

Health and safety obligations for travelling and frequently out-of-office employees

QUESTION: What health and safety obligations apply to an employee who travels frequently or is rarely in the office?

ANSWER: In Ontario, there is no specific health and safety legislation directed at employees who travel for work. However, the general duty under section 25(2)(h) of the Occupational Health and Safety Act (OHSA) requires an employer to “take every precaution reasonable in the circumstances for the protection of a worker.”

The definition of workplace has also been broadly interpreted by the Ontario Labour Relations Board and courts to include any place where a worker is performing work.

The general duty to protect a worker therefore applies to mobile workers. This includes assessing the circumstances and potential risks that may be encountered by a mobile worker and taking reasonable precautions to minimize those risks.

An employer that fails to take all reasonable precautions to protect the safety of a mobile worker may be the subject of a Ministry of Labour order or charged and prosecuted for an offence under the OHSA.

An employer with a mobile worker should assess the worker’s job duties to determine whether they can be modified to reduce potential health and safety risks associated with travel. Consider if the worker can travel with a colleague rather than alone, if the worker can travel during daytime rather than at night, if the destination or route can be altered to reduce potential risks or if the worker’s schedule can be changed.

There are also a range of potential



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precautions an employer may consider as they apply to a mobile worker. An employer should ensure:

- the mobile worker is licensed to drive the appropriate class of vehicle and has an acceptable collision record
- the employer has access to the mobile worker’s daily schedule, including destinations, travel routes and anticipated duration of stops
- the mobile worker complies with regulations governing maximum driving hours and required rest periods
- the employer and the worker monitor and assess potential hazards relating to inclement weather and road closures
- the mobile worker has a reliable method of hands-free communication operational in the location of travel such as a cellphone, radio or in-vehicle monitoring system
- protocols are established and implemented for regular testing of in-vehicle communication systems and maintaining testing records
- the mobile worker is directed to check in with the employer at designated time intervals during travel
- appropriate action is taken if a mobile worker does not check in

when required

- policies are in place to ensure a mobile worker abstains from using alcohol or drugs or operating vehicles during work while impaired
- the vehicle used by a mobile worker is in good mechanical order, equipped with emergency supplies suitable for the weather, terrain and the work location, such as a spare tire, first aid kit, blankets, snow shovel, fire extinguisher, drinking water, candles, food and maps or a global positioning system
- appropriate insurance coverage for commercial vehicle use has been obtained
- all vehicle accidents and potential safety hazards are reported immediately to the employer and, in the case of a fatality or critical injury, the Ministry of Labour
- the mobile worker is trained in how to best respond to various emergency situations.

An employer’s obligation under the OHSA to take every precaution reasonable in the circumstances for the protection of a worker, including a mobile worker, is not a one-time exercise. An employer should revisit these considerations at regular intervals to ensure on-going compliance.

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