

FEBRUARY 2024 MONTH IN REVIEW

Québec

LAWS & ANNOUNCEMENTS

Material Handling

Dec 13: CNESST issued [draft regulations](#) imposing new OHS safety requirements for personal lifting devices and mobile personnel platforms used at construction projects and mines, including with regard to the training required to operate these particular kinds of equipment. If approved, the regulations will take effect in Oct. 2025.

Action Point: Use the resources on the OHSI Material Handling [Compliance Center](#) to ensure compliance with lifting device requirements

Hot Work

Dec 19: CNESST published the results of its investigation into a welding explosion that killed 3 workers inside a garage at a facility operated Gaston R. Lafortune inc. last January. The agency cited ignition of gasoline vapors inside the compartment as the cause of the explosion and subsequent fire, while concluding that carrying out welding work on a tank trailer containing gasoline vapors inside a building put workers in danger.

Action Point: Use the [OHSI policy template](#) to create an effective Hot Work Safety Policy for your workers

Cold Stress

Dec 14: A week before the official start of winter, CNESST [reminded](#) employers of the importance of taking appropriate measures to protect outdoor workers against the risk of frostbite, hypothermia and cold stress.

Action Point: Find out how to implement an effective [Cold Stress Compliance Game Plan](#) at your workplace

Workplace Harassment

Dec 7: Québec passed [Bill 42](#) adding new workplace harassment and violence protections to the *Labour Code* and *OHS Act*. Highlights: i. Mandatory sexual violence training for psychological harassment claims arbitrators; ii. Extended deadline for sexual violence claims; iii. Ban on reprisals for reporting psychological harassment; and iv. Higher fines and punitive damages for psychological harassment.

Action Point: Find out [how to make your workplace psychologically safe](#)

Drugs & Alcohol

Dec 7: [Bill 36](#) giving the provincial government the right to sue manufacturers and distributors of opioid drugs liable for the costs of health care and related damages incurred as a result of those products has passed the Assembly and received Royal Assent. While patterned on similar legislation in other jurisdictions, the bill is tailored to Québec's civil liability system.

Action Point: Use the [OHSI Substance Abuse Compliance Game Plan](#) to curb drugs and alcohol at your workplace

Workers Comp

Mar 15: That's the deadline for Québec employers to submit their workers comp data payroll reports to CNESST listing actual 2023 payroll expenses and estimated expenses for 2024 to avoid the risk of potential late fees, interest and penalties.

CASES

Due Diligence: Project Manager Didn't Notify Contractor of Its OHS Program

CNESST officials investigating an excavation collapse at a residential construction site determined that the walls weren't properly shored and charged the project manager with an OHS *Construction Code* violation. The project manager claimed that the excavation requirements didn't apply because installation of semi-buried trash cans for housing complex residents isn't "construction," while also arguing that it used due diligence to comply anyway and blaming the excavation contractor for the violation. The Court of Québec found that the construction rules do apply and

rejected the project manager's due diligence defence. While the project manager had a strictly enforced prevention program, there was no evidence that it notified the operator of the excavator about the program and its requirements [[CNESST c. Mirabel Urbain Real Estate Project inc.](#), 2023 QCCQ 10033 (CanLII), December 13, 2023].

Action Point: Use the most recent [OHSI Due Diligence Scorecard](#) to assess the adequacy of your own OHS program

Work Refusals: Failing to Properly Notify Supervisor Costs Worker His Work Refusal Claim

A pharmacy checkout worker in charge of opening the store arrives to find the power out. While the pharmacist and others continue to work by flashlight awaiting word on the situation, the checkout worker concludes that working in the cold and dark is too dangerous and leaves after 20 minutes. In combination with previous incidents, the pharmacy decides to fire him. The worker claims he suffered retaliation for exercising his OHS work refusal rights. CNESST rejects the claim after finding that the worker was the only one who left and that he never gave his supervisor notice that he was engaging in a work refusal as required by OHS laws [[Bergeron c. Panacée Parma inc.](#), 2023 QCCNESST 440 (CanLII), December 4, 2023].

Action Point: Go to the [OHSI Work Refusals compliance centre](#) for resources you can use to properly handle work refusals at your site

Transportation Safety: OK to Suspend Delivery Driver for Unsafe Driving

McGill University suspended a delivery driver 10 days without pay for driving his vehicle too fast on and around campus. The union claimed the penalty was too harsh given that it was the driver's first speeding offence and no actual harm resulted. But the the Québec arbitrator upheld the penalty, noting that the driver was a safety-sensitive employee who had already been suspended 5 days for driving the wrong way on a one-way street [[McGill University v Union of Service Employees, local section 800, 2023](#) CanLII 120793 (QC SAT), December 18, 2023].

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