

# Bill 29

# The Workplace Safety and Health Amendment Act

**April 2025**



The Manitoba Federation of Labour (MFL) is the province's central labour body, made up of more than thirty (30) affiliated unions representing 130,000 unionized workers from the public sector, private sector, and building trades. Workplace health and safety is a key priority for the MFL and our affiliated unions. The MFL conducts health and safety research, provides health and safety education and training to our members, and lobbies and advocates for stronger laws, stricter enforcement, and greater investment in injury and illness prevention to keep all workers safe and healthy.

Every worker has the right to a safe and healthy workplace, and every family has the right to expect that their loved ones will return home safely at the end of every workday. Workplace injuries and illnesses are preventable. When we have the right laws, enforcement strategies, and prevention programs, we can ensure that all workers stay safe and healthy on the job.

While employers have the legal duty to ensure safe and healthy workplaces, it is also true that the laws that governments pass, the policies they implement, and the investments they make have a major influence on our workplace health and safety system.

Government is also a major employer, with thousands of workers doing a broad range of jobs in all parts of the province. In addition, it is a major funder of agencies and service providers across multiple sectors including in healthcare.

That's why it's so important that government not only create the legislative and regulatory framework that, combined with strong enforcement measures, ensures all employers meet their obligations. It is also crucial that government lead by example as an employer that strives to protect its own workers and those in the facilities it funds safe from workplace injuries and illness.

While many improvements to workplace health and safety have been won by workers and unions over the course of many decades of fighting for worker safety, the fact that at least 25,000 Manitoba workers are injured on the job and more than 20 die each year is a sobering reminder of the need to remain vigilant in our efforts to make workplaces safe and healthy for all Manitobans.

That is why we were pleased to participate in the recent review of the Workplace Safety and Health Act, and to see many of our priorities reflected in Bill 29.

One important addition proposed in this bill is language that highlights the need to ensure our workplaces are safe from psychological hazards, including a definition of what constitutes a psychologically safe workplace. While employers have always had this obligation as part of their overall legal responsibilities to eliminate or reduce hazards, the proposed new language reinforces that obligation with regard to a long-neglected area of workplace health and safety.

It is our hope that this new provision serves as the basis for further measures to protect workers from psychological hazards in the workplace, including more specific, robust

requirements for identifying and assessing those hazards and for taking measures to eliminate them.

We also support the new measures in this bill to ensure that employers are held accountable for meeting their obligations under the Act.

This includes a provision that will prevent an employer from trying to escape their obligations, including with respect to an order issued under the Act, simply by changing the name of their business and continuing operations under the same ownership and control. Closing this loophole will help prevent unsafe employers from repeatedly putting workers' health and safety at risk.

There is also a new penalty for employers who disregard their obligation to immediately report a serious incident to the Workplace Safety and Health Branch. The regulations define a serious incident as a fatality or any of a number of very severe injuries, as well as extremely hazardous events such as a structural collapse, an explosion or a spill of a hazardous substance. I think we can all agree that reporting such incidents is a basic measure in identifying and preventing serious hazards, and, while it is unfortunate that some employers would neglect this fundamental obligation, we are pleased that there is an additional measure compelling them to fulfill it.

Similarly, it is shameful and totally unacceptable that some employers will actually punish workers for exercising their rights under the Act, such as raising a safety and health issue or invoking their right to refuse unsafe work. In these situations, employers will sometimes punish workers in various ways, including through termination. This kind of reprisal is prohibited under the Act. However, in the past, if an employer was found guilty of such a reprisal, there was little recourse for the worker to recover anything owed to them, such as lost wages. It's bad enough to be subjected to a reprisal for exercising a basic right. Losing pay because of it only adds to the injustice. For that reason, we are pleased to see a new provision to provide for the recovery and payment of lost wages in these situations.

On the topic of reprisals, we are glad that the Act now makes clear what recourse a worker has in these situations. Owing to a Supreme Court ruling issued back in 2021 (commonly called the "Horrocks Decision"), there had been some question whether the WSH Branch had jurisdiction to decide on allegations of reprisals where the worker was covered by a collective agreement, or whether such matters could only be addressed through the grievance/arbitration process.

The MFL has been consistent in its position that the Act gives the Branch clear jurisdiction in matters of reprisal for all workers, unionized or not, and that any change in this regard would be unnecessary and would deny workers of a statutory right to have an allegation heard and decided upon simply because they are covered by a collective agreement. Therefore, we are pleased that the Act now contains language clarifying that all workers who believe they are the victims of a reprisal have a right to this basic avenue of recourse.

All workers have a right to know about hazards in their workplace, as well as whether identified hazards are addressed and how they are addressed. Previously, when an Improvement Order or Stop Work Order was issued in response to an identified hazard, the Act was unclear on how long the relevant information had to be made available.

Bill 29 helps clarify this issue by requiring that, when orders are posted in a workplace, they must remain posted for seven days or until compliance with the order has been achieved, whichever is longer.

Similarly, the Act will now require that a report on measures taken in response to an Improvement Order be posted for seven days or until compliance with the order has been achieved, whichever is longer.

Measures such as these facilitate workers' right to know and to participate in health and safety in the workplace as well as provide an additional incentive for employers to comply with orders.

Another measure in the bill clarifies what constitutes "dangerous work" in the context of a worker exercising their right to refuse dangerous work. While the worker's belief that a given situation or activity is dangerous remains central to the process, the new provision makes clear the factors to be considered, including the aspects of imminent risk and the lack of measures to eliminate or control the risk. This should help facilitate a resolution in many right-to-refuse cases, and thus ensure that workers are better able to exercise this basic right and have their health and safety concerns addressed.

There are multiple places in the Act and Regulations where an assessment of a particular risk is required. This includes assessment of risks associated with violence, confined space entry, ergonomic hazards, and many others. The question of who can perform such assessments is inconsistent across different circumstances. This means that sometimes assessments can be performed by a person with no particular knowledge or experience in the matter.

Bill 29 requires that risk assessments be performed by a person who is "competent", which under the Regulations means that the person has the "knowledge, skills, and training" to properly do the assessment. This helps to somewhat address the arbitrariness of the current provisions and provides some broad criteria against which to determine the competence of someone performing a risk assessment. As a general requirement, it can also serve as the foundation for the adoption of more specific stipulations, including for the particular kind of knowledge, skills and training a person must have to conduct a certain type of risk assessment.

This bill also contains new measures with the potential to help identify and prevent occupational diseases. This is an issue of fundamental importance to the MFL. Occupational diseases have long been the main cause of workplace fatalities in Manitoba. We also know that many occupational diseases go unrecognized for various reasons, including difficulty in establishing a causal connection between the disease and the

workplace. As the processes and materials people are exposed to in our workplaces change, so too can the harmful effects of work, which can often go unnoticed for far too long.

That is why it is important that Bill 29 will allow the Chief occupational medical officer, when they believe a worker has been over-exposed to a harmful substance, to require the worker's employer to implement and maintain a health surveillance program for their workers.

Such programs have long history in the mining industry and in our mine safety regulations, and we are pleased to see these new provisions also contain measures for protection of medical information, workers' choice and other important aspects.

The proposed new surveillance program has the potential to protect countless workers, now and in the future, from the devastating effects of occupational disease.

Finally, we applaud the proposal to replace the word "accident" in the Act with the word "incident". While this may appear to be a simple matter of terminology, it actually speaks to an important principle: that workplace injuries and illnesses are preventable, that they are not result of random circumstances but of failures within the prevention system that can be identified and corrected.

In fact, we at the MFL do not use the term "accident" for just this reason, and we would like to see it also eliminated from the Workplace Safety and Health Regulations and the Workplace Compensation Act and Regulations.

While we are pleased with the many positive changes contained in this bill, we must draw attention to the need for action on a number of serious outstanding concerns.

As noted earlier, occupational diseases are our number one workplace killer, and the number one killer by far among occupational diseases are those caused by exposure to asbestos (primarily mesothelioma and asbestosis). In the past decade more than 60 Manitoba workers have died from asbestos exposure. Yes, many of those are the result of past exposures. But if you think this is a hazard of the past, consider this: in the last five years alone, Workplace Safety and Health Officers have issued over 300 orders pertaining to unsafe work with or around asbestos.

That is why we were pleased to hear the government commit in last year's throne speech to taking measures to protect workers from workplace hazards including asbestos. This should begin with making the safety training standards that have already been developed by SAFE Work Manitoba with input from employers and labour mandatory rather than voluntary for those who work around or with asbestos. In addition, we need a system of certification for those who work in asbestos remediation and similar activities so that workers, property owners and the public know who is and is not a safe and qualified company.

We also need measures to stop the epidemic of violence in our workplaces. Even the number of accepted WCB claims, which we know tell only part of the story, show that injuries from workplace violence have quadrupled over the past decade, and the number increases every year. In healthcare, retail, service, education, transit, social services, so many workers in so many sectors are subject to this hazard on a daily basis, and the effects of workplace violence are not only physical but psychological.

There are already regulatory requirements for assessing the risk of workplace violence and measures taken to address it. However, the numbers are a clear indication that the current requirements are inadequate and failing to protect workers.

There are several areas where the regulations could be improved. For example, they currently require that “the employer” conduct a risk assessment in consultation with the WSH committee/representative. However, there are no requirements for any specific competencies or skills to do such an assessment. The regulations also require employers to provide an annual report to the WSH committee/representative on incidents of violence including measures taken in response. Workers report that in many cases this is simply not happening. Because this information is so crucial to identifying and addressing risks, there needs to be stronger enforcement of this requirement.

Also, the consultation that feeds into the risk assessment and preventive actions needs to be meaningful if it is to have value. We have seen from the experience in liquor marts, where protective measures have all but eliminated incidents of violence, what can be achieved when employers seek input from workers and unions.

In addition to specific hazards such as asbestos and violence, there are two sectors in particular that continue to be especially troubling when it comes to workplace injuries and illnesses: health care and the public sector.

Over the last decade, health care has had the single highest rate of time-loss injuries among all sectors of the Manitoba economy, followed closely in second place by the public sector. This means that workers in Manitoba’s health care and the public sectors are suffering higher injury rates than workers in construction, manufacturing, mining, and other sectors more traditionally considered to be hazardous.

Over this time period, an average of 10 health care workers per day have been injured badly enough to be off work, meaning they have been unavailable to provide patient care. For the public sector, six workers have been off work per day over the last decade as a result of a workplace injury or illness, and, again, these workers have been unavailable to provide services Manitobans count on while they are off work due to injury.

In addition to the immense toll that workplace injuries place on workers and their families, these injuries have multiple other impacts, including staff shortages and increased workloads, which are impacts that can in turn lead to more injuries.

Because the annual WCB premium paid by healthcare employers is based heavily on

their high rate of injuries, the sector pays premium rates that are well above the average for all sectors (\$1.22 for every \$100 of payroll compared to an average of \$0.95).

If the health care sector got serious about reducing worker injuries, its WCB premium would decline in tandem, producing savings of \$5 million for every 10-cent reduction achieved in the premium. Even reducing health care's premium down to Manitoba's average level would save over \$14 million – money which could be invested in staff and services.

Unlike health care, the public sector is an “Individually Liable” employer, meaning that rather than paying a premium, it reimburses the WCB for the full cost of WCB claims (wage replacement, medical care, etc.) for its injured workers. Based on the average claim cost and the number of injuries in the sector, in recent years the amount paid to the WCB is over \$20 million.

The provincial government is the largest employer in the sector, and it pays over \$10 million of the total \$20 million amount based on its injury numbers. This means that for every 10 per cent reduction in injuries to its employees, the provincial government would save about \$1.2 million in WCB costs. Reducing the number by half would save over \$6 million. Again, these substantial savings could be invested in staff and services.

In short, improving health and safety in public sector and healthcare workplaces is not only the right thing to do, and would reduce the many impacts injuries have on these workers and their families, but would also free up millions of dollars that could be used to improve the lives of all Manitobans.

Another change we have been calling for for some time now is a requirement that employers provide menstrual products in the workplace the same way they are required to provide other hygiene products like soap, toilet paper and paper towel. This is not only a health and safety matter in that it relates to workplace hygiene but is also a matter of equal access to basic hygiene products.

Finally, we have been calling for changes to our health and safety laws to address the realities of climate change by better protecting workers from extreme temperatures.

There is growing evidence that today's workers are at increased risk to the many conditions associated with extreme temperatures including heat stroke, exhaustion, dehydration, hypothermia, and many others.

The Manitoba Workplace Safety and Health Regulation contains little specific guidance on protecting workers from these hazards. It refers to control measures set by the American Conference of Governmental and Industrial Hygienists (ACGIH), without stating what those measures are, and requires that workers have information, instruction and training to avoid thermal stress.

Recognizing that current requirements may be out of step with the hazards posed by

today's extreme weather conditions, jurisdictions across Canada (most recently Ontario) as well as the Occupational Health and Safety Administration (OSHA) in the United States have been exploring and implementing new measures to address this growing hazard.

The MFL is calling for updated provisions in Manitoba's Workplace Safety and Health Regulation to reflect new realities of excessive heat and cold and provide clearer and practical guidance on protecting workers from the many associated hazards.

I would like to once again thank you for the opportunity to speak to Bill 29.

While the MFL continues to press for improvements in a number of areas, including those I just mentioned, we believe this bill contains a number of positive changes and provides a foundation for further improvements going forward.

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