Submission re Bill 88, Working for Workers Act, 2022; Schedule 4

On behalf of the Prevention Employer Partners (PEP)

Membership

Bruce Power	3M Canada Company	AGS Automotive Systems
Canadian Fuels	Toronto Hydro	Chemistry Industry Association of Canada
Royal Ontario Museum	Enbridge Gas Inc.	Council of Ontario Construction Associations
Reliance Home Comfort	ArcelorMittal Dofasco	Canadian Vehicle Manufacturers of Canada
Dexterra Group	Ontario Power Generation	Ontario General Contractors Association
BGIS	Hydro One Networks Inc.	AECON Construction Group
Ontario Mining Association	Imperial Oil Limited	Canadian Manufacturers & Exporters
Revera Living	Hot Zone Training	

Prevention Employer Partners

March 28, 2022

Social Committee
99 Wellesley Street West
Room 1305, Whitney Block
Toronto, ON M7A 1A2

Re: Bill 88, Working for Workers Act, 2022

The members of the Prevention Employer Partners (PEP) are writing today to express our serious concerns with Bill 88: Working for Workers Act, 2022 as proposed. PEP represents more than 34,000 employers with an excess of 1.8 million workers.

The PEP mandate is:

- To proactively influence the Ministry of Labour, Training and Skills Development and government on the design, direction, development, administration of Prevention activities
- To serve as an important contact point with the MLTSD with respect to the development and implementation of prevention initiatives.
- To focus on supporting the improvement of health and safety performance in Ontario workplaces.

Naloxone Kits in the Workplace

All are in agreement that the opioid crisis is a serious public health issue that needs to be addressed. However, the Ministry of Labour, Training and Skills Development (MLTSD) is not the appropriate Ministry to provide a solution through requirements under the Occupational Health and Safety Act. A serious public health problem would be dealt with more appropriately by the Ministry of Health and not by MLTSD.

We understand from MLTSD staff that overdoses on worksites are extremely rare occurrences in most work settings and according to the report "*Changing Circumstances Surrounding Opioid-Related Deaths in Ontario during the COVID-19 Pandemic*", most opioid overdoses are within the unemployed (only 15% employed) and/or occurred in a private residence (75%). This problem has very little to do with most workplaces.

To require an employer who "*becomes aware, or ought reasonably to be aware, that there may be a risk of a worker having an opioid overdose at a workplace*" to have a naloxone kit onsite along with required training is not supported by evidence. The addition of these requirements would not be consistent with the government's commitment to reducing the regulatory burden on employers and only creates added burden and risk for employers for a rare workplace occurrence.

It is our strong recommendation that the naloxone kit requirements should be removed from the legislation. Failing the removal of the requirement the words "*or ought reasonably to be aware*" in section 25.2 (1) should be removed. As well, the words "*there may be a risk*" are inappropriate as "may" implies that it could be a risk everywhere and evidence indicates this is not the case and adds significant uncertainty for workplaces. Any use of the word "may", should be removed.

Also in 25.2(1), the words "*the prescribed circumstances exist*" are very concerning as this could be perceived as a blank cheque allowing any requirement in the future and should be removed.

Fine Increases

We do not support increasing the maximum fine amounts for supervisors and workers from $100,000 to $500,000 which is an increase of 400%. This is excessive and unnecessary since courts have rarely imposed maximum fines that are already in place. These amounts could be tantamount to bankrupting an individual worker and the proposed increased maximum fine amount for supervisors adds to the level of risk that is attendant with this position and will make recruitment more difficult than it already is.

We recommend that fines remain unchanged.

Limitation Periods

We recommend that the current limitation periods should not be changed. Investigations are completed within three or four months and this is ample time to allow for charges to be laid within the current one-year period.

It could be argued that the need for the extension is the result of a bottleneck in the legal department which should be fixed by improving existing processes, rather than potentially delaying the release of important root cause data and information for another entire year. Furthermore, it is important to avoid delay of releasing root cause data as it informs the MLTSD, its system partners and the employer community regarding policy and program improvements that should be made to improve the overall performance of the province's occupational health and safety system.

It may also be argued that the Government is attempting to harmonize statute limitations with other programs. Should this argument prevail, given the issues within our workplaces, we expect the MLTSD to continue to meet the one-year objective and only in extreme circumstances require more time.

We note that employer resources continue to be strained by Covid-19 related activities to keep Ontario workplaces safe and we appreciate the opportunity to share our feedback and recommendations on Bill 88. Employers across Ontario are very concerned with these proposed changes and we believe revisions to the proposed amendments to the Occupational Health and Safety Act are needed.

Sincerely yours;

David Murray
Secretary, Prevention Employer Partners

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PEP Members