



Announcer

It's time for the *IHSA Safety Podcast*.

Enzo Garritano:

Welcome to this podcast series on supervisors. I'm Enzo Garritano, president and CEO of IHSA, and in this episode, we're joined again by host, Ken Rayner, Vice President of Customer and Labour Relations, Market Development, and Communications here at IHSA. Today, Ken will be joined by Doug Heintz, IHSA's Manager, Health and Safety Education and Accredited Programs, as they continue the discussion on supervisors in a federally regulated workplace. Please join Ken and Doug.

Ken Rayner:

Thank you very much, Enzo. Doug Heintz, welcome to the *IHSA Safety Podcast*. So great to have you here.

Doug Heintz:

Thanks, Ken.

Ken Rayner:

Doug, to start, maybe you could share with your listeners a bit about your background, and about your role and responsibilities at IHSA.

Doug Heintz:

Absolutely. So, my background is in transportation, I come from the school bus industry, and one of the things that I am very interested in is the whole notion of how we train, not specifically what we train, but that whole idea around principles of adult learning. Also enjoy very much my job at IHSA. As manager of health and safety education, and accredited programs, I have the pleasure of working with 12 subject matter experts that do high-risk training across the province of Ontario. Those areas of expertise are quite varied, and they range from suspended access equipment, that's the swing stages we see on the side of a building, confined space, propane, chainsaw, working at heights, rope access, mobile crane, and I have three transportation subject matter experts around commercial motor vehicles, and fleet operations.

From an accredited program perspective, I have a responsibility for a number... We have a *Fleet Signing Authority MTO - Driver Certification* program. We also have a recertification program that I'm responsible for. We run an approved *Air Brake Instructor* program. We are a recognized authority ourselves under the driver certification program for Z endorsement. We have an approved program for school bus... *School Bus Driver Improvement* course, it's a requirement of a B or E license, and I'm also the chair of the CVOR [commercial vehicle operator's registration] review panel.

Ken Rayner:

All right, so Doug, with all of that credentials and background, we can weigh right into a really tough question to start with, because you may, as you know, we've just completed a five-part series on supervisors under provincial legislation in workplaces, and now we, with yourself, and Bruce Christensen from ESDC [employment and social development Canada], now we're focused on federally regulated workplaces. So, my first question to you, Doug, is how would an employer know whether they are covered by the provincial health and safety legislation, or the federal health and safety legislation?

Doug Heintz:

Yeah, that's a great question, and certainly it's a question that creates a certain amount of confusion within some sectors, and understanding if you are, when, and when you might not be. So, I think I'll start by saying that the *Canada Labour Code*, A, is split into three parts. Part two is the health and safety portion, and *Canada Labour Code* applies to federal work, undertakings, or businesses. So some great examples that are covered by federal legislation would be banks, railways, airlines, pipelines, telecommunications, and then one that is an IHSA member would be transportation, specifically I'm going to talk about for hire trans-border trucking. So, that piece is where we start to get into some gray area, absolutely, in that, first of all, I said for hire. So for hire means I'm taking somebody else's product and I'm delivering it. If I'm taking my own product, amazingly, the rules are a little bit different.

I would also say trans-border trucking, I'm going outside the borders of the province of Ontario on a regular basis. So, another challenge in understanding whether you're federal or not is what constitutes regular. So, I come from the school bus business. The high school down the street, they do a grade 12 trip to Quebec City every June. Is that regular? Yeah, I'll come back to that in a second. Additionally, there's questions around if I was a firm that was based in Ontario, I'm doing trucking, and I'm only delivering within the borders of the province of Ontario, and then my customer says, "I've got a load for you to take to Michigan. Can you do that for me?" "Oh, absolutely. We'll look after that for you." So, at what point when they start leaving the province, do they change from provincial to federal?

And on the flip side, if someone has been going into the States and they say, "You know what? This whole border crossing thing's a big challenge for me, and as such, we're going to let those contracts go, and we're going to just focus on the contracts that we have within the province of Ontario." If they were previously federal, at what point do they come back to being a provincial entity?

So, what I can tell you is ESDC, in years past, did an awful lot of jurisdictional reviews. So, companies trying to understand whether they were federal or not would go to them and say, "Help me understand." And so, they would go through an evaluation, and they would come out and say, "Yeah, you're federal. No, you're not." But I think they spent an awful lot of time and resources doing jurisdictional reviews, and as such, I'm going to say probably five plus years ago they stopped doing those. If they ask federal health and safety officer, whether we are federal or not, the response is, "You need to seek legal advice in that regard." And certainly as it relates to some of the situations that I talked about, the one-offs, we're taking something outside the province, we're back-hauling a product of somebody else's, we typically take our own, that's where the legal folks need to weigh in and provide that advice, which legislation that they should be following.

Ken Rayner:

So Doug, transportation is an industry that IHSA supports, and as I understand from what I heard you say, one way of looking at it is if you are a for hire transportation company, and you are going outside of the boundary, that might be a good clue that you are a federally regulated organization, or it's a federally regulated workspace that you're under, so you're under the *Canada Labour Code* in regards to the regulation. But as you said, that's not the end all be all, and the best thing to do if there's a concern, or there's any ambiguity, is to go and seek legal advice to pinpoint whether or not you're federal, or provincial.

Doug Heintz:

Absolutely, absolutely. I think there are situations where we could say it's a slam dunk that somebody is federal, they're taking somebody else's product, and they are going into the States daily, or they're going to Western Canada daily with their vehicles. If somebody asked me the question, I would feel free to weigh in and say, "Yeah, you're federal." But I think it's some of those other situations that there is some ambiguity, where legal advice is required, for sure.

Ken Rayner:

So some of our listeners, whether they're a supervisor under a provincial regulation, or a federal regulation, may be interested in knowing what the difference is between the two. Could you speak maybe a bit about if you're a supervisor in a provincially regulated workplace, or a supervisor in a federally regulated workplace, what are some of the similarities and differences between those two?

Doug Heintz:

I think from a similarity perspective, what we know is the legislation, and ultimately what supervisors need to do is very similar. I heard it described once as Coke and Pepsi. They're very similar. And so, if what we're trying to do is trying to get work completed efficiently in the same way, that absolutely is similar, because it doesn't matter what the jurisdiction is. I think what we do to keep people safe from occupational health and safety requirements, policy and procedure, and understanding the workplace specific hazards, that's kind of universal, so I would say that absolutely would be a similarity.

I think one of the differences, and as I was thinking about this earlier today, I recognize that often people will move from one company to another. And so, if somebody's been in a supervisory role in a provincially regulated workplace and then they now find themselves in a federally regulated workplace, what are some of the differences? So, I think the very specific nature of some of the requirements under the regulation, *Canada Occupational Health and Safety Regulations*, I'll say COHSR later, and that's what I'm referring to, there's some very prescriptive requirements that a supervisor, manager, or supervisor want to know to be able to do their job properly, to do that effectively. Occupational Health and Safety Act, various regulations for sectors. The *Canada Labour Code* has coverage for this wide array of sectors, and there are some regulations for airlines or otherwise, but the *Canada Occupational Health and Safety Regulations* covers off quite a number of different workplaces, and as such, it is kind of interesting to see within that regulation how specific it gets.

Part 14 of the COHSR, Materials Handling, it gets into requirements around manual lifting, depending on where you are in the company. Are you working in an office? Are you working in a warehouse? What are the weights that you're going to be lifting? And as such, you could say, "I don't have to lift that. It

exceeds the requirement." Or, "Now we have to provide training." So they get into some very, like I say, very prescriptive requirements.

Part 15, Hazardous Occurrence Investigation, recording and reporting, that is a really important one, and I think that's another place where there's some confusion between the provincial, and federal side of things. So, if I am a federally regulated transportation company, I still have reporting requirements to a provincial entity, WSIB [Workplace Safety and Insurance Board], from a workplace safety and insurance perspective. The piece that they often miss would be that, depending on the situation, they have reporting requirements to labor program of ESDC as well, and even down to some fine detail.

And as it relates to workplace injuries, we talk about lost time. In part 14 of that regulation, when they're deeming it to be lost time, they say, "If the day that you would miss work is actually not a work day, it's still considered lost time." So, if somebody gets hurt on Friday, and they get better by Monday, there's no lost time. But a federal perspective, if I am injured on the Friday, and I would not have been able to go to work on the Saturday, even though I don't work on the Saturday, that impacts the reporting requirements. So getting to know some of those differences absolutely is important.

And the last one I'll just mention, Part 19, Hazard Prevention Program. Federal companies need to have a documented health and safety program to address recognizing, assessing, controlling, evaluating all the hazards in their workplace. So, if I'm going to be supervising in that workplace, I need to understand what the legislation says, I need to understand what our specific prevention program is, again, to be able to say that I'm compliant with requirements.

Ken Rayner:

Thanks, Doug. So, on the high level, when we're talking about identifying and controlling hazards, if we're talking about communicating to your workers, if we're talking about doing inspections high-level, a lot of similarities between the two. The differences really come into the specifics in legislation. So, is there anything under the *Canada Labour Code - Part II* that states that an employer is required to provide training for supervisors and workers in occupational health and safety?

Doug Heintz:

Absolutely. So, Section 125, subsection 1, paragraph (z), indicates that employees who have supervisory and managerial responsibilities are adequately trained in health and safety, and are informed of the responsibilities they have under this Part, where they act on behalf of their employer, Part being capitalized, meaning they're referring to legislation. A couple of points to make there. Adequately trained, adequately trained is reflective of one's job tasks, the nature of the work that's being done, the nature of the hazard. So, adequate training one supervisor to another might look a little bit different.

The other thing that I want to point out that it says, "Where they act on behalf of their employer." What we know is in many workplaces, the owner is probably not out on the floor telling people exactly how they do things. We rely on supervisors to make sure that that work happens, and that work happens in a safe way. So, the fact that they're saying, "Responsibilities they have under this Part where they act on behalf of their employer," becomes extremely important.

And just to give you a sense of the number of specific duties of the employer that might, some of them, be assigned to a supervisor, in part two, Section 125, subsection one, specific duties of the employer starts with 125 (1)(a), goes all the way to (z), and they weren't done yet, and it goes to (z)(19). So we have 44 different specifically written duties of the employer, that in many cases, we could make the leap and say, "That then gets assigned to... That responsibility gets assigned to the supervisor, because they're acting on behalf of the employer."

Now, one other one, because we're talking transportation to the greatest extent here, and this is a wordy one. I'm going to read it slow, and then I'm going to provide a situation that would be reflective of what they're trying to get at here. "Every employer shall, in respect of every workplace controlled by the employer, and in respect of every work activity carried out by an employee in a workplace that is not controlled by the employer, to the extent that the employer controls the activity."

So, let's think about transportation. We have our fixed operations, and we're control of that, but now I'm going to send my truck driver to a location in another province, in another state, wherever that might be, and they're going to go into that yard. They might go into that facility. I, the employer, or as they're referred to, the employer does not have control of that facility, but they have responsibilities to ensure that where that worker is going, that that is a safe place for them to go. So, if I am a supervisor of drivers, and I'm dispatching them to those locations, that starts to become significant that I have that responsibility to make sure that they're going to be safe in that location as well. So, that whole training piece, and the responsibility that goes with that, because they're acting on behalf of the employer is quite significant.

Ken Rayner:

So Doug, in the province of Ontario, for decades, IHSA has trained 5,000 plus supervisors every year in *Basics of Supervising* under provincial regulations. It's arguably been one of the most popular course that IHSA have run. We offer a similar course for supervisors under federal regulations, but that's not as well known. And it's a course that there's no cost to our members to come and attend. It's a two-day course. What are some of the reasons, for anybody that's listening that hasn't come to a basics of supervising course, and works in a federally regulated workplace, what are some reasons that a supervisor would attend this two-day course? What would they get out of it?

Doug Heintz:

Well, I'll go to what they get out of it in a second. I'll start by saying, "Wow, why would they want to go?" It's a great program, it provides a wonderful foundation of knowledge for the requirements to be able to do your job properly. And if you are an IHSA member, you have the ability to go to a two-day program that provides you with great resources, a copy of the legislation, and if you register in a public program, it doesn't cost you anything, so there's just fantastic value for participants.

What they will get out of it, certainly the ability to locate and cite sections of the *Canada Labour Code*, and the regulations, to understand what their requirements are would be an important one. Recognizing there are some very specific requirements that we've talked about before, understanding the numbering system and having the ability to find the answer certainly is important. Identifying duties of workplace parties. So, identifying their duties in a federal workplace, obviously important.

And then I think recognizing often supervisors are seen as individuals that are looking to get work done, and I'll add, as a safe way. So how do we integrate health and safety into the day-to-day activities of whatever it is, the task we're doing. So, some of the other topics that are covered in that program are how do we communicate hazards? So, whether we're talking about safety talks, how do we properly orient a new worker? How do we do workplace inspections? What should I be looking at? How do we do investigations of incidents? What are my obligations around enforcing health and safety rules? And certainly, if I don't know what I don't know, I can't enforce the rules, but if we are acquainted with what requirements are, it certainly goes a long way in being able to do that. And then also, one of the topics we talk about is the importance of documenting those day-to-day activities in a logbook, so if a situation ever happened, or we needed to go back and check on sort of what happened on any particular day, we would have that information.

So, it is an excellent program, and I would really encourage folks that are in a supervisory role to take advantage of that. I will add one thought, and that is, why has somebody maybe not taken that particular program? And I'm aware that within transportation, they have a wide array of legislation that they need to follow to be able to have trucks go down the road. If we're talking about going into the states, the added layer of administration that's required related to border crossings, so going both directions, sending information ahead, all that sort of thing. So, *Highway Traffic Act*, USDOT [U.S. Department of Transportation], all of that to say they have an awful lot of legislation outside of what we're talking about that they need to attend to, and many of those are required to have the trucks go down the road.

So, as I've sort of thought, why do we not maybe have as many people taking advantage of that program as we think should? I think that in transportation, the health and safety piece that they're thinking about is really *Highway Traffic Act*, or over the road requirements, and not in all cases are they going to the health and safety legislation piece. So, I think becoming aware of that, and attending a program like that goes an awful long way in helping somebody understand what the requirements are.

Ken Rayner:

And Doug, so understanding legislation, critically important. How about the soft skills, or some of those people skills that I think we could say are as important. So, if you understand legislation, but you can't communicate it to your crew, or your relationship with your crew isn't optimal, perhaps the legislation, that doesn't flow quite as freely. So, what about those soft skills and those people skills? Is that looked at during the two-day course, in terms of how to enhance those, and maybe improve upon them?

Doug Heintz:

Absolutely. Dealing with challenging people, and communication, and all of those pieces are covered off as well. And we have some additional programming, that if somebody took basics of supervising federal and they said, "I'd really like to enhance my learning related to a specific topic," there's others that people could take advantage of.

But to your point, I would agree 100 per cent, that ultimately supervisors are just people helping people be able to do their job, do it in a safe way, and those interpersonal connections that we make within work, a supervisor's ability to listen and be heard, strong communication skills, and certainly being respectful, and building that safe workplace goes a long way in ensuring that people do the right thing

for the right reasons. So, couldn't be more on board with the need to have good supervisors with good people skills, because I think an individual that knows the code inside out, but doesn't have those people skills, I'm not convinced that things would play out exactly as well as they could, or should.

Ken Rayner:

Doug, it's almost impossible for a supervisor to know everything. Maybe if you're Doug Heintz, that's fine, but for the rest of us mortals, not so easy. So, outside of training, how would a supervisor in a federally regulated workplace keep up to date on legislation changes, or best practices, or other important occupational health and safety information? How do they do that apart from going and taking training?

Doug Heintz:

Thanks. You know what, I am such a great fan of our Fleet Safety Councils that we have across the province. What a wonderful way to stay on top of changes to legislation, and over the road requirements, all of that sort of thing. Fleet Safety Council, we've got chapters from Ottawa to down Windsor way, and up north in Sudbury, and safety professionals that meet monthly to understand requirements, often ESDC, as well as MTO, Ministry of Labour are guests, and what a great place to be able to understand what's coming, what's required, what's happening within industry, and then the added value of the networking opportunities that happen in those venues. So, that's absolutely something that people should look into, because there's very limited cost, and there's an awful lot of benefit that comes out of that.

Additionally, I would say IHSA's website, Road Safety Solutions, just from a, what should we be including in our overall program, something to check out. Currently, with COVID, we have a lot of transportation specific resources that individuals should take advantage of. And then ESDC has a lot of information on their website, so they have interpretation bulletins that may be put in simpler terms, what a specific section, or requirement would be. So, looking up those, I think, is also a valuable way to understand what the folks that enforce the legislation are really looking for in any specific area.

Ken Rayner:

So Doug, if I'm a supervisor listening right now, for me, you've given me a few nuggets of great information, and great advice. Number one, if I haven't taken it yet, I should go to the IHSA website, look under training, and take a look at *Basics of Supervising – Federally Regulated*. Again, there's no cost for the public programs, for those that are members of IHSA. It's a two-day program, and as Doug talked about, highly beneficial to better understand legislation, as well as to improve upon those soft skills.

The second thing I heard you say was the Fleet Safety Council. So that's an opportunity for someone to get more involved in their local region, to work with others that are in similar positions to themselves, and hear from IHSA, from the Ministry of Transportation, and other regulators. And then last one is the Road Safety Solutions page on IHSA, which has, as you mentioned, lots of different policies that you can download, sample policies, and e-learning, and just a host of great information. So, thanks very much, Doug. I really appreciate you joining us today, and sharing all that information with supervisors in federally regulated workplaces. Thanks so much for joining us.

Doug Heintz:

You're welcome, Ken. So glad to be here.

Ken Rayner:

And thank you for everybody, for listening to this series on supervisors.

Enzo Garritano:

Thanks for listening. To hear more in this series. Join Ken Rayner as he speaks to other IHSA subject matter experts at ihsasafetypodcast.ca. Thanks for listening. I'm Enzo Garritano.

Announcer

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