

## FEBRUARY 2024 MONTH IN REVIEW

# Ontario

### **LAWS & ANNOUNCEMENTS**

#### **Material Handling**

Jan 1: Newly effective [OHS construction project regulations](#) require an engineer to ensure that a tower crane's climbing system and structure, as well as its electrical, mechanical and hydraulic components and control systems be inspected in accordance with standards set out in the *Professional Engineers Act*. Further changes requiring alterations will take effect on January 1, 2025.

**Action Point:** Use the OHSI [Cranes/Hoists/Lifting Device Compliance Game Plan](#) to prevent crane violations

#### **Cold Stress**

Dec 1: With the colder weather approaching, the MOL reminded Ontario employers to take precautions to protect outdoor workers against frostbite and cold stress hazards as required by OHS laws.

**Action Point:** Implement an effective [cold stress compliance game plan](#) at your workplace

#### **Transportation Safety**

Nov 23: The Ontario Assembly tabled [Bill 152](#), aka, Chad's Law, adding new provisions to the *Highway Traffic Act* making it illegal to pass or attempt to pass another vehicle going the same direction on a highway if doing so would require the driver to cross double solid yellow lines painted on the roadway with a violation carrying a potential fine of up to \$400 and 3 or more demerit points.

## Workplace Violence

Jan 11: The federal government announced that it will furnish up to \$19 million to 34 Ontario-based organizations to support projects designed to prevent gender-based violence and support its victims.

**Action Point:** Use the extensive resources on the OHSI [Workplace Violence Compliance Center](#) to protect your workers from violence and harassment

## Workers Comp

Dec 13: The WSIB added poisonings due to work-related exposure to ammonia, chlorine and hydrogen sulfide to the Schedule 3 list of occupational diseases covered by workers comp.

## Workers Comp

Mar 31: That's the deadline for Ontario Schedule 1 employers to submit their workers comp payroll reports listing their actual 2023 costs and projected costs for 2024 to the WSIB to avoid potential late fees, interest and penalties.

## CASES

### Drugs & Alcohol: Vehicle Accident Isn't Just Cause to Drug Test Nuclear Plant Worker

A nuclear power plant demanded a radiation surveyor trainee to undergo post-incident drug and alcohol testing after he drove his pickup truck off the road and into a tile array containing radioactive waste. The trainee agreed but only under protest after predicting he would test positive. And he did. The union claimed the incident wasn't a "significant event" justifying testing under the plant's testing policy. The Ontario arbitrator disagreed. Driving into a nuclear waste pit is a big deal, even if no actual damage was done in this case. However, the arbitrator continued, the plant jumped to the conclusion that the incident demonstrated the trainee's unfitness for duty without performing a proper assessment of fitness required by the testing policy. for duty as the testing policy required. As a result, it concluded that making the trainee undergo post-incident testing was unreasonable and awarded him \$1,000 for the damage done to his privacy and dignity [[Canadian Nuclear Laboratories v United Steelworkers Local 1568](#), 2023 CanLII 121591 (ON LA), December 18, 2023].

**Action Point:** Find out how to create a legally sound [Drugs and Alcohol Testing Policy](#) for your workplace

## **Material Handling: OK to Suspend but Not to Fire Forklift Driver for Refusing to Use 2-Way Radio**

After 3 suspensions failed to do the trick, a company fired a forklift driver for disobeying orders to use a 2-way radio to communicate with his supervisor. The driver claimed that it would be dangerous for him to use the radio while he was operating the forklift; company insisted that use of the radio was essential for productivity and that all the other forklift operators accepted the policy. While finding that some discipline was warranted, the Ontario arbitrator ruled that termination was excessive, especially given the driver's previous 15 year record of no discipline and reduced the penalty to a 3-day suspension [[Teamsters Local Union 847 \(the Union\) v INOAC Exterior Systems Inc.](#), 2024 CanLII 427 (ON LA), January 9, 2024].

**Action Point:** Implement the right [powered mobile equipment operation policy](#) at your workplace

## **Lockout: Failure to Lock Out Costs Electrician His Life and Company Half a Million Dollars**

A forest products company was on the receiving end of a \$500,000 fine, one of the highest imposed by Ontario for an OHS offence in 2023. The problem began when an electrician attempted to make repairs to the photo-eye on a debarking machine. The crew attempted to lock out the machine in accordance with the company's lockout procedure. But the infeed rollers unexpectedly started up while the electrician was in the gap between the roller gears. The company pled guilty to failing to ensure that a machine was properly locked out during servicing [[Resolute FP Canada Inc.](#), [MOL Press Release](#), December 15, 2023].

**Action Point:** Use the OHSI [Lockout Tagout Compliance Centre](#) resources to avoid lockout violations

## **Fall Protection: Constructor Fined \$150K for Letting Workers Use Loader as an Elevated Platform**

A worker suffered serious injuries after falling out of the bucket of a front-end loader while seeking to cut the wires to the hydro service of a building that was being decommissioned. The constructor for the project was fined \$150,000 after pleading guilty to failing to prevent the workers from using the front-end loader's bucket as a work platform in this way [[Regional Sewer and Watermain Ltd.](#), [MOL Press Release](#), December 14, 2023].

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