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Briefs

Submission to the WCB on proposed amendments to Part 12, Tools, machinery and equipment

Submission

The BC Federation of Labour (“BCFED” “Federation”) appreciates the opportunity to provide our recommendations with respect to the proposed amendments to the *Occupational Health and Safety Regulation* (“OHSR”) Part 12: Tools, machinery and equipment.

The Federation represents more than 500,000 members of our affiliated unions, from more than 1,100 locals working in every aspect of the BC economy. The Federation is recognized by the Workers’ Compensation Board (“WCB,” “Board”) and the government as a major stakeholder in advocating for the health and safety of all workers in BC and full compensation for injured workers.

The proposed amendments to the OHSR go some way to update and improve the existing requirements for automotive lifts. However, the Federation is disappointed the Board has not proposed regulatory language that offers a significantly higher standard of protection for workers.

In the following, we address those sections of the regulation we believe require further amendments.

We urge the Board of Directors to seriously consider our recommendations so we meet our shared goal to ensure that BC health and safety regulations set high standards for the prevention of injury and death for workers.

Introduction

Operating an automotive lift means lifting thousands of pounds overhead which puts workers' lives at risk. And BC has seen tragic and preventable deaths involving automotive lifts. In 2002, a 17-year-old student was killed in a Coquitlam high school auto shop when they were pinned by a vehicle that had slipped from an auto lift.[1] In Vernon in 2016, 32-year-old Christopher Potvin was killed when a pickup truck rolled off a lift, pinning him.[2]

It is therefore critical to ensure that workplaces are required to take steps to minimize the risks of injury or death from the use of automotive lifts. Safe lift design, professional installation and ensuring lifts are in good condition through inspections and proper maintenance are critical measures that contribute to reducing the potential risks.

Clear and stringent requirements for the design, installation, operation, maintenance, inspection and certification of automotive lifts can make a difference to make workplaces safer.

The BCFED supports the work of the WCB on these regulatory amendments and believes the proposed requirements for this equipment will contribute to the safety of workers. However, we believe more can and should be done, and we urge the Board to consider additional changes to improve the proposed amendments.

Section 12.74 Standards

The Board proposes to amend Section 12.74 (1) to include additional, updated standards in the regulation, and the BCFED supports the inclusion of these standards within the regulation.

However, the Board also proposes to add a new Section 12.17 (1.1):

(1.1) Despite subsection (1), an automotive lift that does not meet one of the standards under that subsection may be operated if the following conditions are met:

(a) at least once every 4 months, the automotive lift passes an inspection that is carried out by a qualified person and includes an inspection of

(i) the inspection points specified in section 6.2.4 of ANSI Standard ANSI/ALI ALOIM-2020, American National Standard for Automotive Lifts – Safety Requirements for Operation, Inspection and Maintenance, and

(ii) any other inspection points that have been identified by the manufacturer of the automotive lift as requiring inspection annually or more frequently than annually;

(b) at least once every 12 months, the automotive lift passes an inspection that is carried out by a person who is certified as a lift inspector by the Automotive Lift Institute, Inc.;

(c) at least once every 3 years, the automotive lift is certified as safe for use by a professional engineer.

The BCFED strongly opposes the proposed amendments in this section. The explanatory notes say that the purpose of the proposed amendments is to reduce risk to workers who use autolifts by updating existing applicable standards in this section and “to provide additional conditions for the use of autolifts not built to the listed standards.”

The proposed Section 12.74 (1.1) requires regular inspections and certification by a professional engineer every three years. This language roughly reflects the current direction for automotive lifts manufactured before 1974 that is included in WCB Guideline G12.74-2 Automotive lifts and other vehicle support standards – Applicable standards.

The proposed amendments allow the continued use of automotive lifts that do not conform to the standards set out in Section 12.74 (1). This includes very old (30+ years) equipment. It appears that new autolifts that do not conform to the listed standards could also be purchased, installed and used in BC workplaces.

In 2023, the Board had proposed a markedly different approach. At that time, the draft amendments provided for a three-year period where non-conforming automotive lifts could continue to be used. Following the three-year period, employers would have been required to replace automotive lifts not built to the listed standards.

Clearly, the approach outlined previously by the Board offered a higher standard of protection for workers by ensuring that aging and non-conforming equipment would be phased out of use in BC workplaces, in favor of lifts that clearly meet the requirements of broadly accepted ANSI/ALI standards. Instead, the Board now proposes an approach that allows this kind of equipment to be installed, reinstalled and operated indefinitely.

The proposed requirements for inspection and periodic certification offer some assurance that non-standard lift equipment will be monitored to ensure safety. However, these proposed requirements have significant gaps. An initial inspection after installation and before use is not required, inspections to be conducted every four months are to be completed by an undefined “qualified person.” Only after 12 months would a certified ALI inspector be required to inspect the lift, and certification as safe for use by a professional engineer is not required for three years. This approach means non-conforming lifts could be used for a year before being professionally inspected.

For the BCFED, this is unacceptable. It is our view that existing lifts that are not built to the listed standards should be phased out of workplaces, and going forward employers should not be allowed to install and use these lifts.

Many industry websites say that depending on the operating conditions, automotive lifts should last about 15-20 years, and emphasize that aging hoists pose significant challenges, including less support from the manufacturer (or manufacturers that are no longer in business), more difficulty in

sourcing parts, and more downtime when parts fail.[3]

Given that the use of automotive lifts potentially puts workers at significant risk of serious injury or death, and the reality of dealing with old equipment, a higher level of protection against equipment failure is needed.

Recommendation

The BCFED recommends that Section 12.74 (1.1) be amended to provide an end point (three years after the regulatory changes come into force) where non-conforming automotive lifts are simply not allowed in BC workplaces.

Further, the BCFED recommends that Section 12.74 (1.1) (a) be further amended to specify who is a qualified person to conduct inspections.

Finally, the BCFED recommends a prohibition on the installation and use of non-conforming lifts during the three-year phase out period. If this is not possible, the BCFED recommends that newly installed non-conforming lifts require certification by a professional engineer as safe for use before being put into service.

Currently, Section12.74 (2) says that autolifts must be operated and maintained according to the requirements of ANSI Standard ANSI/ALI ALOIM-2020. The Board proposes to add “repair” and “modification” to this list. Specifically, the amendments say:

> *(2) The operation, inspection, repair, maintenance and modification of an automotive lift must meet the requirements of ANSI Standard ANSI/ALI ALOIM-2020, American National Standard for Automotive Lifts – Safety Requirements for Operation, Inspection and Maintenance.*

While the BCFED agrees with the addition of explicit reference to requirements for repairs and modifications, it is our view that a clearer and more detailed approach is needed.

In regard to modifications, a straightforward explanation within the regulation that modifications are either not permitted, or are only permitted in very narrow circumstances should instead be added to this section.

Section 8 (Modifications) of the ANSI/ALI ALOIM-2020 standard prohibits any modification of autolifts unless there is “express written permission of the manufacturer.” This part of the ANSI standard is just one sentence long, and has, according to WCB Guideline G12.76 Operation, been included in the standard since 1990.

Rather than being buried within the standard, this important requirement should be included in the regulation itself. This approach would offer clear direction to employers and workers.

Recommendation

The BCFED recommends that Section 12.74 (2) be further amended to specifically include a prohibition on modifications to automotive lifts unless the manufacturer provides express written consent, as is included in Section 8 of the ANSI/ALI ALOIM-2020 standard.

Section 12.75 Assembly and installation

In this section, the BCFED supports the addition of more detailed requirements regarding the assembly and installation of automotive lifts, but again we urge the Board to adopt clearer and more detailed language.

In Section 12.75 (1) (a), no requirements are set out in the regulation to identify how a qualified person (“QP”) is to be identified in this context. Instead, the general definition of “qualified” found in the OHSR Part 1, Definitions Section 1.1 will apply:

> *"Qualified" means being knowledgeable of the work, the hazards involved and the means to control the hazards, by reason of education, training, experience or a combination thereof.*

As such, there are no specific requirements for determining qualifications, certification, training or job experience for the assembly and installation of automotive lifts. We believe this information should be placed in the regulation to give clear directions to employers when they are considering who the QP will be, and to provide assurance to workers that the assembly and installation of automotive lifts are adequate to ensure their safe operation.

ANSI Standard ANSI/ALI ALIS-2022, American National Standard for Automotive Lifts – Safety Requirements for Installation and Service says that installers must meet the qualifications set out for an automotive lift operator according to ANSI Standard ANSI/ALI ALOIM-2020, American National Standard for Automotive Lifts – Safety Requirements for Operation, Inspection and Maintenance. Further, ANSI/ALI ALIS-2022 American National Standard for Automotive Lifts – Safety Requirements for Installation and Service says that installers should receive formal training from the lift manufacturer or other recognized industry training source and have real-life experience in lift operation and installation.

In providing additional detail about who is a QP to assemble and install automotive lifts, there is an example to follow in the OSHR, Part 9, Section 9.11, Confined spaces,

9.11 Qualifications

> *(1) The hazard assessment and written confined space entry procedures must be prepared*
>
> > *(a) by a qualified person who has adequate training and experience in the recognition, evaluation and control of confined space hazards, and*
> >
> > *(b) in consultation with the person assigned overall responsibility for administration of the confined space entry program and with the joint committee or the worker health and safety representative, as applicable.*
>
> *(2) For the purposes of subsection (1)(a) qualifications which are acceptable as evidence of adequate training and experience include*

(a) certified industrial hygienist (CIH), registered occupational hygienist (ROH), certified safety professional (CSP), Canadian registered safety professional (CRSP) or professional engineer (P. Eng.), provided that the holders of these qualifications have experience in the recognition, evaluation and control of confined space hazards, or

(b) Repealed. [B.C. Reg. 243/2006, effective January 1, 2007.]

(c) other combination of education, training and experience acceptable to the Board.

The proposed Section 12.75 (2) refers to the installation of automotive lifts that do not meet the standards set out in Section 12.74 (1):

(2) If an automotive lift, portable automotive lifting device or other vehicle support is not within the scope of the standard under subsection (1) (b), the automotive lift, portable automotive lifting device or other vehicle support must be assembled and installed by a qualified person in accordance with the instructions of the manufacturer.

Our concerns about the need to further define who is a QP also apply to this section. Secondly, it's not clear why employers assembling and installing these non-conforming lifts should only have to comply with the instructions of the manufacturer, and not the ANSI Standard ANSI/ALI ALIS-2022, American National Standard for Automotive Lifts – Safety Requirements for Installation and Service, which includes comprehensive, general directions that can apply to a wide variety of automotive lifts.

The assembly and installation of older equipment means that it is likely to have been sold and moved, and new equipment that does not meet the listed standards could come from anywhere. In this context, there is a heightened requirement to ensure that this equipment is installed properly, so the ANSI/ALI ALIS-2022, American National Standard for Automotive Lifts – Safety Requirements for Installation and Service standard should also apply.

Recommendation

The BCFED recommends that Section 12.75 be further amended to specify who is a qualified person based on the requirements from the ANSI standard and modeled on the language on confined spaces in Part 9 of the OHSR.

The BCFED also recommends that Section 12.75 (2) to require the installation and assembly of non-conforming automotive lifts to be completed according to the manufacturer's instruction and the ANSI/ALI ALIS-2022, American National Standard for Automotive Lifts – Safety Requirements for Installation and Service.

Section 12.77 Records

This section says that:

> *The employer must keep a maintenance, inspection, modification and repair record for each automotive lift.*

Section 4.9 of the OHSR provides additional guidance about inspection and maintenance records:

> *(1) If this Regulation requires a machine or piece of equipment to have an inspection and maintenance record, then an effective written or other permanent recording system or log must be immediately available to the equipment operator and to any other person involved with inspection and maintenance of the equipment.*
>
> *(2) The recording system must*
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> *(a) identify the make, model and serial number of the equipment, and the name and address of the current owner,*
>
> *(b) contain an entry on each shift, signed by the operator of the machine or equipment, reporting the result of each start of shift inspection and safety*

check, and any observed defect, operating difficulty or need for maintenance occurring on the shift, and

(c) contain an entry signed by the person responsible for any test, inspection, modification, repair or maintenance performed on the equipment, summarizing the work done, indicating the status of the equipment or machine for further use, and if appropriate, noting where a detailed record of the test, inspection, modification, repair or maintenance can be obtained.

(3) If this Regulation requires a machine or piece of equipment to have inspection and maintenance records, then detailed reports of inspection, maintenance, repairs and modifications must be kept for the duration of the service life of the machine or equipment and must be reasonably available to the workplace and made available, upon request, to the operator and to anyone else involved in the operation, inspection, testing or maintenance of the equipment.

Given the important additional direction regarding records in Section 4.9, the regulation should point to that section to ensure employers and workers are aware of the specific requirements for maintaining records and making them available at the workplace.

Further, neither Section 12.77 or Section 4.9 include specific reference to workers, the joint committee or worker health and safety representative. In the BCFED's recent submission on the Board's proposed changes to the OHSR regarding the periodic certification of equipment, we addressed this issue.

In that submission, we emphasized that we know that workers besides the operator may need to view detailed inspection and maintenance records in order to understand hazards they may be exposed to at the workplace or to resolve a health and safety concern. And, access to these records is necessary for the joint committee or worker health and safety representative to meet their obligation to ensure that regular inspections and investigations are properly completed, and to participate in inspections and investigations (*Workers Compensation Act* Section 36 (h) and (i)).

In the experience of BCFED affiliates, employers regularly choose to provide workers and joint committees with summaries rather than access to full, detailed reports, and sometimes refuse to provide any meaningful information at all to workers. This runs counter to a worker's right to know and does not support an effective safety management system. Given this real-world experience, it is important to include a specific requirement for employers to make these kinds of records available to workers and their representatives.

Part 5 of the OHSR, Section 5.98 (2) already includes language that explicitly requires records to be "readily available" to workers and the joint committee or worker health and safety representative:

> *(2) The following records in relation to a workplace must be readily available to workers and, as applicable, the joint committee or worker health and safety representative:*
>
> *(a) the inventory;*
>
> *(b) the risk assessment;*
>
> *(c) the emergency response plan;*
>
> *(d) the emergency procedures;*
>
> *(e) a record prepared under section 5.104(4).*

The above language offers a model for further updating Section 4.9 of the OHSR. A less satisfactory alternative would be to include similar language in Section 12.77.

Recommendation

The BCFED recommends that Section 12.77 be amended to explicitly refer to the requirements of Section 4.9 of the OHSR.

Further, the BCFED again recommends that Section 4.9 (3) be amended to include a requirement for detailed reports of inspections, maintenance, repairs and modifications, as applicable, and the

certificates issued under Section 4.12.3 (2) (b), to be readily available to workers and joint committees or worker health and safety representatives.

Section 12.78 Inspection requirements

Section 12.78 (1) sets out a requirement for monthly inspections of automotive lifts:

1. *An automotive lift must be inspected monthly in a manner acceptable to the Board, unless the manufacturer requires more frequent inspection.*

The supporting WCB Guideline 12.78 Inspection and testing is not clear about the specific training or certification needed to perform these monthly inspections. Rather, the guideline says that monthly inspections are “typically” done by “workers having the necessary training and experience, such as a qualified automotive lift operator.” In addition, the guideline offers a list of “resources” that can be used to train operators to do monthly inspections but does not specify or offer a specific training course. Finally, the guideline sets out inspection points and offers a sample monthly inspection checklist.

Our affiliates have heard serious concerns from frontline workers about conducting these inspections in their workplaces. A lack of appropriate background knowledge and skills, as well as limited training has left workers feeling ill-equipped to effectively inspect an automotive lift.

There is also no requirement in Section 12.78 (1) to document the inspection or for employers to respond to the results of a monthly inspection, including removing the lift from service if necessary. Overall, more clarity is needed.

Recommendation

The BCFED recommends that Section 12.78 (1) be further amended to:

- Specify who is qualified to complete monthly inspections of automotive lifts, or what training/certification/qualification is required;

- Require deficiencies found in monthly inspections to remedied without delay;
- Require that the lift be removed from service until critical repairs are completed and the lift has been re-inspected;
- Define the scope of the monthly inspection using the proposed language in Section 12.74 (1.1) (a) (i) and (ii); and
- Explicitly require that each inspection be documented in writing.

Conclusion

We appreciate the efforts of the WCB's Policy, Regulation and Research Department in developing the proposed amendments to the OHSR.

However, the BCFED urges the WCB Board of Directors to seriously consider our proposed amendments.

We encourage the WCB to develop an effective implementation strategy ensuring that all workers and employers are properly informed and supported to effectively practice these new requirements. Outreach to workplaces – including connecting with both employers and workers - is critical.

In addition, the implementation strategy must be designed to take into consideration the diversity of the community of workers.

We urge the WCB Board of Directors to provide the necessary resources to ensure effective implementation, ongoing inspections and enforcement.

Again, we appreciate the opportunity to provide these recommendations.

[1] CBC News, Jan.23 2002, "Student killed in school auto shop accident", https://www.cbc.ca/news/canada/british-columbia/student-killed-in-school-auto-shop-accident-1.303196.

[2] Blaine Gaffney, Global News November 21, 2017 “Vernon company fined for workplace death of employee” https://globalnews.ca/news/3872716/vernon-company-fined-for-workplace-death-of-employee/.

[3] See, for example https://hdrworks.com.au/news/how-old-is-too-old-for-a-vehicle-hoist-and-when-should-i-replace-my-vehicle-hoist/.