



 LET'S KEEP THIS YEAR GREEN

JUNE 2010



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Do you remember Bill C-45? Company is charged with criminal negligence due to the death of a worker.

Police in Ontario recently charged a corporate employer and two individuals with criminal negligence causing death after a fatal workplace accident at a construction project. In April 2009, the City of Sault Ste. Marie's Public Works Department was performing sewer work in an excavation at the city landfill. The city had contracted with 1531147 Ontario Ltd. which operates as Millennium Crane Rentals, to provide an 80-ton mobile crane and crane operator to assist in placing concrete structures into the excavation. The facts are not all publicly known but it appears that the crane fell into the excavation site. Two city employees were working at the time. One employee was pinned across the stomach and pelvis by the crane; he was extricated by the Sault Ste. Marie Fire Service and rushed to a nearby hospital where he later succumbed to his injuries. The second employee was not hurt. The Ontario Ministry of Labour and the Sault Ste. Marie Police Service investigated the accident. The ministry laid five charges under the Ontario Occupational Health and Safety Act (OHSA), against Millennium Crane, including charges for failing to ensure the crane operator was properly licensed, failing to ensure the crane was maintained in a condition that did not endanger a worker, and failing to ensure that the crane was not defective and/or hazardous. An OHSA charge was also laid against the crane operator for allegedly operating the crane in a manner that endangered him and other workers. The maximum fine that could be imposed for each of the OHSA charges laid against Millennium Crane is \$500,000, plus the required provincial surcharge. The maximum penalty that could be imposed on the crane operator is a fine of \$25,000, plus surcharge, and/or up to 12 months imprisonment. In addition, following a 10-month investigation, the Sault Ste. Marie Police Service has charged Millennium Crane, the individual crane owner and the crane operator with criminal negligence causing death. This is the first time that an Ontario corporation has been charged under this offence since amendments were made to the criminal negligence provisions of the Criminal Code in 2004. Those amendments were designed to make it easier for the Crown to prove criminal negligence against a corporation. If convicted, each of the individuals charged face a maximum sentence of life imprisonment and there is no limit to the fine that could be imposed on Millennium Crane.

Hazmat Incident in NIAGARA FALLS, N.Y. A total of nine people were transported to the hospital. Eight people were taken for observation; one person was taken with critical burns. A company called Tier Environmental Services had employees cleaning out one of the over-the-road tank cars and a chemical released, Hazmat partners were inside the building Friday afternoon, determining how extensive the leak is. It is reported that officials are 90% sure that they are dealing with a type of iodine pentafluoride, which is a water reactive oxidizer that is toxic by inhalation.

Companies across Ontario are scrambling to meet the requirements of Bill 168, which comes into effect in June. The new [amendment to Ontario's OHS code](#) addresses violence and harassment in the workplace, and has many controversial elements that may leave companies wondering what exactly they have to do to comply with the legislation. Bill 168 requires that employers take reasonable precautions to protect workers from domestic violence that may occur in the workplace and result in physical injury. And it grants workers the [right to refuse to work](#) where they feel endangered by workplace violence. There's also a section that requires employers to advise employees about the risk of violence from a person with a history of violent behaviour if they encounter them in the course of employment, which is causing a lot of talk in legal firms about privacy issues.

Environmental lawyer and advocate Robert Kennedy Jr. made the business case for investing in the environment and achieving energy independence at this week's American Industrial Hygiene Conference and Expo. Kennedy said "Nature is the infrastructure of our communities," Kennedy, who has been championing environmental causes for 25 years, told industrial hygiene and health and safety professionals attending the conference. He noted that the U.S. gives the oil industry \$1.3 trillion in subsidies. These subsidies include such expenditures as the health care costs of diseases and occupational injuries associated with coal production, the environmental impact of pollution caused by coal plants. There are also "hidden subsidies" or other indirect costs associated with coal production in the U.S. For example, the highways in West Virginia are built with 22 inches of asphalt, about four times more the amount of asphalt a regular road would have, in order to support heavy trucks carrying coal across the state. "We are borrowing \$1 billion a day to import oil from countries that don't share our values," he said. In arguing for the need to invest in cleaner energy sources, He said certain countries that are either already decarbonized or in the process of decarbonizing their energy production, are getting positive results. He cited Iceland, which has now achieved 100 per cent energy independence. Sweden, Brazil and Costa Rica are also some of the other countries that are doing the same.



This newsletter is published by GEMC INC.

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PLEASE NOTE THERE WILL BE NO NEWSLETTER IN JULY OR AUGUST HAVE A SAFE AND FUN FILLED SUMMER.