

# Submission

to

Senate Employment, Workplace Relations and Education  
Legislation Committee

## **Inquiry into the provisions of the OHS and SRC Legislation Amendment Bill 2005**

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**Submitter:** Mr Dave Henry, Acting National OHS Co-ordinator,  
on behalf of Mr Doug Cameron, National Secretary

**Organisation:** Australian Manufacturing Workers' Union

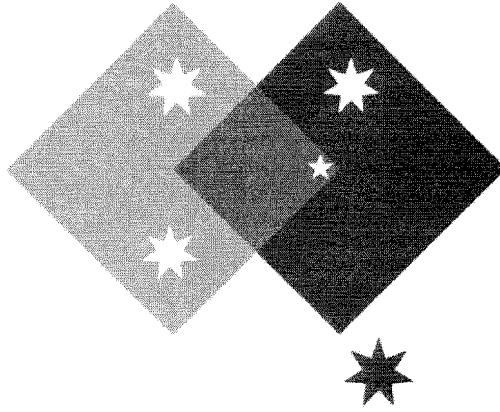
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**AMWU**

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**Organisation:** Australian Manufacturing Workers' Union

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1. The Australian Manufacturing Workers' Union (AMWU) welcomes the opportunity to make submissions to the Senate Employment, Workplace Relations and Education legislation Committee Inquiry into the provisions of the OHS and SRC Legislation Amendment Bill 2005.
2. The full name of the AMWU is the Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union.
3. The AMWU represents approximately 140,000 workers, in a broad range of sectors and occupations throughout Australia's manufacturing industry and in labour market and social policy.
4. The Australian Manufacturing Workers' Union (AMWU) opposes the Bill presently before this Committee.
5. The manufacturing industry is one of the most dangerous industries in the country. This is clearly demonstrated through the ASCC's own statistical data.
6. \*The Australian Manufacturing industry employed 1 111 000 people in 2002–03, representing 12% of the Australian workforce. Within the Manufacturing industry, 83 000 (7%) workers were self-employed, and 1 028 000 (93%) were employees. The following information, drawn from workers' compensation statistics, relates only to employees in the industry. The 28 100 claims made by employees in the Manufacturing industry accounted for 21% of the accepted workers' compensation claims in 2002–03p involving one or more weeks off work. The *Transport and storage* industry, with 15.8 claims per million hours worked, had the highest frequency rate. It was followed by *Agriculture, forestry and fishing* (15.5 claims per million hours worked), *Manufacturing* (14.1 claims per million hours worked) and *Construction* (14 claims per million hours worked). These four industries were well above the national frequency rate of 9.5 claims per million hours worked.
7. \*The incidence rate for all claims is measured in claims per 1 000 employees. Manufacturing has shown a considerable improvement in incidence rate, dropping by almost one-third in seven years. The incidence rate decreased from 40 claims per 1 000 employees in 1996–97 to 27 claims per 1 000 employees in 2002–03p. However, the Manufacturing incidence rate was higher than that for all industries in each year, though the rate gradually came closer to the rate for all industries. Within the Manufacturing industry the incidence rate for all subdivisions decreased over the seven-year period. The *Machinery and equipment manufacturing* subdivision improved the most, decreasing by 40%: from 39 to 23 claims per 1 000 employees.

8. Despite the alarming injury and fatality rates within the manufacturing industry there has been a steady improvement due to a continual focus by key unions on health and safety and their ability to work with employers and the State regulatory bodies. This work has developed a level of expertise within unions and the regulatory bodies to deal with the unique and challenging work environment workers in the manufacturing industry are faced with.
9. As a result of the federal government introducing the OHS (Commonwealth Employment) Amendment Bill 2005, this level of expertise would be lost to any workers working under the 1991 OHS (CE) Act due to the 2005 amendments which removed the recognition of the proactive role that Unions play in promoting and securing worker's health and safety. Further, the regulator of the 1991 OHS (CE) Act would be hard pressed to find within its ranks any expertise relating to the manufacturing industry. This lack of expertise could prove detrimental to the government's goal of national consistency with relation to OHS legislation. How would the ComCare regulator attempt to implement major hazard facilities regulation consistent with the States inline with the National Standard for the Control of Major Hazard Facilities [NOHSC: 1014 (2002)] without the necessary knowledge to manage and audit such facilities.
10. Extending coverage of the Commonwealth OHS Act to multi-state employers self-insuring under ComCare will open up a **"safety gap"** that will threaten the welfare of workers and their families all across Australia.
  - The Commonwealth does not maintain a force of safety inspectors. Instead they rely on accessing the services of state-based inspectors under a memorandum of understanding between the governments. Under this arrangement the State watchdog cannot recommend that an employer be prosecuted; that remains a matter for the Commonwealth.
  - Penalties on employers are substandard and rarely enforced. This is demonstrated through the recent WRMC Comparative Performance Monitoring Seventh Report (Nov 2005) for 2003/2004 noting that the number of safety inspectors/investigators was **16** and the number of prosecutions was **0** for a workforce of around **286,000** employees.
11. There has been strong lobbying from business for self-regulation and education as an alternative to enforcement and compliance. Self-regulation and education about health and safety is not an alternative. Enforcement of criminal law should not depend on the capacity of the criminal. The enforcement of occupational, health and safety laws and other related legislation sends a powerful and effective message

to employers that the failure to abide by occupational health and safety laws has serious consequences.

12. The system of self-regulation and voluntary compliance that these changes envisage will only reduce OH&S standards in the manufacturing industry. That will directly translate into more injuries and fatalities. The problem with this cost driven, ideological rationale is that it does not take into account the health and safety effect it will have on employees. These proposed regulatory arrangements will provide a haven for big business, including large manufacturers. These proposals will not enhance the health and safety of manufacturing workers – they will erode it.
13. The AMWU contends that reducing compliance obligations on business will, in fact, run counter to the objectives of the Australian Safety and Compensation Council's National OHS Strategy to reduce occupational injury by 40% and fatalities by 20% by 2012. There is certainly no legitimate evidence to suggest that incidence of death, injury and disease has been reduced because a company's compliance obligations have been reduced.
14. The consequences of the changes to Australia's OHS and workers' compensation systems will compound over time.
  - The financial pool in the state systems will reduce, increasing premiums for remaining businesses in the state schemes and increasing pressure on workers' entitlements.
  - More workers will be exposed to ComCare's low cap on pain and suffering damages; low lump sums available for permanent impairment; reduced percentages assessments for the most common injuries; and poor dispute resolution procedure.
  - The stripped back Commonwealth OHS Act will isolate workers by restricting their access to information and representation.
  - The existing compliance obligations under the Commonwealth OHS Act are very poor compared to other state and territory Acts, allowing businesses to drop standards without fear of consequences.
  - The capacity of ComCare to inspect workplaces and enforce laws will reduce further as more businesses gain coverage.
  - It is entirely plausible that the current Australian OHS and workers' compensation systems, made up of a dynamic mix of state, territory and commonwealth schemes will, over time, be reduced to a monolithic system with all the problems outlined in this document.
15. Furthermore, the objective of competitive neutrality will not be met as it will only be the large multi-state employers who self insure and who have obtained or will obtain approval to enter the ComCare system that will reap any gains.

16. The ACCC has already found that each state represents a distinct finance market. If this Bill is approved, it will destroy competitive neutrality that exists in each market in relation to OHS and Workers' Compensation by providing a cost disadvantage to those ineligible employers.
17. The OH&S and SRC Legislation Amendment Bill 2005 should be rejected.