

### What is Due Diligence?

In an occupational health and safety sense, due diligence means an employer has taken all reasonable precautions, under certain circumstances, to prevent incidents in the workplace.

You may hear this term from time to time, so what is its significance? It is an individual or organization's primary defense against prosecution for an occupational safety infraction. Due Diligence uses safety documentation, policies, training records, worker training, and more to prove that a person or company entity has complied with their legislated duties.

This idea of Due Diligence defense is written into our legislation via the duties as they are written. In Saskatchewan, the primary duty of an employer is within the Saskatchewan Employment Act (SEA 2015), and it reads: "3-8 Every employer shall: (a) ensure, insofar as is **reasonably practicable**, the health, safety, and welfare at work of all of the employer's workers."

Reasonably practicable is a significant term, as it appears in Saskatchewan Legislation more than fifty times. It relates to Due Diligence as it is defined as "means practicable unless the person on whom a duty is placed can show that there is a gross disproportion between the benefit of the duty and the cost, in time, trouble and money, of the measures to secure the duty". (SEA 2015)



Photo from: [https://www.rrc.co.uk/media/142759/iosh\\_ms\\_sample.pdf](https://www.rrc.co.uk/media/142759/iosh_ms_sample.pdf)

Therefore, in order to prove Due Diligence, we must prove that our actions have been Reasonably Practicable. As an employer, we have to look at some basic principles and ask questions of ourselves to ensure we are taking this reasonable action.

1. **Foreseeability**- was this incident something we should have/ could have reasonably seen coming? I.e. a machine with a "high chance of rollover", rolling over.
2. **Preventability**- was this preventable? If there were controls in place, could the incident/injury have been prevented?
3. **Control put into place**- what control was provided? Was it adequate? Was it the best selection of reasonably practicable controls based on the scenario?

These questions may seem simple to implement, however, there must be an adequate safety system to ensure all company stakeholders understand their role as it relates to the implementation of these controls. This safety system should cover all minimum legislative requirements that are outlined.

In many instances, you may be expected to exceed the minimum. This may come in the form of industry practices, and standards that are accepted, such as CSA or ISO standards.

Every organization is responsible for its own workforce. Since workers must be protected from harm, many of these standards are seen as reasonably practicable in a courtroom atmosphere.

Care must be taken to connect the documentation with the knowledge of the workforce. Communication strategies must be pre-planned and executed to ensure learning transfer occurs for all due diligence objectives.

If records of all reasonable actions taken are kept, and workers are aware and understand, there is proof of due diligence. This will become the primary defense should a situation arise where due diligence is required

# Tool Box Talk

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When accidents and incidents happen on the jobsite, we are always quick to point the finger at lack of training, not following practices or procedures, or even improper supervision. The idea that the hazards and dangers associated with the job were not properly communicated to all of the workers is often missed.

Tool Box Talks can go by many names, and although formats may vary, these meetings all serve one purpose: to inform employees and contract workers. Tool Box Talks are short, informal, meetings between management and the workers on a jobsite. The goal of these meetings is to reinforce current safe job procedures, inform workers of new and/or relevant procedures, review recent safety violations/incidents, and ensure workers are up-to-date on the information required to complete their work safely.

Always use a Tool Box Talk form to record the meeting topic, date, who was in attendance, and any follow-up actions to be taken. Not only do these forms help with consistency of record keeping, but they also ensure that nothing is missed. At the end of the meeting have management sign off on the form.

One of the most important aspects of a Tool Box Talk is giving workers an opportunity to voice their concerns and ask questions. All employees have a right to participate in health and safety as it relates to their work and it is the supervisor or manager's responsibility to create an environment for them to do so. Once the meeting is over, and the form is filled out, it should be filed with other documented Tool Box Talks.

Remember that Tool Box Talks are short and informal, they are not meant to be intimidating. Use the opportunity to have fun and stay on top of what is necessary to keep safety culture a strong part of the business.

For a full listing of Tool Box Talk topics, visit: [www.scsaonline.ca/resources/tool-box-talks](http://www.scsaonline.ca/resources/tool-box-talks)

For a copy of the Tool Box Talk form, visit: [www.scsaonline.ca/pdf/Tool\\_Box\\_Meeting.pdf](http://www.scsaonline.ca/pdf/Tool_Box_Meeting.pdf)

## About the Saskatchewan Construction Safety Association

The Saskatchewan Construction Safety Association (SCSA) is an industry-funded, membership-based, nonprofit organization that provides cost-effective, accessible safety training and advice to employers and employees in the construction industry throughout the province to reduce the human and financial losses associated with injuries. Registered March 20, 1995, the SCSA is, and has been since inception, committed to injury prevention. Serving almost 10,000 member companies with business offices in both Regina and Saskatoon, the major business units of the association are Advisory Services, Business Development, Corporate Services, Program Services and Training. The mission of the SCSA is constructing safety leadership in Saskatchewan and the vision is to create the safest construction environment in Canada.