

Council of Construction Associations  
#138 - 5751 Cedarbridge Way, Richmond, B.C. V6X 2A8  
Telephone (604) 241-7667  
email: [grant.e.mcmillan@gmail.com](mailto:grant.e.mcmillan@gmail.com)  
Grant McMillan, President

## **COCA Update on WorkSafeBC Activities #554 July 4, 2013**

### **COCA Calls for Clear Criteria for OTWs**

At the June 26, 2013 COCA Board of Directors' Meeting, attended by senior Prevention representatives from WorkSafeBC, there was a vigorous discussion about Orders to Workers (OTWs). The COCA Board believes that it is essential that WorkSafeBC begin to use OTWs when it is appropriate to do so.

The enclosed COCA Update (below) demonstrates that OTWs are not being used to any significant extent and gives the reasons why OTWs are important.

- OTWs serve to document worker violations of the OHS Regulations.
- OTWs provide a "teaching opportunity" to ensure that a worker understands his responsibility to work safely, as mandated by the Workers' Compensation Act.

The Act's requirements include that a worker must: "carry out his or her work in accordance with established safe work procedures" and "use or wear protective equipment, devices and clothing as required by the regulations" (WCA Section 116). When workers fail to follow these requirements, they place themselves and other workers at risk.

The use of OTWs will improve workplace safety for both the worker cited and his co-workers.

We believe that the Guideline on OTWs, while useful, is overly long and detailed. We believe that WorkSafeBC's Occupational Safety Officers and Occupational Hygiene Officers can be readily provided with simple criteria that would determine when an OTW should be written.

#### Criteria

- The employer has properly trained the worker in the safe performance of work.
- The employer has properly supervised the worker in the safe performance of work.
- The employer has documented this training and supervision.

When these three criteria are present, and when a WorkSafeBC Officer observes a worker breaking an OHS Regulation, the Officer should write an OTW on the worker.

COCA will be having further discussions about the writing of Orders to Workers with senior representatives of WorkSafeBC. COCA members are welcome to send any comments on this issue to Grant McMillan.

Council of Construction Associations  
#138 - 5751 Cedarbridge Way, Richmond, B.C. V6X 2A8  
Telephone (604) 241-7667  
email: [grant.e.mcmillan@gmail.com](mailto:grant.e.mcmillan@gmail.com)  
Grant McMillan, President

## COCA Update on WorkSafeBC Activities #551 June 5, 2013

The following column appeared in the Journal of Commerce.

June 5, 2013

### Orders and fines could increase safety

View from the Board | Grant McMillan

For many years, the Council of Construction Associations (COCA) has been lobbying for a balanced system of occupational health & safety (OH&S).

One of our core beliefs is that there must be a shared responsibility for safeguarding the workplace.

COCA believes that when a worker has been properly trained and supervised – and then violates a safety regulation – the worker should be held accountable.

There is a vigorous system in place to inspect, write orders and impose fines upon employers.

But, there is a distinct lack of emphasis upon the importance of workers carrying out their duties in a way that protects themselves and fellow workers.

The B.C. Workers' Compensation Act stipulates, in part, that a worker must "carry out his or her work in accordance with established work procedures as required by this Part and the regulations" and "use or wear protective equipment, devices and clothing required by the regulations."

But, there are seldom consequences for a worker violating an OH&S regulation.

In B.C., a worker may be prosecuted in the courts for a violation, but this an extremely rare occurrence.

WorkSafeBC has brought forward only a few cases for prosecution in over a decade.

The provincial courts are clogged with criminal cases, so a workplace safety violation is a low priority.

The use of orders is also badly skewed.

As a result of pressure from COCA, WorkSafeBC does write Orders to Workers, and has a guideline which sets out the rules for this. But again, these orders are rare events, especially when compared to Orders to Employers.

In 2012, for example, WorkSafeBC wrote 24,261 OH&S Orders to Employers.

Only 161 orders were written to workers.

This is 0.66 per cent of orders written.

This does not seem to be a fair reflection of what goes on within the workplace.

The pattern for previous years is the same – less than one per cent of the orders are written on workers.

There seems to be a serious imbalance.

COCA believes that when a worker has been properly trained and supervised – and then knowingly violates one or more OH&S regulation – the worker should receive the order.

Other jurisdictions have acted to correct this imbalance and improve workplace safety.

As of Jan. 1, Saskatchewan started a ticketing system for non-compliance with health and safety laws and regulations. There was a six-month introductory period with no fines.

The system applies to employers, contractors, owners, suppliers, supervisors, self-employed persons and workers for any of 71 violations of the OH&S legislation.

The fines range from \$250 to \$1,000 and will be issued as of July 1 for specific violations.

As of April 1, Alberta launched a summary offence ticketing system for both workers and employers.

For several decades, Ontario has had a similar ticketing process in place for workers, as well as employers.

B.C. needs to move to a more comprehensive system of penalties that reflects the shared responsibility for workplace safety.

In both private automobiles and company owned vehicles, the use of tickets by the police for the failure to wear seat belts has encouraged seat belt use and saved lives.

Tickets for the failure to wear a seat belt in a company truck are written on the driver/worker, not the company.

COCA believes that a similar approach – for workers, who knowingly violate OH&S regulations – would also help prevent workplace injuries and deaths.

*Grant McMillan is the president of the Council of Construction Associations, which represents the interests of 16 construction associations in B.C. on WorkSafeBC matters. Grant is also a member of the Journal of Commerce Editorial Advisory Board.*