

## **UNDERSTANDING YOUR DUE DILIGENCE RESPONSIBILITY**

Owners, Directors, Corporate Officers, Employers, Supervisors, Suppliers, Constructors, and Workers in the province of Ontario have an obligation or duty to ensure the workplace is safe. If any of these workplace parties fail in their health and safety responsibilities the penalties can be severe. Corporations can be fined up to \$500,000. People in the workplace can be fined up to \$25,000. Not to mention you can also be sent to jail for up to 12 months. That's provided the safety violation remains a provincial offensive charge. If an individual for the gain of the company or corporation kills or critically injures an individual that health and safety violation can lead to a criminal offence under the Canadian Criminal Code, That's right if convicted, prison.

With some exceptions, it is irrelevant the type of workplace; restaurants, coffee shops, pizza places, small, large manufactures, factory, retail, offices, commercial workplaces, The Occupational Health and Safety Act, (OHSA) and Regulation apply to all provincial regulated workplaces.

The size of your company will determine various obligations you must follow for example five and less than twenty workers you need to select a Health and Safety Worker Representative; they have specific duties and rights as defined by the OHSA. Workplaces with twenty or more workers must have a functioning Joint Health and Safety Committee. Over Fifty Workers and the JHSC must have four members on the committee two of which do not exercise managerial functions.

The OHSA mandates that workplaces develop and implement a written health and safety policy. Workers have to be trained in and

follow the safety policy. A safety policy is a statement that the employer is committed to health and safety in the workplace. That's the foundation of a health and safety program , The question now is what policies , programs and training are required to live up to your safety policy. A workplace is required to show due diligence in implementing their health and safety policy. In the case of being prosecuted by the Ministry of Labour the only real defence in court an employer has is due diligence.

What is due diligence? It is a defence of workplace parties such as employers, owners and supervisors to occupational health and safety charges. The Crown or prosecutor only needs to prove that the violation of the act occurred, without having to show deliberate intent on the part of the accused to commit the illegal act. The accused must show that all reasonable care and precaution was taken to prevent whatever caused the unsafe event leading to the charges and prosecution.

The ministry of labour (MOL) is steadily increasing its rate of prosecution. As a result workplaces were fined by the courts over 12 million dollars.

This does not take into consideration the disruption to your company should you have an unexpected visit from a MOL Inspector. An Inspector has the authority to issue orders directing workplace to comply with the OHSA and regulations they can also place a stop work order on equipment, places or things in the workplace. Don't let this happen to your company!!

Our consultants can Mentor your organization in developing a seamless and effective health and safety program. We will provide you a practicable and sustainable approach to your health and safety program. Plan, Do, Check, Act.

Mentor Safety Consultants can be ‘Your Guide To Safety’ to ensure you have a quality safety program that provides your workers with a safe and healthy workplace.