

# Workplace Violence and Harassment Legislation Takes Effect June 2010

**The date is June 2010 and for the past month, there has been an issue with youth roaming the downtown core, terrorizing local business owners. These youth have been known to go as far as to rough up a store owner while he was walking to his car after closing his shop. Aware of the threats, your employee informs you that he refuses to work the late shift at the downtown parking garage site because he fears for his safety. What do you do?**

The responses to such a work refusals are many and varied. Some employers might try to persuade the employee that the situation is not quite as bad as it is made out to be and would try to coax him or her to work the shift. Some would attempt to accommodate the employee's concerns by assigning another employee who may not be aware of the situation and accepts the shift. Other employers might go as far as to provide an ultimatum - work the shift or find another job!

Effective June 2010, any of these responses could find an employer in contravention of the amended Ontario Occupational Health and Safety Act.

Bill 168, Violence and Harassment in the Workplace, received Royal Assent on December 15, 2009 and the amendments introduced to the Occupational Health and Safety Act (OH&S Act) will take effect June 15, 2010.

Bill 168 was introduced in April 2009 as a means of addressing issues of workplace harassment and violence. The Bill is the result of an inquest held to review the tragic events of the murder of a nurse at a hospital in Windsor, Ontario who was killed by her boyfriend, a doctor practicing at the same hospital.

Bill 168 also stipulates the 'duty' of a supervisor to provide information, including personal information, related to a risk of workplace violence from any person with a history of violent behaviour if an employee can be expected to encounter that person in the course of his/her work, and the risk of workplace violence is likely to expose the employee to physical injury.

You may be asking, "What about the protection of personal information?" Although the amendments are not explicit, they do limit the sharing of information to those persons that may be at risk and whom will be required to work closely with the person in question. The successful implementation of this Bill will require a close-working relationship between the Human Resources Section and Security departments of your organization.

Bill 168 incorporates the need to implement a prevention-based model that provides the tools and education to prevent workplace violence and harassment. The term 'prevention' stipulates more than what is considered to be the norm which has always been a response-based learning model.

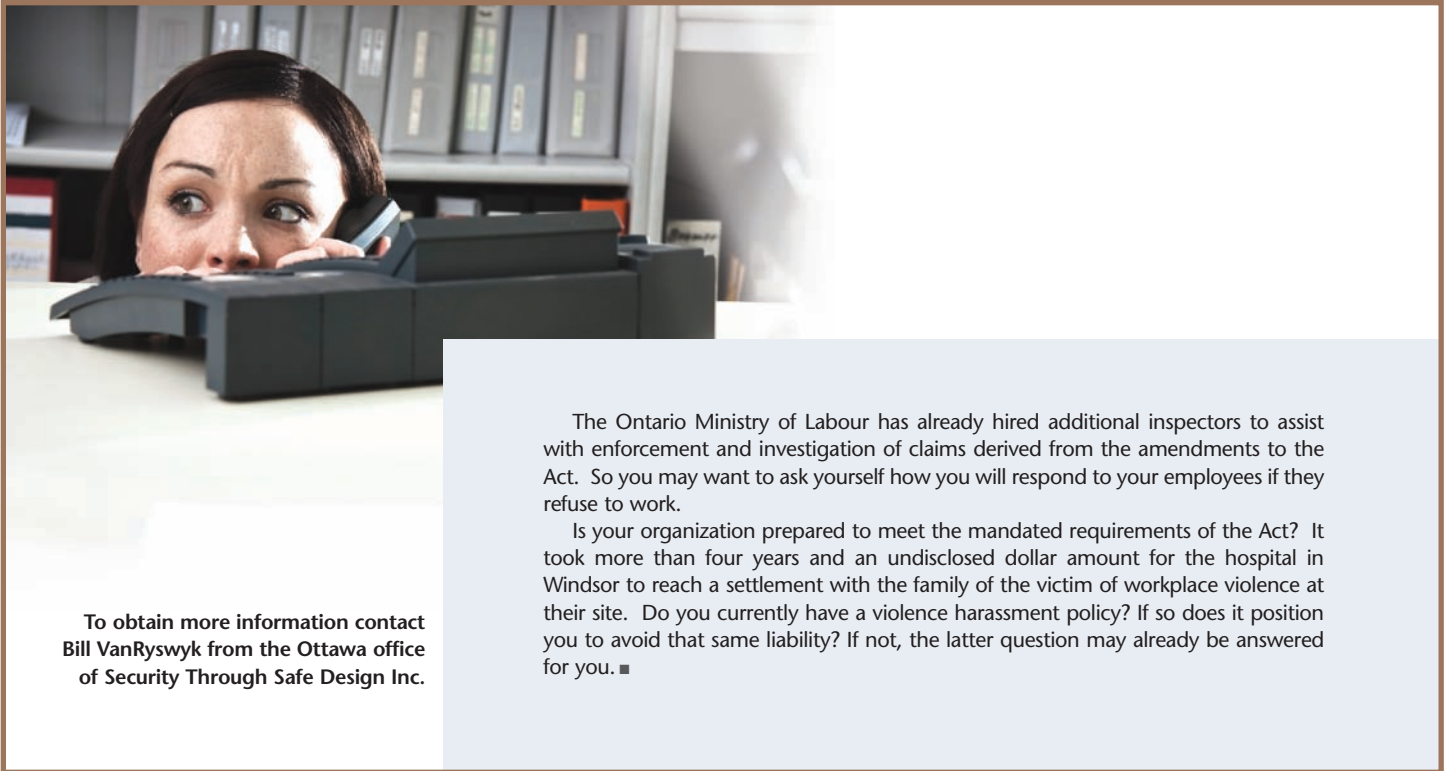
Bill 168 also amends the work refusal section of the Act to give an employee the right to refuse to work if he/she has reason to believe that workplace violence is likely to occur. The employer is then mandated to investigate the claim and if the issue cannot be resolved within the organization they must involve the Ministry of Labour to further investigate.

Regardless of the outcome, the employer cannot dismiss, suspend, discipline, penalize, threaten, intimidate or coerce the worker as a result of his or her right to refuse to work. There are statutory exceptions limited to police, fire, corrections and various health care workers.



## THE AMENDED CHANGES TO THE OH&S ACT WILL MANDATE THAT EMPLOYERS MAKE THE FOLLOWING PROVISIONS:

- DEVELOP WRITTEN POLICIES WITH RESPECT TO BOTH WORKPLACE VIOLENCE AND WORKPLACE HARASSMENT AND ENSURE THAT THESE POLICIES ARE REVIEWED AT LEAST ONCE PER YEAR
- DEVELOP AND IMPLEMENT COMPREHENSIVE WORKPLACE VIOLENCE PREVENTION PROGRAMS
- CONDUCT THOROUGH RISK ASSESSMENTS OF EACH WORKPLACE FACILITY AND COMMUNICATE THE RESULTS TO A JOINT HEALTH AND SAFETY COMMITTEE
- CONDUCT MANDATORY WORKPLACE VIOLENCE TRAINING
- DEVELOP AND IMPLEMENT PROCEDURES FOR SUMMONING HELP IN EMERGENCIES
- ENSURE A PROCESS FOR REPORTING CASES OF HARASSMENT AND VIOLENCE
- INVESTIGATE REPORTED INCIDENTS OF HARASSMENT AND VIOLENCE



**To obtain more information contact  
Bill VanRyswyk from the Ottawa office  
of Security Through Safe Design Inc.**

The Ontario Ministry of Labour has already hired additional inspectors to assist with enforcement and investigation of claims derived from the amendments to the Act. So you may want to ask yourself how you will respond to your employees if they refuse to work.

Is your organization prepared to meet the mandated requirements of the Act? It took more than four years and an undisclosed dollar amount for the hospital in Windsor to reach a settlement with the family of the victim of workplace violence at their site. Do you currently have a violence harassment policy? If so does it position you to avoid that same liability? If not, the latter question may already be answered for you. ■