

Occupational Health and Safety 3: Ticket Offences at Work

Posted By [Peter Bowal](#) On November 1, 2013 @ 8:32 am In [Employment Law](#) | [No Comments](#)



[1] Introduction

Most Canadians are familiar with "tickets" for minor offences. If we have personal experience at all with the legal system, it is most likely through receiving the occasional ticket for parking, seat belts, rolling through a stop sign, speeding or some other traffic offence. There are several other regulatory subjects that are enforced by provincial (or municipal) offences and tickets. These include gaming and liquor, fish and wildlife, all forms of licensing, taxes, insurance, trespass, provincial parks, animals and pets, residential tenancies, tobacco, and littering.

These are not criminal offences, so we do not get a criminal record if convicted. Rather, these are regulatory offences that encourage compliance with regulatory legislation to advance order and security, integrity and fairness, health and safety, protection of vulnerable populations, and other social policy objectives.

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Compliance with occupational health and safety (OHS) legislation is essential for safe and healthy workplaces. On January 1, 2014 the list of ticketable domains will grow to include OHS regulations at Alberta work sites. Tickets and administrative penalties are two new enforcement tools available to OHS officers in Alberta to obtain better compliance with OHS legislation.

This article will describe the new workplace ticket system. A future article will explain the new administrative penalty compliance tool.

The Need for More Ongoing Pre-Incident Compliance Tools

An OHS officer who appeared at a worksite in Alberta up to now had limited options when observing a violation of the OHS Act, *Code* or regulations. The officer could only issue an immediate verbal Compliance Order, a written Compliance Order, a Stop Use (e.g. of a machine or tool) Order, or a Stop Work Order (e.g. of an operation or worksite).

Generally, these could be appealed, which might take a very long time. Even if the appeals eventually upheld an order, the employee or employer occasionally would still ignore it. Getting and maintaining the workplace in compliance remained a problem. The department was also finding that something more was needed to reach and reform habitual re-offenders.

There is always the enforcement tool of prosecution through the courts, but because it is very expensive, slow, punitive and cumbersome, it is left for incidents which result in deaths and serious injuries on the job. Hence, the need for more enforcement tools to achieve and sustain compliance before serious incidents occur.

Observable On-the-Spot Violations

The Alberta government has identified high priority OHS categories where most of the serious workplace dangers lurk. These include:

- personal protective equipment;
- fall protection;
- fire and explosion prevention;
- equipment safety;
- cranes, hoists and rigging;
- stairways and ladders;
- biological hazards; and
- falling objects

The government searched the OHS Code (adopted under section 1 of the Occupational Health and Safety Code 2009 Order ^[2] (AR 87/2009)) to identify simple, observable and clearly prescriptive violations that could be converted into ticketable offences. It came up with 66 of them, to be charged against both employers and workers. (A chart detailing these 66 violations will be posted on the LawNow website on December 1, 2013) Tickets will impose an immediate \$100 to \$500 "stipulated penalty." Worker tickets range from \$100-\$200, while employer fines range from \$300-\$500. In many cases, both the employer and worker can be ticketed for essentially the same offence. If a ticket is issued only to a worker, the officer will give a Contact Report to the employer.

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GST is not added to ticket amounts, but a 15% victim surcharge is added to each ticket which helps to fund workplace accident victim services. The date for the first court appearance is set at least 21 days in the future. The court location will be the closest one in the same municipality.

Similar to other tickets, the OHS officers must be physically present at the workplace to observe the Code violation. Under the recent reforms, workers on site are required to identify themselves to OHS officers on request and employers have a similar duty to identify their workers to OHS officers on request. (Occupational Health and Safety Act ^[3], RSA 2000, c O-2, as amended, sections 4.1(1) and 4.1(2) respectively)

In order to issue these tickets, OHS officers will become peace officers. They will carry two pieces of identification: OHS Officer Identification and Peace Officer Identification. The OHS violation tickets will be written on the same template form as Alberta traffic tickets (see example ^[4]). As with all law enforcement, there is discretion on the part of the officer whether or not to issue the ticket.

The ticket penalty amount can be voluntarily paid or challenged as any other ticket through the provincial court system. (All provincial ticketing in Alberta is regulated by the Provincial Offences Procedures Act ^[5], RSA 2000, c P-34) A 'not guilty' plea sends the ticket to trial. The OHS officer will attend court to give evidence for the prosecution. Non-payment of the ticket and a failure to appear to plead (or to defend after a 'not guilty' plea has been entered and trial date is set) will result in a warrant for arrest being issued against the worker. Whenever that worker later comes into contact with any police officer, that arrest warrant will be executed and the worker may have to apply to be released on bail. Corporate employers cannot be arrested and no warrant will be issued for them. They may, however, be tried *in absentia*.

While these tickets are *not* criminal in nature, third parties might be able to obtain a record or abstract of an employer's or worker's convictions for such tickets. This record of ticket convictions may have implications for the employer's safety record and tendering on future jobs. Workers with records of tickets may find it difficult to later get work in safety-sensitive

roles. Since the employer is inherently responsible for safety at the work site, and safety violations affect other third parties, a worker's ticket convictions for these offences may also amount to cause for employment-related discipline.

Conclusion

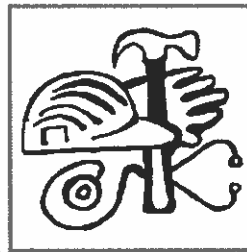
These new ticketable offences were originally recommended for use in the Alberta construction industry. Eventually the department developed a more comprehensive approach to cover other industries. Ticketing is not planned to be used as a cash cow. It is expected to be revenue neutral for the Government of Alberta. It is only one more tool for enforcement.

Appendix: We have provided a table of new [Alberta ticketable OHS offences and the specified penalties \(PDF\)](#) [6]

Related posts:



Update: Ticket Offences at Work

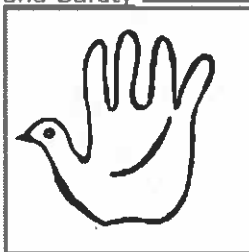


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URLs in this post:

[1] Image: <http://www.lawnow.org/wp-content/uploads/2012/07/Employment-Law.jpg>

[2] Occupational Health and Safety Code 2009 Order: <http://canlii.ca/t/k5qt>

[3] Occupational Health and Safety Act: <http://canlii.ca/t/5246j>

[4] see example: <http://www.lawnow.org/wp-content/uploads/2013/10/violationticket.png>

[5] Provincial Offences Procedures Act: <http://canlii.ca/t/522m7>

[6] Alberta ticketable OHS offences and the specified penalties (PDF):
http://www.lawnow.org/wp-content/uploads/2014/01/OHS_Ticket_Provisions2_2013.pdf

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