

MBAA Safety Tool Box Talk



General Duty Clause

Section 5 of the Occupational Safety and Health Act of 1970 is the underpinning of the entire OSHA enforcement and reads as follows;

SEC. 5. Duties

(a) Each employer --

(1) shall furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees;

(2) shall comply with occupational safety and health standards promulgated under this Act.

(b) Each employee shall comply with occupational safety and health standards and all rules, regulations, and orders issued pursuant to this Act which are applicable to his own actions and conduct.

This section is generally referred to as "The General Duty Clause" and is used by OSHA to cite companies for known hazards that are not specifically called out elsewhere in the OSH Act.

One example would be OSHA's citing of soft tissue injury hazards/ back injuries. There is no standard detailing what a company is required to do when there is a pattern of these types of injuries. Hence they will cite the General Duty Clause.

So who has to recognize the hazard in order for OSHA to believe you need to

deal with it. Generally this falls to industry groups (NFPA, NEC and others) and/or manufacturers of equipment (Scaffolding, Aerial Lifts & others). It does not matter that you feel it does not need to be dealt with.



Think of speeding tickets. You can get a speeding ticket for exceeding the speed limit by 10, 20 or 30 miles. But, you can also get a speeding ticket for "Speed not reasonable". How fast do you have to be going to get this ticket? There is no number. If you end up in a ditch what are you going to tell a cop, "I wanted to see what it felt like!" Obviously you lost control of your vehicle.

Common trip ups

- 1) Not replacing machine parts with OEM equipment or not following manufacturer recommendations.
- 2) Not being familiar with industry recommendations on how often, or who would be qualified to, train your employees.
- 3) Not dealing with an on-going safety & health problem that your company has.

Section 5 (b) can be used to explain to employees why they have to follow the rules – **Because the United States Government says they have to.** (Note: OSHA does not fine employees. There is providence in Canada that does fine employees. This will not happen in America.)

Even if there is no industry standard, no studies detailing the best way to deal with any hazard, nor any other guidance you are still required to deal with obvious issues you have experienced. It is your job to figure out how to protect your employees. Just burying your head in the sand is not allowed. OSHA requires that you prove that it would be prohibitively expensive to protect your employees.

LINKS

- www.osha.gov/laws-regs/oshact/toc

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WEBSITE AT:**

<http://www.mbaa.com/brewresources/brewsafety>