

Update: Ontario abandons repeal of Engineering Act's industrial exception | Design Eng

Professional Engineers Ontario condemns 11th hour reversal of three-year legislative commitment.

BY DESIGN ENGINEERING STAFF ON JUNE 13, 2013 11:52AM



Professional Engineers Ontario (PEO) expressed its shock today that a legislative provision, passed three years ago, repealing the industrial exception in the Ontario Engineering Act has been dropped by the provincial government.

The *Open for Business Act*, passed in October 2010, legislated the repeal of section 12(3)(a) of the Professional Engineers Act. The exception, unique to Ontario, allowed non-engineers to perform certain engineering functions on in-plant equipment and machinery.

Until yesterday, those company's affected (approximately 1,000 by PEO estimates) would have had until September 1, 2013 to file compliance plans and apply for license applications to take advantage of a one-year transition period.

For the PEO, repeal of the exception would have addressed a grave safety issue. According to the regulatory agency, Ministry of Labour fines under the Occupational Health and Safety Act have averaged \$105,000 each, while Workplace Safety and Insurance Board (WSIB) costs in Ontario are in the billions of dollars.

"The manufacturing sector has had higher fatalities on an absolute basis than any other sector in Ontario," says the PEO's Acting Chief Executive Officer and Registrar, Michael Price, MBA, P.Eng., FEC. "We also know that, even on a per capita basis, the manufacturing sector in Ontario has more fatalities than in the rest of Canada."

"We don't see how the government is able to rationalize this decision when you look at the workplace fatality and injury rates in Ontario when compared to other provinces," he adds. "We aren't saying this would solve all the issues but other provinces do much better and they don't have in place this exception or the red tape bureaucracy of a Pre-Start Health and Safety Review that is overseen by the Ministry of Labour."

Particularly surprising, says Price, is the timing of the decision to kill the repeal provision. He says there had

been every indication the measure would be implemented on September 1 right up until Tuesday of this week.

"We had conversations with the attorney general, who is responsible for acting on this piece of legislation, on Monday when he said no decision had been made," Price says. "But after the legislature adjourned for the summer on Tuesday, the cabinet met on Wednesday, when they don't have to answer to the legislature, and actually cancelled it, which is quite an appalling action for them to take."

"This provision went through the legislature back in 2010 with the expectation that it would be proclaimed and everybody, until yesterday, was still expecting that it would be proclaimed," he adds. "Now the government is walking away from that based on what appears to be commercial interests."

Originally, the repeal was scheduled to begin on March 1, 2013 but was delayed until September 1, in part due to the efforts of the Canadian Manufacturers and Exporters (CME) Association. The CME argued that the provision would represent a significant expense to its membership as they struggled to come into compliance and bore the costs associated with licensing fees, higher wage rates for certified engineers, increased insurance premiums and auditing which internal activities would qualify as "professional engineering".

The PEO says that, for the past two and a half years, it has been meeting with manufacturers and conducting seminars with industry groups to educate them on the ramifications of the repeal and assist with compliance.

In addition, Price says the Ministers for Labour and for Economic Development and Trade, which both expressed opposition to the repeal to the attorney general's office, refused to meet with the PEO to discuss their concerns.

"We asked to meet with their respective ministers and they have consistently refused to meet with us during the entire so-called consultation period that the attorney general was undertaking," Price says. "Now that a decision has been made, we now have a meeting with the Minister of Labour but have yet to have one with the Minister of Economic Development and Trade."

"My view is that this decision was made long before yesterday or even Monday," he concludes.

Price says the PEO will continue to advance the issue as soon as possible but, at present, the provision repealing the industrial exception is dead, since the legislature doesn't return from recess until after September 1, when the repeal was scheduled to come into effect.

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