



# OHS Feature



## Victoria's Controversial OHS Bill Has Passed Both Houses and is Awaiting Assent

Then WorkCover Minister Rob Hulls introduced the Occupational Health and Safety Bill to Parliament late in 2004, amid complaints from many parties that there had been insufficient consultation with business and industry, and there would be insufficient time to debate its contents.

### The Bill passed the Legislative Assembly with provisions that:

- Where WorkCover issues a notice seeking information (for inspecting a suspected contravention), it must notify the person that they can refuse to provide information if it would tend to incriminate them
- Neither WorkCover nor an inspector can prosecute someone for contravening the Act if they have already accepted an undertaking as an alternative to prosecution.
- An employer mustn't discriminate against an employee, or subject or threaten to subject them to any detriment, on the basis that they are (or have been) a health and safety representative
- At least half the members of a health and safety committee must be employees and, so far as practicable, health and safety reps or deputy reps
- Union representatives applying for an entry permit must specify whether they have been convicted or found guilty of any indictable offence within the previous five years
- A union representative exercising their right of entry must take reasonable steps to notify the employer or person who has management and control of the workplace (the original Bill provided that notification should be given to the occupier or apparent occupier of the workplace)
- A union representative who reasonably believes there is an immediate and significant risk of injury or death at a workplace isn't prevented from warning employees about the risks
- WorkCover has two years, rather than three, to launch a prosecution after becoming aware of an offence
- WorkCover must make a decision on an application for a stay of a decision within 24 hours of the application being made, or it will be taken to have granted the stay

**The Act will take effect from July 1 2005.**

*The requirements of the Act will be covered in the MGAV health and safety training sessions throughout 2005.*

### Safety duties clarified, new duty for designers

The Act clarifies the duties of all parties to take reasonable care for the safety of themselves and others in the workplace, building upon the existing duties in the current Act.



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