (d) carry out those duties and functions prescribed by the regulations.

8. Strengthens and clarifies the right of a worker to refuse unsafe work. The "imminent danger" test, is replaced by a "reasonable grounds" test. The rights and responsibilities of employer and employee are clarified.

Section 27 presently reads:

27. (1) No worker shall
- (a) carry out any work where there exists an imminent danger to the health or safety of that worker, or
 - (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.

that such action was taken against him for that reason and the onus shall be on the employer or contractor to establish that the action was taken for good and sufficient other reason.

(5) Temporary assignment at no loss of pay to alternative work until the matter of complaint is resolved shall be deemed not to violate subsection (2).

(6) Where an employer or contractor is convicted of violating subsection (2), in addition to such other penalty as may be imposed the judge shall order the employer to revoke the discriminatory action and to re-instate the worker to his former employment under the same terms and conditions under which he has formerly been employed and shall order the employer to pay to the worker wages the worker would have earned had the action not been taken and shall order any reprimand or other reference to the matter in the employer's records relating to the worker to be erased.

9. Section 30(2) is amended by striking out "part of".

10. Section 31(1) 5. is amended by adding "or a joint work site health and safety committee" after "employer".

11. This Act comes into force on the day upon which it is assented to.

9. Ensures that the full cost of administering the program are payable by the employer.

Section 30(2) presently reads:

- (2) For the purpose of defraying part of the costs of administering this Act,
 - (a) the Minister shall, where authorized by the regulations, make assessments upon employers, or
 - (b) The Workers' Compensation Board shall, where an agreement is entered into under subsection (4), clause (b), pay to the Provincial Treasurer such amounts as may be prescribed by the Lieutenant Governor in Council.

10. Section 31(1)5. presently reads:

- 31. (1) The Lieutenant Governor in Council may make regulations
 - 1. designating any employment, business, calling or pursuit or any class thereof as an occupation;
 - 2. prescribing health and safety standards to be maintained at a work site or at different classes of work sites;
 - 3. prescribing standards for tools, appliances or equipment;
 - 4. adopting, in whole or in part, any code of standards respecting any tools, appliances or equipment;
 - 5. governing the regular inspection of work sites by the principal contractor or employer for health hazards;