

CANADIAN INJURED WORKERS ALLIANCE

ALLIANCE CANADIENNE DES VICTIMES D'ACCIDENTS ET DE MALADIES DU TRAVAIL

50/50 Draw Special Thanks

We would like to express our sincere gratitude to Sherri Scott, our Board Member in Fort MacMurray, Alberta; Tammy McCallum and Deborah Rice-Solomons, employees with Canadian Natural Resources Ltd. (CNRL) who were key to organizing and conducting the 50/50 Draw on behalf of the Canadian Injured Workers Alliance, on January 17, 2008. Tammy and Deborah were instrumental in recruiting volunteers to sell tickets and ensuring all aspects of the draw were a success.



The lucky winner of the \$10,000 draw was:
Dave Nicholson, an employee with Wabi Contractors.

Pictured: (L-R) Sherri Scott, Dave Nicholson, Tammy McCallum

Thank you to all involved including the employees and contractors for the Horizon Group, and CNRL that rewarded us with fundraising efforts of

\$ 10,000.00 !!!

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50/50

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CIWA THANKS YOU for Your SUPPORT

Editor's Note

This newsletter is distributed via email, fax, or mail to CIWA/ACVAMT members and groups with an interest in injured worker issues as resource tool to share and exchange information. The views and opinions expressed here are those of the individuals or groups making submissions. We take no responsibility for their accuracy or for their opinions. You are welcome to share and distribute this newsletter with others that are interested. It is also available on our website at www.ciwa.ca.

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PROVINCIAL REPORTS

BRITISH COLUMBIA

As the widow of an injured worker and the mother of an injured worker, a statement I made many years ago has since been quoted many times by various sources, including industry newsletters and Hansard, BC legislature. "No one should have to go through what our family did. Every BC family has the right to expect their family members to come home at the end of the day, and our political leaders and agencies charged with the responsibility of protecting workers must make sure that happens."¹

While I believed it then and I believe it now, I also have come to realize that while political leaders and agencies charged with the responsibilities of making sure our family members come home safely are responsible as well. We know all too well, first hand what happens when workers are killed or injured on the job and according to the statistics the amount of injured workers killed or injured are still unacceptably high. Solutions must include input from injured workers and survivors that have the motivation and passion to make change. There needs to be full stakeholder involvement in collaboration with our political leaders and agencies to find solutions that work so that more BC workers come home to their families each year, without injury.

In 2005 there was a 40% increase in fatalities from the previous year, 2004. **188 workers died as the result of a workplace injury**, this is recorded as the highest level in 25 years.

"This included 11 young workers (5 of the 11 worked in the construction industry) 43 fatalities in the forest sector and 39 deaths in the construction industry".²

Fatalities for forest industry workers for that past years include forty-three lives lost in 2005, 12 lives lost in 2006 and for 2007 up to the end of February 14, there were already three lives lost.³

Three out of every four young workers claims are for young males. The injury rate for young male workers is about 33 percent higher than the overall injury rate in B.C. WCB/WorkSafe reports that each hour in BC, 1 young worker is hurt on the job. Young workers are the

most at risk for workplace injuries than workers of any other age group. More than half of workplace accidents involving workers aged 15 to 24 occur during the first six months on the job, almost 20 percent occur during the first month on the job. Young males under the age of 25 are at the highest risk for a workplace injury in BC; every day 36 young workers are hurt on the job and that every week, 5 of these workers are permanently injured.⁴

¹ MacAhonic, P. National Day of Mourning Service. (1998)

² Health and Workplace Safety. A brief by the British Columbia Federation of Labour. April 2006.

³ BC Forest Safety Council, Safety Statistics, <http://www.bcforestsafe.org/content-nav-stats/nav-stats-1-about.htm> Accessed February 14, 2007

⁴ Safety at Work, Frequently asked questions. <http://www2.worksafebc.com/Topics/YoungWorker/FAQ.asp> Accessed February 2007.

Over the past months in my role as Western Canada Advisor for CIWA and an MBA student, Royal Roads University I have been diligently working on a feasibility study for an Injured Worker Centre in BC for the Canadian Injured Workers Alliance.



The active participation of the many stakeholders in BC including, injured workers, family members and survivors, who completed surveys, advocates, union reps, employers and various organizations who deal with injured workers who participated in focus groups and representatives from the

ministries of labour and health and the WCB/WorkSafe who participated in interviews ensured a comprehensive collection of data that was required to gain a clear overview of the issues faced by injured workers and what is needed for a centre in BC to be effective.

The study is complete; the CIWA team, which includes the board and advisors, are ready to conduct the next steps, which are review of the plan and strategies regarding the study.

I want to commend the hardworking CIWA Team, who actively supported me throughout this process. A special thank you goes out to Dr. Lynn Shaw, Advisor,

Robert Lindsay, Phil Brake, and Sherri Scott, as well as Monika who fielded stray faxes and emails and made sure they arrived to me in BC. I also want to extend a special thanks to Liz Davies from the BC Persons with Disabilities Office who arranged and donated space, as well as Jim Parker from the BC Nurses Union who recruited participants and also provided meeting space. Jim has been an invaluable support and colleague for many years. Also George Allen from the BC Southern Injured Workers Group, who arranged and organized meetings and who actively, has made a difference for injured workers for many years in his region. Finally, I would like to thank Jan Siwinski, management

consultant who volunteered her time to facilitate focus groups for this project.

I look forward to our next steps and the improvement of conditions for injured workers and their families all across Canada.

Yours in solidarity,
Patti MacAhonic, BA, MBA Candidate
Western Canada Advisor, Canadian Injured Workers Alliance

SASKATCHEWAN

YOUTH DEVELOPMENT PROGRAMS IN SASKATCHEWAN

In the Province of Saskatchewan, the Western Injured Workers Society has been working hard at getting our Government to allowing us to implement our Youth project in the Schools.

The N.D.P. Government had showed some interest in the program but the main issue was, if they were to implement the program into the curriculum, then who would be responsible to teach it. This issue has forced everything to come to a halt.

Now that we have a new Government, hopefully we can work with them in regards to implementing our program into the schools of Saskatchewan.

The Saskatchewan Federation of Labour (SFL) also has a Youth program, but we haven't seen very much action

come out of it. They were doing some program training in the past, but we are uncertain if they are continuing on.

We will look into that area with the SFL.

Some Unions have youth teams within their own locals, but not doing any training for Youth outside of their local Unions.

CIWA must get the ball rolling with the provincial organizations to ensure our Youth Project continues on in all Provinces.

Yours Truly
Robert Lindsay
President/ CIWA

SASKATCHEWAN PRIVACY COMMISSIONER "BREACH OF PRIVACY" REPORT

Fellow Injured Workers,
For the past 10 years, I, like many IW's have been conditioned to believe we have little by way of legal recourse against WCB, much less the option to sue this corrupt bureaucracy. Well, as fate would have it, the Saskatchewan Privacy Commissioner has inadvertently, provided us with a means in which to pursue such litigation.

On March 28th, 2007, the Privacy Commissioner released a 78 page report, regarding a "Breach of Privacy" complaint against the Saskatchewan Workers' Compensation Board. In this report, the Commissioner found 3 specific areas where a claimant's privacy was clearly violated. As it turns out, these same violations can be found in countless WCB claims in Saskatchewan,

and I firmly believe they're common in other jurisdictions as well.

I've compiled all relevant information regarding these privacy breaches, and posted it on a recently published website. Injured workers who have been wrongfully denied WCB benefits will find this information of particular interest, as nay claimant with respects to these violations.

You'll find this website at:
<http://tombrownskwcb.tripod.com/saskatchewanwcbbreachofprivacy>

Regards,
Tom Brown (Injured Workers, SK)

ONTARIO

ONIWG has had a busy year; our PAC has worked hard with Labour and our friends in the Legal community to win some small victories. We can't forget our injured workers who are always front and centre at all events. THANK YOU INJURED WORKERS!!!!!!!

Here are a few Highlights:

- We made them move on the deeming issue: MOL and the Liberals that is. How it will fall out remains to be seen.
- We received 2.5 % increase in our partial LOES for June 2007, January 2008, and January 2009. The next step is to have it be permanent.
- We have held our June first Demo: our attendance at Queen's Park was quite high thanks to Labour.
- Have attended Day of mourning.
- RSI day
- Demonstrated in front of the MOL's (Steve Peters) constituency office to show our displeasure with the way deeming was being interpreted by WSIB. This was during the election in October; again a good turn out by the London injured workers, Hamilton, Toronto and again Labour. I am sure I missed some group and I sincerely apologize.
- We have forged new alliances with other disability groups in our province. The trick is to follow up and keep building.



research and I with CIWA's KET or knowledge transfer. While sometimes I feel like we are being studied to death (INJURED WORKERS that is).

I feel that the research gives many of us a voice and a platform for making change. We are thinking of putting together a conference to bring a lot of the researchers together to compare and share the knowledge gathered. This is still in the infancy stage.

- We are currently trying to meet with the new MOL and his staff to ask for more change and to follow up on any promises made in the last election that they have not delivered on. NOTE: not this election but the first one the Liberals won remember Dalton's promise on a fair system for injured workers.
- DECEMBER 11 DAY of ACTION will be held at the MOL office and while the usual crowd will be on hand Sid Ryan has expressed interest in speaking. He may be able to draw a bit more press.

Well that is all I can think of for now Gerry. I hope your meeting is fruitful and that our new year brings us closer together as injured worker groups and friends. And let us all reflect on our blessings no matter how small and be thankful over this holiday. Sincerely:

Peter Page
President ONIWG

Our ongoing relationship with researchers is still strong with Steve Mantis and the RAACWII

NOVA SCOTIA

Since our last meeting, I have been very busy helping injured workers receive what is coming to them. I have been successful in helping eight different people receive their benefits for WCB. Four of them received the money that was owed to them. I have never charged any one for services. I had three CPP cases and was successful in all three.

The South Shore Injured Workers are very active, and doing quite well. The Pictou County Injured Workers held a very successful Day of Mourning Ceremony on April 28, 2007. I attended the service of David Day in

Stellarton and laid a wreath on behalf of the Town of Westville, of which I am the Deputy Mayor. Since no one showed up from the New Glasgow District Labour Council, I was asked to lay their wreath as well, since I am the Past President of the Labour Council.

The present Conservative Government of Nova Scotia is trying to pass a law in the Legislature on the next sitting to make a "No Strike" Law on Health Care Workers. At this time the opposition N.D.P. and the Liberals are going to vote against this Bill. The Nova Scotia Federation of Labour and government workers

are staging a protest to try to convince the government of the day to rescind their motion. Hopefully, this Bill will be defeated.

At this time, I would like to say thanks to our National Coordinator, Mr. Phil Brake, and our President, Mr.

Robert Lindsay for a job well done. Keep up the good work. It's not easy.

Sincerely,
Dave MacKenzie, Nova Scotia.
December, 2007

Railway Safety Act Review

Address and information: / Renseignements généraux:

Tim Meisner, Executive Director / Directeur exécutif,

Railway Safety Act Review Secretariat / Secrétariat sur l'Examen de la Loi sur la sécurité ferroviaire

180 Elgin Street, Suite 901, Ottawa, Ontario K2P 2K3

Tel/Tél: (613) 998-6462 / Fax: (613) 998-8274

E-mail: RailwaySafetyActReview@tc.gc.ca / Courriel: ExamenLoiSecuriteFerroviaire@tc.gc.ca

I am pleased to announce the release of Stronger Ties: A Shared Commitment to Railway Safety, the report of the Railway Safety Act Review Advisory Panel. You may view, download or request a copy from the website at: www.tc.gc.ca/tcss/RSA_Review-Examen_LSF.

On February 20, 2007, the Honourable Lawrence Cannon, Minister of Transport, Infrastructure and Communities announced the appointment of a four-member Advisory Panel to assist him in conducting a review of the Railway Safety Act (RSA). In the course of its work, the Panel consulted with a broad range of stakeholders across Canada, including the public, railway companies and their industry associations, railway employees and their unions, the provinces and territories, municipalities, aboriginal and environmental groups, Transport Canada, and other federal departments and agencies.

The Panel held 15 public consultation meetings, heard from over 70 presenters and received over 180 written submissions from a variety of stakeholders. Panel members also visited a number of sites to gain further insight into rail operations and safety.

The input of stakeholders was important to the work of the Panel and its members were impressed with the cooperation and level of interest that the Review generated.

Je suis très heureux d'annoncer la parution de Renforcer les liens: un engagement partagé pour la sécurité ferroviaire, rapport du Comité consultatif sur l'Examen de la Loi sur la sécurité ferroviaire. Vous pourriez le consulter ou le télécharger à partir du site Web, ou encore en demander une copie du rapport à l'adresse suivante :

www.tc.gc.ca/tcss/RSA_Review-Examen_LSF.

Le 20 février 2007, l'honorable Lawrence Cannon, ministre des Transports, de l'Infrastructure et des Collectivités a annoncé la nomination d'un comité consultatif formé de quatre membres pour l'aider à mener un examen de la Loi sur la sécurité ferroviaire (LSF). Au cours de l'Examen, le Comité a consulté un large éventail d'intervenants partout au Canada. Le Comité a tenu 15 séances de consultation publique, a entendu plus de 70 présentations et a reçu plus de 180 mémoires. En outre, les membres du Comité ont visité une variété de sites afin de mieux connaître les enjeux de l'exploitation ferroviaire et de la sécurité.

L'apport des intervenants était important pour le travail du Comité et ses membres ont été impressionnés par la coopération et le niveau d'intérêt manifestés pour l'Examen.

ONTARIO MINISTRY OF LABOUR

New Employment Standards Act (ESA) Poster for Workplaces

www.labour.gov.on.ca

TORONTO, Feb. 27 /CNW/ - The province is publishing a new version of a poster about the Employment Standards Act (ESA) that most Ontario employers will be required to post in the workplace.

The poster outlines worker and employer rights and obligations and reflects recent changes to the ESA, regarding:

- Minimum wage
- Reservist leave
- Declared emergency leave
- Family Day and
- Employees who qualify to take a family medical leave.

"Recent changes to the Employment Standards Act are helping both workers and employers and moving Ontario forward in healthy and productive ways," said Ontario Labour Minister Brad Duguid.

The ESA requires all workplaces regulated by the act to post the document in English and the majority language of the workplace. The poster will be available in 21 languages besides English and French, recognizing the diversity in Ontario's productive workplaces.

All language versions of the poster continue to be available free by downloading it from the Ministry of

Labour's website or by visiting a Service Ontario Centre. It can also be ordered from Service Ontario Publications, for the cost of shipping and handling.

The poster is available in English, French, Arabic, Bengali, Chinese (Traditional), Chinese (Simplified), Dari, Farsi, Filipino, Greek, Gujarati, Hindi, Italian, Korean, Oji-Cree, Polish, Portuguese, Punjabi, Russian, Spanish, Tamil, Urdu and Vietnamese.

Background information:

Pursuant to the ESA, section 2(3), most employers will be required to post version 4.0 of "What You Should Know about The Ontario Employment Act" once it is published. From February 15 to 11, 2008, as a transition, employment standards officers may compliance orders for failure to post the new version of the poster. Notices of contravention or prosecutions may be initiated only failure to comply with a compliance order. Failure to post the version of the poster is a contravention under the act.

On and after April 12, officers may use the full range of enforcement to ensure that employers are complying with the requirement post version 4.0, including issuing notices of contravention with penalties.

New Workplace Safety DVD Distributed to All Ontario High Schools

Our Youth at Work (OYAW) launched a new workplace safety DVD on September 27, 2007 to inform youth, parents and employers of the dangers young workers face when they first enter the workforce. OYAW believes this new format will enable it to reach more students more efficiently, and empower young workers to ask their employers questions so they know the risks involved in their jobs. A copy of this DVD has been sent to every high school in Ontario. For more information about Our Youth At Work, visit its web site at:

<http://www.oyaw.com/index.cfm?i=2852>.

WSIB Announces Review of Experience Rating Program

March 10, 2008

<http://www.newswire.ca/en/releases/archive/March2008/10/c2446.html>

TORONTO, March 10 /CNW/ - Workplace Safety and Insurance Board (WSIB) Chair Steven Mahoney, P.C., announced today that the WSIB is conducting a review of its Experience Rating program. Also, effective immediately, if a company is responsible for a workplace fatality, they won't be eligible for a rebate from the WSIB.

Experience rating is a cost-based incentive program intended to promote good health and safety practices, early and safe return to work and appropriate disability management practices. In this program employers receive rebates or surcharges according to their performance based on claims costs. Under certain circumstances, it is possible for a company to have a traumatic workplace fatality and still receive a rebate from the Experience Rating program. This is because Experience Rating is a cost-based program and some fatalities do not result in high costs; for instance, if a worker didn't have dependants.

"It is unacceptable to me that a company responsible for a fatality would still get a rebate cheque from the WSIB," said Mahoney. "Our five-year strategic plan is the Road to Zero, and that is the only acceptable number of fatalities."

Mahoney also called for a review of Experience Rating to find other areas of improvement and better align the program to the Road to Zero.

The review will make recommendations to modernize and strengthen the program, in areas such as: accounting for legislative non-compliance, creating a process to validate workplace health and safety performance, and a long-term plan to directly tie all incentive programs to proactive health and safety initiatives.

"The Experience Rating program should raise the bar by rewarding excellent results in health and safety, prevention and return to work," said Mahoney. "The program has been effective in getting the results we need, but I know more can be done with Experience Rating to improve health and safety for the workers and employers of Ontario. We are strengthening this program so that it is fairer, better leverages our partners in prevention, provides direct incentives to improve health and safety, and gets us to our goal of zero injuries, illnesses and fatalities."

Ontario's Workplace Safety and Insurance Board (WSIB) plays a key role in the province's occupational health and safety system. The WSIB administers no-fault workplace insurance for employers and their workers and is committed to the prevention of workplace injuries and illnesses. The WSIB provides disability benefits, monitors the quality of healthcare, and assists in early and safe return to work for workers who are injured on the job or contract an occupational disease.

For further information contact:
Christine Arnott, WSIB Media Relations, (416) 325-2600

6)
344-4202, christine_arnott@wsib.on.ca

Internet Resources: On-line Medical Dictionary

MedicineNet.com is a free web site that has an on-line medical dictionary called, "MedTerms." It provides an alphabetical listing of diseases and their treatments; a similar listing of medications, their uses and side effects; and a dictionary providing layperson explanations for more than 16,000 technical medical terms as defined by medical doctors. Other sections of the web site offer indexes of common symptoms and common medical procedures and tests. You can access all of this information at:

www.medicinenet.com.

BILL 14

The **Law Society of Upper Canada**(LSUP) with the aid of the **McGuinty Liberal Government** has passed what is known as **Bill 14**. This Bill was to have the LSUP regulate paralegals in Ontario.

However, the language in the Bill not only regulates paralegals, but with the twists and turns of all that legal jargon, it has affected our group of volunteers trying to help other Injured Workers at no charge.

The Bill calls for every paralegal to be licensed and insured. The application for the license is about \$500.00 and the exam is \$,1000.00. If you don't pass the first time they give you a break on the second exam at a cost of \$975.00, and you must carry the Errors and Omissions Insurance. (note: the costs are approx since this dates back to April of 2007)

We are a **non funded, not-for-profit registered organization** which has been lobbying for injured workers for almost 25 years. But now, we can not **represent or give legal advice** to an injured worker according to this Bill.

Some exemptions from being licensed and insured do exist. However, as a volunteer we can only help family, friends, or neighbours without breaking the law.

This past week, I had a WSIB claims adjudicator and her manager call me and the injured worker to see if in fact we were friends. I believe that the **Good Samaritans Act** was put into place so that we could help one another without having the fear of breaking the law, or being scrutinized as to who is my friend or not.

There is a simple solution that we have tried to have solved by means of conference calls way back to **April of 2007**, emails to the LSUC Paralegal Services, meetings with our MPPs, even a meeting with the

former Minister of Labour. Nothing as been changed thus far.

All we are simply asking, is that the **"interpretation"** of an injured workers group be changed from the present definition which you can find for yourself at this link (www.lsuc.on.ca/regulation/a/by-laws/bylaw4) in Section 31 (1) where it states that an exemption will be given to an injured workers group providing they are **funded by WSIB**, simply drop the funded by WSIB and we can advocate for injured workers and help our fellow workers.

We have made it quite clear that we are NOT FUNDED, and WE DON'T CHARGE for services, and we DON'T TAKE A PERCENTAGE OF THE CLAIMS WHEN WON, nor do we EXPECT payment at all. Albeit, the LSUC has not changed the interpretation.

We ask that you please **support us** and send a message to your MPP asking for their support in changing the interpretation, send a letter to the Premier, the LSUC, the editor of your local paper. We need strength in numbers, and lastly, we ask that you forward this to all Ontario residents in your address book. Send us a copy of the letters as well at info@tbiw.on.ca .

Please, if you feel like you want to protect your right to free consultation on WSIB issues you must act now.

Thanks for your time, and I look forward in hearing your thoughts and comments on this very important issue. If we let them take away your right to free representation, what will they target next, back yard mechanics? Enough is Enough!

Thanks, Bob

Thunder Bay & District Injured Workers Support Group
807-622-8897 // em: info@tbiw.on.ca

Stakeholder Submissions on Bill 187 Interim Changes

The Ontario Government passed Bill 187, the *Budget Measures and Interim Appropriation Act, 2007*, on May 17, 2007, which resulted in four significant changes to the *Workplace Safety and Insurance Act, 1997*, effective July 1, 2007. These changes include amendments to the cost-of-living indexing formula; opening previously locked-in 72-month Loss of Earnings (LOE) and 60-month Future Economic Loss

(FEL) awards when there has been an increase in disability; replacing the concept of "deeming" with the concept of "determining" and the introduction of the concept of "availability" in employment when determining post-injury earnings; and increasing the Loss of Retirement Income (LRI) threshold from \$1,166.41 to \$3,000.

The WSIB revised existing policy documents that were affected and created a new policy. Stakeholders can provide written feedback on these interim policies until November 1, 2007. For more information on the Bill 187 consultation, visit the WSIB's web site at: <http://www.wsib.on.ca/wsib/wsibsite.nsf/Public/PolicyBill187Consultation>. For a copy of all of the WSIB

Operational Policies that were amended on October 3, 2007 to incorporate the changed wording because of the above-mentioned interim policies, visit the WSIB's web site at:

<http://www.wsib.on.ca/wsib/wopm.nsf/home/opmhome>.

TRICK QUESTION:

Reproduced from a Poster from the Back Association of Canada
Drawing reproduced by the talents of Kevin Turtle

Which is better for your back: Lifting 10 pounds of feathers, or 10 pounds of Lead ?

Most people know a few BACK BASICS when it comes to picking things up and putting them some place else. For instance:

Bend your knees. Bend them, pick up the object, then straighten them up. Why? So your leg muscles – which are bigger and stronger than your back muscles – can take most of the weight.

Hold objects close to your body. For example, if you lift 10 pound load with the weight 14 inches from your body, you will be lifting the equivalent of about 150 pounds!

Many people don't realize that, when it comes to lifting, there's more to think about than weight. For Instance:



What's the shape of the object you are lifting?

What's its size?

Does it have handles?

Is it slippery, or easy to grip?

Which brings us back to our trick question.

A box containing ten pounds of lead is a lot easier to pick up than a box containing ten pounds of feathers because a box of lead is much smaller, and more compact. You can easily hold it close to your body, and get a good grip.

MORE LIFTING TIPS:

1. Your back is strongest when its muscles are in a natural position. That is, when the normal curve in the low back is neutral, rather than exaggerated or creased. What if you must lift something while your back is bent forward, or arched backward? The answer is simple. You can't lift as much.
2. Don't lift and twist at the same time. Instead, lift the object, then turn your body by moving your feet. This may sound like more effort but it isn't. It just takes a moment longer.
3. It's easier to lower a weight than to lift one. But don't be fooled. Many back injuries occur because people think they can lower something heavy ... and then get hurt when the object falls and they must try to catch it.

THE MORAL: Think ahead. Plan the lift before you begin ... Not after you get into trouble.

Sentencing for Quebec workplace death a first

2005 Accident; Transpave Inc. to learn penalty for disabling safety device

Graeme Hamilton, National Post Published: Tuesday, February 26, 2008

MONTREAL - A Quebec paving-stone manufacturer is set to appear for a sentencing hearing today after becoming the first company in Canada to be convicted of criminal negligence causing death as the result of a workplace accident.

In a case that is being followed in boardrooms across the country, Transpave Inc. of Saint-Eustache, north of Montreal, pleaded guilty in Quebec Court in December to a charge stemming from the 2005 death of labourer Steve L'Ecuyer.

Mr. L'Ecuyer, 23, was crushed to death by machinery as he tried to clear a backlog of stones on the production line. An investigation by Quebec's health and safety board discovered that a safety device intended to prevent such an accident had been deliberately disabled for most of 2005 and 2004.

The conviction is the first since the federal government amended the Criminal Code in 2004 to make it easier to charge companies for health and safety offences. The amendments were in response to the 1992 Westray mine disaster in Nova Scotia, in which 26 men were killed but no criminal convictions resulted.

Cheryl Edwards, a Toronto lawyer specializing in workplace safety issues, said the Transpave case will likely lead to more criminal prosecutions. So far, Crown attorneys have been content to allow occupational health and safety tribunals decide the cases, but the Transpave case signals that a criminal conviction is possible.

"When trade unions and families press very hard for action on the part of the police and Crown attorneys, generally speaking, that is influential," said Ms. Edwards, a partner with Heenan Blaikie. "When the general public gets mad about a Westray, or they get mad about a high-profile death, there's more of a tendency for the police and the Crown attorneys to say, 'No, we're not going to just leave this to the [occupational health and safety] process. We're going to treat it as a crime.' "

Martin Cauchon, who was Liberal justice minister when the changes became law as Bill C-45, said he hopes news of the Transpave conviction will result in greater caution among employers.

"The law is not what it used to be. The legislator is really serious about workplace safety," he said. "When I talk to the corporate world, it seems that they're still not aware of the situation. With that first conviction, even though it's a guilty plea, people will read the judgment and be more careful in the future."

Mr. L'Ecuyer had just relieved a co-worker who was going on break when the fatal accident occurred on Oct. 11, 2005. He was trying to manually free stones that were blocking a machine when an apparatus used to arrange the stones on pallets descended and crushed him.

Workplace-safety investigators found that a safety barrier meant to prevent the machine from operating when someone was underneath it had been disabled. Workers said it was disconnected because it was causing production slowdowns. There was also evidence that a member of management was aware of the situation but did nothing to correct it.

There is no limit on the possible fine, and the Quebec Federation of Labour wants the court to levy a substantial penalty. "The court now has the duty to impose an exemplary sentence to send an unequivocal message to employers who make a mockery of the health and safety of their workers," QFL president Michel Arsenault said in a statement.

Ms. Edwards said employers are taking note. "The good corporate citizens in Canada sat up in 2004, when C-45 was passed, and asked, 'How do we make sure we're compliant?' Now they're sitting up again and saying, 'Let's check again and make sure we're not doing something that contravenes the Criminal Code.' I think it's being watched nationally," she said.

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This Newsletter is intended to share information of interest to injured workers/ groups / organizations, union activists and their supporters. It provides a forum for sharing our experiences - so we can learn from each other - in order to improve the lives of injured and disabled workers and the system that is there to assist them.