

**Renewing Alberta's
Occupational Health and
Safety System**

OHS System Review

Discussion Paper

Message from Honourable Christina Gray Minister of Labour Responsible for Democratic Renewal



Every day, Albertans go to work. In every corner of the province, in every sector and around the clock, Alberta workers drive our economy forward with their dedication, knowledge and innovation. From their first shifts right through to the end of their careers, Alberta workers have the right to a healthy, safe workplace. Our occupational health and safety (OHS) system is designed to ensure that right is protected.

Unfortunately, work-related illnesses, injuries and deaths still occur. In 2016, there were 144 workplace fatality claims accepted by the Workers' Compensation Board (WCB). There were many more claims made for compensation due to illnesses and injuries.

How can we improve health and safety on Alberta work sites? Are there changes we can make to our OHS system that would reduce illnesses, injuries and deaths and keep workers on the job? How can we modernize our system so it reflects today's workers and workplaces? These are questions we hope to answer in our review of Alberta's OHS system. During this review we will consult with industry, labour and OHS professionals to gather their feedback on these questions.

The review will examine Alberta's enforcement and prevention activities as well as the OHS Act. The Act is the foundation of our OHS system. It came into force in 1976 and it has never been comprehensively reviewed since then. Workplaces have changed a lot in the last 40 years. Advanced technology, hours of work and new occupations mean it is time to look at modernizing our legislation.

I encourage everyone to get involved and share your views on how we can make our workplaces healthier and safer for Alberta workers, from their first shifts through to retirement.

I look forward to receiving the input from Alberta.

Christina Gray
Minister of Labour
Responsible for Democratic Renewal

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Introduction

Over two million Albertans go to work each day with the expectation that their workplaces are healthy and safe and they will come home to their families and communities free of illness, injury or harm. Alberta has a good track record of keeping its workers healthy, safe and sound. Even with this success and commitment to health and safety, there is still much to do. Despite our commitments and record, on a per capita basis the number of workplace fatalities in Alberta remains among the highest in Canada. This is unacceptable. We can do better. We must do better.

Keeping workplaces and workers healthy and safe is the purpose of our occupational health and safety (OHS) system. Since its inception in 1976, we have not examined how this system could be improved. Over the last four decades, other jurisdictions have made substantive changes to their legal and policy frameworks to improve workplace health and safety. Ontario reviewed its legislation in 2010 to re-focus its efforts on prevention and Saskatchewan revamped its legislative framework in 2013 to streamline legislative requirements for all employers into one Act. Manitoba and Saskatchewan are required to review their Acts every five years. Internationally, jurisdictions have recognized emerging labour needs and have implemented recent reforms to address them.

OHS systems are challenged to keep pace with changes in work and workplaces. Some of the changes in Alberta's workplaces include:

- **When and where we work** - around-the-clock shift work, telecommuting and home-based businesses have become commonplace.
- **How we work** - there are increasing complexities around employment relationships like contract work, temporary or short-term work that make it difficult for employers to manage health and safety.
- **What we work with** - equipment and procedures used in the workplace have profoundly changed with new technologies, changing OHS hazards and creating new questions about how OHS laws should apply.

In addition, Alberta's workforce has fundamentally changed since the OHS Act was passed. In 2016, the Alberta workforce is more diverse, consisting of more immigrants, women and vulnerable (such as workers aged 55 and older, temporary foreign workers, disabled workers, low-skilled workers and young workers) populations.¹

¹ Alberta Treasury Board and Finance, Population Projects, June 2016

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In Canada, effective OHS systems rely on some core best practices.

- Motivating workplaces to establish and continually improve a **positive health and safety culture** is critical to effective prevention.
- An effective **internal responsibility system** is critical to develop a positive health and safety culture. The internal responsibility system is the underlying foundation for OHS legislation in all Canadian jurisdictions. It is based on the principle that everyone in the workplace is responsible for OHS, each according to their authority and control.
- Formal workplace **OHS management systems** improve prevention of occupational illness and injury.
- Stronger **partnerships** between government and other stakeholders help improve the coordination and implementation of prevention efforts.
- **Education, training and engagement** are necessary to help employers and workers understand and meet their OHS responsibilities.
- **Enforcement** must be progressive, proportional and effective at reducing non-compliance.
- **Public awareness and education** programs designed to improve public attitudes and behavior toward health and safety risks strengthen efforts to build a positive workplace health and safety culture.

It is time to review Alberta's OHS system. By taking stock of the successes we have had and learning from the experiences of other jurisdictions in Canada, we can make Alberta a leader in occupational illness and injury prevention. The purpose of the review is to develop recommendations on how to make sure every Albertan is working in a healthy and safe workplace from their very first shift through to retirement.

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Where are we now?

Alberta has implemented many initiatives in line with Canadian best practices.

- Two innovative grant funding programs that help build **positive health and safety culture** have been implemented. OHS Futures provides health and safety research funding and Innovation and Engagement grants are aimed at improving OHS awareness, knowledge and action.
- **Roles and responsibilities** for employers, workers and other workplace parties are specified within Alberta's OHS legislation.
- Standards established by Alberta Labour for **OHS management systems** are embedded in requirements for the Certificate of Recognition (COR) program.
- The **Partnerships in Injury Prevention** (PIR) program is a nationally recognized approach that brings employers, workers and government together to build a culture of health and safety at workplaces.
- Alberta Labour delivers **education** products for a variety of topics and formats that consider unique audience needs and also engages with stakeholder groups to develop materials for education and **training** of workers and employers.
- Alberta Labour conducts **enforcement** of OHS requirements through:
 - operating a regular program of **proactive inspections** and enforcement. High risk industries are identified based on compliance and injury data. This has resulted in fewer injuries in those sectors targeted through this program; and
 - publishing **data** on enforcement activities and injury statistics to raise awareness among researchers, employers and workers.
- **Public awareness campaigns** are created to encourage Albertans to question their knowledge and **learn** more about labour rules. The overall goal of these campaigns is to promote safe, fair and healthy workplaces through a willing culture of compliance.

However, there are some key areas where we need to make improvements.

1. Clarify **responsibility** in legislation. To support positive behavior, the legislative framework should clearly express the duties and responsibilities of all work site parties, including employers, workers, suppliers, supervisors, contractors and prime contractors. At the same time, enforcement tools must be progressive, proportional and effective to

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reinforce OHS responsibilities. Some of the key tools (for example, joint work site health and safety committees and health and safety programs) that other jurisdictions embed in their legislation are fundamental elements of the internal responsibility system. Legislation that is consistent between Canadian jurisdictions makes it easier and less costly for companies to operate in more than one province.

2. Improve **worker engagement** in workplace health and safety. The internal responsibility system supports three key health and safety rights to ensure meaningful engagement of workers in OHS; the right to know about workplace hazards, the right to participate in decisions related to OHS, and the right to refuse unusually dangerous work. For workers to effectively carry out their responsibilities they must be given opportunities to participate in health and safety initiatives and acquire the knowledge and ability to keep themselves and their co-workers safe.
3. Improve coordination and make better use of the tools available to renew our focus on prevention. Many prevention activities contribute to reducing illness and injury and can help build a positive health and safety culture. Enhancing access to data and information to inform actions, public awareness and knowledge, and partnerships between government, industry and other supporting organizations can all help build a robust prevention environment.

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Theme 1: Responsibility

Responsibility in the OHS system is supported by a range of tools, the most important being the legislative framework, the OHS Act, associated regulations and the OHS Code. These tools create incentives and deterrents for the choices and behaviors of everyone in the workplace. To support positive behavior, the legislative framework should clearly express the duties and responsibilities of each party involved at the workplace.

In Canada, OHS legislation is grounded on the internal responsibility system. Everyone in the workplace is responsible, each according to their authority and control, to ensure a healthy and safe workplace.

The internal responsibility system:

- Establishes sharing of responsibility for OHS among work site parties.
- Promotes health and safety culture.
- Promotes implementation of best practices.
- Helps develop worker and employer self-reliance.
- Helps ensure compliance with OHS legislative requirements.

Because employers have the greatest degree of authority and control, they have the greatest responsibility for ensuring a healthy and safe workplace. But workers and other work site parties are also responsible.

The internal responsibility system requires OHS to be integrated into the organization's operation, not stand alone as a separate function. This is supported internally by joint work site health and safety committees that serve as an internal monitor and forum for shared problem solving for OHS hazards and issues.

Externally, the internal responsibility system is supported by government OHS agencies that enforce compliance, support OHS committees, inspect workplaces and resolve disputes. The combination of effective OHS committees and sound government enforcement has proven to be better for improving health and safety than relying solely on periodic government inspections.

In 1975, the Gale Commission recommended that there be a mandatory requirement for OHS committees in Alberta:

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“The growing practice of “co-determination” ... plays a prominent role in the field of safety and health at the work site.... We believe it also has a place here in Alberta and we are firmly convinced that the “adversary” system of promoting and executing safety and health programs is no longer effective and is out of place in our modern society. Our challenge would appear to be that of recommending an organization at the work site that will permit the views of employers and employees to be placed before each other in an acceptable and productive way. To meet this challenge, we recommend the formation of Joint Safety and Health Committees at work sites.”²

This review will examine ways for Alberta to more fully embrace the internal responsibility system by providing an opportunity to reflect on how it and its associated elements function within workplaces and where improvements can be made. One option for this includes requiring OHS committees in workplaces above a certain size. In Alberta, OHS committees are only required in workplaces designated by the Minister. There are currently 24 designated workplaces. The last designation by a Minister was in 1978.

The review provides an opportunity to clarify workplace parties and their respective roles and responsibilities for OHS. While the legislation currently spells out duties of employers, workers, suppliers, contractors and prime contractors, it does not clearly and simply describe the duties of supervisors, self-employed persons or owners. In some cases, roles and responsibilities are found within the OHS Regulation and OHS Code, making it more challenging for workplace parties to understand their obligations.

Clarifying of employer responsibilities for incident reporting would also benefit prevention and enforcement. Further efforts in this area could support greater harmonization between Alberta and neighbouring provinces. Having more consistent legislation between Canadian jurisdictions makes it easier and less costly for companies to operate in multiple provinces and territories.

The responsibility of employers and workers to do what they can within their span of control to improve health and safety is reinforced by external monitoring and enforcement undertaken by Alberta Labour. Over the last decade the Ministry has been given new tools to enforce the legislation. Yet there are still concerns that our enforcement system is not robust enough:

- 53 per cent of employers report complacency as a barrier to complying with OHS requirements³.

² Industrial Health and Safety Commission (1975) Report of the Industrial Health and Safety Commission (“Gale Report”)

³ Alberta Labour Perception Survey, 2015

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- While the Ministry undertook over 7,600 inspections in 2016 interacting with 4,261 employers, this represents only a fraction (about two per cent⁴) of the total number of employers in Alberta covered by the OHS legislation.
- Most compliance action was levied against the roofing industry, which represents 0.5 per cent of all workplaces in Alberta⁵.
- The COR is awarded to employers who develop a health and safety management system that meets established standards. In general, employers with a COR had a lower lost time claim rate than non-COR employers; however, they often still had a higher disabling injury rate than non-COR employers.⁶

Most employers and businesses in Alberta accept their responsibilities to try to do the right thing every day. They work hard to ensure that their workers and workplaces are safe. In many of Alberta's largest industries, health and safety is part of the workplace culture; it is the number one priority. This effort is recognized by workers. A 2015 perception survey of Alberta workers show that over 76 per cent of workers indicated that their employers follow OHS rules.

While the goal of a healthy and safe workplace should be the same regardless of the business type or size, the cost of compliance is not. Some employers, particularly small businesses, may need clearer guidance to understand their responsibilities and more prescriptive tools to assist them in achieving compliance to reduce illness and injury.

Jurisdictions in Canada and elsewhere are all challenged to design enforcement systems that are proportional, effective and progressive and reinforce health and safety responsibilities of employers. Some have introduced new compliance tools, raised penalties, implemented new training schemes and provided clarity around definitions for workplaces.

Improvements to Alberta's compliance system could include:

- Allowing broader powers for OHS officers to use Stop Work/Use Orders. For example, allowing the order to be issued immediately after an incident to facilitate the collection of evidence.
- Allowing Stop Work/Use Orders to be issued work site wide or at multiple work sites operated by the same employer. This could benefit workers by preventing exposure to identical hazards at sites other than the site of an incident.

⁴ Workers' Compensation Board, 2015

⁵ OHS Employer Record Report 2015

⁶ Workers' Compensation Board, 2015

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- Clarifying reporting requirements for incidents to improve reporting by work sites.
- Expanding the use of ticketing to other parts of the OHS Code.
- Providing parameters for OHS requirements applicable to businesses which are operated out of private dwellings.
- Introducing the requirement for employers to inform OHS of new businesses or new projects.

For consideration:

1. How can Alberta Labour help employers and workers achieve compliance with the OHS legislation and reduce illness and injury?
2. Compliance activities are based on the principles of being progressive, proportional and effective. What can Alberta Labour do to make its compliance activities and processes more effective?
3. The internal responsibility system is the underlying principle of OHS legislation. How can Alberta's OHS legislation strengthen the internal responsibility system?
4. How might Alberta Labour improve the effectiveness of its compliance tools and reduce administrative burden?
5. How can Alberta Labour ensure that OHS legislation is current, relevant and technically valid?
6. How can Alberta rebalance the internal responsibility system to prevent over-reliance on government enforcement in the absence of internal monitoring systems in the workplace?

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Theme 2: Worker Engagement

In Alberta, while workers and their employers have a shared responsibility in preventing illnesses, injuries and fatalities, the OHS Act does not clearly describe workers' key health and safety rights. Elsewhere in Canada, OHS Acts ensure that workers enjoy three key health and safety rights:

- The **right to know** about all workplace hazards they may be exposed to in their workplace and the rights afforded to them by law.
- The **right to participate** in decisions related to workplace health and safety, free from reprisal for participation. Joint work site health and safety committees are an important tool for coordinating this participation.
- The **right to refuse** unusually dangerous work.

Under Alberta's current legislation, employers are required to make workers aware of workplace hazards (the right to know), but these requirements are distributed throughout the OHS Regulation and Code. The OHS Act does not provide a formalized worker right to participate in OHS. Joint work site health and safety committees are not mandatory; they are only required at work sites ordered to have one by the Minister of Labour. Unlike most of Canada, workers have a duty, rather than a right, to refuse work that may create an imminent danger (a danger not normal for the work or occupation) to the worker or co-workers.

Some stakeholders argue that workers are not safe from reprisals, including job loss, when they refuse work or raise concerns about workplace hazards. Thirty-seven per cent of workers said that they chose not to take action for an observed non-compliance to OHS because they feared the loss of a job, or hours of work, and 22 per cent said they thought they would lose out on a benefit such as a promotion;⁷ however, the majority of workers indicated that being involved in OHS in their workplace would motivate them to improve compliance.

Employers have a significant responsibility as they have the greatest degree of control over the workplace. For workers to effectively carry out their responsibilities they must be given opportunities to participate in health and safety initiatives and acquire the knowledge and ability to keep themselves and their co-workers safe.

Active participation by all parties in promoting healthy and safe workplaces recognizes that ensuring the health and safety of Alberta's workers is not just an obligation, but an aid to good business practice, improved productivity and an engaged labour force. At its best, an engaged

⁷ Alberta Labour Perception Survey, 2015

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workplace, where active worker participation is enabled, allows all members of the organization to give their best each day, to be committed to the organization's goals and values and to be motivated to contribute to the organization's success. Active engagement is based on trust, integrity, commitment and communication between the employer and workers.

Engagement in the workplace helps raise awareness, improve understanding, stimulate positive behaviour and foster positive work culture and values. The level of engagement must also be proportionate to the size of the business, its workforce and the level of risk inherent in its activities.

Methods that allow workers and employers to become more engaged include:

- **Awareness and training:** workers must be aware of work site hazards and understand how to protect themselves and others.
- **Participation:** there must be a mechanism for workers to participate in making decisions that impact them. A joint work site health and safety committee is an important mechanism commonly used in Canadian workplaces.
- **Collaboration:** workers should be able to collaborate in the assessment of hazards and development of tools and controls. They may be able to provide valuable insight and knowledge from a user perspective.
- **Ownership and influence:** if workers have more of a role in the development of OHS processes and more influence over OHS systems in the workplace, they are more likely to follow them.

For consideration:

1. What should Alberta Labour do to ensure that Alberta workers have all the same rights as workers elsewhere in Canada?
2. The OHS Act prevents any person from taking action against a worker who acts in compliance with the OHS legislation. How could Alberta Labour strengthen worker protection against reprisal?
3. What could Alberta Labour, WCB, industry, labour organizations, employers and workers do to improve worker participation in OHS?
4. How might training for workers be more accessible, meaningful and useful?

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Theme 3: Prevention

Legislation and enforcement are not the only ways to improve OHS outcomes. There are many other prevention activities that contribute to reducing illness and injury and building a positive health and safety culture. Prevention activities contribute to a reduction of the impact of work-related illness and injury on families and communities, and the burden on the public health care system. Alberta Labour approaches the prevention of illness and injury through a combination of:

- Data and information to inform appropriate actions.
- Development of programs to build public awareness and knowledge for prevention.
- Partnerships between government, industry, workers, WCB and health and safety associations.

Other approaches may strengthen efforts, and deserve more exploration to develop a comprehensive OHS prevention approach for Alberta. More information is required to understand the approaches, such as education methods, that work well for maximizing outcomes.

Data and information systems support prevention of occupational illnesses and injuries by helping us understand where they occur and how they happen so appropriate action can be taken.

Currently, Alberta Labour use data and information to:

- Engage in periodic **awareness and education activities** and work with stakeholders to develop prevention programs, projects and activities to complement legislative requirements.
- **Publish health and safety information products** covering a variety of topics including summary data on the health and safety records of employers.
- Provide **funding for non-profit and public sector organizations** to conduct projects aimed at improving OHS awareness, knowledge and action in Alberta.
- Report on **government OHS activities**.

Strengthening partnerships can enhance program delivery and uptake of OHS among stakeholders. A good example of how partnerships can leverage OHS efforts was the Work Safe Alberta program, which was developed as a joint government, industry and labour initiative in 2002 to prevent work related injuries, illnesses and fatalities. From 2002 to 2010, the lost-time claim rate in Alberta decreased almost 60 per cent, an indication of increased awareness and improved health and safety performance in the province. By working together

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more effectively, resources can be leveraged to improve outcomes. The review can address partnerships that have been successful in the past and how to forge and encourage new initiatives.

Other sources of relevant data and information, including ways of coordinating and sharing data, would enhance future prevention actions and should be explored. This includes prevention for priority groups who experience a greater burden of OHS illness and injury. Streamlining existing reporting requirements could lead to more comprehensive and accurate data and information from which to base prevention actions as well as lessening the administrative burden for employers and for government.

For consideration:

1. Which Alberta Labour illness and injury prevention programs and resources have been most effective?
2. Which new programs and resources could be introduced to prevent illnesses and injuries in Alberta?
3. How might province wide prevention activities be improved? What would be the role of Alberta Labour, employers, workers, WCB, and health and safety associations in this?
4. What actions should be taken to improve health and safety training for priority groups such as inexperienced, vulnerable and young workers?
5. What can be done to improve the perception of, and behaviours related to workplace health and safety risks?
6. How do the COR/PIR program and health and safety associations fit into the overall occupational illness and injury prevention activities?

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Become involved

Alberta is part of a modern world experiencing new challenges requiring new approaches to handling today's OHS issues. There is opportunity to modernize the OHS system and fully embrace the internal responsibility system. Making workplaces healthy and safe reduces costs to workers, employers and the public. OHS legislation that better aligns with requirements in other Canadian jurisdictions will help make it less complicated for Alberta companies to do business across provincial borders.

This review of the OHS system will help ensure that Alberta aligns with strong, effective and accepted legislative requirements found in other provinces. A revitalized OHS system will better meet the needs of Alberta today and into the future.

Alberta Labour will obtain input on Alberta's OHS system from employers, workers and OHS professionals through facilitated roundtable discussions, an online survey and written submissions. This feedback will be summarized and provided to the Minister of Labour. The feedback will be considered as Alberta's OHS system is updated and will help us strengthen our focus on prevention.

Stakeholders will be invited to participate in the facilitated discussions taking place in September.

The public is also invited to participate by completing an online survey or providing a written submission to suggest how the OHS system could change to better support Alberta's workplaces. The survey can be found at: <http://alberta.ca/ohs-review> and will be open until midnight October 16, 2017. Written submissions will be accepted at LBR.Review@gov.ab.ca until midnight October 16, 2017.