



A PROUD HISTORY  
A STRONG FUTURE

4-10

Jim Sinclair PRESIDENT  
Angela Schira SECRETARY-TREASURER

December 1, 2006

WorkSafeBC  
Workers' Compensation Board of British Columbia  
Prevention Policy and Regulation Review Department  
Policy and Research Division  
P.O. Box 5350 Station Terminal  
Vancouver, BC V6B 5L5

Dear Board of Directors:

**RE: PROPOSED CHANGES BEFORE PUBLIC HEARINGS**

I am writing in response to the Workers' Compensation Board's proposed changes before the public hearings.

Attached you will find the B.C. Federation of Labour submission regarding the proposed amendments to the Working Alone or In Isolation Regulation Section 4.20 – 4.23.1.

In addition, the Federation wishes to comment on the proposed changes to Part 6 and Part 3.

**Part 6**

The Federation supports the proposed amendments to Part 6 Substance Specific Requirements. Without question, the changes will make a significant difference in reducing sharps related injuries. However, the Federation believes a few changes to the proposed changes are necessary for the protection of workers' safety to be immediate. We support the recommendations submitted by the BC Nurses' Union:

1. Amend the implementation date to July 1, 2007.
2. Amend the proposed Regulation to require the use of a logging system to track all sharps injuries.

200 – 5118 Joyce Street Vancouver BC V5R 4H1  
TEL 604.430.1421 FAX 604.430.5917  
bcfed@bcfed.com www.bcfed.com

**B.C. FEDERATION OF LABOUR (CLC)**



2

3. Amend the proposed Regulation to require consultation with workers and Joint Occupational Health and Safety Committees in selecting appropriate devices.
4. Amend the proposed Regulation to include the neutral space concept in the operating rooms or other areas where surgeries are performed.

### **Part 3 Young and New Workers Regulatory Proposal 3.23- 3.26**

The Federation would like to thank the Board for taking the steps to improve the training for young or new workers.

Last year, 11 young workers died, and almost 10,000 were injured at work in BC. Thirty-eight young workers are injured every day. All workers are entitled to know what the hazards are on a job, and the employer has a responsibility to provide them with this information.

We agree there is a need for such a regulatory requirement.

#### **Section 3.23 (1)**

While we agree that the employer is responsible for ensuring that training and orientation occurs, the Joint Health and Safety Committee, specifically the Worker Co-Chair and representatives need to participate in this orientation and training. We therefore propose that Section 3.23(1) be amended to include clause 1(b):

"The Joint Health and Safety Committee, Worker Co-Chair, and where there is no committee, the Health and Safety worker representative shall participate in the young or new worker orientation session."

The Joint Health and Safety Committee also needs to be directly involved in evaluating the effectiveness of this training.

We therefore recommend that Section 3.25(2) be re-written as follows:

"3.25(2) Every two months of the first six months of a young workers' employment with an employer, the employer and Joint Health and Safety Committee must assess and document the effectiveness of the orientation program to determine if the young worker is protected from all hazards associated with performing work tasks or work processes."

3

Also, this proposed Regulation states that an orientation must occur prior to beginning work to inform workers of their rights and potential risks. Three items that have been excluded from this list and are to be covered in the second week or as soon as practicable (in section 3.23(3)):

1. The employer health and safety program;
2. WHIMIS information; and
3. Contact information on the Joint Health and Safety Committee.

We recommend that all of the 3.23(3) a, b and c, be moved to 3.23(2). It is critical that young or new workers receive all the orientation and training required to protect workers from all hazards in association with performing work tasks or processes.

Section 3.25 is also concerning as it places most of the safety responsibility on the workers' performance. The concentration is on the assessment of the workers' performance not how effective the health and safety program is working. Section 3.25 should be re-written to consider the assessment of the whole program, not just the worker and also include the Joint Health and Safety Committee as part of the assessment.

Thank you for bringing these issues forward for public review. We strongly urge the Board to accept the changes as recommended and supported by the B.C. Federation of Labour and its affiliates.

Yours truly,



JIM SINCLAIR  
President

Enclosure

LB/smo  
COPE 15

C:\CONV2006\CONVENTION 2006\Colleen\cnv06\1000-06let-JS WorkSafe Recommendation Public Hearing.doc

# WORKING ALONE

**MOVING FORWARD  
WITH COMPLETE  
SOLUTIONS**

November 2006



# WORKING ALONE

*"The best way to prevent injury from robbery is to prevent the robbery from happening in the first place."*

*WorkSafeBC, Health and Safety for Retail*

## INTRODUCTION

### Moving Forward with Complete Solutions

The October 20, 2006 announcement that WorkSafeBC would proceed to public hearing in late November to consider new regulations to protect workers at gas stations is an important step forward. The B.C. Federation of Labour is pleased WorkSafeBC is moving ahead on the Pay Before You Pump Regulation and will be making a submission on this matter in November.

The major issues facing workers working late at night in gas stations and convenience stores are not, however, addressed by pay before you pump. It is important that the Board address the dangers facing these workers in a comprehensive way. The Board must put in place concrete solutions that acknowledge and address the potential violence workers working late at night in gas stations and convenient stores are exposed to and ensure that all workers in the industry are fully protected against the crime prevalent in their industry.

There are a number of concrete solutions that must be taken. These solutions, outlined in our brief, are recommended by health and safety agencies around the world, are already implemented by some employers, supported by police, and are widely endorsed by workers in the industry.

Currently, late night workers in the gas station and convenience stores in BC are offered an uneven level of protection.

Some employers have chosen to implement policies that ensure the highest level of protection, while other employers do not even comply with the minimal requirements of the current **Working Alone or In Isolation Regulation** and/or the **Violence Regulation**.

Your job as Directors of WorkSafeBC is to protect the health and safety of all workers in this province. The Federation therefore calls on WorkSafeBC to implement the solutions outlined below and in so doing ensure that all workers working late at night in gas stations and convenience stores are offered the best health and safety protection.

## **Problems Facing Late Night Gas Station And Convenience Store Workers**

### **1. Potential for Violence**

The retail sector is facing a world-wide problem when it comes to criminal violence in the workplace. According to a 1993 National Institute for Occupational Safety and Health (NIOSH) publication, in the United States workplaces with the highest rates of occupational homicide were:

- Taxi cab establishments;
- Liquor stores;
- Gas stations;
- Detective/protective services;
- Grocery stores;
- Jewellery stores;
- Hotels/motels; and
- Eating/drinking establishments

In 1998, the International Labour Organization (ILO) Report noted that in the United States the retail and trade service industries accounted for more than half of workplace homicides and 85 percent of non-fatal workplace assaults.

The report went on to note that more than 11,000 retail staff in the United Kingdom were victims of physical violence in 1994-95, and an additional 350,000 suffered threats and verbal abuse.

Statistics also tell us that the problem has continued to grow over the last decade. The Department of Labour, Bureau of Labour Statistics (BLS) 2005 Annual Report indicated that while the total number of workplace fatalities in the United States fell by one percent between 2004 and 2005, workplace homicides increased by one percent. Shockingly, convenient store homicides increased by 37 percent and gas station homicides increased by eight percent. In Britain, the Association of Convenient Stores reported that shop theft increased by 70 percent between 2000 and 2005.

In Canada, the 2004 Statistics Canada Report on Crime indicated 16 percent of all commercial robberies in Canada occurred in convenience stores or gas stations.

Provincially, the BC Retailers publication, *Preventing Violence, Robbery, and Theft*, found that 21 percent of retail employees had been subjected to violence or aggressive acts related to work. Between 2000 and 2004, an average of 109 violence-related WorkSafeBC claims were accepted each year and the cost of the claims was \$4.2 million.

These statistics are not a true reflection of the gravity of the problem as many employers and workers do not report incidents of violence to the police or the Board. According to Donna Freeman, WorkSafeBC, employers are not required to report incidents if there is no physical injury. Also, because incidents are seen as criminal acts as opposed to occupational hazards they often go unreported to the Board.

In the gas station sector, gas-and-dash thefts are an everyday occurrence in some communities. According to Surrey RCMP, 75 to 110 gas-and-dash thefts are known to take place in the province's second largest city each month. Moreover, the problem is not confined to large urban centres. Kelowna RCMP reported their city experienced 63 gas-and-dash incidents in the first five months of 2006.

Police departments around the province readily admit the gas-and-dash problem is so prevalent that they can't keep up. According to the Vancouver Police Department, patrol officers investigate less than one percent of cases of gas-and-dashes in the city.

The B.C. Federation of Labour gas station surveys conducted in July and October 2006 further indicate that gas station attendants are frequent victims of violence. In July 2006, the Federation conducted a survey of 45 gas stations and found that 73 percent of the gas station attendants reported they had experienced gas-and-dashes or threat of violence at their stations. In October, the Federation conducted a second survey of 35 gas stations and 43 percent of gas station attendants surveyed indicated they had experienced some form of workplace violence in the past year (see Appendix 1).

Contrary to the view put forward by health and safety agencies such as Occupational Safety and Health Administration (OSHA), WorkSafeBC does not consider gas bars at high risk for violence. As stated in the September/October WorkSafe Magazine "...gas bars are not typical high-risk workplaces. Since 1982 there have been two acts of violence leading to deaths in gas stations. Both deaths resulted from criminal activity."

Workplace deaths are not the only measure that high risk for violence is present. Every attempted robbery or threat of violence is an assault and falls within the **Violence Regulation** definition of violence. Furthermore, because it takes place at work it is not only a criminal matter, but also an occupational hazard that the Board must take responsibility for and enact effective measures to protect the workers potentially exposed to all forms of violence.

## **2. Current Health and Safety Regulations**

Agencies around the world such as the International Labour Organization (ILO), the Canadian Centre for Occupational Health and Safety (CCOHS), the Health and Safety Executive in the United Kingdom, and the United States Occupational Health and Safety Agency (OSHA), have identified a number of risk factors

that may increase the risk of homicide in the workplace. The risk factors are:

- Contact with the public;
- Exchange of money;
- Delivery of goods or services;
- Working alone or in small numbers;
- Working late at night or early morning; and
- Working in high crime areas.

Many of these risk factors are present in late night retail operations such as gas stations and convenience stores.

There are two regulations in the **BC Occupational Health and Safety Regulation (OHSR)** intended to protect workers against these risks factors: Sections 4.20 – 4.23, Working Alone or In Isolation and Sections 4.27 – 4.31, Violence in the Workplace. Neither of these **Regulations** offers gas station attendants or convenience store employees the level of protection required to address the potential for violence at their workplace.

The **Violence Regulation** requires employers to perform a risk assessment and to establish procedures to eliminate the risks or if that's not possible, minimize the risks. The **Regulation** does not specify what the procedures must include. Therefore, employers are allowed to determine on their own what steps will be taken to eliminate the potential for violence.

The **Working Alone or In Isolation Regulation** requires employers to develop and implement written procedures to check on the well-being of the worker working alone and train workers on the procedure. This **Regulation** is a performance-based regulation that leaves the specifics of the check-in procedure to the employer. Moreover, the check in procedure identifies the problem only after the worker is in danger and does not prevent the incident from occurring.

### **3. Lack of Compliance**

Many employers ignore even the minimal requirements of the **Working Alone and Violence Regulations**. This was made most evident during the July 2006, WorkSafeBC enforcement initiative with BC gas stations. Board Officers conducted 366 inspections over a ninety-day period and virtually all stations were found to be in non-compliance.

While a number of stations had some procedure for working alone, many were incomplete. The inspection reports indicate that in many cases written procedures were lacking in detail, too informal, or completely non-existent. As well, workers were often not trained in the procedures.

Many stations had also not completed risk assessments as required by the **Violence Regulation**. The Reports also reflected that often employers did not adequately analyse the risk of injury to workers due to violence that may arise from the nature of their employment.

### **Solutions**

The prevalence of theft at gas stations and convenient stores demands prescriptive regulations that state clearly what the employer is required to do to eliminate the risks of violence.

The Federation supports two control measures, as recommended by a number of health and safety agencies, police and workers to eliminate the risks of violence at gas stations and convenience stores open late at night: Locked Door Policy and two people working during the late night shift.

## 1. Locked Door Policy

Support for a Locked Door Policy comes from a number of corners.

### a) It Is Common Sense and Common Practice

Many public institutions use a Locked Door Policy as a form of security. The House of Commons in Ottawa, for example, is locked around the clock and requires all those who wish to enter to go through a security system much like at the airport. As well, many government offices and corporations use a Locked Door Policy to restrict the public from entering certain areas of their operation.

Homeowners also lock their doors. The vast majority of apartment buildings have their front doors locked at all times and some newer apartment buildings and hotels restrict residents' elevator access to the floor they reside on.

Locking doors as a form of security is common practice and there is no study refuting the use of locked doors as an effective security measure to protect people, merchandise, and/or the premises.

### b) Some Gas Stations Already Do It

Some gas stations currently implement a corporate policy that requires doors to be locked at a certain hour, usually around 10:00 pm or 11:00 pm.

On October 26, 2006, the B.C. Federation of Labour conducted a qualitative survey of 35 gas stations and co-located convenience stores in Burnaby, Kamloops, Langley, Maple Ridge and Vancouver. Out of the 35 work sites surveyed, 57 percent have some form of Locked-Door Policy.

### c) Workers Feel Safer

Sixty percent of gas station workers surveyed by the Federation in October favour all workers working through a security window behind locked doors between 10:00 pm and 6:00 am.

John, a young worker who works the late night shift at a Chevron station in Surrey, is very clear that his safety at work is dependant on his company's late night locked door policy.

"The station doors should be locked between the hours of 10:00 pm and 6:00 am. Fortunately, my station already institutes this policy, though I believe Chevron is one of the few that has a policy like this. There have been several instances during my time as a graveyard attendant where a belligerent or intoxicated customer has acted abusive towards me. However, since the doors are locked and I am behind the glass, I can feel safe in letting the person know that they are over the line and that I will call the police if they do not leave."

It is critical that these workers are not only protected from acts of violence but are also able to work free of fearing robbery or threats of violence. As John and other workers have indicated, the Locked Door Policy relieves them of fear -- locked doors make workers feel safer.

### d) WorkSafeBC Investigation Report

WorkSafeBC's investigation into Grant DePatie's death clearly supports the combination of Pay Before You Pump and Locked Door Policy. The investigation concluded that the employer's late night policy that required customers to

pay before they purchased gas, at the pump or at the window and employees to keep doors locked between 11:00 pm. and 6:00 am. would have saved Grant DePatie's life.

## 2. Two People On Shift Late At Night

There is also evidence that supports the concept that employing two or more workers on late night shift in the retail sector provides greater protection for workers exposed to potential acts of violence.

### a) Industry Already Does It

A number of companies in the gas station industry already employ more than one worker late at night. The Federation's October survey found that 17 percent of the gas stations surveyed had two or more workers on late at night. Also, a number of municipalities, Richmond and Coquitlam for example, require gas stations to provide full service which generally requires two or more staff.

Employers have also been known to increase the number of staff working at night after their workplace has been the target of theft. In Fall, 2005, the owner of a Vancouver liquor store robbed late at night with only one worker on shift increased his late night staff compliment because he believed that having two workers on shift would deter robbery or theft.

### b) Workers Want It

The Federation's October survey of gas stations showed that 74 percent of workers working alone said they would feel safer if there were laws and regulations that required two or more workers on site between 10:00 pm. and 6:00 am. Also 83 percent of workers surveyed who were working with one or more workers indicated they do not want to work alone at night.

### c) Police Support It

In a conversation between the Federation and a Coquitlam RCMP Officer in charge of support operations, Claude Wilcox, Officer Wilcox supported the proposal for two people on shift late at night working at gas stations. Officer Wilcox is of the view that the two person requirement minimizes criminal activity and recommends it be put in place. The Officer has direct experience with the City of Coquitlam by-law that requires all gas stations to be full-service which generally means that two or more workers are always on shift.

The Federation also heard from Vancouver Police Department, Inspector John McKay, Executive Officer, Office of the Chief Constable, about the Federation's concerns for gas station and convenient stores' employees working alone. The Constable stated:

"In principle we share your concerns and agree that the measures proposed would make the workplace safer for these employers."

### Other Jurisdictions

During the early 1990s, agencies such as Canadian Centre for Occupational Health and Safety (CCOHS) and National Institute for Occupational Health and Safety (NIOSH) developed recommendations that list steps to help minimize the risks of violence or robbery. The recommendations include:

- Avoid having a lone worker whenever possible;
- Hire extra staff;
- Consider closing during high risk hours (late at night, early morning); and
- Provide bullet proof barriers or enclosures.

While these recommendations are useful, neither of these agencies have any regulatory or enforcement authority and employers are therefore not required to implement the recommendations.

In 1998, the US Department of Labor Occupational Safety and Health Administration issued recommendations for workplace violence prevention programs in late night retail establishments. The list of recommendations included:

- Install physical barriers such as bullet-resistant enclosures with pass through windows;
- Increase staffing levels at night at stores with a history of robbery or assault and located in high crime areas; and
- Limit or restrict areas of customer access, reduce the hours of operation, or close portions of the store to limit risk.

While the Occupational Safety and Health Administration (OSHA) is a regulatory body, the recommendations were voluntary guidelines that employers were not required to implement. Despite their voluntary status, the OSHA recommendations were followed by lengthy political controversy led by the retail industry through the National Association of Convenience Stores (NACS). NACS claimed there was no scientific evidence to show that having two or more clerks in a store at night deters armed robberies. The Association commissioned several studies to show exactly that. As well, they made heavy political contributions in the weeks leading up to the 1996 election with the hopes to kill the recommendations.

According to a Washington Daily report, NACS argument was strongly refuted by local police agencies including those in Florida which passed strong local laws that require convenience stores to have at least two employees at night.

More recently, regulators in New Mexico went a step further. In 2005, the New Mexico Environmental Improvement Board issued the Convenience Store Rule, which states that convenience stores

operating between 11:00 pm and 5:00 am must implement at least one of the following safety measures:

- Have at least two employees on duty between 11:00 pm and 5:00 am. Employers may substitute the second employee with a security guard on the premises.
- Provide a controlled access area by means of a secured safety enclosure of bullet resistant material.
- Provide a pass-through window of bullet-resistant material that meets one of those standards and restricts access to and encompasses the service counter area, providing an enclosure that extends not less than five feet about the service counter, or
- Close the store and prohibit all sales transactions, but allow employees to perform duties such as store stocking, maintenance, and cleaning.

The Convenience Store Rule also requires all convenience stores to provide employees with crime prevention and safety training.

## **Recommendations**

The danger is real. The statistics, as incomplete as they are, show that gas stations and convenient store employees face the very real threat of violence, injury and death.

The solutions are well known. They are recommended by health and safety agencies, supported by police, already implemented by some employers in the gas and convenience store industries, and are widely supported and endorsed by employees based on their own experiences.

The Federation recommends that WorkSafeBC take concrete steps to implement the specific and appropriate solutions needed to protect workers from violence.

## **We Put Forward Two Options**

### **Option 1 Amend the Violence Regulation**

1. Amend the **Violence Regulation** to include the list of risk factors that put workers at high risk for violence:

- Contact with the public;
- Exchange of money;
- Delivery of goods or services;
- Working alone or in small numbers; and
- Working late at night or early morning.

And require employers whose workers are potentially exposed to the above risk factors to put in place one of the following:

- Have two persons on shift from 10:00 pm to 6:00 am;
- Keep their doors locked between 10:00 pm and 6:00 am and provide a secure window to handle transactions; or
- Physical barriers and/or enclosures made of bullet-resistant material.

In addition, require gas stations to implement a 24-hour Pay Before You Pump Policy.

2. Upon adoption of the new **Regulation**, WorkSafeBC should implement a comprehensive education and enforcement campaign of all work sites.

### **Option 2 Develop Sector Specific Regulation(s)**

1. Develop and implement sector specific regulations that require gas stations and/or convenience stores to:

- Keep their doors locked between 10:00 pm and 6:00 am and provide a secure window to handle transactions; or

- Have two people working 10:00 pm to 6:00 am; and
- Make Pay Before You Pump a 24-hour Regulation.

In addition, gas stations and convenience stores would be required to comply with the current **Working Alone Regulation** and the **Violence Regulation**.

2. Upon adoption of the new **Regulation**, WorkSafeBC should implement a comprehensive education and enforcement campaign of all work sites.

The **BC Occupational Health and Safety Regulation** currently has a number of industry specific Regulations that require certain industries such as forestry, fishing, construction, fire-fighting and agriculture to implement specific measures to address the hazards particular to their industry. So too, the Board could develop a sector specific regulation for gas stations and convenience stores to put in place the steps required to address the issue of violence.

A 1998 International Labour Organization (ILO) document on violence and working alone outlines how workers experience violence and/or working alone differently depending on the special situation of the employment. "Working alone is not automatically more dangerous than other employment but does have its special situations."

Working alone in gas stations or convenience stores presents a different set of circumstances than working alone in healthcare, in forestry, or in an office environment and therefore may require a different set of solutions to address the risk factors particular to the work. This is also true for how workers experience violence in the workplace. Regulations that specifically apply to the late night gas station and convenience store industries to address their unique circumstances are therefore more than appropriate; they are necessary.

The Federation favours Option One, to amend the **Violence Regulation**, because it is more comprehensive in nature and provides protection for more workers in a greater number of work settings in British Columbia.

The Federation recommends that WorkSafeBC act on its own advice:

**“The best way to prevent injury from robbery is to prevent the robbery from happening in the first place.”**

We ask that the Board take action and put in place the concrete solutions recommended. These solutions acknowledge and address the potential violence workers working late at night in gas stations and convenient stores are exposed to and would ensure that all workers in the industry are fully protected against the crime prevalent in their industry.

## **Appendix 1**

### **Workers' Perspective on Preventing Violence**

#### **Summary of B.C. Federation of Labour Gas Station Survey October 26, 2006**

On October 26, 2006, the B.C. Federation of Labour conducted a qualitative survey of 35 gas stations and co-located convenience stores in Burnaby, Kamloops, Langley, Maple Ridge and Vancouver. Out of the 35 work sites surveyed:

- 77 percent had workers who work alone for a significant period of time between 10:00 pm and 6:00 am;
- 17 percent of workers surveyed had two or more workers on late at night;
- 43 percent have been the scenes of acts of violence in the past year, ranging from verbal assault to armed robbery;
- 60 percent already have some sort of Pay-Before-You-Pump Policy but, the hours vary greatly station-to-station and were too often at the discretion of the worker;
- 91.4 percent of workers at these gas station favour WorkSafeBC's proposed regulations which would require customers to pay before they pump between the hours of 10:00 pm. and 6:00 am;
- 63 percent of workers wanted the **Pay Before You Pump Regulation** to be in effect 24 hours a day;
- 57 percent have some form of Locked Door Policy;

- 74 percent of workers working alone said they would feel safer if there were laws and regulations which required two or more workers on site between 10:00 pm and 6:00 am;
- 83 percent of workers surveyed who were working with one or more workers indicated they do not want to work alone at night;
- 83 percent of workers at these gas stations receive some sort of safety training regarding criminal violence; and
- 77 percent have a check-in procedure to monitor worker safety during shifts.

LB/smo/mp  
cops 15  
1000-06br-lb-working alone-nov2006