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## Volume 1, Issue 1

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## Welcome to our first Newsletter!

Welcome to the first issue of the newsletter of JM Box Consulting Services.

This newsletter is aimed at providing clients of JM Box Consulting Services, and those we would like to have join us as clients, with information useful to them, presented in an easy to digest format. In many organizations, particularly smaller ones, the time is not there for you to research topics, surf the internet,, or just become aware of topics, particularly if they do not directly concern your organization. Our goal is to provide you with information, particularly as it relates to Human Resources issues.

As examples, we have articles in this issue on Bill 168, the Province of Ontario's violence and harassment in the work-

place initiative, as well as Ontario's ban on cell phones while driving, which will come into effect in the fall of 2009. Both could impact on your organization— are you ready?



In case you were wondering, the title of this newsletter is something that we sometimes hear when we are missing a piece of information that others

think we ought to have. Whether we are too busy to have found the information, or it would have come from a source we have no access to does not matter to the individual making the statement. It is therefore the goal of this newsletter to provide you with some information "you should just know," and therefore make it easier for you to manage in your workplace.

I hope you enjoy this newsletter. Please feel free to contact me with feedback or any article suggestions that you might have at [john@jmboxconsulting.com](mailto:john@jmboxconsulting.com).

Thanks again and welcome!

John Box

JM Box Consulting Services

## Ontario's Bill 168– Moving Towards a Safer Workplace?

On April 20, 2009, the Legislature of the Province of Ontario passed first reading of Bill 168, **An Act to amend the Occupational Health and Safety Act with respect to violence and harassment in the workplace and other matters**. This proposed legislation has not yet received second or third reading, but will have an

impact on every Ontario workplace. As it currently stands, Bill 168 will formalize how employers deal with the issues of workplace violence and harassment. In general terms, it will require each employer to

- Develop workplace violence and harassment policies, which must be posted and reviewed annually (if

there are more than five employees)

- Develop workplace violence and harassment programs
- In situations where the employer is aware or ought to be aware that domestic violence is likely

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**Bill 168 will change how employers must deal with violence in and outside the workplace.**

**Another major change that Bill 168 will make in the workplace is how the issues of workplace violence and harassment are to be approached"**



**Bill 168 extends harassment issues beyond the Human Rights Code.**

*(Continued from page 1)*

to expose a worker to physical injury or may occur in the workplace, take every reasonable precaution to protect the worker.

- Provide worker information instruction and training on the established workplace violence and harassment policies and programs

At first glance, it might appear that Bill 168 is only formalizing what many employers have already dealt with in terms of policies regarding workplace violence and harassment. What is different, however, is the level of responsibility that the employer will now have in terms of not only what goes on in its workplace, but for what might come into the workplace as the result of its employees' private lives and the lives of others. As currently proposed, Bill 168 mandates that employers provide information, including (undefined) personal information "a risk of workplace violence from a person with a history of violent behaviour" if its worker can be expected to encounter that person in the course of his/her work and there is likely exposure to physical violence. The Bill goes on to clarify that the employer cannot disclose more personal information "...than is reasonably necessary to protect the worker from physical injury". Legal experts are already questioning what this means, and this is an area where amendments to the Bill can be anticipated.

Another major change that Bill 168 will make in the workplace is how the issues of workplace violence and harassment are to be approached. As noted previously, Bill 168 will amend the Occupational Health and Safety Act. This means that issues that traditionally have been either not dealt with or dealt with as privately as possible would now be subject to far more scrutiny both inside and outside the workplace. While in general terms, the exposure of these two important workplace issues to the light of day is laudable, it remains to be seen how the privacy of individuals involved in specific incidents will be dealt with. The inclusion of a Joint Health and Safety Committee into this area will no doubt require special consideration by employers, unions and workers alike.

After reviewing the proposed legislation, there are a number of areas of potential concern for employers that come to mind. The first is the requirement for the preparation of workplace violence and harassment policies and programs. While Bill 168 may be new legislation in Ontario, the issue of workplace violence has been one of concern in Ontario for some time. As a result, information, potential policies and programs can be obtained off of the internet, including the website of the Ontario Workplace Safety and Insurance Board.

A second area of potential concern relates to the issue of doing workplace assessments related to the risk of violence in the workplace. According to Bill 168, this entails looking at potential workplace violence risk circumstances in the workplace, as well as those common to other similar workplaces.

The third area of potential concern surrounds the whole issue of the protection of privacy, and the requirement to give out a certain level of personal information when it comes to potentially violent individuals. As noted earlier, this is an area that will require a considerable amount of clarification in the future, and will no doubt be the subject of much ongoing debate.

As Bill 168 approaches second reading in the provincial legislature, and as hearings are held on this matter, there is little doubt that changes will be discussed and potentially made to the content of the legislation. With a backdrop of the workplace tragedies that occurred in the OC Transpo facility in Ottawa in 1999 and at Hotel-Dieu Grace Hospital in Windsor in 2005, this legislation will go forward and will impact the workplace.

**JM Box Consulting Services** will be keeping a close eye on the progress and content of Bill 168. Once it is passed, we will be putting together information and training specific to this legislation. For more information on this topic or potential services that we can offer you, please contact us at [info@jmboxconsulting.com](mailto:info@jmboxconsulting.com).

## Driving and Cellphones in Ontario

Effective in October of 2009, you will no longer be able to watch Flintstones reruns on your portable television while you are driving your car in Ontario. Or call your friend on your hand-held cell phone to comment on the fate of the Toronto Maple Leafs. By amending the Highway Traffic Act, the Province of Ontario has made it illegal to drive while holding or operating cell phones, Blackberries, i-pods or similar devices, or to have a television, computer or other device's screen visible to the driver in a vehicle. Don't worry; your G.P.S. unit is exempt. You are also exempt if you are driving an ambulance, police car or fire truck.

This change does not mean that you can't communicate while driving, as you still will be able to utilize the 'hands free' mode of your favourite device or to call 9-1-1.

Why is this such an important change? Studies have proven that talking on a cell phone while driving has the same effect on your driving ability as being impaired with a .08 blood alcohol level. The issue under consideration here is the effect that this ban could have on employers. After all, it will be the law. Here are some things to consider.

Under the Ontario Occupational Health and Safety Act, employers have a duty to "Instruct, inform and supervise workers to protect their health and safety" and to "take every precaution reasonable in the circumstances for the protection of a worker". Additionally, supervisors are to "advise a worker of any potential or actual health and safety dangers known to the supervisor". What this is telling us is that even while not using your cell phone while driving will be illegal in Ontario, it would still necessary to make clear to your employees what your expectations are of them when it comes to cell phone use while driving as part of their work duties. In fact, it could be argued that even now, before the change in legislation comes into effect, you already have that responsibility under the Occupational Health and Safety Act.

While we are talking about employer responsibilities, let's turn to the second issue, that of an employer's potential legal liability if an employee is in an accident while driving and using a cell phone or other device. The concern reported by a number of legal experts is that related to the concept of vicarious liability. This means that an employer could be held responsible for the negligent conduct of its employee, even if the employee has broken the law in doing so. These lawsuits, already happening in the United States, are often based on the fact that the incident took place while the employee was working, and that the employer, by not stating otherwise, permitted the use of the cell phone for work purposes.

What does the preceding information tell us? That if you don't already have a policy on cell phone (or related devices, including computers) use while working, you might want to consider one now. It should clearly state your parameters and expectations for cell phone use in the car. For example, even though legal under the legislation, do you want 'hands free' devices used when an employee is driving? Or would you rather say that no calls are to be made under any circumstances unless the employee is parked. In any event, the policy should clearly state that using a cell phone or related device while driving is prohibited while working.

For more information on this topic or potential services that we can offer you, please contact us at [info@jmboxconsulting.com](mailto:info@jmboxconsulting.com).



***"talking on a cell phone while driving has the same effect on your driving ability as being impaired with a .08 blood alcohol level"***

## Pay Equity Reminder

In Ontario, it is the responsibility of employers to not only establish pay equity within the workplace, but to also ensure that it is maintained. While the **Pay Equity Act** does not require a formal maintenance agreement, even in a unionized environment, it is a good idea to have one. At the very least, consideration should be given to having at least a formalized process for ensuring the maintenance of pay equity. The Pay Equity Commission is on record that if it receives a complaint that pay equity has not be maintained, one of the first things it will look at is whether or not the employer's maintenance practices have led to a widening of the wage gap.

If you would like to discuss pay equity, job evaluation or any related topics, please e-mail us at [info@jmboxconsulting.com](mailto:info@jmboxconsulting.com) or call at (519) 903-5634.



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Check out our website at  
[www.jmboxconsulting.com](http://www.jmboxconsulting.com)



She is a wheelchair user, not someone confined to a wheelchair— it's a matter of respect.

## An Overview of Our Services

**JM Box Consulting Services** provides creative and cost-effective Human Resources support and services that assist clients in dealing with their issues and challenges with confidence. Together, we will resolve issues one at a time, either through consultation, training or working together on necessary projects. These services are designed to be of greatest service to small to medium size organizations, mainly but not exclusively in the municipal, health care, charitable and not-for-profit sectors.

**JM Box Consulting Services** takes the approach of meeting client expectations by identifying the gap between the desired goals and current realities, to discover the best ways of eliminating that gap- not just for the present, but for the future as well.

### Services

**E-Consulting-** providing clients with quick, cost-effective access to Human Resources expertise through the use of e-mail and telephone communications, without the expense of or supplemental to internal Human Resources staff.

**Project Management Services-** to provide project management and expertise on matters such as job evaluation/pay equity, wage/salary administration systems, policy and procedure review and development, and organization redesign and restructuring.

**Training Services-** to address client needs that are best addressed through training specific to the needs of the organization, such as Violence in the Workplace, E-mail and Internet Use, and Hiring/Interviewing.

### Downloadable Diamonds

**The purpose of this section of our newsletter is to alert readers to some resources available from the internet that they might not be aware of.**

Our first resource is entitled **Disability Etiquette**, a 36 page available from the United Spinal Association ([www.unitedspinal.org](http://www.unitedspinal.org)), based in Jackson Heights, New York. It provides the reader with an excellent summary of to respect with sensitivity the needs and wishes of persons with disabilities on a day to day basis. As an American publica-

tion, it does make references to the Americans with Disabilities Act, but still provides a great deal of information for all readers. The booklet is divided into a number of sections, including **Terminology Tips**, **People Who Are ...** (Blind, Deaf, Have Speech Disabilities, Have Hidden Disabilities, etc.), **Emergency Evacuation Procedures**, and **Conflict Management**. This guide would be useful to any employer and could be used as a great resource for staff education.

Our next selection ties in with our article on Bill 168. The Ontario Safety Association for

Community and Healthcare ([www.osach.ca](http://www.osach.ca)) has put together an excellent 44 page booklet entitled **Bullying in the Workplace**. While this organization's mandate is the health care sector, the content of the booklet is a good guide for all. It looks at this important topic from the perspective of both the employer and the employee, complete quizzes that you can take to see where you are in terms of the subject.