

MARCH 2024 MONTH IN REVIEW

Québec

LAWS & ANNOUNCEMENTS

Airborne Contaminants

Feb 28: Highlights of CNESST's [proposed draft changes](#) to OHS regulations for airborne contaminants include revised permissible exposure levels for 80 substances, including asphalt, chromium, manganese and toluene and the addition of "OTO: Ototoxic" rating to Schedule 1 to make workplaces aware of hearing impairment risks after exposure to certain substances.

Action Point: Find out how to implement a legally sound [airborne contaminant exposure control plan](#) at your workplace

Confined Spaces

Mar 6: CNESST published a new [Hazard Alert](#) advising farm workers to be aware of potential confined space hazards before entering grain silos, pre-pits, tanks, controlled atmosphere warehouses and other potentially dangerous structures found in agricultural workplaces.

Action Point: Use the [OHSI Confined Spaces Compliance Game Plan](#) to avoid confined space fatalities and violations at your workplace

Transportation Safety

Mar 13: Legislation ([Bill 48](#)) authorizing the government to impose administrative monetary penalties for traffic offences observed via use of an electronic detection system is now in Committee stage in the Québec Assembly. Regulations setting the ground rules for deployment of detection systems and listing the kinds of offences subject to penalties will be necessary to implement the Bill when and if it passes.

Young Workers

Feb 7: CNESST announced that it will award grants of up to \$100,000 to associations and non-profits to fund projects to promote compliance with the new child labour law that took effect in 2023. Applications will begin in June, the agency said.

Action Point: Find out how to implement a [new and young workers safety and compliance game plan](#)

Discipline/Work Refusals/Retaliation

Feb 15: First Reading for [Bill 53](#), which establishes new legal processes and protections for whistleblower employees who disclose wrongdoing by their companies, including the potential criminal penalties against employers who engage in illegal reprisals.

Action Point: Find out how to [avoid reprisals liability](#) when disciplining workers for safety violations

CASES

Fall Protection: Project Manager Didn't Use Due Diligence to Prevent Scissor Lift Violation

A CNESST inspector issued a stop work order after spotting workers on a scissor lift platform on an elevated floor at the edge of an opening without a guardrail sufficient to prevent the platform from falling. The project manager denied the allegation and contended that even if it were true, it exercised due diligence to prevent the violation. The Court of Québec rejected both defences. The evidence established “beyond any reasonable doubt” that there was a risk of falling from the scissor lift. And the employer’s reliance on the superintendent to manage the risk wasn’t enough to show due diligence [[CNESST v. 4198191 Canada inc.](#), 2024 QCCQ 411 (CanLII), February 13, 2024].

Action Point: Find out how to implement a legally sound [Fall Protection Compliance Game Plan](#) at your site

Workplace Harassment: Worker Charged with Online Crimes Not Entitled to Work Accommodations

Being indicted for pimping, sexual assault and luring minors wasn’t a great career move for an HR administrative assistant, especially since the release order that got

him out of jail pending his trial imposed limitations on his internet use that made it impossible for him to carry out his job duties. At least that's what his employer concluded after investigating the matter leading to his termination. The employer also worried that the assistant might use company equipment to carry out his misconduct. The union claimed that the penalty was too harsh, noting that the assistant had merely been indicted but not convicted. It also contended that the company could have implemented computer equipment and IT changes that would enable him to continue doing his job under company monitoring. But the Québec arbitrator was unimpressed, finding that the employer had no duty to make reasonable accommodations for the assistant since he didn't have a personal characteristic protected by the Charter from discrimination. And even if it did, the arbitrator concluded that the evidence showed that the employer had neither the human nor the technology resources to ensure compliance with the conditions of the assistant's release [[*CUPE, local section 4628 c Integrated University Health and Social Services Center of South-Central Montreal*](#), 2024 CanLII 9825 (QC SAT), February 13, 2024].

Action Point: Find out how to implement an effective [workplace violence and harassment compliance game plan](#) at your site