

For immediate release

CIELAP releases study of privatization of public safety regulation in Ontario

The Canadian Institute for Environmental Law and Policy today released a new report on the impacts of the privatization of public safety regulation in Ontario.

Responsibility for ensuring the safety of Ontarians in relation to such things as elevators, amusement rides and gasoline storage tanks at gas stations was transferred from the Ministry of Consumer and Commercial Relations to a private corporation called the Technical Standards and Safety Authority (TSSA) in May 1997. A majority of the Corporation's board of directors is drawn from the regulated industries.

The report raises a number of serious concerns regarding the design of the TSSA model, and the accountability framework which was put in place for it and the other delegated administrative authorities created in Ontario through the 1996 Safety and Consumers Standards Amendment Act (SCSAA). In particular the report concludes that:

-- the government failed to provide clear policy direction to the TSSA and other delegated administrative authorities when they were created. The direction given by the government was limited to references in the Act and MCCR/TSSA Administrative Agreement to the maintenance of a "safe, fair and competitive marketplace." There is a lack of clear direction to the TSSA to make the protection of public safety an overriding priority, and a lack of any reference to the protection of the environment, even though this is affected by various aspects of the TSSA's mandate.

-- the 'self-management' model for the TSSA's board of directors, the majority of whom are drawn from regulated industries, has the potential to institutionalize conflict of interest as an organizing principle of public policy. There is a lack of provisions regarding conflicts of interest for directors where the economic or policy interests of the industries from which they are drawn are likely to be affected by TSSA decisions, in either the SCSAA, MCCR/TSSA Administrative Agreement or the Authority's by-laws.

-- the TSSA, as a private entity, escapes the application of key accountability requirements that normally apply to provincial agencies. These include the requirements of the Audit Act, Freedom of Information and Protection of Privacy Act, Ombudsman Act, and Lobbyist Registration Act. The accountability framework established for Ontario's delegated administrative authorities is significantly weaker than that created for similar entities in the

United Kingdom, New Zealand, Alberta and at the federal level in Canada.

-- the TSSA states that it conducts prosecutions "on behalf of the Crown." However in reviewing the relevant statutes in this area, it appears that there is no basis on which the Minister of Consumer and Commercial Relations could delegate the conduct of prosecutions on behalf of the Crown to a private entity, as responsibilities for the conduct of such prosecutions clearly rests with the Attorney-General.

The report makes detailed recommendations regarding the means through which these and other concerns raised in the report regarding the delegated administrative authority model might be addressed.

"The Walkerton disaster has highlighted the need to strengthen, not weaken the accountability and oversight mechanisms when government functions related to the health and safety of Ontarians are transferred to the private sector" said Dr. Mark Winfield, the Institute's Director of Research and principle author of the report.

"We hope that the government will recognize the need to act promptly on the recommendations contained in our study" concluded Anne Mitchell, the Institute's Executive Director.

Copies of the report can be [downloaded from the CIELAP website](#) or by contacting the Institute at (416)-923-3529

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The Canadian Institute for Environmental Law and Policy has for been commenting on and monitoring policy and regulatory changes related to the environment for 30 years.