

WorkSafeBC Hearings

Hello, my name is Brad Dunlop and I will be speaking on the proposed changes to the working alone or in isolation regulation. I am speaking on behalf of the 10,000 members of the North Okanagan Labour Council.

Thank-you for giving me this opportunity to speak to you today.

The North Okanagan Labour Council (hereafter referred to as "we") are supporting the regulation that will require:

1. 24 hour pay before you pump
2. That employers;
 - a) Lock the doors between the hours of 10:00 pm to 6:00 am and/or
 - b) Provide workers with a bullet-proof physical barrier and/or
 - c) Have two people on during the late night shift.

We also want to acknowledge the work that WorkSafeBC has done in the gas station inspections and stepping up enforcement.

Last year when WCB brought forward Grants Law, many concerns were raised about the situation of late night workers and the apprehensions that the prepayment of gas between the hours of 10:00 pm to 6:00 am did not address a number of concerns. We would like to thank the WCB for moving forward with the feedback from stakeholders and introducing this regulation to provide greater protection for workers who work alone, especially late night workers.

We would like to begin with comment on the 24-hour pre-payment requirement for all gas stations in all regions of the province.

Many incidents of gas-and-dash occur during the day. The transaction occurs when individuals put fuel into their vehicles and then instead of purchasing the goods, they leave without payment.

When a gas-and-dash occurs, there are repercussions such as workers feeling responsible for the loss, not wanting to see the company suffer a loss, or fearing that they will be perceived as bad workers for allowing it to happen. Although employers may have a "no chase" policy, they are not

always clear on this and it leads workers to put themselves on the line to recover the cost.

This proposed regulation is designed to prevent the “gas and dash” from occurring. The result of requiring pre-payment will take away any illegal requirement that employers will put on workers to chase after the customers who commit theft.

Requiring a worker to pay for loss of income to the employer is a clear violation of the Employment Standards Act and it also puts workers at risk. When workers are held responsible for covering the cost of theft, this leads them into vulnerable situations such as pursuing customers for payment.

While we support the regulation that requires 24 hour pre-payment, and agree that it is an important addition to this regulation, we are pleased that there have been more additions made. Pre-payment is an important step towards creating a safer workplace within the gas station environment. However it does not address all of the reasons that workers face violence and fear in the workplace, especially late at night.

In a WCB publication "Preventing Violence, Robbery and Theft" it is stated that out of 1,200 workers surveyed by the retail association a full 21 percent had been subject to violence or aggressive acts. The B.C. Federation of Labour has also conducted three surveys that found that the number of workers who experienced violence doubled when they only spoke with workers who worked late at night.

This proposed regulation addresses the significant challenges that late night workers face and gives clear direction on how to ensure that these workers have some protection while working alone.

In all sectors, working alone can put workers at risk of violence among other things. Check-in procedures will only let people know of incidents after something has already occurred.

The current regulation only requires employers to do risk assessments if the worker is deemed at risk of violence. Once the assessment is done, the employer is to eliminate, and when that is not possible, they are to reduce the risk. This also leaves employers to determine what steps need to be taken and in most if not all instances, the solutions are ineffectual.

Of the 366 gas stations WorkSafeBC inspected in July 2006, it was discovered that most of the stations did not follow the current regulations as they stand. It was stated in the media release that “the pilot phase of this initiative has resulted in virtually every inspection documenting violations and issuing orders.” This non-compliance rate is of course unacceptable.

This shows that the current regulations that are in place to protect workers who work in gas stations and convenience stores are not being followed.

WorkSafeBC inspections show that most employers have not:

1. Properly evaluated the risk involved in doing the job; and
2. Developed a working alone procedure to check on the workers who are working alone.

Considering the results of these inspections, there needs to be more done than changing the prepay rules to ensure safety, as it may be one step to reducing risk, it does not do enough to eliminate the risk.

The current regulation allows the employer to decide on the steps that need to be taken to lessen the risk. The regulation assumes that the employer

will take the responsibility to do so. However it has been proven by the WorkSafeBC inspections that this is an unfair assumption.

The measures that are defined in the proposed regulation in section 4.20.2 will assist by stating clearly that the employer must do both a risk assessment and eliminate or minimize the risk.

In order to deal with the rising occurrences of theft and violence there needs to be prescriptive regulations that clearly state what the employer needs to do in order to ensure the risks are eliminated.

Section 4.22.1 highlights the late night requirements for employers is an excellent addition to the regulation. It specifies what an employer must do in the event that they choose to stay open late at night.

The proposed regulation brings forward two options for employers that would both be preventive measures to protect late night retail workers such as requiring that they have two people on shift or a barrier to provide protection for the worker. Ideally, it would be great to see both of these measures put in place to ensure the greatest level of safety for the workers.

Having two people on shift at all times would lessen the risk to the workers by serving as a deterrent as well as having a second person with the worker if something were to happen. The “buddy system” has worked well in many other situations over the course of history. While some late night retail operations may have a check-in procedure based on time intervals, it does not let people know that the worker is in danger until after an incident has happened. Regulations that are in place to only protect workers after an incident has happened are really not effective in protecting the worker.

As we now see in many gas stations, the ability to lock the door, or secure from physical contact with customers, is a possibility. Limiting customer access to the workers reduces the potential of violence acts as a preventative measure. Most of us are well aware of this, we lock our doors at home to protect us from this possibility. It is important that we not only protect workers from violence, but also ensure that they are able to work free of the fear of violence.

We would also like it noted that these changes are a clear indication that WCB has recognized the risks that late night workers face. However it will only be effective if there is the enforcement to ensure that the employer complies with the regulations. It is clear from the initial gas station blitz that

WCB did last year that employers are not complying with the most basic regulations.

Ultimately we need to consider the workers who are predictably at risk of violence every time they go to work. According to a 1998 International Labour Organization (ILO) study, the effects of violence have a greater cost than any of the systems that would be required by this regulation. Workers who have experienced violence suffer from physical injury, post-traumatic stress, loss of sleep, depression, self-blame and many other symptoms that are a result of the incident.

The cost to the employer should also be considered. Workers who have experienced violence, lose trust in their employer and may be likely to find other employment after the incident. Productivity is reduced and the worker is likely to require increased time off. Hence the term "false economy" applies.

Prediction and prevention are key to ensuring the safety of all workers. We believe every worker has the absolute right to go home after their shift in the same condition as they reported to work. We encourage the Board to move forward on these regulations without any undue delay.

Thank- you for your time.