

OCTOBER 2024 MONTH IN REVIEW

Federal

LAWS & ANNOUNCEMENTS**Radiation Safety**

Oct 9: Revised safety [regulations](#) governing the design, construction, performance, and labelling of radiation emitting devices took effect. **Key change:** Health Canada can now regulate on a post-market base, that is, after devices are sold, leased, or imported into Canada. The agency's authority also now extends to a wider range of laser products, including those used for teaching.

Action Point: Find out about [the 7 steps required to protect workers from radiation hazards](#).

Privacy

Sep 19: Proposed legislation ([Bill C-26](#)) amending the *Telecommunications Act* to require operators to take new cyber security measures and report cyber security incidents are in Second Reading in the House of Commons.

Action Point: Find out how to implement an effective [cyberbullying prevention policy](#) at your workplace.

Privacy

Sep 16: Newly tabled [Bill C-412](#), the *Protection of Minors in the Digital Age Act*, requires owners and operators of online platforms and apps to take measures to protect the personal information of minors. It also bans publishing false images of persons created or edited by computer software to make the image look authentic, such as nude images of celebrities and creates a new crime of criminal harassment via use of the Internet, social media, or other digital network.

New Laws

Oct 31: That's the deadline to comment on the Government of Canada's proposed new [strategy](#) for leveraging artificial intelligence to enhance productivity of public service employees and establish guidelines for use of AI by public employees in carrying out their job functions.

Workplace Harassment

Sep 25: Private Member Bill [C-378](#) proposing to give ex-employees more time to sue their former companies for workplace harassment by extending the deadline for filing a claim to 2 full years passed Second Reading in the House of Commons. Under the current *Canada Labour Code*, former employees have only 3 months after leaving a company to bring a claim.

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

Workplace Violence

Sep 25: Newly [proposed regulations](#) to the *Firearms Act* establish 3 conditions applicants must meet to qualify for an Authorization to Carry (ATC) a restricted firearm or prohibited handgun for the protection of life: i. the life of the applicant, or those around them, must be in imminent danger from one or more individuals; ii. police protection must not be sufficient; and iii. the possession of the firearm or handgun must be reasonably justified for protecting the applicant from death.

Action Point: Find out how to implement [“active shooter” response guidelines](#) for your workers.

CASES

Drugs & Alcohol: Positive Marijuana Test Doesn’t Prove Worker Was Impaired at Time of Testing

A railway imposed a 30-day suspension on an engineer who failed post-incident drug testing—oral swab and breathalyzer tests were negative but urine testing was positive for cannabis metabolites. During the investigation, the engineer admitted that he ate marijuana candy 16.5 hours before his shift. While acknowledging that the engineer’s job was safety-sensitive, the union cited cases finding that because marijuana lingers in the body long after the buzz wears off, the mere presence of cannabis metabolites in urine isn’t enough to prove that the worker was impaired at the time of testing. The federal arbitrator agreed, noting that the engineer showed no signs of impairment after the incident that led to his being tested. As a result, it struck down both the 30-day suspension and the railway’s demand that the engineer submit to random drug testing for 6 months [[Canadian Pacific Kansas City Railway v Teamsters Canada Rail Conference](#), 2024 CanLII 87118 (CA LA), September 16, 2024].

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

Workplace Fatigue: Dozing Off on the Job Not Just Cause to Fire Heavy

Equipment Operator

After working over 15 hours the previous day, a worker showed up groggy for his shift and briefly dozed off while operating a Ballast Regulator. By the time he awoke 20 seconds later, it was too late to stop the Regulator from colliding with a vehicle resulting in injury to the driver and serious damage to both machines. While acknowledging the worker didn't show up "fit and rested" as required by company policy, the union claimed that he didn't deserve to be fired. The federal arbitrator agreed and reinstated him. Sleeping on the job isn't as serious as dozing off for just a short period, noted the arbitrator citing the caselaw. And although the worker had only 5 years of service, he had received only minor discipline over that time. More significantly was how he behaved after the incident by accepting responsibility and answered questions candidly. Adding to the sympathy factor, he was so distraught about the affair that he developed PTSD [[Canadian Pacific Kansas City Railway v Teamsters Canada Rail Conference Maintenance of Way Employees Division](#), 2024 CanLII 87130 (CA LA), September 16, 2024].

Action Point: Find out how to implement a [Workplace Fatigue Risk Management System](#) for your workers.