

1983 BILL 231

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First Session, 20th Legislature, 32 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# **BILL 231**

**AN ACT TO AMEND THE OCCUPATIONAL  
HEALTH AND SAFETY ACT**

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MR. MARTIN

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First Reading . . . . .

Second Reading . . . . .

Committee of the Whole . . . . .

Third Reading . . . . .

Royal Assent . . . . .

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*Bill 231*  
*Mr. Martin*

## **BILL 231**

1983

### **AN ACT TO AMEND THE OCCUPATIONAL HEALTH AND SAFETY ACT**

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

(e.4) "health" means,

(i) the promotion and maintenance of the highest degree of physical, mental and social well-being of workers insofar as the influences of the workplace are concerned,

(ii) the prevention among workers of ill health caused by their working conditions,

(iii) the protection of workers in their employment from factors adverse to their health, and

(iv) the placing and maintenance of workers in occupational environments which are adapted to a reasonable degree to their individual physiological and psychological conditions;

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

(k.1) "safety" means, with regard to a workplace, a condition in which the sum of all factors bearing on the discharge by a worker of his duties as a worker does not pose a threat to the continued well-being of the worker that is greater than any such threat that would be encountered by that worker during the course of his normal activities away from that workplace, and "safe" has a corresponding meaning.

### **Explanatory Notes**

- 1** This Bill will amend chapter O-2 of the Revised Statutes of Alberta 1980.
- 2** Adds definitions of “health” and “safety”.

3 *Section 2(1) is amended by striking out “Every employer shall ensure, as far as it is reasonably practicable for him to do so, the health and safety of” and substituting “Every employer shall provide a safe and healthy workplace, and, with relation to the work being carried out for the employer and the work site, shall take the necessary measures to protect the health and ensure the safety of”.*

4 *The following is added after section 17:*

**17.1(1)** In this section,

(a) “exposure record” means a record of a worker’s exposure to any hazardous material during his employment, including

(i) a record of any incident where the worker may have had a short-term exposure, and

(ii) a record of the concentration and identity of the designated substance or hazardous material in question, and

(b) “medical record” means a record of a physical or medical observation by a health practitioner or a record of illness.

(2) Every employer shall maintain an exposure record for every worker that works at a hazardous work site, in a hazardous occupation or exposure to a designated substance or hazardous material, and keep the record for the duration of the employment and for no less than 5 years after the termination of the employment or such longer period as may be specified by law.

(3) Every employer shall retain every medical record that has been prepared in respect of a worker that works at a hazardous worksite, in a hazardous occupation or exposure to a designated substance or hazardous material, and keep the record for the duration of the employment and for no less than 5 years after the termination of the employment or such longer period as may be specified by law.

(4) The employer shall on request make available to a worker or former worker a copy of

(a) the exposure record of the worker, and

(b) every medical record of which the worker is the subject.

(5) An employer shall inform every worker, once in every year of the existence, location and availability of any exposure or medical record made pursuant to this section and the worker’s right of access to the record.

**3** Section 2(1) 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.*

**4** New sections will provide for maintenance and availability of exposure and medical records and for copies of research reports to Occupational Health and Safety Division.

**17.2** An employer who conducts health or toxicological research on a designated substance or hazardous material used or produced by the employer shall make the results of the tests known to the Managing Director, Occupational Health and Safety Division of the Ministry of Worker's Health, Safety and Compensation and to the occupational health and safety committee for the workplace.

5 *Section 24 is amended*

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

(1) The person responsible for a work site shall prepare a written report of all substances used or produced in the work site in the form described by the Director of Occupational Hygiene, and submit it to the Director;

(b) *by adding the following after subsection (3):*

(3.1) All containers used to hold a designated substance or hazardous material shall be labelled in a form prescribed by the Director of Occupational Hygiene.

6 *Section 25 is repealed and the following is substituted:*

**25(1)** At every place of employment where 10 or more workers are employed, the employer shall cause a committee to be established to be known as an occupational health and safety committee.

(2) The committee shall consist of no fewer than 3 and no more than 12 persons of whom at least half shall be persons representing workers, other than workers connected with the management of the place of employment, and either elected by the workers they represent or appointed in accordance with the constitution of the labour union of which the workers are members.

(3) The employer shall cause the names of the committee members to be posted in a prominent place at the place of employment.

(4) The duties of the committee shall include:

(a) participation in the identification and control of health and safety hazards within the place of employment,

(b) making recommendations to the principal contractors, employers and workers for the improvement of the health and safety of workers on or at the work site,

**5** Section 24 presently reads:

*24(1) If any designated substance is used, stored or manufactured at or on a work site, the person responsible for that work site shall compile a written report with respect to that designated substance containing the information and in the form prescribed by the Director of Occupational Hygiene.*

*(2) When a person compiles written information under subsection (1), he shall maintain that information on the work site in a location which is readily accessible to the workers and to other persons who are at that work site.*

*(3) When a person compiles written information under subsection (1), that person shall, on the request of the Director of Occupational Hygiene, furnish the Director with copies of that written information.*

*(4) Repealed RSA 1980 c15(Supp) s19.*

**6** Section 25 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 on the work site,*

*(c) establish and maintain educational programs regarding the health and safety of workers at or on the work site, and*

*(d) carry out those duties and functions prescribed by the regulations.*

*(2) A joint work site health and safety committee shall consist of workers who represent the workers at the work site and persons who represent the employer or principal contractor and employers, as the case may be, responsible for that work site.*

*(3) The number of persons on a joint work site health and safety committee who represent the employer or the principal contractor and employers, as the case may be, shall not exceed in total the number of workers on the committee who represent the workers at the work site.*

*(4) Repealed RSA 1980 c15(Supp) s.20.*

- (c) the establishment, maintenance and promotion of educational programs regarding health and safety for the education and information of workers on or at the work site,
- (d) the maintenance of records with respect to its duties under this section,
- (e) the investigation of any matter referred to in section 27(1),
- (f) the right to conduct regular work site inspections, and
- (g) the right to carry out such duties and functions as may be specified in this Act or the regulations.

(5) The committee may meet and carry out its functions and duties during normal working hours.

(6) In an emergency, the committee may meet outside normal working hours and the committee members shall be paid overtime in accordance with their collective agreement or any other agreement between the employers and workers, in respect of the time so spent.

(7) No employer may take discriminatory action against a worker by reason of the worker's participation in or association with any function of the occupational health and safety committee at the worker's place of employment.

(8) Where discriminatory action is taken against a worker, the onus shall be upon the employer to establish that the action was taken for good and sufficient reasons.

(9) Where the committee makes a recommendation to an employer and the employer neglects or refuses to follow the recommendation, the committee may report the matter to the Managing Director, Occupational Health and Safety Division of the Ministry of Workers' Health, Safety and Compensation who shall investigate the matter and take such action as he sees fit.

7 *Section 27 is repealed and the following is substituted:*

**27(1)** A worker may refuse to perform any task or use any equipment if the worker has grounds to believe that the performance of that work would endanger the health, safety or physical well-being of the worker or any other person.

(2) Where a worker refuses to perform a task or use equipment pursuant to subsection (1) he shall immediately advise his supervisor, employer or agent of the employer and the joint work site health and safety committee.

*(5) A joint work site health and safety committee shall hold its meetings and carry out its duties and functions during normal working hours.*

*(6) No disciplinary action shall be taken against a member of a joint work site health and safety committee by reason of that member performing duties and functions as a member of that committee.*

*(7) Repealed RSA 1980 c15(Supp) s20.*

**7** 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.*

(3) A worker may refuse pursuant to subsection (1) until the grounds for refusal are removed or the joint work site health and safety committee has made a determination that the refusal was not justified or, if a determination that the refusal was not justified is appealed by the worker, until the appeal is rejected by the officer pursuant to subsection (4).

(4) A decision of the committee may be appealed within 30 days by the worker or the employer to the Occupational Health and Safety Division which shall designate an officer to decide the issue.

(5) A worker who has refused to work pursuant to subsection (1) or who is deprived of work because of a refusal by another worker shall, for the purposes of pay and benefits, be deemed to be at work for normal working hours until the issue is determined by the committee or if appealed by the officer of the Occupational Health and Safety Committee.

(6) The employer shall not permit another worker to perform the refused work until the issue is determined by the committee or if appealed, by the officer.

8 *Section 28 is repealed and the following is substituted:*

**28(1)** No employer shall lay-off, suspend, demote, terminate, or transfer a worker, or otherwise impose a discriminatory or disciplinary measure on a worker because the worker has reported or intends to report to the appropriate authority conditions contravening this Act, the regulations or orders given under this Act, or because the worker refused work or exercised a right in a manner provided in this Act.

(2) Where discriminatory action is taken against a worker who has exercised a right under this Act, there shall be a presumption that the action was taken against him by reason of the exercise of his rights and the burden is on the employer to show the action taken was for other good and sufficient reasons.

(3) Within 30 days of an alleged discriminatory action the worker may file a complaint with the Managing Director, Occupational Health and Safety Division of the Ministry of Workers' Health, Safety and Compensation, who shall within 10 days

(a) give reason to the worker why no action will be taken,  
or

(b) initiate an investigation into the complaint.

(4) Where an investigation reveals an offence by an employer the Managing Director shall recommend that the employer be prosecuted.

*(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.*

**8** Section 28 presently reads:

*28 No person shall dismiss or take any other disciplinary action against a worker by reason of that worker acting in compliance with this Act, the regulations or an order given under this Act.*

(5) The Managing Director shall advise the worker of the result of the investigation in writing.

9 *Section 32 is amended*

(a) *in subsection (1)*

(i) *by striking out “person” and substituting “employer”,*

(ii) *in subclause (a)(i) by striking out “\$15 000” and substituting “\$25 000”, and*

(iii) *in subclause (b)(i) by striking out “\$30 000” and substituting “\$50 000”;*

(b) *in subsection (2) by striking out “person” and substituting “employer”.*

10 *This Act comes into force on a date to be fixed by Proclamation.*

**9** 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,*

*(i) to a fine of not more than \$15 000 and in the case of a continuing offence, to a further fine of not more than \$1000 for each day during which the offence continues after the first day or part of a day, or*

*(ii) imprisonment for a term not exceeding 6 months,*

*or to both fines and imprisonment, and*

*(b) for a 2nd or subsequent offence,*

*(i) to a fine of not more than \$30 000 and in the case of a continuing offence, to a further fine of not more than \$2000 for each day or part of a day during which the offence continues after the first day, or*

*(ii) to imprisonment for a term not exceeding 12 months,*

*or to both fines and imprisonment.*

*(2) Notwithstanding subsection (1), a person who fails to comply with an order made under section 8 or as varied under section 11 is guilty of an offence and liable to a fine of not more than \$15 000 or imprisonment for a term not exceeding 12 months or to both fine and imprisonment.*

**10** Coming into force.