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From: WorkSafeBC [<mailto:prevweb@worksafebc.com>]

Sent: Friday, June 13, 2008 2:29 PM

To: legaladvocacy@paralynx.com

Your submission has been received.

Submission ID: P0B.Z76.3X2.3BQ

Part 17: Transportation of Workers, relating to seating requirements and seat belts in vehicles used to transport workers

1. Name: Sarbjit Gill

- (a) Feedback is provided: on behalf of
Organization: The Legal Advocacy Program, ACS, and PICS
- (b) Feedback is provided: from a worker's perspective

2. E-mail: legaladvocacy@paralynx.com

3. Feedback:

Section #:

Comments:Section #: 17.1.2

Comments: Although the sentiment expressed in this section is appropriate, it is vague and there is not a clear definition of what constitutes a vehicle that is "designed, maintained, and operated in a safe manner." Greater clarity would be beneficial if the section is to have any real weight.

Section #: 17.2.1 (2)

Comments: It is an improvement that operators must ensure that all workers are wearing appropriately fastened and secured seat belts, however, s. 220 of the Motor Vehicle Act does not require that a seat belt be used if a seat belt assembly was not required at the time the vehicle was manufactured (see s. 220(6) of B.C.'s Motor Vehicle Act), and doesn't require that a both a pelvic and a torso strap be provided even though this would be safer. These are issues that should be dealt with in the amendment.

Section #: 17.2 (b)

Comments: - While it may be a good step to clearly define the responsibilities of employers and operators in regards to vehicle inspections, it is not evident that this represents a significant shift from the status quo. The regulation could benefit from clear penalties for employers and operators who are found to have violated the regulations, and guidelines as to how their liability will differ from what it is

under the existing legislation. There should also be evidence of competency to conduct inspections; this might be partially addressed through obtaining the appropriate driver's license for the type of vehicle used, but something like a legislated requirement that evidence of attendance at a regular training session on vehicle maintenance be available at all times could be helpful.

Section #:17.2 (c)

Comments: The previous legislation required that vehicle inspections be completed before use, and that any defects that could pose a danger to workers be fixed before use. This did not seem to be effective in ensuring vehicle safety (see for example articles printed in the Vancouver Sun, "Van didn't have benches a week ago: The vehicle passed a mandatory inspection, mechanic says" on March 10, 2007 and "Inspections pull nine vehicles transporting farm workers off the road" on March 17, 2007). To ensure that vehicles are properly maintained there must be regular and independent inspections as well as frequent check stops to ensure proper vehicle maintenance. The regulation could benefit from clear penalties for employers and operators who are found to have violated the regulation, and a time-line for more frequent mandatory independent inspections.

4. Please indicate your level of support of the proposed amendments:generally agree

5. If you agree or disagree with the proposed amendments, please provide reason(s):

Section #:

Comments:

Section #: 17.2.3

Comments: Here it is proposed that s. 17.3 of the original legislation be removed, with reference to the Division 32 and 39 of the MVAR supposedly taking its place. However, these Divisions do not replace the requirement in s. 17.3.1 that where possible vehicles used to transport workers should have three-point seat belts. The wording of 17.3.1 does not create a clear responsibility, but at least the issue is addressed in part. The loss of this reference to three-point seat belts represents a step backwards, and the amended regulation should at the very least suggest that they be made available, and would preferably make them mandatory (especially given the greater safety risk posed by the use of 15-passenger vans).

Section #: 17.5.1

Comments: We agree with this amendment, but suggest that tire pressure and tread should also be specifically referred to in these amendments. Although ensuring appropriate tire pressure would presumably be a part of a general inspection of a vehicle, the importance of appropriate tire pressure and tread in

15-passenger vans suggests that it should be specifically included in the regulation itself.

Section #: 17.13

Comments: Although we agree that overcrowding should be prevented, this section re-emphasizes the fact that if seat belt assemblies are not a part of the vehicle, there is no duty on the part of the employer to provide them. Workers should be able to expect that a seat belt will be provided, and if a vehicle does not have an adequate number of seat belts to accommodate all workers, it should not be considered to be designed in a safe manner as is required by section 17.1.2 of the amended regulation.

Additional Comments:

- It must be noted that this is a field marked by systemic non-compliance with all sorts of legislation, not just OH and S.

- The expansion of the definition of worker transportation vehicles (changed from "crew cars, buses and crummies") is a positive change.

- It is not clear how penalties will change as a result of this legislation, if at all. If there is a shift in the liability of operators and employers as a result of these amendments it would be useful to make them evident in order to garner better input from concerned parties.

- In the amendments the increased risk of roll-over posed by the use of 15 passenger vans is not directly addressed (although preventing overcrowding/overloading can significantly reduce the risk of roll-over, and is therefore welcome). If a ban on the use of these vehicles is not possible, tire maintenance should be specifically mentioned in addition to the provisions on vehicle weight.