

# **Due Diligence**

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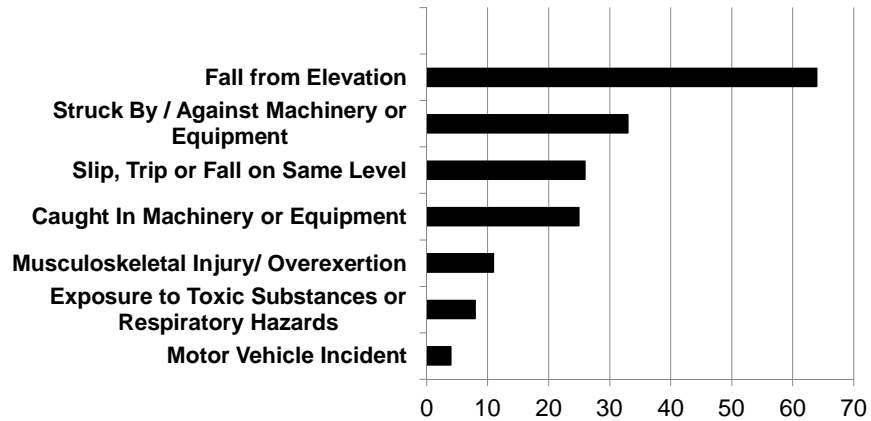
## Learning Objectives

- **Understand and comply with the regulatory requirements regarding Due Diligence.**
- **Bill C-45.**
- **Understand definition of due diligence.**
- **Individual health and safety responsibilities in the workplace.**
- **Understand purpose of due diligence.**

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## BC Mushroom Industry Injury Statistics

### Most Common Cause of Injuries 2003 - 2012



**Click one of the following menu options:**

Applicable Occupational Health and Safety  
Regulations (OHSR) and/or Guidelines

FARSHA Training Program

Part 3 Division 3 General Duties for  
Employers, Workers and Others

Workers Compensation Act

**General Duties of Employers 115**

- (1) Every employer must:
- (a) ensure the health and safety of
    - (i) all workers working for that employer, and
    - (ii) any other workers present at a workplace at which that employer's work is being carried out, and
  - (b) comply with this Part, the regulations and any applicable orders.

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Part 3 Division 3 General Duties for  
Employers, Workers and Others

Workers Compensation Act

**General Duties of Employers 115** *(Cont'd.)*

- (2) Without limiting subsection (1), an employer must:
- (a) remedy any workplace conditions that are hazardous to the health or safety of the employer's workers,
  - (b) ensure that the employer's workers
    - (i) are made aware of all known or reasonably foreseeable health or safety hazards to which they are likely to be exposed by their work,
    - (ii) comply with this Part, the regulations and any applicable orders, and
    - (iii) are made aware of their rights and duties under this Part and the regulations,

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Part 3 Division 3 General Duties for  
Employers, Workers and Others

Workers Compensation Act

**General Duties of Employers 115** (Cont'd.)

(2) Without limiting subsection (1), an employer must:

- (c) establish occupational health and safety policies and programs in accordance with the regulations,
- (d) provide and maintain in good condition protective equipment, devices and clothing as required by regulation and ensure that these are used by the employer's workers,
- (e) provide to the employer's workers the information, instruction, training and supervision necessary to ensure the health and safety of those workers in carrying out their work and to ensure the health and safety of other workers at the workplace,

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Part 3 Division 3 General Duties for  
Employers, Workers and Others

Workers Compensation Act

**General Duties of Employers 115** (Cont'd.)

(2) Without limiting subsection (1), an employer must:

- (f) make a copy of this Act and the regulations readily available for review by the employer's workers and, at each workplace where workers of the employer are regularly employed, post and keep posted a notice advising where the copy is available for review,
- (g) consult and cooperate with the joint committees and worker health and safety representatives for workplaces of the employer, and
- (h) cooperate with the Board, officers of the Board and any other person carrying out a duty under this Part or the regulations.

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Part 3 Division 3 General Duties for  
Employers, Workers and Others

Workers Compensation Act

**General Duties of Workers 116**

**(1) Every worker must**

- (a) take reasonable care to protect the worker's health and safety and the health and safety of other persons who may be affected by the worker's acts or omissions at work, and
- (b) comply with this Part, the regulations and any applicable orders.

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Part 3 Division 3 General Duties for  
Employers, Workers and Others

Workers Compensation Act

**General Duties of Workers 116** (Cont'd.)

**(2) Without limiting subsection (1), a worker must**

- (a) carry out his or her work in accordance with established safe work procedures as required by this Part and the regulations,
- (b) use or wear protective equipment, devices and clothing as required by the regulations,
- (c) not engage in horseplay or similar conduct that may endanger the worker or any other person,

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Part 3 Division 3 General Duties for  
Employers, Workers and Others

Workers Compensation Act

**General Duties of Workers 116**

(2) Without limiting subsection (1), a worker must *(Cont'd.)*

(d) ensure that the worker's ability to work without risk to his or her health or safety, or to the health or safety of any other person, is not impaired by alcohol, drugs or other causes,

(e) report to the supervisor or employer

(i) any contravention of this Part, the regulations or an applicable order of which the worker is aware, and

(ii) the absence of or defect in any protective equipment, device or clothing, or the existence of any other hazard, that the worker considers is likely to endanger the worker or any other person,

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Part 3 Division 3 General Duties for  
Employers, Workers and Others

Workers Compensation Act

**General Duties of Workers 116**

(2) Without limiting subsection (1), a worker must *(Cont'd.)*

(f) cooperate with the joint committee or worker health and safety representative for the workplace, and

(g) cooperate with the Board, officers of the Board and any other person carrying out a duty under this Part or the regulations.

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Part 3 Division 3 General Duties for  
Employers, Workers and Others

Workers Compensation Act

**General Duties of Supervisors 117**

**(1) Every supervisor must**

- (a) ensure the health and safety of all workers under the direct supervision of the supervisor,
- (b) be knowledgeable about this Part and those regulations applicable to the work being supervised, and
- (c) comply with this Part, the regulations and any applicable orders.

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Part 3 Division 3 General Duties for  
Employers, Workers and Others

Workers Compensation Act

**General Duties of Supervisors 117** *(Cont'd.)*

**(2) Without limiting subsection (1), a supervisor must**

- (a) ensure that the workers under his or her direct supervision
  - (i) are made aware of all known or reasonably foreseeable health or safety hazards in the area where they work, and
  - (ii) comply with this Part, the regulations and any applicable orders,
- (b) consult and cooperate with the joint committee or worker health and safety representative for the workplace, and
- (c) cooperate with the Board, officers of the Board and any other person carrying out a duty under this Part or the regulations.

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## Menu

**Bill C-45**



**Definition**



**Responsibilities**



**Purpose**



**Questions to Ask Yourself**



**Contact Information**



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## Bill C-45

### **Federal legislation that amends the Canadian Criminal Code.**

- Became law on March 31, 2004.
- Established legal duties for workplace health and safety, and imposes serious penalties for violations that result in injuries or death.
- Established rules for attributing criminal liability to organizations, including corporations, for the acts of their representatives.
- Creates a legal duty for all persons directing work to take “reasonable steps” to ensure the safety of workers and the public.

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## Bill C-45

**Bill C-45 is the new Section 2.17.1 in the Criminal Code which reads:**

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**“Everyone who undertakes, or has the authority, to direct how another person does work or performs a task is under legal duty to take reasonable steps to prevent bodily harm to that person, or any other person, arising from that work or task.”**

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## Due Diligence

### Definition

**To take all reasonable care to protect the well-being of employees or co-workers while at work. In other words, the employer must be able to prove that all precautions, reasonable under the circumstances, were taken to protect the health and safety of workers.**

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## Due Diligence

### Responsibilities - Employers

- **Complying with Regulations and Legislation**
- **Regular Workplace Inspections**
- **Accident and Incident Investigations**
- **Written Safe Work Procedures**
- **Written Occupational Health and Safety Policies**
- **Monitoring Safe Work Practices**
- **Training and Education of Workers**
- **Joint Health and Safety Committee**
- **Management Meetings**
- **Records and Statistics**

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## Due Diligence

### Responsibilities - Employers

- **An employer, in writing, should document all health and safety responsibilities.**
- **This will provide a record of how the employer's health and safety program has progressed over time.**
- **This will also provide up-to-date documentation which can be used in the event an injury or death occurs despite the employer's efforts.**

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## Due Diligence

### Responsibilities - Supervisors

- **Be knowledgeable of health and safety requirements.**
- **Supervise, monitor and observe workers performing their job tasks.**
- **Instruct workers under their direction and control in how to work in accordance with safe operating instructions and procedures.**
- **Ensure workers are aware of all known hazards or reasonably foreseeable and comply with regulations.**
- **Consult and cooperate with safety committees and/or safety representatives.**

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## Due Diligence

### Responsibilities - Workers

- **Work safely in accordance with prescribed standards, procedures and equipment operating instructions.**
- **Used required personal protective equipment.**
- **Report all hazards.**
- **Cooperate with safety committees and/or safety representatives.**
- **Do not engage in horseplay or work while impaired in any way.**

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## Due Diligence

### Purpose

- **Due diligence is important as a legal defence for a person charged under occupational health and safety legislation.**
- **An employer must be able to prove that all precautions, reasonable under the circumstances, were taken to protect the health and safety of workers.**

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## Flexible Standard

- **Due diligence is a flexible standard of care.**
- **What constitutes due diligence will vary from case to case depending on:**
  - **the nature of each workplace,**
  - **the degree of risk,**
  - **the size of the employer's operation, and**
  - **the means available for controlling the risk.**

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## Questions to Ask Yourself

- **Have I done everything reasonable to protect the health and safety of my employees?**
- **What efforts have I made to predict possible injuries and incidents in my workplace?**
- **Are managers, supervisors and workers held accountable for health and safety?**
- **Have I assigned health and safety responsibilities to appropriate personnel?**
- **Has safety been integrated in all aspects of our work processes?**
- **Do I review my health and safety program once a year?**

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## Contact Information

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