



OCCUPATIONAL FIRST AID ATTENDANTS ASSOCIATION NEWS

ISSN: 1202-760X
Printed: October 2004

www.ofaaa.bc.ca

Issue 3, Vol. 2004

**Nominations
Meeting
November
17th, 2004**

Bill C45- A change in corporate liability

By Allan Zdunich

In November 2003 and March 2004 a bill amend the Criminal Code of Canada came into force making senior and junior managers (and others) in corporations and organizations, and the corporations and organizations themselves criminally liable for injuries (including fatal injuries) to their employees and others they supervise.

Corporations or organizations can not claim ignorance about the consequences of their actions if there is a major accident or fatality on the job. A corporation (and its management) is liable if it did not do everything possible to eliminate the hazardous situation (or if it created the hazardous situation); ignorance of the hazard is not a defence if that hazard is predictable for that industry.

As a result of a 1992 multiple fatality mining tragedy which had been anticipated by experts, these changes have been made by Parliament to prevent other corporations and representatives from evading responsibility for their actions (and inactions) as the owners and managers of the Westray Mine had done.

Previously it was necessary for the crown to show that the corporate Board of Directors had knowledge of the dangers; an almost insurmountable burden of proof requirement for the prosecution. This difficulty was so great



CSSE - 16th Annual First Aid Competition Kamloops 2004.

More on page 5

Photo by: Del Goudreau

that in the circumstance of the Westray Mine in Nova Scotia, even though experienced miners and mining

“Corporations or organizations can not claim ignorance”

inspectors had raised concerns about imminent dangers and advised corporate managers, they had not directly informed the Board of Directors whose defence was ignorance.

It will no longer be necessary for the crown prosecutor to show that one or more individual corporate directors (a “directing mind”) had personal knowledge of the hazards and risks, but

only that knowledge of the hazards was present in the employees, agents and/or contractors of the corporation (or other organization) to make it and the employees, agents and contractors accountable.

continued on page 3...

INSIDE:

New and Renewed Members	...2
EGM Notice	...2
Bill 45 cont...	...3
Website	...4
CSSE FA Comp	...5
No More Books?	...6
Discounts	...7
Education	...8

CALL FOR DIRECTORS

The Board of Directors of the OFAAA needs you. We have vacancies on the Board of Directors right now and we need volunteers to fill the vacancies for a one or two year term. A full Board of Directors consists of twelve members. We would like you to do your best to attend monthly meetings and to chair a committee such as: competitions, newsletter, publicity, etc.

We recognize that OFAA's do a job that has unique skills and risks in the workplace. If you would like to work with colleagues please volunteer. The next meeting of the Directors is the third Wednesday of the month. All members are welcome to attend a meeting to see what happens.



Notice of Extra-ordinary General Meeting of the

OCCUPATIONAL FIRST AID ATTENDANTS ASSOCIATION
OF BRITISH COLUMBIA

November 17th, 2004

This is a notice to professional members of the Occupational First Aid Attendants Association of British Columbia for the purpose of accepting nominations for the following positions:

President

Vice-President

Treasurer

Secretary

Director(s) - Five (5) positions

These nominations are for the purpose of the election to be completed at the Annual General Meeting in January 26, 2005.

Place: #108 - 2323 Boundary Road, Vancouver, BC V5M 4V8

Date: November 17, 2004

Time: 20:00 hours (8:00 p.m.)

*...continued from
front page*

Bill C45

The changes to the Criminal Code will now require only evidence that decision makers in a corporation were informed of the hazards, or should have known of the risks on their own. Therefore, only negligence needs to be shown, and the corporation (and its people) is liable under the Criminal Code.

This could be compared to dangerous driving where there is a criminal negligence offence of 'dangerous driving causing death'. The crown does not have to prove a driver tried to kill someone, only that the driver (or a reasonable person) should have known that their risky behaviour could cause someone's death; and the fatality is the evidence of criminal negligence.

The new amendment will not focus on the title (or lack) of an individual, but will focus on the actual decision making that a representative has in an organization. Also, criminal intent to harm does not have to be proven, only negligence (a disregard

for the safety of others) in order for a criminal conviction to occur, and the small negligences of more than one corporate representative can make a corporation bear the cost of the negligence accumulated by the acts of different individuals.

One unique aspect directly overlaps the WCB jurisdiction, because power is given to the judge at trial to "make restitution to a person for any loss or damage". This would clearly apply to injured workers, their dependents, their survivors (if a fatality) and, perhaps, others in their relationship or family. Third party pain and suffering which is not compensable under WCB would appear to be eligible here like it is in many other civil matters.

Comments are invited. Thank you to Member Regina Bueno-Renke for drawing our attention to Bill C45.