

**Migrant Workers
and
Occupational
Health and Safety**

**What You Should
Know**

Why do we need an occupational health and safety law?

Over 300 workers die every year because of work-related accidents and diseases. Every year, hundreds of thousands of workers make claims to the Workplace Safety and Insurance Board or WSIB, because they were hurt at work or their work made them sick. Many workers develop permanent injuries that limit their ability to provide for themselves and their families. Any injured worker will tell you the financial and emotional costs of an unsafe workplace.

Sometimes employers and government agencies try to convince us injuries and illness that happen at work are the fault of the worker. This is nonsense. Employers are the ones who control the workplace and the hazards within it. Left unchecked, employers may care more

about profit than workers' safety. That is why workers have historically and currently demanded that our workplaces be subject to laws and enforcements that protect us. When we leave for work in the morning, we need to make sure we are coming home in one piece at night.

The law is designed to protect the health and safety of workers.

Most migrant farm workers are included in Ontario's *Occupational Health and Safety Act [OHSA]*.

Who Does the Occupational Health & Safety Act Apply To?

The *Act* will apply whenever there is a paid worker on a farming operation, even if it is only for a short period of time. During these times, the owner/operator will have all of the applicable responsibilities under

the *OHSA*. Migrant workers, including workers without status, are protected by the *OHSA*.

What does the Occupational Health and Safety Act do?

The Ministry of Labour has less than seven inspectors for every 100,000 workers. These inspectors cannot be in every workplace to enforce the law. The *Occupational Health and Safety Act* gives workers three basic rights which they can use to protect themselves.



Food for Thought:

Should there be more inspectors?

What can Inspectors order?

Inspectors can order people to stop doing dangerous work. This is probably the most effective way to get employers to make necessary changes to keep a workplace safe. Your employer must

inform you about these hazards and train you how to do your job safely.

What are my rights under the Occupational Health and Safety Act?

The *Occupational Health and Safety Act* gives you three basic rights:

1. The Right to Know

Farm workers have the right to know about any possible hazards on their farm. The farm owners/operators must inform workers about these dangers and train them to do a job safely. Possible hazards include:

- Tractor/self-propelled farm equipment
- Farm equipment
- Large animal handling
- Personal protective equipment
- Falls, slips, trips
- Lockout procedures
- Hazardous atmospheres and confined spaces
- Occupational illnesses

- Chemical hazards such as pesticides

2. The Right to Participate

If there are more than 5 workers in the workplace, you must elect a Health and Safety Representative from amongst the workers. If there are more than 20 people in your workplace you must elect a joint Health and Safety Committee. These health and safety representatives or committee members will represent you if there are health and safety problems in the workplace. According to the law, Health & Safety representatives are not allowed to be punished for being on this committee.

Internal Responsibility System

Having the right to participate under the *OHSA* is part of a wider objective of having an Internal Responsibility System (IRS). The attitude of those who advocate for an IRS is that workers and employers must share the responsibility for occupational health and safety, because they are the ones in the best position to identify hazards.

Responsibility is shared through Joint Health and Safety Committees and Health and Safety worker representation (described above).

While most of us would agree that workplace parties (especially workers) are in the best position to identify health and safety problems, many people wonder if there isn't something missing in the analysis of IRS.



Food for thought:

Are you able to play a meaningful role in ensuring the health and safety in your workplace?

Why or why not?

Are there any advantages to the government insisting that individual workplaces work out health and safety measures on their own?

3. The Right to Refuse Work

All farm workers have the right to refuse to do something which he or she believes is unsafe or unhealthy. The farm workers cannot be punished in any way for refusing to do unsafe work. The *Act* contains a detailed step-by-step process that must be followed by the farm owner/operator when there is such refusal.

If your employer punishes you for raising a health and safety concern, he or she can

be prosecuted by the Ministry of Labour. If your employer punishes you, call the contact numbers at the end of this pamphlet.

If your employer repatriates you (sends you back to your country) make sure you take this pamphlet with you and call the contact numbers as soon as possible. You should be aware that, although illegal, the law may not be able to prevent you from being repatriated.

A person who breaks the law set out by the *OHSA* can be fined or sent to jail. The maximum fine is \$25,000 per person and \$500,000 for a company.

Hoggs Hollow Disaster

On March 17, 1960, an event of tragic proportions occurred that would change the province's Health and Safety Laws immensely – the “Hoggs Hollow Disaster”. Five Italian Canadian workers were killed

while constructing a tunnel at Hoggs Hollow: Pasquale Allegrezza, Giovanni Correglio, Giovanni Fusillo, and brothers Alessandro and Guido Mantella.

When a flash fire suddenly hit the tunnel, the men became trapped in choking smoke, and were unable to see their way out. Their passage to safety was blocked by smouldering cables to the east and by a cement tunnel support wall to the west. The rescue effort was chaotic and made the situation worse. The cause of death was ruled poisoning by carbon monoxide and suffocation due to the inhalation of smoke, sand and water. For these five immigrant men still inside, the dream of a better life died in a small tunnel beneath the Don River.

According to newspaper reports at the time, immigrant workers were treated extremely poor; often working for very low wages and in fear of deportation. It was widely believed that these workers were sent down into a virtual death trap that day without the safety laws or practices in place to prevent it.

Following the tragic deaths of these men, workers across Ontario were mobilized to form stronger unions, and to organize around important industry safety issues. In response, the government announced a Royal Commission to study and modernize all worker safety regulations, paving the way for a modern Labour Act in Ontario.

It also initiated a program to fight labour exploitation and to educate immigrant workers about employment practices. This soon resulted in significant changes being made to Ontario's workplace health and safety laws – changes that continue to protect the lives of workers today.



Food for thought:

How have working conditions changed since Hoggs Hollow?

How have the working conditions remained the same?

Contact Numbers

Toronto Workers' Health and Safety Legal Clinic

180 Dundas St., Suite 2000
Toronto, ON M5G 1Z8
416-971-8832 (call collect)

Ontario Ministry of Labour

400 University Avenue, 10th Floor
Toronto ON M7A 1T7
416-326-6267
1-866-932-7229 [toll free]

**Occupational Health Clinics for Ontario
Workers [OHCOW]**

Hamilton Office

848 Main Street East
Hamilton, ON L8M 1L9
905-549-2552
1-800-263-2129 [toll free]

Windsor Office

3129 Marentette Avenue, Unit #1
Windsor, ON N8X 4G1
519-973-4800
1-800-565-3185 [toll free]

Sarnia/Lambton Office

171 Kendall Street
Point Edward, ON N7V 4G6
519-337-4627

**Industrial Accident Victims' Group of
Ontario [IAVGO]:**

416-924-6477
1-877-230-6311 [toll free]
1-866-521-8535 [toll free] [Spanish-speaking callers]

This booklet contains general information. It is not a substitute for getting legal advice for your particular situation.

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Toronto Workers' Health and Safety Legal Clinic

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