



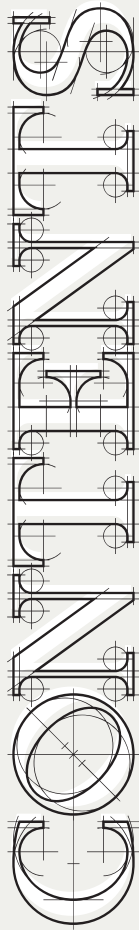
# Safer by Design

How Alberta Can Improve  
Workplace Safety



Bob Barnetson and Jared Matsunaga-Turnbull





# Safer by Design: How Alberta Can Improve Workplace Safety

Bob Barnetson and Jared Matsunaga-Turnbull  
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- sponsor conferences and public forums on issues facing Albertans.
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## Executive Summary

In late 2017, Alberta passed Bill 30, *An Act to Protect the Health and Well-being of Working Albertans*. Bill 30 made significant changes to the legislation governing both occupational health and safety (OHS) and workers' compensation, including introducing an expanded right for workers to refuse unsafe work; increasing protection for workers against employer retaliation for refusing unsafe work; and mandating joint health and safety committees in workplaces with 20 or more workers.

The government hopes these changes will reduce Alberta's high level of workplace injury, which totaled some 44,543 reported disabling injuries in 2016. Unfortunately, research suggests that enacting additional rights and obligations does not, by itself, reduce injury rates. Other important factors include workers' willingness to exercise those rights and employers' willingness to comply with their OHS obligations.

To help better understand how workplace injury-prevention efforts actually work in Alberta, we undertook an online poll of 2,000 workers. It revealed:

### **1. Most workplace injuries are not reported**

The survey data suggests there were approximately 170,700 disabling injuries in Alberta in 2016, of which 69.1% went unreported, and that approximately 408,000 Alberta workers—roughly one in five—experienced at least one work-related injury in 2016. These findings reveal that government data radically underestimates the true level of work-related injury, and that government and employer injury-prevention efforts are insufficient.

### **2. Most employers violate Alberta's safety rules**

The survey also suggests that only about half of Alberta employers were complying with the basic requirements of the OHS Code. Only 50% of respondents reported their workplace had developed written hazard assessments; only 45% reported that their employers regularly allowed them input into hazard-control strategies; and only 59% of respondents reported their employer regularly provided specific information about hazards to which the worker was exposed and how to control them.

### **3. Workers are afraid to exercise their safety rights**

Between 10% and 23% of workers reported that exercising specific rights would have had a negative effect on their employment. Workers who were routinely exposed to a high number of hazards in their workplace reported levels of fear that were up to four times higher than average.

These results suggest that there is a fundamental problem with the Internal Responsibility System (IRS) in Alberta: workers are often unwilling to exercise their safety rights, both because of a fear of retaliation and an expectation that government intervention will not be effective. These concerns were borne out by the experiences of those who did report workplace hazards: a full third of workers who complained to the government about an unsafe workplace said no inspector came to their workplace in response, while 11% indicated their employers punished them for complaining.

## **Recommendations**

Despite the legislative improvements created by Bill 30, significant operational changes are necessary to reduce the annual tally of occupational fatalities, injuries, and illnesses. Our 13 recommended changes fall into three categories:

### **Increasing inspection levels**

1. Increase the number of government inspectors
2. Inspections should be targeted and proactive
3. Allow inspections by civil society groups

### **Introducing meaningful and mandatory consequences for violations**

4. Orders must be public, tracked, and enforced
5. Penalties should be mandatory and escalating
6. Violators should be publicly shamed
7. Additional prosecutions should take place
8. Inspectors should stop ticketing workers
9. Retaliation should be prosecuted

### **Improving worker-focused safety education**

10. OHS should be better integrated into the K-12 curriculum
11. Government should develop worker-focused OHS education
12. Government should fund independent OHS education for workers
13. Government should fund independent training for worker Joint Health and Safety Committee representatives



## 1. Introduction

In 2014, “Betty” was employed doing food prep in an Edmonton restaurant, working six days per week, often for 8 to 10 hours at a time. Her job entailed heavy lifting, repetitive motions, and few breaks. After several months, Betty started to experience discomfort in her left arm.<sup>1</sup>

Betty initially managed her pain with over-the-counter medicine. Over time, her symptoms got worse and included pain radiating up and down her left arm and a loss of function in her hand. These are classic symptoms of nerve entrapment, often caused by overuse. Betty’s doctor recommended she take time off over the 2014 Christmas season to rest her arm.

Betty returned to work in early 2015. Her employer accommodated her request to work fewer days and fewer hours (reducing her pay commensurately). He also paired her with a co-worker who could perform the heavy lifting. The rest and lighter duties initially meant her symptoms were reduced.

“I thought I was young,” said Betty. “I had never had any health problems in my life before I got my elbow injury. I assumed I was recovering.”

Over the next few weeks, however, Betty’s symptoms started to return. Her employer knew things were getting worse but took no action to control the workplace hazards that were causing her problems, as he was required to by the *Occupational Health and Safety Act*. The employer also didn’t report the injury to the Workers’ Compensation Board (WCB), which would likely have resulted in a paid medical leave (a time-loss claim in WCB parlance).

Betty also didn’t report her injury to the WCB because she didn’t know she could. “I am an immigrant. I did not know what the WCB was or that I have to report an injury. How would I know that?” Interestingly, none of the four doctors Betty dealt with in 2014 and 2015 reported her injury to the WCB, despite all of them knowing that it was work-related.

Continued exposure to the hazard and the delay Betty experienced in getting treatment for the underlying problem meant that the effects of the nerve entrapment were becoming permanent and incapacitating.

She was soon unable to flex her elbow. This interfered with eating and personal grooming. Her discomfort was also worst at night, meaning she often couldn’t sleep. The over-the-counter pain medications she was using to reduce the inflammation and manage her pain so upset her stomach that she lost between 8 and 10 kilograms.

In the end, Betty's only recourse was to take a leave from work. As a result of the uncontrolled hazards in her workplace, Betty now has permanent loss of functioning in her arm and hand, which means she is unable to work. A few days after eventually reporting the injury to the WCB, she was terminated by her employer.

Like every workplace injury, Betty's story is unique in its details. But her experience is commonplace: she faced an obvious workplace hazard, her employer failed to control it, and she was injured. Her injury wasn't reported and, as a consequence, her injury became worse over time.

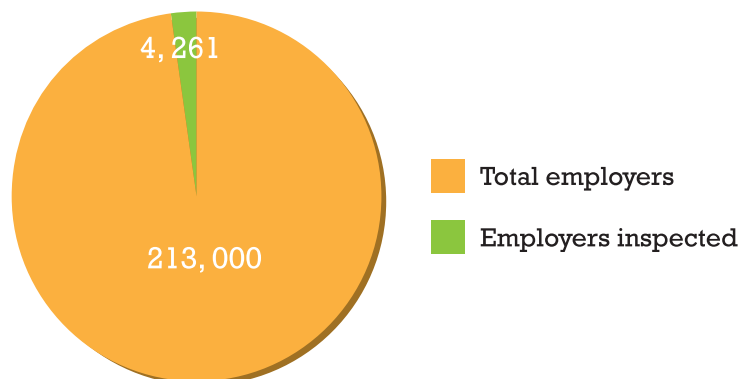
## 2. Bill 30: Alberta Improves Its Injury-Prevention System

Alberta enacted the *Occupational Health and Safety Act* in 1976. This legislation makes employers responsible for identifying and controlling workplace hazards. Workers are expected to cooperate with employers' hazard-control efforts. Where disputes about occupational health and safety (OHS) arise, government inspectors can step in to order changes. This basic structure has remained unchanged since the 1970s.

The system is anchored by the Internal Responsibility System (IRS) which expects workers and employers to work together to make workplaces safer. Only when this approach fails to control hazards does the government consider stepping in to enforce safety regulations. How actively the government enforces the OHS Act is, in part, a function of the political climate. Presently, OHS enforcement remains fairly passive, mostly reacting to injury events and complaints.

Alberta spends about \$45 million each year on enforcement and injury prevention, including employing about 130 OHS inspectors who visit workplaces, respond to complaints, and investigate injuries and fatalities.<sup>2</sup> The budget nearly doubled between 2010 and 2017 to upwards of \$47 million.<sup>3</sup> In 2016, inspectors conducted approximately 7,600 inspections affecting 4,261 unique employers (see Figure 1). While this sounds like a large number of inspections, in reality, fewer than 2% of Alberta employers were inspected—meaning that the other 98% were not.<sup>4</sup>

**Figure 1: OHS Inspections in Alberta, 2016**



Source: Alberta Labour (2017b)

Enforcement activities included writing approximately 7,000 compliance orders, which require the employer to correct an unsafe condition but do not entail any penalty. The government also charged 12 employers (or groups of employers) under the OHS Act, levied seven administrative penalties (ranging from \$2,500 to \$42,500), and issued a small number of low-value tickets to both employers and workers.<sup>5</sup>

In late 2017, Alberta passed Bill 30, *An Act to Protect the Health and Well-being of Working Albertans*. Bill 30 made significant changes to the legislation governing both occupational health and safety and workers' compensation. The key injury-prevention changes included:

- Introducing an expanded right for workers to refuse unsafe work.
- Increasing protection for workers against employer retaliation for refusing unsafe work.
- Mandating joint health and safety committees (JHSCs) in workplaces with 20 or more workers (smaller workplaces must now have OHS representatives).
- Expanding the scope of the legislation to better address new forms of work (e.g., temp agencies, self-employed persons, and volunteers).
- Introducing new protections around workplace violence and harassment.
- Requiring the publication of more information about OHS compliance and enforcement, including the results of investigations.

The government hopes these changes will reduce Alberta's high level of workplace injury, which totaled some 44,543 reported disabling injuries in 2016. According to Labour Minister Christina Gray:

[E]very year hard-working Albertans are killed or injured on the job, and these incidents don't just affect the workers involved. They affect families, communities, friends, co-workers, and employers.

But workplace illnesses and injuries and fatalities are not an inevitable part of life. They can be prevented with proper precautions, public awareness, training, and effective enforcement of legislation.<sup>6</sup>

Past research suggests that enacting additional rights and obligations does not, by itself, reduce injury rates. Other important factors include workers' willingness to exercise those rights and employers' willingness to comply with their OHS obligations.

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**There were approximately 170,700 disabling injuries in Alberta in 2016, of which 69.1% went unreported.**

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To help better understand how workplace injury-prevention efforts actually work in Alberta, we undertook an online poll of some 2,000 workers.<sup>7</sup> It revealed:

- There were approximately 170,700 disabling injuries in Alberta in 2016, of which 69.1% went unreported.
- Only half of Alberta employers were complying with basic OHS requirements.
- A significant number of workers were scared of exercising their OHS rights (e.g., only 33.6% of workers refused unsafe work) and levels of fear were highest in workplaces where workers faced the highest risk of injury.

In the sections that follow, we examine these three findings in more detail. Overall, what they tell us is that the government will need to take additional, non-legislative steps to ensure Alberta workers and workplaces are safe and healthy.

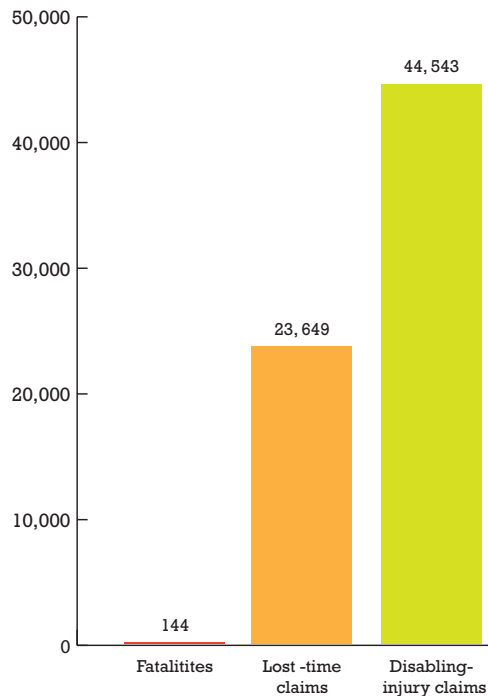
### 3. Most Workplace Injuries Are Not Reported

Injury statistics are an important measure of how effective an injury-prevention system is operating. Alberta routinely reports three different injury measures:

1. **Fatalities:** Fatalities are deaths attributable to occupational causes (i.e., workplace incidents, work-related motor vehicle accidents, and occupational diseases) that the WCB accepts as compensable (i.e., deaths arising out of and occurring in the course of work).
2. **Lost-time claims:** Lost-time claims are injuries that prevent a worker from working the next day that the WCB accepts as compensable.
3. **Disabling-injury claims:** Disabling-injury claims are injuries that either prevent a worker from working the next day or require the worker’s job duties to be modified and that the WCB accepts as compensable.

Figure 2 outlines the level of reported injuries in 2016.<sup>8</sup> While these levels of injury have been in slow decline over time<sup>9</sup> there is significant evidence to suggest that these statistics only record a portion of all work-related injuries.

**Figure 2: Work-related Fatalities and Injuries in Alberta, 2016**



Source: Alberta Labour (2017e)

The most obvious missing injuries are those injuries that occur to workers outside of the workers' compensation system (about 7% of workers) and those injuries which are not accepted as compensable by the WCB (about 10% of claims).<sup>10</sup> The largest source of missing injuries is, however, injuries that are simply not reported.

The exact rate of fatality under-reporting is difficult to establish. A UK study suggests that official figures report only 20% of occupational fatalities.<sup>11</sup> Deaths caused by occupational diseases are a key source of fatality under-reporting, since occupational diseases have long latency periods and murky causality. Workers are typically diagnosed decades after they were exposed to hazardous substances and often have no knowledge of the exposure. Filing a workers' compensation claim also often takes a back seat to seeking treatment and/or preparing to die.

For example, mesothelioma is a form of cancer closely related to occupational exposure. Approximately 80–90% of cases in men and 20–30% of cases in women are occupationally related. A recent BC study found that only 33% of mesothelioma victims filed workers' compensation claims.<sup>12</sup> That a disease with a clear occupational cause, and for which WCB claims are almost never refused, has such a significant degree of under-reporting strongly suggests there are a large number of unreported fatalities due to occupational diseases.

It is also widely accepted that lost-time and disabling-injury claims are under-reported. Under-reporting may be caused by workers fearing workplace repercussions for reporting. Employers may also offer various workarounds in orders to prevent workers' compensation claims (which drive up employer premiums). Workarounds may include unofficial (or sometimes phony) modified work arrangements and the use of short-term disability benefits to cover wage losses.

Our study found that approximately 21.5% of workers experienced a major or minor injury or illness related to their job during the previous 12 months. Extrapolated to the provincial population, this suggests approximately 408,000 Alberta workers—roughly 1 in 5—experienced at least one work-related injury in 2016.

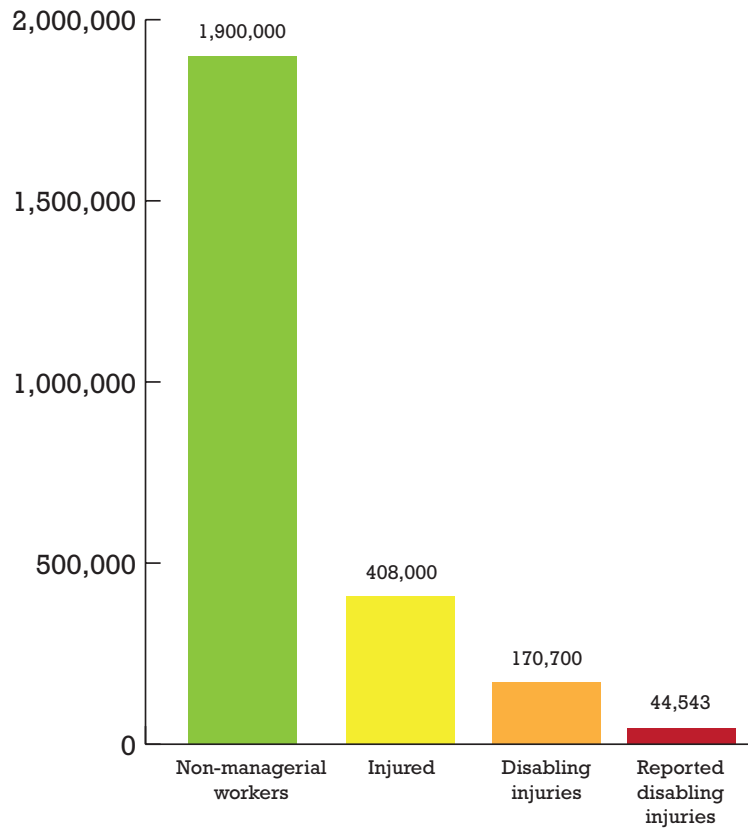
Of the workers who experienced injuries, 41.8% experienced at least one disabling injury. Again, extrapolated to the entire population, this suggests there were approximately 170,700 workers who had disabling injuries in 2016 (see Figure 3). Yet, only 31% of these disabling injuries were reported to the WCB (see Figure 4).<sup>13</sup> This level of under-reporting of compensable injuries in Alberta is consistent with a similar study conducted in 2002.<sup>14</sup>

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**Figure 3: Injuries in Alberta’s Workforce, 2016**



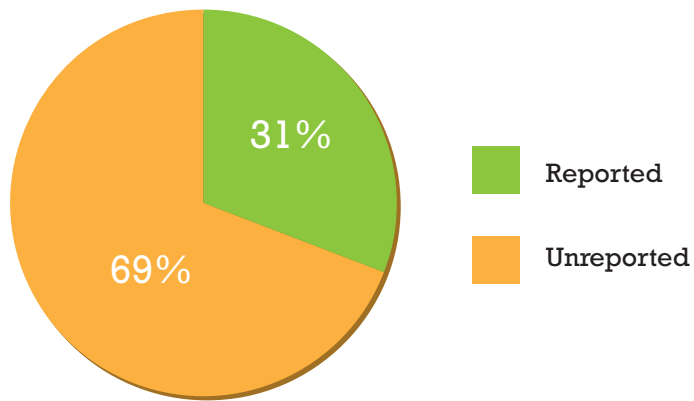
Sources: Extrapolated from survey data (see Endnote 7) and Alberta Labour (2017e)

In short, this research suggests that nearly 9% of Alberta workers are injured each year to the extent that they require modified work duties or time off of work. This, in turn means:

1. government injury data radically underestimates the true level of work-related injury, and
2. government and employer injury-prevention efforts allow 1 in 5 Albertans to be injured on the job.



**Figure 4: Reporting of Disabling Injuries in Alberta, 2016**



Source: Extrapolated from survey data (see Endnote 7)

What explains this high level of workplace injury? The root cause of most workplace injuries is the presence of uncontrolled hazards in the workplace. The presence of such hazards reflects that:

1. employers frequently don't comply with key OHS rules requiring hazard control,
2. workers are too scared or unwilling to complain, and
3. current OHS inspection efforts are not effective at making workplaces safe.

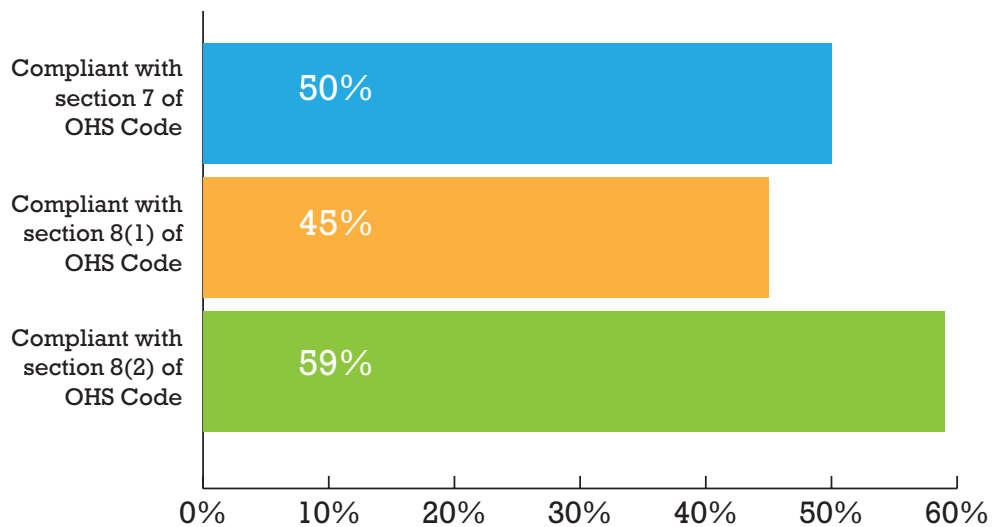
We look at these factors in the sections that follow.

## 4. Most Employers Violate Alberta's Safety Rules

Our study asked workers about the degree to which their employer complied with basic OHS rules. The results revealed widespread non-compliance (see Figure 5).

- Section 7 of the OHS Code requires employers to develop written hazard assessments in order to identify and control hazards. Only 50% of respondents reported their workplace had a hazard assessment.
- Section 8(1) of the OHS Code requires employers to involve affected workers in the assessment and control of hazards. Only 45% of respondents reported that their employers regularly allowed them input into hazard-control strategies.
- Section 8(2) of the OHS Code requires employers to inform affected workers of identified hazards and the methods used to control such hazards. Only 59% of respondents reported their employer regularly provided specific information about hazards to which the worker was exposed and how to control them.

**Figure 5: Employer Compliance with OHS Requirements, 2016**



Source: Extrapolated from survey data (see Endnote 7)

Approximately 16% of workers indicated they had faced one or more instances of unsafe work in the prior 12 months. Although Section 31 of the OHS Act provides workers the right to refuse unsafe work, workers reported refusing unsafe work only 33.6% of the time.<sup>15</sup> Other studies have also found low rates of refusal.<sup>16</sup> This pattern suggests that workers facing unsafe work often experience pressure not to refuse the work.<sup>17</sup>

Respondents who were exposed to unsafe work but who didn't exercise their right to refuse were asked why they didn't refuse (the total is more than 100% because respondents could select more than one answer). Among non-refusers:

- 32% declined to exercise their right because they did not want to be known as a troublemaker
- 26% believed their concern would not be taken seriously
- 16% were pressured by their supervisor to keep working
- 14% were pressured by their co-workers to keep working
- 14% feared being punished

Section 31 of the OHS Act requires employers to investigate and control any hazards when there is a work refusal, but this does not appear to occur in practice. In our study, only 24% of refusers reported that their employer made the work safer. Other employer responses included:

- 34% required the worker to do the job even though it was unsafe
- 28% asked another worker to do the job
- 20% punished the worker for refusing

Interestingly, even among the 24% of refusers whose refusal resulted in the employer making the work safer, nearly a quarter (23%) also reported being punished for their refusal. When combined with a refusal rate of only 33.6%, employers' limited responsiveness to refusals raises profound questions about whether the right to refuse is at all meaningful or effective.

Widespread non-compliance with the most basic of OHS requirements suggests the Internal Responsibility System (IRS) is not working as intended. In theory, workers are supposed to insist upon their rights by reporting their employer to the government. However, workers' willingness to police employer behaviour turns upon workers' perception of whether reporting non-compliance will be an effective course of action.<sup>18</sup>

## 5. Workers Are Afraid to Exercise Their Safety Rights

Workers reported notable levels of fear associated with exercising their safety rights. Between 10% and 23% of workers reported that exercising specific rights would have had a negative effect on their employment. Workers who were routinely exposed to a high number of hazards reported levels of fear that were up to four times higher than average (see Figure 6).

### Figure 6: Worker Fear and Safety Rights

Percentage of workers surveyed who said the following actions would have a negative effect on how they are treated by their supervisor or employer.

	Overall	Workplace with 7+ Hazards
Asking for health and safety information from a supervisor or employer	10%	43%
Raising a health and safety concern with a supervisor or employer	12%	43%
Refusing to do unsafe work	18%	47%
Filing a complaint about unsafe working conditions with a government occupational health and safety officer	23%	54%

Source: Survey data (see Endnote 7)

Workers who reported routine exposure to a high number of hazards also reported a higher rate of injury. Combined with experiencing higher rates of fear, this means that the very workers who most need to be able to exercise their safety rights are the most likely to be afraid of retaliation for doing so.

Workers also appear to be fearful of reporting unsafe conditions to the government. When faced with unsafe working conditions that their employer refused to remedy, only 8.7% of affected workers indicated they contacted the government. Ignorance, fear of retaliation, and an expectation of government inaction were barriers reported by workers to seeking enforcement when the IRS failed.

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The expectation that reporting unsafe work to the government would not remedy the problem—and might trigger retaliation—was borne out by the experiences of those who did report: a full third of workers who complained to the government said no inspector came to their workplace in response, while 11% indicated their employers punished them for complaining.

These results suggest that there is a fundamental problem with the IRS in Alberta: workers are often unwilling to exercise their safety rights. This unwillingness stems from both fear of retaliation and an expectation that government intervention will not be effective. Worse yet, this unwillingness to exercise safety rights is highest in the most dangerous workplaces.

## 6. Ongoing Problems and Root Causes

Despite the legislative improvements created by Bill 30, serious operational deficiencies are likely to continue in Alberta's injury-prevention system. The key problems (which are not unique to Alberta) are:

1. Most serious injuries go unreported.
2. Many employers do not comply with basic health and safety rules.
3. Many workers fear exercising their health and safety rights.

The root causes of these problems are:

1. **Employers' and workers' interests conflict:** Current OHS legislation is based upon the Internal Responsibility System. The IRS assumes that workplace parties are best placed to identify and control hazards and have a shared interest in doing so. Research suggests this is not always the case.<sup>19</sup>

The costs associated with hazard elimination can make employers reluctant to recognize some hazards or adopt the most effective control mechanisms. In short, the basic premise of the IRS is false. And, because the IRS makes employers responsible for controlling hazards, what this means in practice is that hazards are often not effectively controlled.

2. **Safety rights are weak rights:** Legislation grants workers three safety rights: (1) the right to know about hazards in their workplaces, (2) the right to participate in hazard identification and remediation, and (3) the right to refuse unsafe work. These rights are designed to offset the greater power of employers in the workplace.

While these workers' safety rights sound powerful, they are not. Employers often withhold information about hazards from workers,<sup>20</sup> worker participation is limited to making suggestions to employers,<sup>21</sup> and employers often (illegally) punish workers for refusing unsafe work or simply get some other worker to do the unsafe work.<sup>22</sup> Not surprisingly, workers are often fearful of exercising their safety rights.<sup>23</sup>

3. **Government enforcement is not very effective:** Where workplaces are non-compliant, OHS officers have a number of tools available to trigger compliance. These tools include education, orders to comply with the rules, stop-work orders, ticketing, administrative penalties, and prosecution.

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**Employers face little risk of getting caught violating OHS rules and even less risk of being meaningfully penalized.**

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As noted above, the government undertakes relatively few OHS inspections, and when faced with unsafe workplaces OHS inspectors often rely on persuasion and education over other enforcement tools.<sup>24</sup> What this means is that employers face little risk of getting caught violating OHS rules and even less risk of being meaningfully penalized.

Governments have been reluctant to accept these criticisms of their OHS systems for two reasons. First, admitting that government injury-prevention systems don't work as promised entails significant political risk. Second, fixing the system requires major changes that will be both expensive and resisted by employers.

## 7. Recommendations

Significant operational changes are necessary to reduce the annual tally of occupational fatalities, injuries, and illnesses. These changes fall into three categories:

1. Increasing inspection levels
2. Introducing meaningful and mandatory consequences for violations
3. Improving worker-focused safety education

### Inspection levels

The ultimate purpose of OHS is to reduce the number of hazards to which workers are exposed and the frequency of their exposure, as this reduces the overall level of injury. High levels of injury suggest that many employers do not take hazard-reduction efforts seriously. Research suggests that inspections demonstrably reduce injury rates.<sup>25</sup>

Three recommendations flow from these findings:

- 1. Increase the number of government inspectors:** Alberta currently has approximately 130 OHS inspectors who manage to inspect approximately 2% of Alberta employers each year. Quadrupling the inspectorate (to 500 OHS inspectors) would significantly increase the risk of employers being caught violating health and safety rules, at a cost of about \$75 million per year.<sup>26</sup> This cost could be covered by existing surpluses in the WCB accident fund that would otherwise be returned to employers each year. This cost should be partly offset by a reduction in injuries resulting from hazard abatement.
- 2. Inspections should be targeted and proactive:** Additional inspectors should focus on employers (1) in high-injury industries, (2) that have a record of occupational injuries, and (3) in industries known to employ vulnerable workers (e.g., migrant workers, youth). While Alberta's injury data is deeply flawed, it remains the best basis upon which to identify hazardous industries and employers. Regular inspections also normalize hazard identification and control processes in these workplaces that, in turn, will make workers more likely to exercise their safety rights.<sup>27</sup>
- 3. Allow inspections by civil society groups:** Empowering and funding civil society groups to perform workplace inspections would increase the frequency of OHS investigations in traditionally under-regulated areas of the labour market (e.g., the service sector and industries reliant upon new immigrants and migrant workers). These areas are underserved because workers are particularly vulnerable and are unlikely to report violations. Many existing civil society groups (e.g.,



worker centres, community groups, unions) have relationships of trust with workers in these sectors and could serve as advocates for worker rights.

### **Meaningful and mandatory consequences**

Research clearly demonstrates that OHS systems only yield reductions in injury rates when inspections are coupled with penalties.<sup>28</sup> Alberta rarely prosecutes or otherwise fines violators, but Alberta did issue 129 low-value tickets in 2016/17 (54 to employers and 75 to workers).<sup>29</sup>

Six recommendations flow from these findings:

4. **Orders must be public, tracked, and enforced:** Bill 30 significantly improves the use of OHS orders when employers are found to be non-compliant. Orders must contain deadlines for compliance, be posted in the workplace, and be publicly reported (at least in aggregate). Officers should be encouraged to write orders in order to create more nuanced data to drive targeted enforcement. Orders should also be publicly available in real time for public viewing (much like restaurant inspection reports).
5. **Penalties should be mandatory and escalating:** The latitude given to OHS officers to use education and voluntary compliance tools in lieu of sanctions should be constrained as this approach has proven to be ineffective at controlling hazards or gaining employer compliance with OHS rules. Research clearly demonstrates that employers change their behaviours in response to financial penalties. Non-compliance with orders, repeated non-compliance with OHS rules, or non-compliance causing significant risk of injury should trigger mandatory and escalating monetary penalties, in addition to orders to remedy the infraction(s).
6. **Violators should be publicly shamed:** Alberta currently publicizes only a small number of OHS violators (i.e., those convicted of major violations of the act). Research has established that publicizing OHS violations serves as a deterrent to other employers.<sup>30</sup> Alberta should establish a monthly “sunshine list” that publicly reports which employers were found to have significantly violated OHS rules, especially if these violations have led to injuries or fatalities. Alberta already has the authority in the OHS Act to disclose the names of OHS violators and should commence doing so.

7. **Additional prosecutions should take place:** Alberta should once again hire dedicated OHS prosecutors to increase its capacity to sanction serious employer non-compliance. Previous experiments with dedicated prosecutors increased the number of prosecutions significantly while their absence has seen prosecutions drop off.
8. **Inspectors should stop ticketing workers:** Eliminating worker ticketing would prevent the creation of an adversarial relationship between workers and the OHS inspectors they rely on to enforce their safety rights. Anecdotal evidence suggests Alberta employers use the spectre of ticketing to dissuade workers from reporting injuries (e.g., “If you report the injury, you’re going to get a ticket”).
9. **Retaliation should be prosecuted:** The potential for retaliation is an important factor in limiting workers’ willingness to exercise safety rights and alert the government to OHS violations. Informing worker and employers that retaliation is illegal alongside aggressively prosecuting instances of retaliation will alter employer behaviour and, in turn, increase workers’ willingness to exercise their safety rights.

### **Worker-focused OHS education**

Worker participation is most effective when workers are knowledgeable about their safety rights, how to exercise those rights, and the nature and effect of hazards.<sup>31</sup>

Four recommendations flow from these findings:

10. **OHS should be better integrated into the K-12 curriculum:**  
Workplace rights is a component of the Career and Life Management (CALM) course required of all Alberta high-school students. There are, however, ways to integrate and reinforce OHS in the social studies and science curriculums, such as introducing OHS-focused examples, problems, and concepts into existing lessons and evaluation materials.
11. **Government should develop worker-focused OHS education:**  
Government-delivered OHS information and training should focus on worker OHS rights. This will heighten employer awareness of workers’ rights and their obligations to comply with them. Developing such materials would require the government to consult with workers (and specifically vulnerable workers) in order to build its capacity to discuss worker issues. Such consultation might also begin to build trust in the government among these workers.

**12. Government should fund independent OHS education for workers:**

The government should fund worker-focused OHS training for populations in particular need of it (e.g., new Canadians, young workers, worker in specific industries). This training should be delivered through groups with which the targeted workers already have trusting relationships, such as community agencies. This will require building capacity in these agencies to deliver this training.

**13. Government should fund independent training for worker JHSC**

**representatives:** Alberta allows workers paid time off for training to prepare them for their role on a Joint Health and Safety Committee (JHSC). The government should fund the provision of such training by worker-operated agencies. In addition to orientation training, these agencies should also be funded to provide ongoing advice and access to resources (such as research expertise). These agencies could be funded by an employer levy or through current surpluses generated by the WCB.

## Endnotes

<sup>1</sup> Alberta Workers' Health Centre. (2017). New Alberta worker case study. Edmonton: Author. <http://www.workershealthcentre.ca/uploads/InjuredWorkerCaseStudyNAW.pdf> Accessed 2017.11.15.

<sup>2</sup> Alberta Labour. (2017a). 2016/17 Annual Report. Edmonton: Author.

<sup>3</sup> Alberta Labour (2017a) spent approximately \$47 million on OHS in 2016/17. It can be difficult to track exact expenditures over time due to changes in reporting. The most stable data available in government annual reports is the amount of money transferred from the Workers' Compensation Board to the government to defray OHS costs. This amount appears to account for ~95% of all OHS spending over time. In 2009/10, the WCB transferred \$24.8 million. In 2016/17, the WCB transfer was \$45.2 million.

<sup>4</sup> Alberta Labour. (2017b). Renewing Alberta's occupational health and safety system. Edmonton: Author. Alberta has subsequently indicated it will increase the number of inspections to 11,500 per year by 2019/20.

<sup>5</sup> Alberta Labour. (2017c). Charges under the Occupational Health and Safety Act. <https://work.alberta.ca/occupational-health-safety/charges-pending.html> Accessed 2017.09.13.

Alberta Labour. (2017d). Administrative penalties under the Occupational Health and Safety Act. <https://work.alberta.ca/occupational-health-safety/administrative-penalties.html> Accessed 2017.09.13.

Alberta Labour. (2017a). 2016/17 Annual Report. Edmonton: Author.

<sup>6</sup> Hansard, November 27, 2017, p. 2000. [http://www.assembly.ab.ca/ISYS/LADDAR\\_files/docs/hansards/han/legislature\\_29/session\\_3/20171127\\_1330\\_01\\_han.pdf](http://www.assembly.ab.ca/ISYS/LADDAR_files/docs/hansards/han/legislature_29/session_3/20171127_1330_01_han.pdf)

<sup>7</sup> The survey informing this study was conducted online between March 24 and April 5, 2017. The 2,000 respondents were Albertans aged 18 and older who held employment in non-managerial positions during the previous year.

A random sample of panelists was invited to complete the survey from a large representative panel of Albertans recruited and managed by a national polling firm. The respondents broadly match the overall working population in terms of age, gender and industry of employment.

The Marketing Research and Intelligence Association policy limits statements about margins of sampling error for most online surveys. The margin of error for a comparable probability-based random sample of the same size is +/- 2.2%, 19 times out of 20.

Data collection was funded by a Government of Alberta OHS Futures Research Grant.

- <sup>8</sup> Alberta Labour. (2017e). 2016 workplace injury, disease and fatality statistics provincial summary. Edmonton: Author.
- <sup>9</sup> Alberta Labour (2017a). It is unclear if the long-term reduction in injury rates reflects (a) a decline in injury frequency, (b) a decline in injury reporting, or (c) both.
- <sup>10</sup> Alberta Workers' Compensation Board Review. (2016). A Guide to the Review of the Workers' Compensation System. Edmonton: Author.
- <sup>11</sup> Tombs, S. (1999). Death and work in Britain. *The sociological review*. 47(2): 345-367.
- <sup>12</sup> Kirkham, T., Koehoorn, M., McLeod, C. and Demers, P. (2011). Surveillance of mesothelioma and workers' compensation in British Columbia, Canada. *Occupational and environmental medicine*. 68: 3-35.
- <sup>13</sup> This finding of 170,700 disabling injuries is much higher than the number of disabling-injury claims accepted by the WCB (44,543). When non-reporters (69%) are removed and the number of reported injuries is adjusted for workers outside the ambit of the WCB (7%) and a typical level of claims rejection (10%), the study suggests there would be 44,100 disabling injury claims, remarkably close to the 44,453 disabling-injury claims reported in 2016.
- <sup>14</sup> Shannon, H. and Lowe, G. (2002). How many injured workers do not file claims for workers' compensation benefits? *American journal of industrial medicine*. 42: 467-473.
- <sup>15</sup> Our study was conducted before the introduction of Bill 30. At that time workers had an "obligation" to refuse work, rather than a right to do so. It is unknown whether the legislative change will affect refusal rates.
- <sup>16</sup> Walters, V. and Denton, M. (1990). Workers' knowledge of their legal rights and resistance to hazardous work. *Relations industrielles/Industrial relations*. 45(3): 531-547; Walters, V. and Haines, T. (1988). Workers' use and knowledge of the 'internal responsibility system': Limits to participation in occupational health and safety. *Canadian public policy*. 14(4): 411-423; Harcourt, M. and Harcourt, S. (2000). When can an employee refuse unsafe work and expect to be protected from discipline? Evidence from Canada. *ILR Review*. 53(4): 684-703; Hilgert, J. (2013). *Hazard or hardship: Crafting global norms on the right to refuse unsafe work*. Cornell University Press.
- <sup>17</sup> Gray, G. (2002). A socio-legal ethnography of the right to refuse dangerous work. *Studies in Law, Politics and Society*. 24: 133-169.

- <sup>18</sup> Weil, D. and Pyles, A. (2005). Why complain? Complaints, compliance, and the problem of enforcement in the U.S. workplace, *Comparative labour law and policy journal*. 27:59-70.
- <sup>19</sup> Dorman, P. (2000). If safety pays, why don't employers invest in it? In: K. Frick, P. Jensen M. Quinlan and T. Wilhagen (eds.). *Systematic occupational health and safety management: Perspectives on an international development*. Bingley: Emerald. 51-365; Genn, H. (1993). Business responses to the regulation of health and safety in England. *Law & policy*. 15(3): 219-233; Grabe, S. (1991). Regulatory agencies and interest groups in occupational health and safety in Great Britain and West Germany: A perspective from West Germany. *Law & policy*. 13(1): 55-72; Hart, S. (2002). Norwegian workforce involvement in safety offshore: Regulatory frameworks and participants' perspectives. *Employee relations*. 24(5): 486-499; Hart, S. (2010). Self-regulation corporate social responsibility, and the business case: Do they work in achieving workplace equality and safety? *Journal of business ethics*. 92: 585-600.
- <sup>20</sup> For examples, see: McCulloch, J. and Tweedale, G. (2008). *Defending the indefensible: The global asbestos industry and its fights for survival*. New York: Oxford University Press; Markowitz, G. and Rosner, D. (2002). *Deceit and denial: The deadly politics of industrial pollution*. Los Angeles: University of California Press; and Rosner, D. and Markowitz, G. (2006). *Deadly dust: Silicosis and the ongoing struggle to protect workers' health*. Ann Arbor: University of Michigan Press. To see the broader pattern, see: Bohme S, Zorabedian J and Egilman D. (2005) Maximizing profit and endangering health: Corporate strategies to avoid litigation and regulation. *International Journal of Occupational and Environmental Health*, 11(4): 338-348 and Michaels, D. (2008). *Doubt is their product: How industry's assault on science threatens your health*. New York: Oxford University Press.
- <sup>21</sup> Hall, A., Forrest, A., Sears, A. and Carlan, N. (2006). Making a difference: Knowledge activism and worker representation in joint OHS committees. *Relations industrielles/Industrial relations*. 61(3): 408-436.
- <sup>22</sup> Gray (2002).
- <sup>23</sup> Lewchuk, W. (2012). The limits of voice: Are workers afraid to express their health and safety rights? *Osgoode Hall law journal* 50: 780-812.
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- <sup>30</sup> Johnson, M. (2016). Regulation by shaming: Deterrence effects of publicizing violations of workplace safety and health laws. [http://kenan.ethics.duke.edu/regulation/files/2016/09/johnson\\_oshapress\\_releases\\_091216.pdf](http://kenan.ethics.duke.edu/regulation/files/2016/09/johnson_oshapress_releases_091216.pdf) Accessed 2017.12.12.
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