

Tool Box Talk

Bill C-45 & The Westray Mining Disaster

Bill C-45

Bill C-45 passed on November 7, 2003. It was an amendment to the Canadian Criminal Code, not meant to replace the Occupational Health & Safety Regulation that was currently in place across Canada.

The bill was created as a direct result of the Westray Mining disaster in Nova Scotia, Canada, on May 9, 1992. An explosion deep inside the mine killed all 26 miners working underground at the time.

Westray Mining Disaster

Caused by the fatal buildup of methane gas and coal dust, the incident happened despite serious safety concerns raised in the months before by employees, the union, officials and government inspectors.

The company selected to continue the operation of the coal mine, with very few changes. As a result of these lack of changes, the disaster occurred and took 26 lives.

The police and provincial government in Nova Scotia failed to secure a conviction against those who had the power to make the changes that would have saved those people.

A Royal Commission of Inquiry was established to investigate. This Royal Commission made 74 recommendations. These findings led to amendments to the Criminal Code.

The Criminal Code

On March 31, 2004, the Canadian Criminal Code was amended, creating Section 217.1, which reads:

"Everyone who undertakes, or has the authority to direct how another person does work or performs a task is under a legal duty to take reasonable steps to prevent bodily harm to that person, or any other person, arising from that work or task."

Bill C-45 also added Sections 22.1 and 22.2 to the Criminal Code to impose criminal liability on organizations and their representatives for negligence (22.1) and other offences (22.2).

Criminal Code 217.1 was introduced so that companies (and their senior management) would focus on their responsibilities and accountability stated in the OHS legislation. If they choose not to comply with their

legal responsibility, they risk serious consequences which are legally enforceable. Employers can limit their liability and reduce the chances of being charged under the provisions of the Criminal Code by implementing an effective workplace health and safety program.

You Need to Know

- Your legal obligations under occupational health and safety laws and standards.
- What hazards exist in your workplace.
- How to effectively remove hazards and mitigate risk.

You Need to Ensure

- A safety system is implemented to ensure everything reasonably practicable to protect the health, safety and welfare of everyone at work is being done.
- Management understands its duties and responsibilities in the workplace.
- Supervisors are trained.
- That workers have adequate and competent supervision.
- Employees are aware of the company's health and safety system, are informed of any risks and receive appropriate training to protect themselves and others from harm in the workplace.
- You review your safety program regularly to ensure that your company is meeting the established policies and procedures.

Conclusion

Most incidents that occur in the workplace will continue to be dealt with through the regular OHS channels and not through the criminal courts. Bill C-45 intended to bring justice to the companies and individuals who **DO NOT** take safety seriously.

While the above is just a quick summary. If you follow through and meet your obligations, continually take all reasonable steps to prevent incidents and injuries, you should not have any problems with this addition to the criminal code.

Sources

<https://www.ccohs.ca/oshanswers/legisl/billc45.html>
<https://justice.gc.ca/eng/rp-pr/other-autre/westray/p1.html>
<https://www.saskatchewan.ca/business/safety-in-the-workplace/>