



Friday November 7, 2008

Hon. Peter Fonseca, MPP
Minister of Labour
400 University Avenue
14th Floor
Toronto ON M7A 1T7

Re: Bill 119: *An Act to Amend the Workplace Safety and Insurance Act, 1997*

Dear Minister Fonseca;

On behalf of Ontario's industrial, commercial and institutional, heavy civil and high-rise residential construction industries, we are writing in response to Bill 119, implementing mandatory WSIB coverage for the construction industry.

Our organizations have consistently supported the concept of mandatory WSIB coverage, including independent operators, for the construction industry. A mandatory coverage system will serve to ensure those engaged in construction pay their fair share of premiums into the WSIB system, creating a fair and level business environment and reducing the size and scope of the underground economy. At present just 61% of the construction industry is paying for 100% of benefits, a situation that is both unacceptable and unsustainable. Some business owners within our industry choose to exploit loopholes to avoid paying their share of WSIB premiums thereby reducing their costs and unfairly improving their competitiveness. As a result there exists a significant loss of revenue for the WSIB and current premium rates are estimated to be inflated by about 20%. It is the hope of the construction industry that with the introduction of a mandatory coverage system, premium levels will decrease as more revenue is made available

Although Bill 119 is a step in the right direction with respect to achieving the goals illustrated above, we have two primary concerns we would appreciate the opportunity to discuss with you, namely the elimination of executive officer coverage and more importantly the exemption for home renovators.

First, our members are troubled by the mandating of WSIB coverage for executive officers. Our position throughout discussions on this issue has been consistent. While we have been supportive of extended coverage we do not believe executive officers (presidents, chief executive officers, chief financial officers, vice presidents etc.) who do not through the course of their duties perform construction work or are not routinely exposed to the risks associated with attending a construction site, should be subject to mandatory WSIB coverage. We recognize that Section 12.2 (1) of the legislation is written to prevent the formation of another loophole that could be exploited and thereby undermining the legislative intent and spirit of the Bill. That being said, we believe more work needs to be done ensure that any and all options have been further explored that preserves the exemption for those executive officers who are not exposed to the risks typical associated with construction work. As such, we are hoping that legislation is crafted that would facilitate the industry to work with the government to develop provisions that will permit legitimate executive officers to be exempt, while ensuring it does not become the "new IO" problem

Second, and of significantly greater concern is the exemption of mandatory coverage for home renovators as specified in Section 12.2 (5). It is our belief that the exemption in its present form will be unjustly transferring WSIB benefits costs associated with the home renovation sector of the industry on to the rest of construction. It is our belief the legislation needs to incorporate a tighter definition of the individuals undertaking this work to prevent the creation and exploitation of additional loopholes in the system and mechanisms by which to avoid paying WSIB premiums, which would be legislatively protected under the proposed bill. The industry does have a few broad ideas that would further narrow this abuse while maintaining the exemption for those individuals the exemption seeks to shelter.

On a related note, we would also like to work more closely with your office on the messaging being put forward on this initiative. It is our concern that the primary benefit of this legislation being communicated to the public is the creation of safer workplaces in Ontario. While some of the incremental revenues realized through the implementation of mandatory coverage may be allocated to new safety programming, the primary objective of Bill 119 is to ensure the financial sustainability and viability of the WSIB and the leveling of the playing field in the construction industry. It will be these outcomes that will support the fostering of an overall safer construction sector for Ontario. We would be pleased to work with your office to develop and communicate some of these messages in order to better inform the construction industry as to the desired outcomes of this legislation.

The Ontario construction industry supports the government's intention to implement a mandatory WSIB coverage system for Ontario. We are confident that once the issues illustrated above are addressed a workable solution can be achieved.

We are looking forward to working with you on this legislation so that the entire construction industry can equitably contribute to the WSIB system.

Sincerely,



David Zurawel
Vice President,
Policy & Government Relations
Council of Ontario Construction Associations



Jason Ottey
Director,
Policy & Research
RESCON



Karen Renkema
Director,
Government Relations
Ontario Road Builders' Association

c.c.

Hon. Dalton McGuinty, Premier of Ontario
Hon. George Smitherman, Minister of Energy and Infrastructure
Hon. Michael Bryant, Minister of Economic Development
Vic Dhillon, MPP, Parliamentary Assistant to the Minister of Labour
Bob Bailey, MPP, PC Labour Critic
Peter Kormos, MPP, NDP Labour Critic
Hon. Steve Mahoney, Chair, Workplace Safety & Insurance Board
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