

DECEMBER 2023 MONTH IN REVIEW

New Brunswick

LAWS & ANNOUNCEMENTS

Accessibility

Dec 7: From now through Jan. 31, New Brunswick will be holding public consultations on a framework to adopt comprehensive accessibility legislation patterned after the laws currently in effect in Ontario, Manitoba and other jurisdictions. After hearing all the comments, the government plans to table a bill in the spring.

Action Point: [Find out more](#) about how accessibility requirements affect your OHS program

Machine Guarding

Dec 7: WorkSafeNB issued a [Hazard Alert](#) on machine safety after a certified machinist suffered deep cuts to the hand and forearm while operating a lathe. In checking the work, he got his sleeve caught on the spinning metal. Luckily, he was able to hit the emergency stop button and pull out his arm before suffering further injury.

Action Point: Use the [OHSI machine guarding policy template](#) to prevent injuries at your workplace

Transportation Safety

Dec 14: New *Motor Vehicle Act* [regulations](#) require applicants for a Class 1 licence in New Brunswick to complete a driver training course that, at a minimum, meets National Safety Code Standard 16, Commercial Truck Driver Entry Level Training (Class 1).

Fall Protection

Dec 8: A jury at a coroner's inquest into the death of a worker who fell off a roof made recommendations for improving safety on residential construction sites, including: i. All job sites should have one licensed carpenter and one worker trained in first aid on site; ii. Roof trusses should be assembled on the ground whenever possible; iii. Strapping used as temporary connectors in rafters should be 2 x 4; and iv. The height for equipment designed to stop falls is okay for plywood floors but should be lower for work over concrete floors.

Action Point: Use the [OHSI Fall Protection Compliance Game Plan](#) to prevent fall injuries and OHS violations at your site

Environmental

Nov 22: Third Reading for legislation ([Bill 2](#)) that would repeal the *Beverage Containers Act* that New Brunswick adopted over a decade ago to promote recycling and reduce waste in landfills. There are currently 78 beverage container redemption centers across the province.

CASES

Privacy: Accessing Employee's Facebook Account Doesn't Constitute Privacy Tort

A company accused its former Director of Computer Program Development of sharing trade secrets with a competitor in violation of his non-compete and non-disclosure agreement and went to court seeking an injunction. Its key evidence came from the Director's Facebook Messenger exchanges with other employers that the company discovered after his resignation. included The Director countersued the company for constructive dismissal and breach of privacy by accessing his Facebook account. In addition to granting the injunction, the New Brunswick court refused to award summary judgment on the Director's privacy claims, which were based on recognition of a novel tort called "intrusion upon seclusion," which occurs when a defendant intentionally or recklessly invades a plaintiff's private affairs in a way that reasonable person would deem highly

offensive, causing distress, humiliation or anguish. Even if such a tort did exist, there were legitimate questions in this case regarding whether the company's behaviour was highly offensive and the Director's privacy expectations were reasonable, especially since he had shared his Facebook password with the company and didn't remove his Facebook account from his computer when he left [[Unipco Ltd. v. Mullin](#), 2023 NBKB 200 (CanLII), November 22, 2023].

Action Point: Find out how [privacy laws affect workplace safety](#)