

## MAY 2023 MONTH IN REVIEW

# Federal

### **LAWS & ANNOUNCEMENTS**

#### **WHMIS**

Apr 1: Newly effective WHMIS [rules](#) took effect although you won't have to comply with them until Jan. 4, 2026. Among the key changes is dividing Flammable Gases – Category 1 (extremely flammable gases) into subcategory 1A to include pyrophoric gases (which were not addressed in the fifth edition of the “Purple Book” and chemically unstable gases and Subcategory 1B for flammable gases that aren't pyrophoric or chemically unstable, but have a lower flammability hazard than those of Subcategory 1A.

**Action Point:** Implement a [WHMIS Training Compliance Game Plan](#) at your workplace

#### **WHMIS**

Apr 1: New WHMIS [rules](#) change the classification for “Flammable Aerosols” with categories for very flammable, less flammable and a new third category for non-flammable aerosols; they also create a new “Chemicals Under Pressure” class. Deadline to comply: Jan. 1, 2026.

#### **WHMIS**

Apr 1: Newly effective WHMIS SDS [requirements](#) took effect. The changes impact the information that must be listed in SDS Section 9, Physical Properties, and Section 14, Transport Information. The good news is that there's a 3-year phase-in, meaning you don't have to comply with the new rules until Jan. 1, 2026.

## Radiation

Apr 14: That's when [public consultations](#) close on proposed changes to radiation protection guidance for installation, use and control of X-ray equipment in large medical radiological facilities under Safety Code 35. Issues on the table include patient shielding, voluntary declaration of pregnancy and annual dose limits to the lens of the eye.

**Action Point:** Implement an [ionizing radiation safety and compliance game plan](#) at your site

## Transportation Safety

Mar 10: The Assembly is debating [Bill C-33](#) to beef up port system and railway security across the country. Among other things, the legislation would ban behaviour that endangers the safety of a station, railway equipment or persons at the station or on board the railway equipment, as well as unruly behaviour toward railway employees, agents or mandataries.

## New Laws

Apr 6: Effective today, international graduates with a recently expired or expiring post-graduation work permit (PGWP) can remain working in Canada for up to 18 additional months while seeking a new permit.

## New Laws

Mar 27: The federal government extended until Oct. 30, 2023, changes to the Temporary Foreign Worker programs that were due to expire in April, including: i. Allowing employers in 7 sectors with labour shortages to hire TFWs for up to 30% of their low-wage positions; ii. Keeping Labour Market Impact Assessments valid for up to 18 months; and iii. Keeping the maximum duration of employment for low-wage positions at up to 2 years.

## New Laws

Apr 15: The federal government ended [online surveying](#) on the nation's immigration system and its larger role in the economic and social system, as well as what can be done to integrate newcomers into Canada more effectively.

## Young Workers

Mar 28: Revised *Canada Labour Standards* [regulations](#) increase the age at which children can't do certain kinds of work from under 17 to under 18. Similarly, the ban on letting an employee work between 11 p.m. to 6 a.m. the following day is now under age 18, rather than 17.

**Action Point:** Implement a [new and young workers safety and compliance game plan](#)

## New Laws

Mar 6: [Bill S-211](#), which would require certain government organizations and private-sector entities to report on the measures they've taken to prevent risk of using forced or child labour in their supply chains, has passed the Senate and is on its way to Third Reading in the House.

## Environmental

Apr 21: That's the deadline to participate in Environment and Climate Change Canada [email consultations](#) on proposed changes to e-waste rules contained in the *Cross-Border Movement of Hazardous Waste and Hazardous Recyclable Material Regulations*.

## CASES

### Discipline/Work Refusal/Retaliation: Faulty Investigation Dooms Railway's Case for Safety Violation Termination

A railway fired a locomotive engineer for failing to secure unattended equipment on the mainline. Applying just one instead of the required 6 hand brakes to a 900-tonne train would have been just cause to terminate any safety-sensitive worker, let alone one with a history of discipline for safety violations. But the federal arbitrator rejected the argument. The engineer, who had 30 years of service, admitted and took responsibility for his violation. The railway admitted that it would have imposed only a long suspension had another worker committed the same violation. In addition, the investigator hurt the railway's case by not allowing the union rep to ask certain questions about the safety program. **Result:** The engineer was reinstated, although without compensation [[Teamsters Canada Rail Conference v Canadian Pacific Railway Company](#), 2023 CanLII 24771 (CA LA), March 30, 2023].

**Action Point:** Use [progressive discipline](#) effectively to enforce your workplace health and safety rules

## **Transportation Safety: Talking on Cell Phone & Lying to Investigator Is Just Cause to Fire Train Engineer**

The 60 demerit points a locomotive engineer received for using her cell phone on 4 different occasions cost her her job. The engineer also admitted to not being honest in her statements to investigators. The company contended that all of this was enough to permanently breach its trust in her and the federal arbitrator agreed. While violating the “cardinal rule” of not using cell phones isn’t automatically grounds for termination, the engineer’s lack of honesty was a decisive and aggravating factor [[Teamsters Canada Rail Conference v Via Rail Canada Inc.](#), 2023 CanLII 17658 (CA SA), March 9, 2023].

**Action Point:** How far can you go in [disciplining workers for distracted driving](#)?