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WESTERN CONVENIENCE STORES ASSOCIATION

June 26, 2007

Honourable Olga Ilich
Minister of Labour and Citizens Services
PO BOX 9052, STN PROV GOVT.
Victoria BC
V8W9E2

Dear Minister Ilich

Let me first thank you on behalf of our members for your office's securing of a two week extension to the deadline for submissions to WorkSafeBC regarding proposed amendments for Part 4: General Conditions in the Occupational Health and Safety Regulation.

That extension is very much appreciated and required. WorkSafe BC claims to have provided adequate notice to stakeholders but I can confirm that as recently as yesterday a meeting of our Board of Directors confirmed that no notice of the consultation process had been received by any member companies, large or small. 7-11 confirmed that they had not received any notice and they have 100 locations impacted in BC. Mac's, who have 60 stores in BC, confirmed that they learned of the consultation through a lawyer that was working for them on another file who asked them if they were aware of the consultation process. It was then that Mac's decided to attend one of the consultation meetings and was shocked to learn they were the only convenience store retailer in attendance and contacted us. These two significant companies have the systems and resources in place to ensure that such notices are not missed. However, we have real concern for those small, independent operators who certainly do not have the same level of resources and have no idea as to what is being proposed and the devastating impact the changes could have on their small businesses.

We have confidence that you understand that the convenience store business has been based on being open 24 hours a day, 365 days a year, providing goods and services at any time customers want them. The 10 p.m. to 6 a.m. time period addressed by the proposed changes is not the busiest time of the day and simply does not warrant and cannot support having two people on staff. In addition, with the labour climate in BC being as stressed as it is, the result of a booming economy, it is difficult to find single employees to work those hours. Requiring two employees will not only be uneconomic but extremely difficult to fulfill.

Installing an "employee cage" in most convenience stores is also highly impractical. An important aspect of making it economically viable to stay open during that time period is that the late night staff person performs important duties not performed during the day such as restocking shelves and cleaning.



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There are many alternatives to ensuring employee safety and our submissions to WorkSafe BC will outline them in detail. We will also provide you with a copy of our submission.

We thank you again for your interest in ensuring the viability of these businesses.

Yours truly

A handwritten signature in black ink, appearing to read "DC", is written above the typed name.

Dave Cowley
President
Western Convenience Stores Association

cc.

David Anderson
President and CEO
WorkSafe BC
PO Box 5350 Stn Terminal
Vancouver BC
V6B 5L5

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WESTERN CONVENIENCE STORE ASSOCIATION

Written Submission

**Re: Proposed Amendments – Part 4: General Conditions,
Occupational Health and Safety Regulations**

July 13, 2007



WESTERN CONVENIENCE STORE ASSOCIATION

Response to the proposed Amendments – Part 4: General Conditions, Occupational Health and Safety Regulations

Submitted to: WorkSafeBC

Main Building
6951 Westminster Highway
Richmond, B.C.

Attention: Anne Birch, Director of Policy and
Prevention Review

Submitted by: Western Convenience Store Association

#119 - 807 42nd Ave. S.E.
Calgary Alberta T2G 1Y8
403-271-0964

Enquiries may be made to: Dave Cowley, President



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The Western Convenience Stores Association

- Represents 700 chain and independent businesses in British Columbia, many of which are small, independent, family operated businesses
- 7,000 employees
- 75% of convenience stores in Western Canada
- Generate significant employment opportunities for young people
- Contribute approximately \$800 million in revenue to the BC government
- Founding members include 7-Eleven Canada, Mac's, Husky Energy, Petro-Canada, Short Stop Foods and Imperial Oil

Preamble

The convenience store business in North America is rooted in the era of the small, independent, family corner business. Family members were called upon to keep these small enterprises open long hours so to serve local neighbourhoods when customers were looking for that last minute, small purchase. That was the business model necessary to remain in business. While much has changed over decades of serving neighbourhoods the basic business model remains intact – provide local people with access to those last minute, small purchases when it is convenience to the customer.

While WCSA member stores are now often owned and operated by business chains there remains many small, family owned businesses that depend on their entrepreneurial spirit and management skills to remain in business. Profit margins for all operations, regardless of ownership, have become increasingly narrow as competition and amalgamation occurs and the ability to absorb costs is extremely limited.



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With a business model based on family owned and operated enterprises it is not difficult to imagine how important employee safety is. Whether a family business or a store owned by a chain the few employees in the stores have a family or family like bond and safety is of paramount concern. The safety of employees is of great concern to all WCSA members.

The Challenge is to maintain a viable business while ensuring the safety of those individuals working in the stores. The balance between eliminating any and all risk to all employees at all times and the very viability of the business is one that must be considered when contemplating regulatory changes.

Worker safety is not something businesses are willing to compromise but any change in the name of safety must be carefully assessed to ensure that the added business cost is warranted as a realistic and proven solution to a real problem. To not do so results in businesses being no longer viable and jobs no longer existing.

The two changes being contemplated by WorkSafeBC that are alarming to our members can only be characterized as expensive requirements in the extreme.

1. A minimum of two employees between the times 10 pm and 6 am.
2. Construction of a barrier between the employee and customers.



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Response to the proposed Amendments:

1. A minimum of two employees between the times 10 pm and 6 am.

The Cost:

It has been estimated that the cost of adding a second employee approaches \$30,000 per year. That cost alone renders many stores unviable. The hours in question are far from being the busiest business hours and two employees are not warranted to operate the store from a business point of view. In addition, the employment reality in BC today is that the booming economy makes it increasingly difficult to find and keep one employee to work those hours. Finding a second will be an extreme challenge and hardship. It must be appreciated that there are many stores that do not stay open during the entire night but may remain open until eleven o'clock or midnight. The proposed changes would require that an employer find a part time employee willing to work for that short a period and that could be very difficult. In addition, it may require an employer to bring in a part time employee for an hour but the business would be required to pay for a minimum of two hours according to current labour laws.

The effectiveness:

The second facet to consider is whether or not the proposed requirement would contribute to meeting the objective of a safer workplace.

While the casual uninformed observer may think the answer to the question is an unconditional yes the available research disagrees and WorkSafeBC has not provided any evidence that the changes would be effective.



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In fact, research conducted by Athena Research Corporation for the U.S. National Institute for Occupational Safety and Health concluded that adding a second clerk to one-clerk stores does not prevent robbery attempts in convenience stores. Following implementation of the two employee rule in Florida the robbery rate over the ensuing three years went down but homicides went up by 50%. The increased homicides were predicted simply as a result of the requirement to have two employees in the store at all times. More people exposed resulted, unfortunately, in more homicides.

In addition, further research by the National Academy of Science concluded that the reduction in robberies was more likely the result of the apprehension of a group of men responsible for multiple robberies rather than the two-clerk requirement. The National Institute of Justice also reviewed the Florida study and concluded that the decrease could have resulted from the arrests outlined above and "we cannot be certain the decline was due to the two-clerk rule." They believe that a number of factors lead to the decrease including a greater sensitivity to the issue within the convenience store industry and police.

A U.S. National Institute of Occupational Safety and Health (NIOSH) study designed to assess the injury risk in robbery situations found that the employee risk of injury was not significantly different between one-employee and multiple employee stores. The NIOSH concluded that there is no evidence of increased safety with two clerks over one and that the evidence was insufficient to base a recommendation for two clerks over one. They too concluded that greater exposure (two rather than one clerk) resulted in increased injuries, completely consistent with the Florida findings.



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Conclusion:

The evidence concludes that by adding another employee the operator increases employee exposure to assault and injury and that in fact injuries to employees increase as a result. The appropriate conclusion is that rather than increasing employees' exposure to the risk of injury government, employers and employees should concentrate on ensuring proven security measures are implemented in all stores and to continue determining new measures that may assist in meeting the objective of providing a perfectly safe workplace.

"The two-clerk issue has essentially been put to rest and is not considered to be an effective measure for robbery and violence deterrence." -

Rosemary J. Erickson, Ph.D – Athena Research

2. Construction of a barrier between the employee and customers.**The Cost:**

The estimated cost of constructing an acceptable barrier is \$35,000 but that investment is only the initial cost of a very costly program.

Convenience stores sell a great variety of products and those products may be displayed for sale in stores ranging from 1000 to 2500 square feet. As the business is slowest on the overnight shift that is often when the employee uses this slower time frame to replenish shelves and clean the store. These are duties often the responsibility of the overnight shift employee. If that employee was not available to conduct that work it would result in the business suffering the cost of either contracting out the cleaning and attempting to restock shelves during a busier period of the day or hiring another employee which would negate the need for the barrier.



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The effectiveness:

The barrier measure may prove effective for applications such as fuel kiosks but is simply not practical for convenience stores. Having the employee restricted to remaining within the barrier eliminates that employee's ability to perform the duties, restocking and cleaning, that warrant having an employee in the store overnight.

A significant number of research studies have been conducted in an effort to determine the effectiveness of barriers. While this research has not been conclusive that barriers are effective research on what deters robbers indicates more effective means of deterring robbers is available and those validated deterrence measures are:

- Keeping low amounts of cash in the register
- Ensuring good visibility
- Maintaining good lighting
- Limiting access and escape routes
- Training employees in proper behavior

Conclusion:

Why put the very existence of businesses at risk on the basis of inconclusive evidence that the proposed remedy would provide the desired effect? It would be prudent to ensure validated protection measures are implemented and monitored closely on an industry wide basis.



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The WCSA primary recommendations:

1. That WorkSafeBC review their proposals through the Business Lens created by the Ministry of Small Business and Revenue to ensure that the future viability of the business impacted is provided adequate consideration. The application of the Lens is now required by all Ministries of government when considering legislation and regulations relating to business. This process has already proven valuable in reaching consensus on solutions to difficult and complicated issues such as employee safety
2. That WorkSafeBC establish a joint working committee between WorkSafeBC representatives and representatives of the businesses impacted to ensure that a comprehensive understanding of the business operations can be applied to ensuring the safety of employees. The WCSA would be pleased to assist in facilitating such a process and remains confident that such a cooperative process would result in the very best opportunities to ensure worker safety.
3. That WorkSafeBC become fully conversant with the many programs and policies that have been implemented by many retailers to ensure the safety of employees. They include but are not restricted to:
 - Limit the amount of cash, lotto tickets and tobacco products that is accessible during high risk hours.
 - The use by employees of P.E.T.s (personal emergency transmitter) that is monitored by a security company 24/7.
 - P.E.T.s to be tested and tests recorded on a regular basis and the process included in management job requirements.
 - The use of safes with appropriate time delay locks.
 - The use of digital CCTV systems



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- Extensive robbery prevention education for all employees with regular refresher courses.
- Regular security audits
- Store design to consider lighting, access and egress with an objective to enhance employee safety
- Intensive training for all store management to ensure that they are not only aware of their duties but their responsibilities in ensuring employees remain safe.

Summary:

The membership of the Western Convenience Store Association is unanimous in recognizing employee safety as being of paramount importance. In fact, the WCSA supports WorkSafeBC's recommendation for requiring 24/7 pre-pay for gas on a universal basis. We are anxious to participate in identifying and implementing strategies that will enhance the safety of employees and customers. Our members simply ask that they be included in the discussion of what programs are to be implemented as applying programs that do not provide the desired results will only delay implementing those that will work and all while endangering the very existence of some businesses.

We would very much appreciate the opportunity to work in a cooperative fashion with WorkSafeBC to ensure employee safety and offer to dedicate resources to do so. The foremost authority in North America, Rosemary J. Erickson, Ph.D, of the Athena Research, San Diego, California is available to us and one of our members has offered to bring Ms Erickson to British Columbia for consultation if and when you agree to a process for further discussions.



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For further information please contact:

Dave Cowley
President
Western Convenience Stores Association

Hii, Helen

From: on behalf of Regulation Review - External Queries (SM)
Subject: FW: Western Convenience Stores Assoc Dave Cowley

Your submission has been received.

Submission ID: P09.SC6.WJ2.SV4

Part 4: General Conditions, relating to working alone or in isolation

1. Name: Dave Cowley

- (a) Feedback is provided: on behalf of
Organization: Western Convenience Stores Assoc. Job Title: President
- (b) Feedback is provided: from an employer's perspective

2. E-mail:

3. Feedback:

Section #:4.22.1

Comments:This would add extreme costs to many of our members through either wages or captil costs. Many of the smaller family run business would probably have to close. There are many studies that have been done that do not support 2 workers present a safer workplace. I have sent by courier our submission as well as e-mailed a copy to Terri Holizki for distribution. This submission outlines in detail our position as well as studies and what precautions are already in place by our members.

4. Please indicate your level of support of the proposed amendments:generally disagree

5. If you agree or disagree with the proposed amendments, please provide reason(s):

Section #:4.22.2

Comments:WCSA supports the initiative of mandatory prepay for fuel in gas stations and other retail fueling outlets.