

New law gets tough on employee protection

By Carola Hicks

With the passing of Bill 168, on June 15, 2010, employers must take every precaution reasonable to protect the worker from harassment and violence in the workplace.

The new law amends the *Ontario Occupational Health and Safety Act (OHSA)* for workplaces where there are regularly more than five workers. Policies, programs and procedures must now be in place to address workplace violence and harassment.

A key aspect of Bill 168 is training to help employers understand the significance of the amendments to the *Act*.

The new law obligates Ontario employers to comply with tough new worker protection requirements, including preparing written violence and harassment policies, assessing workplace risks and establishing relevant workplace training programs.

In addition, Bill 168 requires employers to comply with new provisions affecting an employee's right to refuse work and obligations to respond to potential threats of domestic violence, which may spill into the workplace.

Some of the new obligations placed on employers include:

- making a full assessment on the risk of violence in the workplace
- providing written policies to deal with identified risk(s)
- implementing programs aimed at reducing incidents of violence
- reporting incidents of violence to the health and safety representative or joint Health and Safety Committee

There is a proactive obligation on employers to take preventive measures should violence appear likely to occur within the workplace.

While Bill 168 distinguishes between the definitions of workplace harassment and workplace violence, the reality is that the two are inevitably linked.

The new law requires employers to provide personal information that is reasonably necessary about employees or clients who have a history of violent behaviour. Specific information must be provided if:

1. A worker is expected to encounter that person in the course of his/her work
2. There is a risk of physical injury to a worker

In addition, employees will be able to refuse work that places them in a position where they are likely to be injured through workplace violence.

Exceptions to this can be found in: OHSA Part V, S.43 s 1(a) where circumstances inherent to employees' work are a normal condition of their employment, e.g., psychiatric or other institutions where the nature of the work and workplace differs from other types of work.

What does this mean for employers?

OHSA S.32.0.1 (1) An employer shall:

- Prepare a policy with respect to workplace violence
- Prepare a policy with respect to workplace harassment
- Review the policies as often as necessary, but at least annually

For a copy of Bill 168, go to

www.ontla.on.ca/web/bills/bills_detail.do?locale=en&BillID=2181 •