



Bill C-45 – Overview

What is Bill C-45?

Why was Bill C-45 (Section 217.1 in the Criminal Code) created?

What are the main provisions of Bill C-45 (Section 217.1 in the Criminal Code)?

Who do these provisions of the Criminal Code affect?

Who is responsible for enforcing this Criminal Code?

Who is responsible for enforcing occupational health and safety laws?

Does Bill C-45 (Section 217.1 in the Criminal Code) impact on other legislation?

Can a company be charged under a provincial OH&S act and the Criminal Code at the same time?

What types of offences will be targeted?

Has anyone been charged?

Yes. To date there have been eight cases where charges have been laid. Most of these cases did see other charges and fines issued using the occupational health and safety legislation of the jurisdiction where the incident took place.

On February 11, 2010 Sault Ste Marie Police charged the owner of Millennium Crane Rentals and the crane operator with criminal negligence causing death after a municipal worker was killed while working in an excavation hole. The accident occurred on April 16, 2009 at an excavation site where sewage work was being performed. The crane toppled and fell into the hole killing the worker. In March 2011, the Crown announced that it had dropped the charges of criminal negligence causing death because there was no reasonable prospect of conviction based on the evidence. In July 2013, Millennium Crane Rental was, however, "found guilty of failing to ensure that the crane was maintained in a

condition that would not endanger a worker", and fined \$70,000 for a violation of the Ontario Occupational Health and Safety Act.

On December 24, 2009 four workers were killed and one was seriously injured at a Toronto construction site when the swing stage scaffolding they were on collapsed. Metron Construction and three corporate officers were charged with criminal negligence and fined \$200,000 plus a victim surcharge of \$30,000. Metron's owner was personally fined \$90,000, plus a victim surcharge of \$22,500 under the Ontario Occupational Health and Safety Act. A total of 61 charges were laid by the Ministry of Labour. The fine against the company was appealed and in September 2013, the Appeal court tripled the fine against Metron, raising it to \$750,000 for Criminal Negligence. An additional victim surcharge of \$112,500 was levied against the company. The appeals court judge found that the original fine of \$200,000 was "manifestly unfit". One supervisor named in the case will be on trial in the Fall of 2013 for charges of criminal negligence causing death.

On March 17, 2008 a paving company (Transpave) was charged and convicted of criminal negligence and fined \$100,000 in the death of an employee, plus a \$10,000 victim surcharge.

On May 17, 2007, Mark Hritchuk, a Service Manager at a LaSalle, Quebec auto dealership was charged with criminal negligence after one of his employees caught on fire while using a makeshift fuel pump that had gone unrepaired and broken for several years. Mr. Daoust, a 22 year employee with the company, was engulfed in flames after a spark ignited fuel which had spilled on him, while he attempted to fill the gas tank of a vehicle whose fuel gage had broken and needed repairing. The employee survived but received third degree burns to 35% of his body. The case was brought before a court of inquiry on March 10, 2009. The case went to court in March 2012. Mr Hritchuk pleaded guilty of unlawfully causing bodily harm.

On October 13, 2006 a train struck a maintenance vehicle, killing one worker and injuring three others. Two employees of Québec-Cartier were charged with criminal negligence causing death and three counts of criminal negligence causing bodily harm. The corporation was not charged. On November 29th, 2010 a Quebec Court acquitted both men on all counts, finding that the incident was an error due to a company culture of tolerance of unsafe practices and deficient training rather than a wonton act of criminal negligence.

On Jun 12, 2006 a landscape contractor was crushed to death when the backhoe his employer was driving failed to stop, pinning the employee to a wall. The investigation of the incident found that the 30 year old backhoe had not received any regular maintenance since the vehicle was purchased and that no formal inspection had been done in the previous five years. Upon further investigation it was discovered that the vehicle had no braking capacity. In September 2010, the employer was convicted of criminal negligence

causing death and was given a two year conditional sentence to be served in the community.

On March 22, 2006 BC Ferries vessel Queen of the North sank after going off course and running aground killing two passengers. The ferry navigation officer was charged with two counts of criminal negligence causing death. The officer was reported to have been distracted by a personal interaction he was having with another person and did not realize the vessel was off course. On June 24th, 2013, he was sentenced to 4 years in prison and banned from operating a vessel for 10 years. An appeal has been filed.

On April 19, 2004 near the city of Newmarket, Ontario a worker was killed after the ground around him collapsed while digging a ditch at a residential construction site. The construction site supervisor was charge under section 217.1 of the Criminal Code with one count of criminal negligence causing death. In March 2005, the charges of criminal negligence against the site supervisor were dropped in an apparent plea bargain which saw the supervisor agree to three of eight charges under the Ontario Occupational Health and Safety Act and a fine of \$50,000 with a 25% victim surcharge.

How can I ensure a safe workplace and limit my liability?

For further information, review our [Health and Safety Programs](#) section of OSH Answers.

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