

The *BSO Plus Safety Topic* is a review designed from the BSO Plus agenda. This safety topic is your way to stay current on the safety information over the 3 years between BSO Plus and BSR.

RIGHTS AND RESPONSIBILITIES

Occupational Health & Safety Act

The Occupational Health and Safety Act (OHSA) sets out general principles and duties of workplace parties. It also describes worker's rights, and gives workers the power to exercise those rights.

We all share the common goal of making Ontario's workplaces safe and healthy places to work. The OHSA provides us with the following tools to achieve this goal:

- Defines rights and duties of workers
- Defines responsibilities of employers and supervisors
- Contains specific regulations for certain jobs or workplaces
- Provides for enforcement of the law



The Ministry of Labour (MOL) is responsible for ensuring compliance with the Act and its regulations.

MOL inspectors use the OHSA as the measure of whether or not the laws are being followed. As of December 14, 2017, the maximum fines increased. If a person is convicted of breaking the law, the penalties can include fines up to \$100,000 (from \$25,000) for individuals and up to \$1,500,000 (from \$500,000) for corporations, and/or possible jail time up to 12 months.

The Act and the regulations are minimum requirements for health and safety standards in Ontario. Knowing your rights and responsibilities is a major factor in helping to protect your health and to maintain a safe workplace.

Roles and Responsibilities of Workplace Parties

There are more than 30 different workplace parties mentioned in the OHSA and all of them have duties. Under the new O. Reg. 297/13 for worker awareness training, there are 3 key parties whose duties you must understand: employers, supervisors, and workers. The amount of responsibility assigned to each party is directly related to the level of authority they have in the workplace. For example, employers have more legal duties under the OHSA than supervisors, and supervisors have more than workers.



Employer (OHSA, sections 25-26)

Out of these three roles – Employer, Supervisor, and Worker – the employer has the highest number of legal responsibilities because they are in charge of the workplace and everyone in it. Employers are required to take every precaution reasonable in the circumstances for the protection of the worker (OHSA, 25.2(h)). This duty is frequently referred to as the "General Duty Clause" because it means that your employer has to do everything reasonable to protect you on the job.

Employers must:

- Ensure health and safety measures and procedures are carried out in the workplace
- Ensure that equipment, materials and protective equipment are provided and maintained in good condition
- Provide information, instruction and competent supervision to protect worker health & safety
- Develop and maintain all policies and programs required under the OHSA
- Assist and co-operate with the Health & Safety Rep or the Joint Health & Safety Committee

In addition to those responsibilities, the employer has new responsibilities under O. Reg 297:

- Ensure that workers complete a basic occupational health and safety awareness training program **as soon as reasonably possible**
- Ensure that supervisors complete a basic occupational health and safety awareness training program **within one week of working as a supervisor**
- Maintain a record of the training completed by workers and supervisors; and
- Provide a worker or supervisor with written proof of completion of the training, if requested by the worker or supervisor (up to six months after ceasing to work for the employer).

Supervisor (OHSA, section 27)

A supervisor's duties are to make sure that the day-to-day work gets done safely and in accordance with the law and company policies and procedures. Supervisors have authority over workers and are therefore responsible for taking every precaution reasonable in the circumstances to ensure that their workers are protected.



Supervisors must:

- Ensure workers comply with the law and with company safety policies and procedures
- Ensure workers use any required equipment, protective devices, and clothing
- Advise workers of any actual or potential dangers or hazards to their health and safety
- Where required by law, provide workers with written instructions on health & safety procedure

Worker (OHSA, section 28)

As a worker, you also have responsibilities for your safety and actions, and for others affected by your actions. Your responsibilities include:

- Report any workplace hazards or contravention of the Act or regulations to your supervisor
- Wear all protective equipment, devices or clothing that is required by law and by your employer
- Do not endanger yourself or others through improper use of any equipment, materials or devices
- Do not remove or make ineffective any required safeguard or protective device without providing an adequate temporary replacement for the duration of the task





Signature Events Rental Shoppe Fined \$100,000 After Electrical Contact Kills Young Worker, Injures Others

LONDON, ON - 1483322 Ontario Inc., carrying on business as Signature Events Rental Shoppe, pleaded guilty and was fined \$100,000 after a young worker was killed and others were injured while erecting a tent for a wedding.

On August 1, 2013, a crew of six workers was sent to a property near Watford to set up a tent in advance of a wedding to be held on the site. All were young workers (25 years of age and younger) and all were seasonal employees.

As one of the tent poles was being put into place, it came into contact with an overhead electrical service line, which sent electric current traveling down the pole to the ground; in addition, the ground was saturated from rainfall. Five of the six workers were injured by the initial shock. A secondary shock was delivered to some of the workers who were lying on the ground.

Two workers in the crew were able to drag their colleagues away from the pole and cardio-pulmonary resuscitation (CPR) was begun on two of the victims; air and land ambulances were sent as well as emergency medical services to aid the injured workers.

One of the workers died as a result of electrocution. Other workers suffered burns and dislocations.

A Ministry of Labour investigation found that none of the workers had received any safety training and that there had been no training with respect to recognizing and mitigating site hazards such as overhead power lines. No one from the business assessed the area in advance or asked for information about utilities, either overhead or underground.

Further investigation found that the company failed to ensure that materials were lifted or moved in such a way that they did not endanger the safety of any worker, as required by law.

Signature Events Rental Shoppe pleaded guilty to failing, as a constructor, to ensure that the health and safety of workers was protected, and pleaded guilty to failing, as an employer, to provide adequate information, instruction and supervision to workers about the hazards of overhead electrical wires as required under the OHS Act.

Conviction: Occupational Health and Safety Act Section 23(1)(c) and Section 25(2)(a)

Do You Know Your Rights?

The Occupational Health and Safety Act sets out general principles and duties of employers, supervisors, workers, and other workplace parties. It also sets out the basic rules of operation for both joint health and safety committees and health and safety representatives.

Employers have a general right to direct work and control the production process in the workplace. In order to balance out the employer's right to direct work, the OHS Act gives workers the following three basic rights:

1. The Right to Know
2. The Right to Participate
3. The Right to Refuse Unsafe Work



One of the most common questions a MOL Inspector will ask workers is, ***"Do you know your rights under the Occupational Health and Safety Act?"***

Right to KNOW

Specifically, this means you have the right to know about any hazards you could be exposed to and, therefore, you have the right to get instruction on how to identify these hazards and do your job safely.

The following are some of the ways your employer might advise you of the hazards in your workplace:

- Training
- Written Job Instructions
- WHMIS [OHS Act, section 42.(1)]
- Staff meetings
- Safety Talks
- Bulletins



Right to PARTICIPATE



Workers have the right to take part in keeping their workplace healthy and safe. For example, you have the right to participate in training and information sessions to help you do your job safely.

The most significant way to exercise your right to participate in workplace health and safety, depending on the size of your workplace, is by either joining the **Joint Health and Safety Committee (JHSC)** or becoming a **Health & Safety Representative (HSR)**. Ontario workplaces with at least 20 regularly employed workers require a JHSC by law. Smaller workplaces with 5-19 regularly employed workers require a worker Health & Safety Rep.

Role of the JHSC/HSR (OHSA, sections 8-9)

Joint Health and Safety Committee members and health and safety reps have the power to:

- Raise awareness of health and safety issues in the workplace
- Identify health and safety hazards through monthly workplace inspections and other sources
- Make recommendations to the employer
- Investigate work refusals
- Participate in incident/accident investigations

Joint health and safety committees assist in providing greater protection against illnesses, injuries, and fatalities. This joint effort between the employer and the workers ensures that everything possible is done to identify and eliminate or mitigate workplace health and safety hazards.

Right to REFUSE

This means you have the right to refuse work that you believe will endanger either yourself or others around you. According to the OHSA, a worker may exercise their right to refuse unsafe work when they believe:

- A machine, equipment, tool or device the worker is required to operate could harm them or another worker
- The physical condition of the workplace where they are working could harm them or another worker
- Workplace violence is likely to endanger them or another worker (Note: your employer is required by law to have a policy and program on violence and harassment in the workplace, including how to report threats or incidents of workplace violence), or
- Any contravention of the Act or regulations could harm them or another worker



If a worker feels that the work is unsafe, they must report the circumstances of the work refusal to their supervisor or employer, who then has a responsibility to investigate the report in the presence of the worker and the worker representative (JHSC member or H&S rep).

Under *Section 50* of the OHSA, an employer cannot dismiss, discipline, suspend, threaten, intimidate, coerce, or impose any penalty upon a worker who has exercised rights under the OHSA, including the right to refuse unsafe work.

A worker also cannot be penalized for providing information to a Ministry of Labour inspector, following a Ministry of Labour inspector's order, or testifying at a hearing about OHSA enforcement.