



Effective Date: April 1, 2015

Most Recent Revision Date: March 12, 2015

Post Incident and Reasonable Cause Policy

Department	All
Scope	This policy applies to all members of Lodge 146 and any worker who is dispatched to a jobsite by Lodge 146.

Overview

The Canadian Model for Providing a Safe Workplace (the Canadian Model) as developed by the Construction Owners Association of Alberta (COAA) is a set of work rules and guidelines aimed at reducing the risks to worker safety that are associated with the use of drugs and alcohol. Lodge 146 is signatory to negotiated collective agreements that recognize this model as the minimum industry standard. Lodge 146 members and all other employees dispatched by Lodge 146 are therefore bound by the rules and regulations of the Canadian Model.

Further, Boilermakers Lodge 146 has sought a legal opinion with respect to the potential exposure to criminal liability in the event a worker is involved in a workplace accident when the Union has prior knowledge of previous possible jobsite impairment by a co-worker. That legal opinion determined that the Union is exposing themselves to such in the event they had allowed a worker who was non-compliant with Article 3.1 on a previous job to proceed to another jobsite without intervention.

Purpose

The purpose of the policy is to ensure compliancy with all aspects of both the Canadian Model for Providing a Safe Workplace (the Canadian Model) and the Criminal Code of Canada.



POLICY

Any worker dispatched through Boilermakers Lodge 146 who is deemed in violation of Article 3.1 of the **Canadian Model for Providing a Safe Workplace** will be not be dispatched to **any** employer until the following requirements have all been met:

1. The worker has been referred to an Substance Abuse Expert (SAE) and has given consent to undertake a Substance Abuse Expert Assessment;
2. The worker shall follow and complete all recommendations as directed in the assessment; and
3. The worker shall provide proof that all recommendations have been met.

Quick Reference Information

Canadian Model for Providing a Safe Workplace

Article 3.1 establishes the requirements of the worker with respect to the Drug and Alcohol policy:

- 3.1 An employee shall not
- (a) use, possess or offer for sale alcohol and drugs or any product or device that may be used to attempt to tamper with any sample for a drug and alcohol test while on company property or at a company workplace,
 - (b) report to work or work
 - (i) with an alcohol level equal to or in excess of 0.040 grams per 210 litres of breath,
 - (ii) with a drug level for the drugs set out below equal to or in excess of the concentrations set out below:
Or
 - (iii) while unfit for work on account of the use of a prescription or nonprescription drug,
 - (c) refuse to
 - (i) comply with a request made by a representative of the company under 4.3, or
 - (ii) comply with a request to submit to an alcohol and drug test made under 4.4, 4.5, 4.6 or 4.7, or
 - (iii) provide a sample for an alcohol and drug test under 4.8,
 - (d) tamper with a sample for an alcohol and drug test given under 4.8.



Article 5.5 establishes the requirements of the Labour Provider (the Union) with respect to a worker violation of Article 3.1:

5.5 Bargaining agent or labour provider responses to violations

A bargaining agent or labour provider shall decline to dispatch a person to a company until that organization has reviewed the initial assessment, referred to in Article 5.2 or 5.3, and until the conditions set out therein for the person have been met.

Criminal Code of Canada

In 2004 the Criminal Code of Canada was amended and Section 22.1 was written and enacted into law. This amendment created the potential for criminal responsibility on an organization in the event of a workplace accident/death. Section 22.1 of the Criminal Code of Canada reads as follows:

22.1 Offences of negligence — organizations

- (a) In respect of an offence that requires the prosecution to prove negligence, an organization is a party to the offence if
 - i. acting within the scope of their authority
 - ii. one of its representatives is a party to the offence, or
- (b) two or more of its representatives engage in conduct, whether by act or omission, such that, if it had been the conduct of only one representative, that representative would have been a party to the offence; and
 - i. the senior officer who is responsible for the aspect of the organization's activities that is relevant to the offence departs — or the senior officers, collectively, depart — markedly from the standard of care that, in the circumstances, could reasonably be expected to prevent a representative of the organization from being a party to the offence.

Related Documents

Canadian Model for Providing a Safe Workplace
Criminal Code of Canada
Negotiated Collective Agreements