

Bill 11 The Workplace Safety and Health Amendment Act

April 12, 2021



Bill 11: *The Workplace Safety and Health Amendment Act*

The Manitoba Federation of Labour (MFL), Manitoba's central labour body, representing the interests of more than 100,000 unionized workers in our province, is very disappointed with this bill. The changes in this bill undermine important health and safety protections: by eliminating the important position of Chief Prevention Officer, giving extraordinary new powers to the Workplace Health and Safety Branch to dismiss worker appeals without a hearing, and imposing a new arbitrary time limit on workers' ability to defend themselves in serious cases where workers face unfair and illegal retaliation from their employer for sticking-up for their health and safety rights. Overall, this bill substantially weakens the *Workplace Safety and Health Act* and shows this government's lack of commitment to keeping workers safe on the job, putting profits ahead of people.

The MFL is actively involved in advocating for workers' health and safety in Manitoba and we were excited to participate in the 2017 five-year review of the *Workplace Safety and Health Act*. When this government sought out recommendations for improvements to the *Act*, the MFL, its affiliates and many businesses and employers took-up the call and put forward thoughtful, evidence-based recommendations for change through the former Minister's Advisory Council on Workplace Safety and Health. Unfortunately, once the Advisory Council presented its report, it was promptly dissolved. Yes, one of this government's first actions on health and safety was to disband a longstanding volunteer group of worker, employer and technical experts on health and safety who worked hard to give government its best advice.

In our submission to the Advisory Council, we had recommended substantial legislative amendments to help ensure all workers stay healthy on the job and come home safely from work, including:

- A strengthening of workplace mental health protections;

- A comprehensive strategy to tackle asbestos, the number one cause of occupational deaths in Canada, including the creation of a full public buildings registry and mandatory training standards for workers doing the very dangerous work of asbestos remediation and disposal;
- Better training for worker and employer Health & Safety Committee members;
- Mandatory, timely and prevention-oriented investigations for workplace fatalities and other critical incidents;
- Guarantees that any Workplace Safety and Health Orders be shared with Health & Safety Committees and unions;
- Rules to protect workers from unsafe Engineered Labour Standards, which require workers to perform tasks so quickly that safe work practices cannot be followed; and
- Re-establishment of the Minister's Advisory Council on Workplace Safety and Health, which formerly brought together labour, business and technical experts – all serving as volunteers - to give evidence and experience-based advice to government to keep workplaces safe.

We are extremely disappointed that the government has chosen to ignore these recommendations and has taken no action on them, leaving significant workplace hazards unaddressed.

The MFL knows that to effectively raise awareness of workplace health and safety, we need to support workers, and give them voice and be able to learn from their experiences. That is why when the role of Chief Prevention Officer was introduced, it was intended to create a new voice for injury and illness prevention that could advocate to government and analyze where new protections were needed, as well as highlight new and upcoming health and safety issues. It was to act as an independent watchdog – a Health and Safety Ombudsman if you will – that would issue public reports and make direct recommendations to the Minister.

We know that the Chief Prevention Officer has not developed into the role as anticipated. Years of being under resourced by this government undermined its ability and effectiveness to identify health and safety gaps and evaluate prevention strategies in Manitoba. But in eliminating this role rather than properly resourcing it, we are squandering an opportunity to critically examine our own prevention efforts, provide objective third party advice and accountability, and give a stronger voice to those working in unsafe work environments.

This is also why the Manitoba Federation of Labour cannot support any bill that curtails the voice and experience of workers, especially by eliminating the right to due process and having appeals at least heard and considered. Giving the Branch the extraordinary leeway to prevent workers from even making appeals to the Manitoba Labour Board is wrong and, potentially, a very dangerous slippery slope. Workers have never been guaranteed an outcome to an appeal, but they've always had the right to make their case before now. That's fairness. That's due process.

Similarly, shortening the time frame in which workers can defend themselves against unfair retaliation from employers encourages new barriers to timely reporting and acts as a protection to unscrupulous employers lessening their obligation to treat workers with fairness and respect.

If there is one aspect of Bill 11 that the MFL could support it's the proposed doubling of maximum fines for penalties for offenses, which appears to be the only aspect of this bill that government has wanted to talk about. However, we have to emphasize that given the fact that this government has consistently declined to apply the maximum penalties at their current level, we have no reason to believe they would enforce higher maximums. Higher penalties can only serve as a deterrent if government is willing to invest the needed

resources into enforcement, and follow through with stiff penalties on offenders – so far, this government has failed to do either.

Promoting this bill under the guise of raising maximum fines does not hide the fact that this bill takes away far more from workers, in terms of protection, fairness and due process. By ignoring the substantial advice that it received as part of the formal *Act* review, and moving this bill forward, this government is only weakening health and safety legislation and continuing to put the safety and health of Manitoba's workers last.

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