

April 4, 2011

The Honourable Dalton McGuinty  
Premier  
Legislative Building, Room 281  
Queen's Park  
Toronto, ON M7A 1A1

Dear Premier McGuinty:

**RE: Bill 160**

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On December 16, 2010 the Expert Advisory Panel on Occupational Health and Safety submitted its recommendations which your government has endorsed. OPSEU supports many of those recommendations. We were pleased to see the quick introduction of Bill 160, ostensibly to provide the legal framework for the implementation of those recommendations. However, OPSEU has serious concerns that as currently written, Bill 160 does not reflect the intent or spirit of the Expert Panel recommendations.

We have five areas of concern that must be addressed:

**1) Undermining the legal authority of our frontline members charged with the enforcement of the Act.**

Bill 160 gives Directors of the Ministry of Labour the power to interpret law and to publish policies that have the force of law with no oversight or warning. It requires Ministry of Labour inspectors to abide by those policies *as a requirement of the Act*. It is extremely poor public policy to give force of law to policy, or an interpretation of law, that may be incorrect. It also makes our members, who are inspectors, subject to possible prosecution under the Act, on issues that are purely matters of internal policy. This is unacceptable.

**2) Failure to protect workers from reprisals.**

The Expert Panel heard many submissions on the failure of current reprisal provisions in the Act, compounded by Ministry policy, to protect workers, especially vulnerable non-unionized workers. Accordingly, it made three recommendations to address this issue. Bill 160 fails to address those recommendations in any meaningful way. The Bill does not address prosecutions under Section 50. And it specifically prevents frontline inspectors from giving evidence to the Ontario Labour Relations Board in cases where illegal reprisals are made against workers. No such restrictions are made in any other provision of the Act. This impediment serves only to make enforcement of the law more difficult and is detrimental to those workers who are most vulnerable to illegal reprisals. Changes, not contemplated in the recommendations of the Expert Panel have no basis for inclusion in Bill 160.

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**3) The politicization of the prevention system.**

Bill 160 places extensive powers in the hands of the Minister of Labour including the power to appoint the Chief Prevention Officer and the Prevention Council. We are concerned that the powers of the Minister in this or future governments could be used in arbitrary ways, or for partisan purposes. Changes must be made to empower the Prevention Council in a meaningful way and to ensure that the Chief Prevention Officer is acceptable to the Prevention Council. Additionally, trade unions must be represented on the Council in at least equal numbers as employers.

**4) Impediments to the operation of the Internal Responsibility System.**

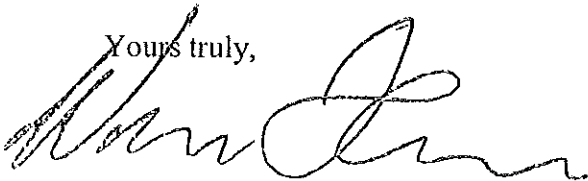
The Bill places unnecessary obligations on the worker Co-Chair of a Joint Health and Safety Committee in the making of recommendations. Amongst other things, it requires the worker to summarize management's position to management. The effect of these provisions is to make it more onerous to make recommendations for the protection of workers. Health and Safety representatives of small workplaces have always had the ability to make recommendations to their employer without any such conditions. These impediments must be removed.

**5) The threat to the autonomy of the Workers Health and Safety Centre (WHSC) and the Ontario Health Clinics for Ontario Workers (OHCOW)**

We are concerned that the powers of the Act may be used to undermine the autonomy of the WHSC and OHCOW. Mechanisms must be put in place to protect their independent governance and their ability to set priorities and to develop content, services and information that meet the needs of workers *as defined by workers*.

We are requesting a meeting with you to receive a response to these, our grave concerns. Let us work together to ensure that the changes to *Occupational Health and Safety Act* reflect the spirit and intent of the recommendations of the Expert Panel to improve the health and safety of all workers in Ontario and in particular those who are most vulnerable.

Yours truly,



Warren (Smokey) Thomas  
President

WT/lt

Copy: C. Sousa, Minister of Labour  
P. Kormos, NDP Labour Critic