

August 15, 2013

The Honourable Jennifer Howard  
Minister of Family Services and Labour  
Room 357 Legislative Bldg.  
Winnipeg, MB R3C 0V8

Dear Minister Howard,

I am writing to express our serious concerns about the safety of those who work on Manitoba roads and highways.

Manitoba's workplace safety laws and regulations continue to be inadequate to protect these workers' safety. This fact was only underscored by the recent decision to acquit the driver of the vehicle that killed Brittany Murray in 2010.

In delivering his decision in that case, Justice Abra stated the driver was driving "with due care and attention," and that there was "insufficient evidence that the accused's manner of driving was a marked departure from the standard of care expected of a reasonable person in the circumstances." Justice Abra made these statements even though this driver was found to have been driving 112 km/hour in a construction zone – nearly twice the 60km/h speed limit when workers are present. We have a serious problem in Manitoba if driving that fast in a construction zone is considered to be the reasonable community standard. It is essential that the Province send a clear message to Manitoba drivers that failure to respect reduced speed limits in construction zones is serious, life-and-death issue, and that violators will face serious consequences. The Province should move quickly to make the amendments necessary to ensure the law is clear in this regard.

In particular, Manitoba's safety rules should be amended so that it is clear to drivers exactly when and where reduced speed limits are in effect for a construction zone. Justice Abra noted that a lack of clarity around when drivers must respect the reduced limit was a key factor in his acquittal of the driver whose vehicle killed Brittany Murray. The current practice of requiring a reduced speed only "when workers are present" is problematic because, by the time a driver encounters workers on the road, it is often too late to slow down to a safe speed. Determining whether or not workers are present and a reduced speed limit is in effect should not be left to drivers. The rules should require clear signage, sufficiently far in advance, indicating whether or not workers are present and reduced speed limits are in effect. Signage should be required to show exactly where reduced speed limit zones begin and end. The rules should make employers responsible for ensuring signage is adjusted as work evolves at a road worksite. Saskatchewan has recently clarified its rules with respect to signage. Saskatchewan has also required the use of rumble strips and gates on major projects to alert drivers that they are entering a construction zone. We urge Manitoba to implement similar rules, as quickly as possible, to ensure there

is no confusion for drivers about when and where they need to slow down to protect the safety of road workers. This is surely the greatest lesson we can learn from the Brittany Murray tragedy.

We are also concerned that current safety rules for road work do not specify any mandatory controls to protect workers. Employers are left to choose “one or more” controls from a list of possible controls, leaving open the possibility that an employer could only use one control and still be in compliance with the rules. The rules should be more prescriptive about mandatory controls, particularly with respect to signage, barriers and worker positioning. For example:

- the rules should require barriers to protect workers on road work sites where the regular road speed is high, where traffic flows are heavy, or where the road surface has ice or gravel;
- the rules should be prescriptive with respect to safe positioning for flaggers (eg. standing in a lane with barriers); and
- the rules should require a safe, minimum distance between workers and the signage that indicates the presence of workers (current rules only prescribe a maximum).

We also believe that enforcement of safety rules for road workers needs to be strengthened and clarified. It is not sufficient to expect municipalities or the infrastructure department to enforce workplace safety rules on road worksites. For these other agencies, workplace safety is just one of many priorities. Only the Workplace Safety and Health branch has as its primary concern the safety of workers. For this reason Workplace Safety and Health Officers should have primary responsibility for enforcing safety rules at road worksites. This responsibility should not be delegated to other authorities. We also urge your department to consider high profile inspection blitzes focused on road worksites to ensure that employers know the safety rules for road workers will be enforced. We believe this would be very consistent with your department’s recent focus on high hazard safety violations.

Finally, we also urge the province to fund an increased deployment of digital boards equipped with radar to highlight for drivers the speed they are travelling as they pass through construction zones. This equipment can save lives while playing a valuable educational role for drivers.

In closing, we would like to acknowledge the recent improvements you have made with respect to flagger training and safety apparel. These are steps in the right direction, but if Manitoba is to become, as you put it in your recent five year plan, “the safest place to work in North America,” there is much more to be done in the area of road worker safety.

Yours sincerely,



Kevin Rebeck  
President  
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