

Overview

Part 4: General Conditions

New section 4.20.1, Hazard identification, elimination and control

New section 4.23.2, Requirements for gas bars, service stations and other retail operations

New section 4.23.3, Worker's wages

Purpose:

To explicitly state the employer's obligations for doing hazard identification and risk assessment, and to eliminate hazards or reduce the risk from a hazard that cannot be eliminated to a level that is as low as practicable, where a worker is assigned to work alone or in isolation.

To establish specific considerations the employer must make to create safer workplaces where a worker is working alone or in isolation in a gas bar, service station or other retail operation late at night or through the night.

To clarify that an employer cannot require a worker to pay for the employer's business costs arising from a customer's failure to pay or from theft or damage arising from normal operations or from a robbery or violent incident perpetrated by a member of the public.

Rationale for Change:

The employer has general obligations related to hazard identification, risk assessment and elimination or control of hazards in all workplaces, but these obligations are currently not explicitly stated in the provisions related to working alone or in isolation. Making the requirement more explicit in the "Working Alone or in Isolation" area of the *Occupational Health and Safety Regulation* ("OHSR") is intended to foster a greater level of compliance and a subsequent reduction in the number of incidents and injuries to workers.

Robbery and/or violence in retail operations that are open late at night or through the night pose risks for workers who are working alone or in isolation. The proposed regulation stipulates specific considerations the employer must make in these circumstances to provide for the safety and wellbeing of such workers.

Under the *Employment Standards Act*, there are prohibitions on an employer requiring a worker to pay for the employer's business costs from theft or damage. Placing specific requirements in the OHSR related to this area is expected to create awareness of acceptable operating policies regarding employer's business costs and reduce the risk to workers from violence.

Key Issues:

- Clearly mandate the process of hazard identification, risk assessment and elimination or control of hazards as part of the employer's obligations for situations where a worker is required to work alone or is isolated from other people in the workplace.
- Specify the measures the employer must consider if a worker is working alone or in isolation at a gas bar, service station or other retail operation late at night or through the night.
- Set out that the employer must not require a worker to pay for business costs arising from a customer's failure to pay or from theft or damage.

Evaluative Mechanism:

Monitor the level of compliance with the "working alone or in isolation" provisions observed during WorkSafeBC inspections of gas bars, service stations and other retail operations open late or through the night. Also, monitor the claims count and claims costs from robbery or violence incidents at these operations.

Source:

WorkSafeBC

PART 4: GENERAL CONDITIONS

WORKING ALONE OR IN ISOLATION

Hazard identification, elimination and control	4.20.1	<p>(1) Before a worker is assigned to work alone or in isolation, the employer must identify any existing or potential hazards to which that worker is or may be exposed.</p> <p>(2) If a hazard is identified under subsection (1), the employer must take measures before the worker commences the work assignment</p> <p>(a) to eliminate the hazard, or</p> <p>(b) if elimination of the hazard is not practicable, to reduce the risk from the hazard as provided in subsection (3).</p> <p>(3) The employer must reduce the risk from a hazard under subsection (2) (b) to the lowest level practicable using engineering controls, administrative controls or a combination of engineering and administrative controls.</p>
Procedures for checking the well-being of a worker	4.21	<p>(1) The employer must develop and implement a written procedure for checking the well-being of a worker assigned to work alone or in isolation under conditions which present a risk of disabling injury, if the worker might not be able to secure assistance in the event of injury or other misfortune.</p> <p>(2) The procedure for checking a worker's well-being must include the time interval between checks and the procedure to follow in case the worker cannot be contacted, including provisions for emergency rescue.</p> <p>(3) A person must be designated to establish contact with the worker at predetermined intervals and the results must be recorded by the person.</p> <p>(4) In addition to checks at regular intervals, a check at the end of the work shift must be done.</p> <p>(5) The procedure for checking a worker's well-being, including time intervals between the checks, must be developed in consultation with the joint committee or worker health and safety representative, as applicable.</p> <p>(6) Time intervals for checking a worker's well-being must be developed in consultation with the worker assigned to work alone or in isolation.</p>
Training	4.22	A worker required to work in the circumstances described in section 4.21(1) and any person assigned to check on the worker must be trained in the written procedure for checking the worker's well-being.
Annual review	4.23	The procedure and system for checking a worker's well-being must be reviewed at least annually, or more frequently if there is a change in work arrangements which could adversely affect a worker's well-being or a report that the system is not working effectively.
Mandatory pre-payment at service stations	4.23.1	<p>(1) In this section, “urban area” means a town or a city with a population of more than 5 000 persons.</p>

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- (2) An employer must require that customers prepay for petroleum products sold in service stations in urban areas between the hours of 10:00 p.m. and 6:00 a.m.
- Requirements for gas bars, service stations and other retail operations** 4.23.2 If a worker is working alone or in isolation at a gas bar, service station or other retail operation between the hours of 10:00 p.m. and 6:00 a.m. and at risk from random violence or violence in association with a criminal act, the employer must consider implementing the following controls:
- (a) work procedures for handling money, and
 - (b) separation of the worker from public areas with locked doors or barriers that are substantial enough to prevent access to the worker, or
 - (c) work procedures requiring more than one person at the workplace during these work hours.
- Worker's wages** 4.23.3 (1) An employer must not require a worker to pay for any portion of an employer's business costs arising from a customer's failure to pay or from theft, damage, breakage, or damage to property.
- (2) Subsection (1) does not apply if the employer's business costs arose from an illegal act of the worker.
- (3) An employer may not, directly or indirectly, withhold, deduct or require payment of all or part of a worker's wages for any of the employer's business costs referred to in subsection (1) except as permitted or required by the Employment Standards Act, or by another enactment of the Province or of Canada.
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Explanatory Notes:

The above proposed section 4.23.1 (mandatory prepayment at service stations) is currently in the public hearing process through November 2006, numbered as proposed sections 4.20.1 and 4.23.1.

With the proposed additional regulatory language regarding requirements for gas bars, service stations and other retail operations, the previous posted sections 4.20.1 and 4.23.1 have been consolidated under new section 4.23.1. The content of the proposed wording out for the November 2006 public hearing has not been changed.

Proposed new section 4.23.1 (1) provides a definition for "urban area". Under the *Local Government Act*, municipalities with populations greater than 5,000 must be incorporated as a city. The Oxford English Dictionary 10th Edition defines "urban" as "relating to a town or city". Those two definitions were combined to define "urban area" as it applies in section 4.23.1 (2).

Proposed new section 4.23.1 (2) is intended to require that employers must implement mandatory prepayment for petroleum products sold in retail fueling outlets in urban areas between the hours of 10:00 p.m. and 6:00 a.m.

Prepayment means using a dispensing system requiring the customer to activate the fuel pump using a valid credit card or debit card, or cash, before fuel can be dispensed. If the dispensing system cannot handle cash transactions "at the pump", prepayment would require the customer

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to prepay with cash to the station attendant (worker) who would then remotely activate the pump to dispense the prepaid amount of product.

Sections 4.20.1, 4.23.2 and 4.23.3 are now being taken out for public consultation.

Proposed new section 4.20.1 is intended to make explicit in the *Occupational Health and Safety Regulation* (“OHSR”) the implied obligation that the employer must identify hazards, assess risks, eliminate hazards where practicable and control the remaining risk if a hazard cannot be eliminated. These obligations are required in situations where a worker is working alone at a workplace, or isolated from other workers at the workplace.

Common situations where a worker may be working alone and at risk are:

- A worker who handles cash such as a convenience store clerk, retail outlet employee, and taxi driver;
- A worker who meets clients out of the office such as a home care employee, social service employee, or by-law officer;
- A worker who does hazardous work with no regular interaction with other people such as a forestry worker, a worker in the freezer area of a cold storage facility or a night cleaner in a plant;
- A worker who is at risk of violent attack who is isolated from other workers or public view such as a security guard, custodian, night shift employee in a community care or out patient department.

Proposed new section 4.20.1 (1) is intended to ensure that before a worker is assigned or permitted to work alone or in isolation, the employer must go through a process to identify existing or potential hazards and assess the risk from each identified hazard.

Proposed new section 4.20.1 (2) is intended to require that if one or more hazards are identified under the process in section 4.20.1 (1), the employer must first look at ways to eliminate the hazard, and if that is not practicable, take measures to reduce the risk from the hazard to the lowest level practicable.

Examples of how section 4.20.1 (2) (a) might be put into effect to eliminate a hazard would include the use of the following means:

- Installing a system requiring prepayment for vehicle fuel at the pump using a credit card or debit card so no interaction with a station attendant (worker) is required;
- Use of video surveillance to remotely monitor an area instead of using an on-site security guard;
- Installing an automated payment system for services, such as parking, instead of using a cashier/attendant;
- Use of vending machines to dispense food or other convenience items rather than using a checkout cashier.

Proposed new section 4.20.1 (3) is intended to require if a hazard cannot be eliminated, the employer must implement controls to reduce the risk to the worker from the hazard to a level that is as low as is practicable. The options available to achieve this result are engineering controls and administrative controls. In selecting measures to reduce risk, preference should be given to implementing available and practicable engineering controls as such controls generally provide “passive protection” which is not dependant on a person taking a specific action. This

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can be particularly important in an emergency or crisis situation. However, where engineering controls are not practicable or do not reduce the risk to a level that is as low as practicable, administrative controls will need to be developed and implemented.

Generally a combination of engineering and administrative controls will be required to reduce the risk from a hazard to a level that is as low as practicable.

Part 1 of the *OHSR* has the following definitions:

"engineering controls" means the physical arrangement, design or alteration of workstations, equipment, materials, production facilities or other aspects of the physical work environment, for the purpose of controlling risk;

"administrative controls" means the provision, use and scheduling of work activities and resources in the workplace, including planning, organizing, staffing and coordinating, for the purpose of controlling risk.

Some examples of engineering controls include physical arrangements in the workplace to separate the worker from the customers and public by locked doors, barriers that are substantial enough to prevent access to the worker, or use of another type of secure enclosure.

Some examples of administrative controls include the use of some or all of the following means:

- Rearrange the work so that more than one person is always present in the workplace;
- Require mandatory on-site supervision of young workers by an adult;
- Use cash handling procedures that require the use of a locked drop safe, keeping only small amounts of cash accessible on the site, and posting signs indicating that the amount of cash on site is limited;
- Use of uniformed security guards;
- Prohibit high risk work activities during times when a worker is working alone;
- Use of a personal emergency call device the worker would wear on a lanyard around their neck and use to call for help in the event of a personal security or emergency issue.

The requirements for implementing a means of regularly checking the well-being of a person working alone or in isolation, as specified in sections 4.21 (1) to (6), for training in section 4.22 and for an annual review in section 4.23 continue to apply.

Proposed new section 4.23.2 is intended to provide more prescriptive direction to the employer (extending the general provisions of proposed section 4.20.1) to address the specific hazards at retail operations, such as gas bars, service stations and other retail operations between the hours of 10:00 p.m. and 6:00 a.m. where a worker has an elevated exposure to violence. These types of retail operations generally have cash on the premises and other products such as cigarettes that are frequently the targets in a robbery.

An employer may eliminate the hazard by requiring credit card payment at a pump, or by closing the operation between the hours of 10 pm and 6 am. If the employer remains open for business during these hours, evidence that the employer has considered the specific requirements in 4.23.2 must be provided. Where these specific requirements have not been implemented, the employer must be able to demonstrate implementation of other engineering and/or administrative controls to reduce risks to the lowest level practicable as required by section 4.20.1.

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Proposed new section 4.23.3 is intended to set out in the *OHSR* that an employer may not, directly or indirectly, withhold, deduct or require payment of all or part of a worker's wages for any purpose except as permitted or required by the *Employment Standards Act*, or by another enactment of either British Columbia or Canada, or by a regulation made under such an enactment. While this proposed section supports the provisions under the *Employment Standards Act*, it is proposed for inclusion in the *OHSR* to ensure the workplace parties are aware a worker cannot be required to pay for the employer's business costs, including business expenses arising from theft, damage, damage to the employer's property, or failure to pay by a customer. Some instances where these issues arise include "gas and dash", "dine and dash", shoplifting, or accidents involving the employer's vehicles and equipment. If a worker believes he or she may be required to pay for such losses, it engenders a desire to intervene to try to prevent the loss, theft, or damage which elevates the risk of violence occurring. Under sections 4.29 and 4.30 of the *OHSR*, the employer must develop and implement policies and train workers in the appropriate response to take during or following an incident when loss, damage or theft takes place.