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Submission to WorkSafeBC – Ministry of Transportation Comments on Proposed  
Amendments to the OHSR – Part 17 – Transportation of Workers

The revised amendments proposed by WorkSafeBC have addressed many of the comments provided by the Ministry of Transportation (MoT) in the written submissions dated January 16, 2008 and February 13, 2008. MoT has some further comments on the latest revisions to the Occupational Health and Safety Regulation (OHSR) Part 17 – Transportation of Workers.

**1) Application**

The following is a current section of the OHSR:

17.1 Application

This part applies to all persons, including the operator, engaged in transporting workers by any type of conveyance operated on behalf of the employer.

Note: This Part is not intended to apply to transportation of a worker by a public transportation system such as a taxi, bus line, chartered air service or airline, or by a worker's personal transport on public roads prior to or following a work shift. The requirements for all-terrain vehicles are provided in Part 16 (Mobile Equipment).

**MoT Comment:**

Although this section is in the current OHSR, WorkSafeBC may consider amending it.

The language used in the above section to describe the types of vehicles that the regulation is not intended to apply to (e.g., taxi, bus line, etc.), is inconsistent with that used in the *Passenger Transportation Act* (PTA). Differences in definitions between the OHSR and the PTA may lead to confusion surrounding the application of this regulation. For example, under the PTA, taxi is not specifically defined, but is referred to as a "passenger directed vehicle," and required to be licensed as such under section 23(2), if equipped with a meter or top light.

The term "passenger directed vehicle" also captures limousines that seat 11 or fewer people. WorkSafeBC may want to consider whether or not this regulation is intended to apply to limousines, as well as charter buses, referred to as "general passenger vehicles" under the PTA, as it is not clear from the above note.

For clarity, WorkSafe BC may consider, instead of a note, stating the vehicles that are not intended to be captured under this regulation by specifying, "this regulation does not apply to..."

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## **2) Employer's Responsibility**

WorkSafe BC has proposed the following amendment to the regulation:

### 17.2 Employer's Responsibility

If workers are to travel in a worker transportation vehicle, the employer must ensure that:

- (a) reasonable measures are taken to evaluate road, weather and traffic conditions to ensure the safe transit of the workers,
- (b) an inspection of a worker transportation vehicle has been conducted before first use on a work shift, and
- (c) any defect which might affect the safety of workers is corrected before using the vehicle.

### **MoT Comment:**

Although the intent of this section is for the best interest of the safety of workers, an employer may not be in the best position to inspect vehicles and evaluate weather and road conditions. For example, an employer may not be able to ensure the inspection of a rented car, which would be considered a "worker transportation vehicle" when paid for by the employer and transporting 3 or more workers. In reference to 17.2(a), the phrase "reasonable measures" is vague and unclear.

Additionally, section 17.2(b) requires the employer to ensure an inspection has been done, but does not prescribe what is required to be inspected. This section lacks clarity as it is not clear whether the inspection referred to is a mechanical inspection, or some other type of inspection, and it does not prescribe what components of the vehicle must be inspected.

## **3) Operator Responsibility**

WorkSafe BC has proposed the following amendment to the regulation:

### 17.2.1 Operator Responsibility

- (1) The operator of a worker transportation vehicle must ensure that the worker transportation vehicle has been inspected before first use on a work shift.
- (2) In addition to the requirements of section 17.1.3, the operator must not operate the vehicle in which there is a worker who occupies a seating position for which a seat belt assembly is provided for unless that worker is wearing the complete seat belt assembly in a properly adjusted and securely fastened manner.

### **MoT Comment:**

As in section 17.2(b), it is unclear what an operator is required to ensure the inspection of.

Section 17.2.1(2) expands the requirements for operators beyond what is required under the Motor Vehicle Act Regulation, where operators are not required to ensure passengers (over 16) are wearing seat belts. In a situation where the operator of a "worker transportation vehicle" is not aware that he or she is transporting workers, (such as a hotel

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shuttle bus driver), enforceability may be an issue. WorkSafe BC may want to consider situations where the driver of a “worker transportation vehicle” may not be aware he or she is transporting workers, and whether or not this driver would be liable under this regulation.