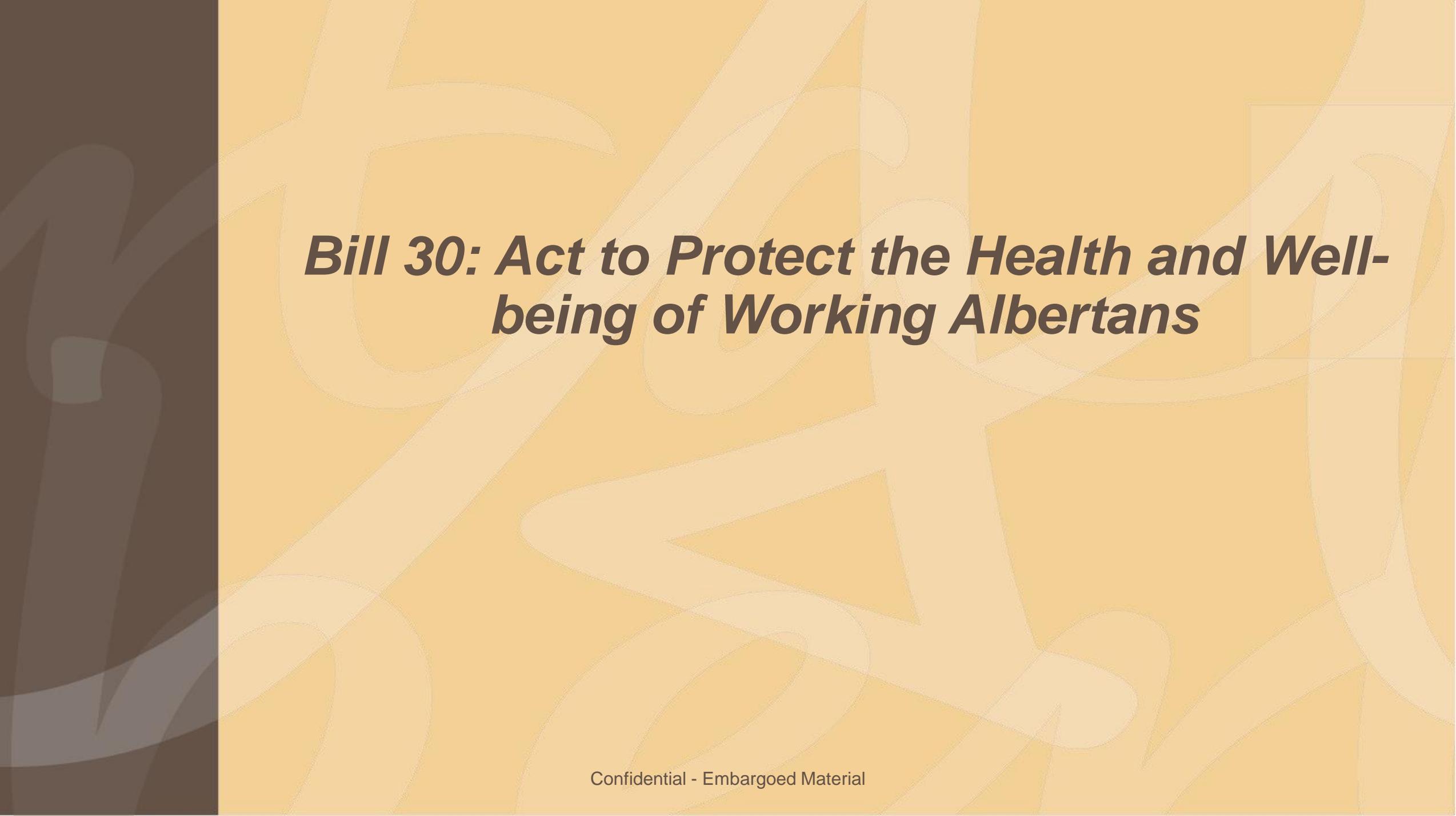


Bill 30: Act to Protect the Health and Well-being of Working Albertans



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Consultation Summary

- **A comprehensive review of Alberta's OHS system was undertaken in 2017**
 - The themes of the review were:
 - Clarifying **responsibilities** of worksite parties in legislation
 - Improving **worker engagement** in OHS
 - A renewed focus on illness and injury **prevention**
- **Received input from Albertans over a nine-week period**
 - Over 1,300 online survey responses
 - Nearly 90 written submissions
 - Eight in-person facilitated roundtable discussions involving over 200 stakeholders representing employers, workers, OHS professionals, health and safety associations and academics

Consultation Summary

Highlights of feedback received:

- **Responsibility**
 - Clearly define roles and responsibilities in the OHS Act
 - Provide input into more regular reviews of the OHS system
 - Government needs to help workers and employers understand and meet their legislated responsibilities
- **Worker Engagement**
 - The rights of workers to know about hazards; to participate in health and safety decisions; and to refuse dangerous work need to be protected
 - Support for joint work site health and safety committees (JWSHSC)
 - Improve protection of worker from reprisal for exercising OHS right or duty
- **Prevention**
 - Improve workplace illness and injury prevention
 - Provide better access to resources
 - Improve the Certificate of Recognition program

Key Concepts in Canadian OHS Law

- **Internal responsibility**
 - Everyone in the workplace is responsible for OHS, according to their authority and control
 - Employers have the greatest degree of control and authority, therefore they have the most responsibility
 - Workers and all other parties also have responsibility
 - Internal monitoring by JWSHSCs or health and safety representatives
 - External monitoring and enforcement by government
- **Three fundamental rights of workers**
 - Right to know
 - Right to participate
 - Right to refuse dangerous work

[Purpose of the OHS Act]

- **Promotion and maintenance of physical, psychological and social well-being of workers**
- **Prevent workplace incidents, injuries, illness and disease**
- **Protect workers from conditions adverse to their health and safety**
- **Protect of worker rights to:**
 - Know about health and safety hazards
 - Participate in OHS
 - Refuse dangerous work, and
 - Exercise their OHS rights or fulfill their duties without fear of reprisal (discriminatory action)

Responsibilities of Work Site Parties

- **Employers**

- Ensure health, safety and welfare of workers [and other persons at the work site]
- Ensure workers are aware of OHS rights and duties
- **Ensure workers are not subjected to or participate in harassment or violence**
- **Ensure workers have competent supervision**
- Ensure workers are properly trained
- **Consult and cooperate with JWSHSC or health and safety representative and resolve issues in a timely manner**
- **Ensure prime contractor is advised of names of supervisors**
- Cooperate with any person exercising duty under legislation
- Comply with legislation

Harassment and Violence Defined

“harassment” [means any single incident or repeated incidents of objectionable or unwelcome conduct, comment, bullying or action that causes offence or humiliation to a worker, or adversely affects the worker’s health and safety, and includes

- i. conduct, comment, bullying or action because of race, religious beliefs, colour, physical disability , mental disability, age, ancestry, place of origin, marital status, source of income, family status, gender, gender identity, gender expression, and sexual orientation, and
- ii. sexual solicitations or advance,

but excludes any reasonable conduct or an employer or supervisor in respect of their management of the workers or a work site.

“violence” threatened, attempted or actual conduct of a person that causes or is likely to cause physical or psychological injury or harm, and includes domestic or sexual violence.]

Responsibilities of Work Site Parties

- **[Supervisors**
 - Ensure they are competent to supervise workers
 - Take all precautions to protect worker health and safety
 - Ensure workers work accordance requirements of legislation
 - Ensure workers use hazard controls and personal protective equipment
 - Ensure workers are not subjected to or participate in harassment or violence
 - Advise workers of all known or reasonably foreseeable hazards
 - Report OHS concerns
 - Cooperate with any person exercising duty under legislation
 - Comply with legislation]

Responsibilities of Work Site Parties

- **Workers**
 - Take reasonable care to protect their own health and safety and health and safety of others at the work site
 - Cooperate with supervisor, employer, or any other person to protect their health and safety,
 - Use safety devices and wear personal protective equipment
 - **Refrain from causing or participating in harassment or violence**
 - Report OHS concerns
 - Cooperate with any person exercising duty under legislation
 - Comply with legislation

Responsibilities of Work Site Parties

- **Suppliers**

- Ensure products and equipment comply with the legislation
- **Ensure products and equipment supplied are safe when used according to manufacturer specifications (includes leased equipment)**
- **Maintain equipment in safe condition**
- **Provide notice when their product or equipment does not comply with legislation**
- Cooperate with any person exercising duty under legislation
- Comply with legislation

Responsibilities of Work Site Parties

- **[Service providers**
 - Ensure a service provided to help a person meet an obligation under OHS legislation achieves that objective
 - Ensure the service complies with OHS legislation
 - Ensure the service is provided by a competent worker
 - Ensure the service does not create a hazard to others on the work site
 - Cooperate with any person exercising duty under legislation
 - Comply with legislation]

Responsibilities of Work Site Parties

- **[Owners (of land or premises of worksite)]**
- **Excludes a private residence unless business located there]**
 - Ensure property and premises that is **under their control** do not endanger health and safety
 - Cooperate with any person exercising duty under legislation
 - Comply with legislation
- **Contractors (person or group of persons who contract with and direct the work of employer or self-employed person)**
 - [Ensure the work site and work processes **under their control** do not endanger health and safety
 - Advise prime contractor of the names of employers or self-employed persons working under the direction of the contractor]
 - Cooperate with any person exercising duty under legislation
 - Comply with legislation

Responsibilities of Work Site Parties

Prime Contractor

- Required on [construction or oil and gas work sites (or a work site designated by a Director)] with 2 or more employers or self-employed persons
 - Establish a system to ensure compliance with legislation
 - Co-ordinate, organize and oversee work to ensure health and safety of workers and others
 - **Ensure their own activities do not create a hazard to the health and safety of others**
 - **Consult and co-operate with the JWSHSC or health and safety representative**
 - **Co-ordinate the health and safety programs of employers and self-employed persons on the work site**
 - Cooperate with any person exercising duty under legislation
 - Comply with legislation

Responsibilities of Work Site Parties

- **[Self-employed persons]**
 - Conduct their work in a way that protects them and others from health and safety hazards.
 - Advise prime contractor that they are working on the project
 - Report OHS concerns
 - Cooperate with any person exercising duty under legislation
 - Comply with legislation
- **[Temporary staffing agencies]**
 - Ensure workers assigned to another employer are suitable for the work
 - Ensure worker is equipped or will be equipped with necessary personal protective equipment
 - Ensure the other employer is capable of protecting the health and safety of the workers
 - Cooperate with any person exercising duty under legislation
 - Comply with legislation

[Duty to Provide Health and Safety Information]

- **Health and safety information is information that may affect the health and safety of a person on a work site, but excludes personal information or confidential proprietary information**
 - Employer makes OHS information readily available to joint work site health and safety committee, health and safety representative or workers and the prime contractor.
 - Prime contractor provides OHS information to employers, workers, employers and other parties working at the work site
 - Owner provides OHS information to workers, employers and other parties working on the property
 - Supplier provides manufacturers specifications and instructions for equipment and harmful substances
 - Employer makes OHS legislation readily available
 - OHS reports, plans or procedures are in writing and readily available
 - OHS orders or notices are posted or readily available
 - JWSHSC minutes are posted or readily available

[Joint Work Site Health and Safety Committee (JWSHSC) and Representative]

- **Employer or prime contractor required to establish a JWSHSC for workplace or project with 20 or more workers**
 - Director may approve other forms of JWSHSC where necessary
- **Worker health and safety representative required for workplace or project with 5 to 19 workers**
- **Requirements apply to work that will last 90 days or more**
- **Training required for JWSHSC co-chairs and representatives**
 - When JWSHSC members or representative provide reasonable notice, they are permitted up to 2 days to attend OHS education or training
- **No loss of pay or benefits for JWSHSC members or representative when carrying out duties or participating in OHS training or education**

[Duties of JWSHSC and Health and Safety Representatives]

- Receipt, consideration and disposition of health and safety concerns and complaints
- Participate in hazard identification
- Develop and promote measures to protect the health and safety at the work site and check effectiveness of the measures
- Co-operate with an OHS officer
- Develop and promote programs for OHS education and information
- Make recommendations respecting OHS
- Inspect the work site at regular intervals
- Participate in investigations of serious injuries and incidents at the work site
- Maintain records of activities and meetings

Representatives, in cooperation with employer, perform same duties with necessary modifications

Employer and Prime Contractor to Work with JWSHSC or Health and Safety Representative

- **When JWSHSC or health and safety representative makes recommendation to remedy an OHS matter, the employer:**
 - Resolves the matter within 30 days, or
 - Responds in writing how and when the concern will be addressed, or
 - If employer or prime contractor disagree with recommendation provide reasons for not addressing the matter
- **If the matter cannot be resolved, any of the parties can refer it to an OHS officer for resolution**

Right to Refuse Dangerous Work

- [A worker may refuse to do work where they believe on reasonable grounds it is dangerous to them or others]
- The worker must promptly report the refusal to the supervisor or employer
- [If the supervisor or employer cannot remedy the issue immediately, they must inspect the dangerous condition with the refusing worker and a member of the JWSHSC or representative to resolve the issue/remedy the danger]
- If the matter is still not resolved it may be referred to an OHS officer, who will resolve the matter
- [No loss of pay or benefits for worker exercising right to refuse]
- [Another worker may be assigned to do the work if they are advised of the refusal, the reason for the refusal, and advised of their right to refuse]

Workers Protected from Discriminatory Action

- **[Discriminatory action] is any action or [threat of] action by any person that would adversely affect a workers with respect to terms or conditions of employment, or opportunity for promotion**
 - [Includes termination, layoff, suspension, demotion or transfer of a worker, discontinuation of job, change of job location, reduction of wages, change of hours, reprimand, coercion, intimidation or imposition of discipline or penalty]
- **No person may take any discriminatory action against a worker for fulfilling their duties under legislation or exercising their OHS rights**
- **Discriminatory action complaints are referred to an OHS officer, who investigates and resolves the complaint**
- **[Onus is on employer to show action taken against worker was for reason other than fulfilling an OHS duty or responsibility]**

[Health and Safety Program]

- **An employer with 20 or more workers is required to establish a health and safety program in consultation with JWSHSC and implement the program**
- **Program elements:**
 - OHS policy
 - Hazard assessment
 - Emergency response
 - Responsibilities of work site parties
 - Schedule and procedure for inspections
 - Procedures to deal with OHS issues when another employer or self-employed person works on site
 - Orientation and training
 - Incident investigation
 - Procedure for worker participation
 - Review and revise program every 3 years or when conditions change
- **Smaller workplaces required to involve workers in hazard assessment and control**

OHS Advisory Council

- **[Minister is required to appoint an OHS Advisory Council**
 - Equal representation of employers, workers, and OHS professionals, selected from lists of nominees from organizations representing those groups]
- **Council provides OHS advice and recommendations to Minister**
- **[Review the OHS Act and administration at the request of the Minister**
- **Responsibility for making OHS Code now rests with the Minister**
- **Responsibility for OHS Appeals transferred to Alberta Labour Relations Board]**

Reporting Serious Injuries and Incidents

- **Employers or prime contractor must report:**
 - Incident resulting in death of worker
 - [Incident resulting in hospitalization of worker]
 - Explosion, fire, or flood that has potential to cause serious injury
 - Collapse of crane, derrick or hoist
 - Collapse or failure of building or structure
 - Significant mining incidents (ground fall, ventilation failure, out of control vehicle, fire, serious electrical failure hoist or shaft failure, dam failure, other emergency)
- **[Incidents with potential to cause serious injury (near misses) must also be reported]**

[Duties of the Minister]

- **Shall be concerned with OHS generally, and maintenance of reasonable standards for protection of the health and safety of workers and self-employed persons**
- **Responsible for administration of the OHS legislation**
- **Ensure OHS legislation and its administration is reviewed every 5 years**
- **Publish annually a 3 year plan for review of regulations and OHS Code**
- **Consult with workers and employers and recommend changes to regulations and OHS Code**
- **Ensure OHS information and advice is provided**
- **Ensure OHS statistics are maintained**

OHS Directors and Officers

- **Powers of a Director**
 - Issue acceptances and approvals
 - Issue director orders requiring a code of practice, [a health and safety program], regular inspections of workplace, notice of a new project
 - **May require a person to provide any information in the form and manner acceptable to the Director that the Director needs to perform duties or exercise powers under the OHS legislation**
 - Has the powers of an OHS officer as well
- **[Duties of OHS officers]**
 - Carry out inspections, investigations, inquiries and out tests necessary to determine compliance with the OHS legislation
 - Investigate work refusals
 - Investigate discriminatory action complaints
 - Take steps, including issuing orders, where appropriate, to ensure compliance with legislation

OHS Directors and OHS Officers

- **Powers of OHS officers**
 - Enter any workplace and conduct an inspection or investigation – [except private dwellings
 - If workplace is also private dwelling, OHS officer may only enter with consent of resident or if authorized by a provincial court judge]
 - Examine records related to OHS
 - Require and be provided with reasonable assistance
 - Inspect or take samples of material, product, equipment
 - Make tests, take photos, measurements or recordings
 - **Require demonstration of machinery and equipment**
 - Interview and take statements
 - **Request JWSHSC co-chairs or designates, or representative to accompany officer during inspection**
 - Investigate injuries or incidents at a workplace
 - Require witnesses to injury or incident to provide information

Medical Assessments

- **Medical examination to determine extent of injury or presence of occupational disease:**
 - [May only occur with the consent of the worker]
 - Medical examination considered time at work]
- **When physician [or other health care professional] treats a person with a notifiable occupational disease, they must notify Director of Medical Services**
- **Report of medical examination must be provided to Director of Medical Services on request**
- **Other reports with information related to worker with occupational disease provided to Director of Medical Services on request**
- **[Director of Medical Services may access information to prevent occupational injury and disease]**

Compliance Tools

- **Order to remedy unhealthy or unsafe conditions**
 - **Must identify contravened provision of legislation**
 - **State reasons for order**
 - Require corrective measures within specified period of time
 - OHS officer may extend the timeframe for compliance
 - Order remains in effect until compliance achieved or the order is withdrawn by the officer or revoked on review or appeal

Stop Work/Stop Use Orders

- **Stop work orders**
 - Issued when OHS officer determines there is a danger to health and safety
 - Orders can stop work, or any part of the work, clear the work site and require measures to remove the source of danger
 - Stop work order may be issued on multiple work sites of an employer
- **Stop use orders**
 - Issued when OHS officer determines equipment is not safe to operate or a harmful substance is not safe to use
 - Equipment subject to order may not be sold, rented, leased or transferred
 - OHS Officer may order supplier to stop supplying the unsafe substance or material
- **[Affected workers may be reassigned to other work, but receive the same wages and benefits]**

[Report on Compliance]

- **The person who received an order is required to:**
 - Report to the OHS officer on the measures taken or planned to be taken to remedy the contravention within 7 days of compliance date specified in order
 - Provide a copy of the report to the JWSHSC or health and safety representative, if one exists
 - Post the report at the work site

Administrative Penalties

- **Requirements unchanged**
- **Administrative penalty can be issued by an officer when there is:**
 - Contravention of the OHS legislation
 - Failure to comply with an order made
 - Failure to comply with a term, condition or requirement of an acceptance
 - Failure to comply with a term, condition or requirement of an approval
 - A false statement or false or misleading information is given to an OHS officer

Acceptances and Approvals

- **Acceptances**

- Director may issue acceptance for an alternative approach to achieving compliance with OHS requirements if Director is satisfied the alternative provides equal or greater protection
- Acceptance may contain terms and conditions
- [Director is required to ensure consultation with JWSHSC or health and safety representative, or workers and other affected parties occurs
- Acceptance has time limit of not longer than 5 years]

- **[Approvals]**

- Director may issue an approval for work procedures, standards equipment and training, and set out terms and conditions for the approval
- The Director will, as appropriate ensure consultation with JWSHSC, health and safety representative or workers and other affected parties occurs
- Approval has time limit of not longer than 5 years

Interjurisdictional Recognition and Licences

- **[Interjurisdictional recognition]**
 - A Director may recognize an alternate standard or equipment that complies with OHS requirements in another jurisdiction if that standard or equipment provides equal or better protection to workers
 - Interjurisdictional recognition has time limit of not longer than 5 years
- **Licences**
 - A Director may issue a licence in accordance with the regulations or OHS Code
 - A Director may cancel or suspend licence

Review and Appeal of Orders

- **[Director review]**
 - A person receiving order from an OHS officer may request a review by a Director of Inspections (with exception of discriminatory action orders)
 - Director is not required to hold a hearing
 - Affected parties have opportunity to provide submissions
 - The Director must provide reasons for decision.
 - Decision may confirm, vary or revoke the order or decision, or a new order may be issued
 - Director may also refer the matter to the Labour Relations Board (LRB)
- **[Labour Relations Board appeals]**
 - Appeals of orders or [decisions by Director of Inspection], discriminatory action orders, cancellation of a licence or administrative penalties heard by the LRB
 - LRB may reject matter summarily when it determines the matter is without merit
 - LRB conducts a hearing
 - LRB may confirm, vary, revoke order or decision

Offences and Penalties

- **Penalties:**
 - First offence: fine of not more than \$500,000/ for continuing offence, a further fine of not more than \$30,000 each day the offence continues
 - Imprisonment for up to 6 months
 - Second or subsequent offence or failure to comply with stop work order: fine of not more than \$1 million, and for a continuing offence a further fine of not more than \$60,000/day
 - Imprisonment up to 12 months
- **Additional powers of court to make directions**
 - [Expands the range of creative sentencing options that the court can impose and allows the court to provide oversight]

Information Collection and Exchange

- **Agreements for research and educational programs**
 - [Expand the ability for government to enter into information-sharing agreements with a wider range of parties]
- **Exchange of information**
 - [Allow Alberta Labour to share data with other government bodies, agencies, and external organizations beyond the Workers' Compensation Board]
- **Publication of information about employers**
 - [The government must publish information (statistical information, orders, administrative penalties, acceptances and approvals issued) at regular intervals]

[Information Collection and Exchange]

- **Funded organizations**
 - Health and safety associations funded from the Workers' Compensation Board submit report to the Minister each year
 - The report will be reviewed and the Minister may provide recommendations on the effectiveness of the association's OHS efforts
- **Designated Organizations**
 - Government may designate organizations for the purpose of furthering OHS
- **Furthering OHS**
 - Government may establish and carry out programs to further OHS

[Coming into Force]

- **The new OHS Act will come into effect on June 1, 2018**