

QMr.O'Sullivan. I do not know whom to turn to for help. I work for a small used car dealer and they do a lot of small paint repairs on their used cars. Since the winter, they have been spraying on the inside of the building and my wife has said that I am coughing all the time. I mentioned it once to my boss and he told me that I could go outside when they are painting but the smell and paint fumes last much longer. I called the ministry and they told me that I could put in a complaint but if I did, I would be fired. Can you do anything to stop this hazardous situation for us in the automotive trade?

THE FOLLOWING IS ALSO A COMPLAINT THAT I RECEIVED FROM A MOTHER WITH HER CHILD IN A BUGGY WHO WAS WALKING BY WHEN THE OUTSIDE SPRAY PAINTING WAS BEING DONE:

QMr. O'Sullivan, is there any protection to the public from the garages painting cars in the open and very close to the sidewalk? I thought it was illegal to spray paint in the open. When I confronted the painter, he told me to walk on the other side of the road and he continued to spray paint. Is there any one I can complain to about this?

AI have been investigating this paint-spraying problem for some time, in order to respond to the complaints about outdoor and indoor paint spraying of cars by mobile operators and/or garages without spray booths, which can affect the health of people in the area. I am told that this outdoor and indoor unprotected paint spraying by mobile operators could hold the person doing the spray painting liable for any health related claims, as well as the person that hired the painting to be done. I contacted John Norris, Executive Director of Hara (Hamilton Auto Body Repair Association). John is the person in charge of one of the leading environmental organizations that are leading the struggle to license and promote a healthy environment for workers in the automotive trade. I also contacted the Ministry of Labor and received a reply from Lin William. I also contacted the Ministry Of Environment and received a reply back from Jennifer Hall, Sr. Regional Communications Advisor – West Central Region Ministry of the Environment 119 King Street West, 12th Floor Hamilton, Ontario.

HERE IS MY LETTER TO JOHN NORRIS AND HIS REPLY:

What is your take on the mobile small paint repair operators that spray paint out in the open and indoors without the proper protection of the worker and other employees in the surrounding area where this painting is being done? I know that the body shops have spend a great deal of money to update their facilities, in order to protect the workers and the environment from air born paint products but what is being done about those who are spray-painting cars inside and outside of dealerships or on used car lots. What is the responsibility of the people that hire these mobile operators? I am going to do a story about this because I have had many inquiries from mechanics that are concerned about their work place, which is allowing the painting of cars to be done in the shop in an open area during bad weather. Do the mobile operators have liability insurance or is the liability on the employer that allows them to spray in the open, or on their

property? Who is responsible if a mechanic or other workers in the shop get isocyanate poisoning from this over-spray? What about the public that are exposed to the over spray when it is done outside? Again, who is responsible for this? What is the law regarding this type of spray-painting outside of a proper paint booth?

JOHN NORRIS ANSWER:

Mobile paint spraying operations are problematic. Ministry of Labour will likely be including them in their early 2010 Body Repair Initiative program as they check for compliance. In order to release any paint or airborne spray contaminant into the atmosphere, every business (including our member auto body and paint shops) **MUST** possess a Certificate of Approval from the Ontario Ministry of Environment. These "permits" are mandatory, and identify and limit the amount and intensity of air borne contaminants. We offer services as an association in co-operation with MOE to obtain these Certificates for our members and it is a popular service. Mobile operators also must have these Certificates. Many do not and the ones that do, can generate complaints because they often exceed the amount of paint allowed to be used in an hour. The "permits" or Certificates, mandate the amount of paint used (very small amount per hour), how far away must they be from residential or other uses, training and type of equipment. The intent was for mobile operators to engage in small scratches or buffing repairs with small volume HVLP spray guns, using less than 0.15 litres of paint per hour. The complaints from shops and the public is that some of these operators are spraying far more paint, competing with shops that have to follow the rules, overspray complaints, isocyanate exposure issues, and often do not match the type, colour, tint or finish of the factory paints on the vehicle. If they do not have WSIB coverage, then the dealership or the person that hired them is responsible for any claim including health claims. If the mobile operator is isocyanate-affected, then unless he/she is paying WSIB premiums, the company that hired them is liable for the ongoing health care and compensation of that operator, possibly forever. HARA is working with MOE and MOL on enforcement of the rules that govern mobile operators. Fixing small scratches by a compliant mobile operator doesn't bother us or the public, however, painting full panels, bumpers and even complete cars (sometimes at the end of a dead end street) is not acceptable to our industry or the public. Also, for your information, The MOL did do an inspection blitz on 800 body shops between Peel and Durham and north to Barrie. Started last September and finished in March 2010. The Body Repair Initiative also involved employment standards, MTCU and MOE. Ourselves and the Ontario Service Safety Alliance (OSSA), the sectoral health and safety agency were involved. We held three workshops (Brampton, Scarborough and Markham) to update shops owners/managers with relevant help and assistance opportunities. Enforcement work has been done on mobile operators and MOE has taken enforcement action in the past. Two cases in the Hamilton area, but unlikely that MOE will talk about it. Complaints continue to be important and MOE will take action if complaints filed. We often get calls from MOE abatement and enforcement officers looking for our assistance with shop compliance efforts or obtaining a Certificate of Approval. We have a simplified approvals program for body shops, but mobile operators cannot qualify and need to use an older, more complex process. We can advise them of their responsibilities if they contact us.

RESPONSE FROM LIN WILLIAM MINISTRY OF LABOUR:

Spray painting of automobiles may occur in enclosed spray booths or in the open. In either situation, employers are required to assess the risks to workers health and safety and implement measures and procedures to protect workers as part of a comprehensive workplace health and safety policy and program. Employers must protect workers from any hazards associated with spray booths. This includes, but is not limited to, maintenance and cleaning, access to spray booths when in operation, air flow, preparation stations and nearby sources of ignition. In addition to the general employer duties under the Occupational Health and Safety Act (OHSA), there are various regulations made under the OHSA that apply to automobile painting activities in both enclosed or open areas: The Regulation for Industrial Establishments (R.R.O. 1990, Regulation 851) has specific requirements for:-A pre-start review of any process that may result in the exposure of a worker in excess of any occupational exposure limit in Ontario, the storage and dispensing of flammable liquids, worker training on the use of any protective equipment including personal protective equipment, ventilation, replacement air, general precautions and procedures to protect workers who may be exposed to chemical agents, cleaning and disinfection of any protective equipment worn next to the skin, eye wash fountains, restrictions on where food and beverages may be consumed, hazardous rooms.

The Regulation respecting Control of Exposure to Biological or Chemical Agents (R.R.O. 1990. Reg. 833) sets out specific exposure limits for worker protection, including designated substances. This includes designated substances such as isocyanates used in paint mixing processes. Designated substances require assessments and control programs to protect workers where they are present and workers are likely to be exposed. Workers should first report hazards to their supervisor or employer. If the matter is not dealt with, the worker should then contact their joint health and safety committee worker member or health and safety representative, if any.

If the matter is not resolved internally at the workplace, workers may contact their local Ministry of Labour Office http://www.labour.gov.on.ca/english/about/reg_offices.php to register a formal complaint. Workers may also refuse to do work or particular work where he or she has reason to believe that the equipment, machine, device or thing the worker is to use or operate or the physical condition of the workplace is likely to endanger himself, herself or another worker.

The Auto Body Repair Compliance Information Centre (CIC) is an online service designed to increase awareness about the hazards and government requirements in the auto body repair industry and make it easier for businesses to understand and meet their legal obligations at: http://www.ontario.ca/en/information_bundle/autobody/STEL01_034205 Also, the Ministry of Labour website offers a fact sheet on auto body repair at: http://www.labour.gov.on.ca/english/hs/pdf/fs_autobody.pdf

If someone wants to register an unsafe workplace complaint, they can contact our central region's occupational health and safety duty desk at 1-800-991-7454.

William Lin, Ontario Ministry of Labour

RESPONSE FROM JENNIFER HALL MINISTRY OF THE ENVIRONMENT:

I've put together information from the perspective of environmental protection to help answer your questions. Quite a few of your questions deal with the protection of health and safety for people working in the area of spraying, so I've shared these with the Ministry of Labour.

Ministry role - The Ministry of the Environment (MOE) is the regulatory agency for spills of pollutants or contaminants discharged into the natural environment in Ontario (air, land and water). Under Ontario's environmental laws, it is illegal to cause an adverse effect to the environment.

The local office of the MOE (Hamilton District) has not received complaints about unventilated paint spraying at dealerships or spraying out doors. However, we would be interested in receiving more information from you or your readers about these concerns. Pollution Hotline contact information is provided below. When we become aware of someone operating outside of the environmental requirements, Environmental Officers can follow up with dealership owners regarding outdoor spray painting to ensure they understand their requirements under the Environmental Protection Act. Indoor spraying in an unventilated area is a matter better addressed by the Ministry of Labour. Certificates of Approval are required for facilities that release emissions to the atmosphere or discharge contaminants to ground and surface water. Proponents of these types of activities must obtain Certificates of Approval to ensure that the environment will not be adversely affected (e.g. operators of spray paint booths must hold the appropriate air approvals for that activity). The MOE conducts inspections to ensure that businesses are complying with regulations and the conditions of their Certificates of Approval.

Re: Health and Safety of workers – Many of these questions relate to the health and safety of employees who may be exposed to chemicals and fumes from paint spray operations. The MOL recently conducted an inspection blitz of automotive shops in the Greater Toronto Area. They would be very interested in discussing the concerns you've received from people in the Hamilton area.

HOW TO CONTACT THE MOE ABOUT A POLLUTION INCIDENT:

The ministry operates the Pollution Hotline, where anyone can leave tips about pollution incidents or concerns during regular business hours. Tips can be anonymous or the MOE will keep a complainant's identity private, especially if there are concerns for reprisal.

1-866-MOE-TIPS

(1-866-663-8477)

moe.tips.moe@ontario.ca

The ministry's Spills Action Centre is an emergency response system that can be used for the reporting of spills – releases of pollutants to air land or water – that are an immediate threat to the environment. The Spills Action Centre is staffed 24/7, since such incidents don't always happen during business hours.

Spills Action Centre

Toll Free: 1-800-268-6060

Tel: (416) 325-3000

Fax (416) 325-3011

AI suspect this is going to create a bigger problem in the future not only for the person doing the spray painting but also for those that hire and allow the person to spray paint on their premises without first making sure that the person hired to do the job, has the proper credentials and the liability insurance that goes with the job. I certainly would not, want to be the first test case for a dealer or garage operator that gets caught in the network of lawyers looking for someone to blame for a paint related health issue, regarding outdoor spray painting by persons that have not followed the rules and regulations required to do this spray painting outside of a proper spray booth. I also realize that ones job could be at risk by reporting any health related issues on the job, but no job is worth your health or the health of your family. I also recommend that any person that witness any type of illegal paint spraying being done, to follow up with the Ministry of Environment or the Ministry of Labour.

*"WITH SPECIAL THANKS TO THE HAMILTON SPECATOR AND
COLUMNIST DENNIS O'SULLIVAN, USED WITH PERMISSION"*