



FYI



| PLEASE POST |

Date: February 5, 2024
To: All Local 301 Members
Re: Remember Your Right to Refuse Unsafe Work

The BCGEU OHS department would like to remind our members of their right to refuse unsafe work.

Right to Refuse Unsafe Work

All workers in our province are entitled to exercise their four basic rights when it comes to Occupational Health & Safety in the workplace. BCGEU members all need to be aware of their rights when performing the tasks and duties of their occupation. Knowing these rights and exercising them allows you to work in the safest work environment possible.

The four basic rights are:

- Right to know about workplace hazards
- Right to participate in the OHS program
- Right to refuse unsafe work
- Right to No prohibited action

The right to refuse unsafe work is a legislative right that we all have as workers. The right comes from the Occupational Health & Safety regulation, section 3.12. Here is the regulation:

3.12 Procedure for Refusal of Unsafe Work

(1) A person must not carry out or cause to be carried out any work process or operate or cause to be operated any tool, appliance or equipment if that person has reasonable cause to believe that to do so would create an undue hazard to the health and safety of any person.



(2) A worker who refuses to carry out a work process or operate a tool, appliance or equipment pursuant to subsection (1) must immediately report the circumstances of the unsafe condition to his or her supervisor or employer.

(3) A supervisor or employer receiving a report made under subsection (2) must immediately investigate the matter and (a) ensure that any unsafe condition is remedied without delay, or (b) if in his or her opinion the report is not valid, must so inform the person who made the report.

(4) If the procedure under subsection (3) does not resolve the matter and the worker continues to refuse to carry out the work process or operate the tool, appliance or equipment, the supervisor or employer must investigate the matter in the presence of the worker who made the report and in the presence of

- (a) a worker member of the joint committee,
- (b) a worker who is selected by a trade union representing the worker, or
- (c) if there is no joint committee or the worker is not represented by a trade union, any other reasonably available worker selected by the worker.

(5) If the investigation under subsection (4) does not resolve the matter and the worker continues to refuse to carry out the work process or operate the tool, appliance or equipment, both the supervisor, or the employer, and the worker must immediately notify an officer, who must investigate the matter without undue delay and issue whatever orders are deemed necessary.

The regulation above gives the worker a legislative responsibility and requirement to refuse unsafe work.

Step 1: The worker needs to immediately report to their supervisor that they have stopped work and the reasons why they believe the job or task is unsafe.

The supervisor needs to investigate into the matter and deem a decision. "The work is unsafe, let's stop work" or assign you to alternate duties until we can eliminate or minimize the hazards" or "the work is deemed to be safe, please go back to work."

The worker then has had their concern investigated. If the supervisor has dealt with the concerns to the approval of the worker then the worker can go back to doing the job or task that was deemed unsafe. If the worker is not satisfied with the supervisor's decision they would continue on with the process.

Step 2: The worker is not satisfied with the supervisor's decision and now can ask for a member of the OHS committee to attend and assist with the investigation into unsafe work. If no committee member is available then the worker can select any other reasonable worker with knowledge of the job being refused. The worker, supervisor and the committee member go through the investigation process again, and we have two solutions again. "The work is safe, go back to work" or "The work is unsafe, let's make this safe before we continue." If the worker is still not satisfied with the results of the investigation, we go to the Step 3.

Step 3: The supervisor and the worker must notify WCB. WCB will then assign an officer to this file

and the officer must investigate without undue delay and issue their findings after an investigation. WCB deems the work to be unsafe and the work task or specific job stops until the work can be made safe. If WCB deems the work to be safe, the worker must go back to work. There is an appeal process that can be started; however, the worker must comply with the investigation of the board officer.

3.12.1 *Reassignment of refused work*

If worker refuses work under section 3.12, the employer must not require or permit another worker to do the refused work unless:

- (a) The matter has been resolved under section 3.12(3), (4) or (5), or
- (b) The employer has in writing, advised the other worker and a person referred to in section 3.12(4)(a), (b) or (c) of the following:
 - (i) The refusal;
 - (ii) The unsafe condition reported under section 3.12(2);
 - (iii) The reasons why the work would not create an undue hazard to the health and safety of the other worker or any other person;
 - (iv) The right of the other worker under section 3.12 to refuse unsafe work.

(enacted by BC Reg. 116/2022, effective August 22, 2022)

3.13 *No prohibited action*

- (1) A worker must not be subject to prohibited action as defined in section 47 of the *Workers Compensation Act* because the worker has acted in compliance with section 3.12 or with an order made by an officer.
- (2) Temporary assignment to alternative work at no loss in pay to the worker until the matter in section 3.12 is resolved under section 3.12 (3), (4) or (5) is deemed not to constitute prohibited action.

If you as a worker are exercising this right in your workplace, please keep your local chair, staff rep, and the BCGEU OHS department informed. These resources and staff can assist you with your concerns and support you through what can be a tough process.

Remember that the right to refuse unsafe work is a legislative right that all workers have in the province of B.C. If you have any questions in regards to your health and safety rights please contact your Component Executive or email Occupational Health and Safety Department Staff representative at BCGEU at OHS@BCGEU.CA

In solidarity,
Kate Banky, Local 301 Chairperson
Kathleen Mann, Staff Representative