

Third Session - Fortieth Legislature
of the
Legislative Assembly of Manitoba
Standing Committee
on
Human Resources

Chairperson
Ms. Melanie Wight
Constituency of Burrows

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Fortieth Legislature

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LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON HUMAN RESOURCES

Tuesday, December 3, 2013

TIME – 6 p.m.

LOCATION – Winnipeg, Manitoba

CHAIRPERSON – Ms. Melanie Wight (Burrows)

VICE-CHAIRPERSON – Mr. Ted Marcelino (Tyndall Park)

ATTENDANCE – 11 QUORUM – 6

Members of the Committee present:

Hon. Mr. Ashton, Hon. Ms. Braun

Messrs. Caldwell, Gaudreau, Helwer, Marcelino, Nevakshonoff, Pedersen, Mrs. Rowat, Mr. Smook, Ms. Wight

APPEARING:

Hon. Jon Gerrard, MLA for River Heights

PUBLIC PRESENTERS:

Mr. Kevin Rebeck, Manitoba Federation of Labour

Ms. Michelle Gawronsky, Manitoba Government and General Employees' Union

Mr. Wally Fletcher, private citizen

Mr. Christian Sweryda, private citizen

Mr. Dave Sauer, Winnipeg Labour Council

Mr. Patrick Campbell, Operating Engineers Local 987

Ms. Kelly Moist, CUPE Manitoba

Mr. Joe Dooley, private citizen

Mr. Ken Guilford, private citizen

Mr. David Grant, private citizen

WRITTEN SUBMISSIONS:

Ron Stecy, Manitoba Building and Construction Trades Council

Neil Murray, private citizen

Charlene and Russ Harrison, private citizens

MATTERS UNDER CONSIDERATION:

Bill 2—The Highway Traffic Amendment Act (Safety of Workers in Highway Construction Zones)

* * *

Madam Chairperson: Good evening. Will the Standing Committee on Human Resources please come to order.

This meeting has been called to consider Bill 2, The Highway Traffic Amendment Act (Safety of Workers in Highway Construction Zones).

How long does the committee wish to sit this evening?

Hon. Steve Ashton (Minister of Infrastructure and Transportation): I think, given the number of presenters, until we complete would probably be a reasonable time frame.

Madam Chairperson: Okay. Is that acceptable? [Agreed]

We have a number of presenters registered to speak tonight, as noted on the list of presenters before you. On the topic of determining the order of public presentations, I will note that we have out-of-town presenters in attendance marked with an asterisk on the list. With this consideration in mind, in what order does the committee wish to hear the presentations?

Mr. Ashton: I think normal procedure is to hear out-of-town presenters first.

Madam Chairperson: Is that acceptable to the committee. [Agreed]

All right. Before we proceed with presentations, we do have a number of other items and points of information to consider.

First of all, if there is anyone else in the audience who would like to make a presentation this evening, please register with the staff at the entrance of the room.

Also, for the information of all presenters, while written versions of presentations are not required, if you are going to accompany your presentation with written materials, we ask that you provide 20 copies. If you need help with photocopying, please speak with our staff.

As well, I would like to inform presenters that, in accordance with our rules, a time limit of 10 minutes has been allotted for presentations, with another five minutes allowed for questions from committee members. So, when you get to nine minutes, I will do my best to remember to sort of,

like, give you a little sign that you have one minute left to wrap up, okay?

Also, in accordance with our rules, if a presenter is not in attendance when their name is called, they will be dropped to the bottom of the list. If the presenter is not in attendance when their name is called a second time, they will be removed from the presenters list.

The following written submissions on Bill 2 have been received and distributed to committee members: Ron Stecy, Manitoba Building and Construction Trades Council; Neil Murray; Charlene and Russ Harrison. Does the committee agree to have these documents appear in the Hansard transcript of this meeting? *[Agreed]*

Prior to proceeding with public presentations, I would like to advise members of the public regarding the process for speaking in committee. The proceedings of our meetings are recorded in order to provide a verbatim transcript. Each time someone wishes to speak, whether it be an MLA or a presenter, I first have to say the person's name. That is the signal for Hansard recorder to turn the mics on and off, so that's why we're doing that.

Thank you so much for your patience. We will now proceed with the public presentations.

So I will now call on Kevin Rebeck, president, Manitoba Federation of Labour.

If—do you have anything to hand out? All right, thank you. And go ahead whenever you're ready.

Mr. Kevin Rebeck (Manitoba Federation of Labour): Thank you, and thanks to the committee for the opportunity to speak. Providing input to the consideration of Bill 2, the highway traffic amendment act, is an important piece of our work.

The Manitoba Federation of Labour represents 96,000 unionized workers from 27 unions across the province. For decades, the MFL has been the leading voice for Manitoba workers in promoting safety and healthy workplaces.

Workplace health and safety is the issue area about which our members are most passionate and active, and to support this concern, the MFL holds annual health and safety conferences providing training; nominates labour representatives to the minister's advisory council, to the Workers Compensation Board and the appeal commission; supports the MFL Occupational Health Centre and SAFE Workers of Tomorrow in their work in

promoting awareness of workers' health and safety rights. We have active committees on workplace health and safety and bring activists together to promote safe and healthy workplaces, to promote interests at WCB, and we also lobby the provincial government and the WCB for stronger workplace safety and health measures.

I'd like to state first that the Manitoba Federation of Labour strongly supports Bill 2 and the approach that it will enable to protect the safety of workers in construction zones on our roads and highways. Our members include workers who do both maintenance and major construction on both municipal streets and provincial highways.

In October of 2010, a 21-year-old flagger named Brittany Murray was killed when she was struck by a vehicle driving 112 kilometres an hour through the construction zone in which she was working. Although the driver of the vehicle was travelling at nearly double the 60-kilometre-an-hour speed limit when workers are present, he was acquitted by a judge who said 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.

I submit we have a serious problem in Manitoba if driving that fast through a construction zone, through a workplace is considered to be the reasonable community standard. As I said in my open letter on this issue in August, Manitoba urgently needs to send a clear message to drivers that failing to slow down enough in construction zones is a serious life-and-death issue and that violators will face serious consequences. That's why we support the provisions in Bill 2 that will raise fines for speeding in a construction zone to double the regular fine levels for speeding.

It's not quite enough though. To fix the problems made painfully clear by the Brittany Murray tragedy, in acquitting the driver of the vehicle that killed her, the judge noted that a lack of clarity around when drivers must respect the reduced construction-zone limit is a key factor in his decision. The current law provides for a reduced speed limit only when workers are present. Ignoring the fact that a worker was clearly present when she was struck, the judge ruled that the effective speed limit at the time was 60 kilometres an hour because the construction work was not taking place in the immediate vicinity of the incident. He stated, and I'm quoting: If it was intended that the speed limit of 60 kilometre an hour

applied through the construction zone whether workers were present or not, the sign should have said that. End that quote.

Although I might take issue with the suggestion that a worker was not present in this case, the ruling shows there's clearly some ambiguity about when drivers are required to respect reduced construction zone limits. This lack of clarity from the current practice of leaving it to the drivers to determine when they need to slow down, this is problematic, because by the time a driver encounters workers on the road it's often too late to slow down to a safe speed. The responsibility to determine whether or not workers are present is also an unsafe distraction for drivers. That's why we support the removal of the provision that reduced limits apply only when workers are present. We've been calling for new rules requiring clear signage that make it explicitly clear exactly when reduced limits are in effect, what they are and when they end. We also believe that signage specifying what speed limits in effect for a construction zone should be the same white-and-black signage used to indicate speed limits in other situations. This removes any doubt about whether or not that posted limit is mandatory.

We also believe the rules should require employers to adjust signage as work at the site evolves. This would enable employers, where conditions are appropriate, to restore regular speed limits when workers are not present. The key is that the posted limit is the limit, period. What we're advocating, in effect, is replacing that when workers are present, with when signs are present, and this will produce a situation where drivers will know exactly what's expected of them when passing through a construction zone.

Bill 2 will provide government with the authority to pass regulations requiring clear signage, and if the bill's passed we look forward to participating in the promised stakeholder consultations on the new rules in the new year.

In addition to clear signage, Manitoba road workers also need other changes to protect their safety. Current regulations under The Workplace Safety and Health Act do not specify any mandatory controls to protect workers. Employers are left to choose one or more controls from a list of possible controls, such as barriers, flashing lights, lane-control devices, et cetera. We believe the rules should be more prescriptive about mandatory controls. For example, concrete barriers should be

required on major projects where the regular road speed is high, where traffic flows are heavy or the road surface has ice or gravel. Rumble strips to alert drivers when they're entering a construction zone should be mandatory on many major highway construction projects. Bill 2 will enable regulations that are more prescriptive in this regard, and we welcome the government's commitment in its November 15th news release to implement regulations prescribing mandatory controls.

* (18:10)

What workers are saying on this issue can be summarized this way: road workers need drivers to slow down. Drivers need clear signs telling them exactly what speed limits are in place and employers need to know what's expected of them to operate a safe workplace. Bill 2 is a necessary step in accomplishing all of these things.

I'd be 'riss'-remiss, however, if I failed to mention another critical factor in making road construction zones safe for workers—that's enforcement. The Province's November 15th news release promised that the Manitoba Workplace Safety and Health will be stepping up enforcement measures to ensure worker safety standards are maintained at the highest level during construction.

We welcome this commitment. It's not enough for an employer safety plan to be approved before construction begins. It's critical that employers know safety and health officers will be conducting regular safety inspections to verify that employers are living up to the requirement of their approved safety plans, and to that end, in addition to regular safety inspections of road construction sites, we urge periodic high-profile inspection blitzes, as have been done in provinces like Ontario.

Given that the police are charged with responsibility for enforcing speed limits in construction zones, we also urge the government to engage Manitoba police forces on the new road safety—road workers safety strategy.

I would also like to comment on the urgency of this bill. There's a great deal of road and highway construction planned under the government's infrastructure plan, and we believe the new rules can and should be in place before the spring construction season begins. This would require the bill to pass this week, so its stakeholder consultations and the development of regulations can be under way in the new year. We urge the legislation of Bill 2 to pass as

quickly as possible, and we urge the government to launch stakeholder consultations as early as possible in January.

Finally, I would note that our August open letter calling for change in roads workers safety rules was endorsed by Chris Lorenc, president of the Manitoba Heavy Construction Association. It's not every day that workers and employers speak with one voice on workplace issues. Our unity on the need for these changes speaks volumes. I urge the Legislature to consider that in deliberating this bill.

Thanks for the opportunity to provide a worker perspective on Bill 2.

Madam Chairperson: Thank you, Mr. Rebeck, for your presentation.

Do members of the committee have questions?

Hon. Erna Braun (Minister of Labour and Immigration): Kevin, it's wonderful that you're here this evening, and thank you for all of your advice and support with this bill. And, as you said earlier, we look forward to continuing our work in the new year on the regulations. Thank you.

Mrs. Leanne Rowat (Riding Mountain): And thank you for your presentation, Kevin. It was—it's very well written. It's very clear on why this legislation is required and we appreciate the time that you put into this. Thank you.

Madam Chairperson: Thanks again for coming out. And our next—[interjection] Oh, sorry. Yes?

Mr. Rebeck: Do you need to say Kevin for the record?

I'd just to say, as well, that the mother and stepfather are here, as well; I know they've submitted a written one. And the father can't be here, but we've been working closely with the family, and I want to acknowledge that they're here tonight and thank them for their support and the work they've dedicated towards this bill too.

Madam Chairperson: Thank you, Mr. Rebeck.

Our next presenter is Michelle Gawronsky, MGEU, Manitoba Government and General Employees' Union. Do you have any materials to hand out?

Ms. Michelle Gawronsky (Manitoba Government and General Employees' Union): Yes, I do.

Madam Chairperson: Staff will help you, and go ahead as soon as you're ready.

Ms. Gawronsky: All right. Again, thank you to the committee for the opportunity to say a few words on Bill 2, the highway traffic amendment act. My name is—as you know—is Michelle Gawronsky, and I'm the president of the Manitoba Government and General Employees' Union.

The MGEU is the labour organization that represents highway workers, those men and women who work along Manitoba roadways each and every day, keeping us safe and commerce moving in our province.

This legislation is vital to their safety and well-being, and its introduction has been recommended by our union for many, many years. I want to commend the government for getting us to this stage. I want to encourage other political parties to—and stakeholders to—in attendance to get behind it. There really is no realistic argument against its proposed—what's proposed here.

In addition to workers, this is important legislation for drivers, for employers and, more importantly, for families. These new rules benefits all stakeholders, and the merits of passing it are self-evident. There can be no mistake: drivers are often unclear on what the expectations are of them when they're passing workers. We know they want to act in a safe manner. No one wants to be involved in an accident that could cost a life, which tragically was the case with—as Kevin said—with Brittany Murray.

Under the current protocols, drivers must identify when workers are present and then slow down, but there is rarely signage present at construction zones that is clear or unambiguous. The onus should not be on the driving public to determine when workers are present because that means they are distracted from their driving, from their speed and sometimes from their surroundings. This legislation will ensure the motoring public know when to reduce speed limits are—when reduced speed limits are in place, what they are, and when they begin and end. The change from when workers are present to when signs are present will no doubt clear up any ambiguity around drivers' expectations that may exist.

It's no wonder that other jurisdictions have made these kinds of changes to positive effect because it relieves any ambiguity in the rules and makes it more straightforward. You may know that in Saskatchewan they have recently changed its rules with respect to signage. Saskatchewan, it should be

pointed out, also has required the use of rumble strips and gates on major projects to alert drivers that they are entering a construction zone. Manitoba should have the regulations required for barriers and meaningful and effective traffic-control devices to be present on many major projects. This seems, to us, to be common sense.

The members of the Legislative Assembly may not know that MGEU is a partner along with organizations and entities like the Manitoba Heavy Construction Association, MPI, Manitoba Hydro, the City of Winnipeg, and the Workers Compensation Board in an initiative called SAFE Roads. So we've been working quite diligently on this.

The SAFE Roads Committee was formed to draw attention to the need for greater safety measures for workers and to advocate for changes in legislation and regulations. The SAFE Roads Committee has also called for these changes, and I am pleased to stand along individuals like Chris Lorenc and other community leaders and employers who are calling for improvements today. It is not often that employees or employers stand together, and I think it is incumbent of the members assembled tonight to recognize this fact and to do the right thing in supporting this.

Obviously, the new rules are a benefit to workers, and I don't have to look far to hear stories about close calls on the highway because I hear them from my son. Josh is an employee with the Manitoba Infrastructure and Transportation, and many days you will find him atop a snowplow or working alongside a roadside keeping Manitoba families safe. Does my son not deserve the right to be safe while he does this? Does my granddaughter not deserve to know that her father will come home safely at the end of the day? It's important for families like Brittany Murray whose life may have been saved by amendments like this—

Madam Chairperson: Excuse me.

Ms. Gawronsky: —and I think there are a number of folks—

Madam Chairperson: Sorry. You just can't show the—

Ms. Gawronsky: Oh, sorry.

Madam Chairperson: Sorry, go ahead. Sorry about that.

Ms. Gawronsky: Okay. And, again, I am proud of the work he does, and I am proud of the dedication

and care that other Highways workers take to ensure we're safe out there because we know that—all Manitoba weather can be like and what difficulties can exist for drivers, and today is a prime example; going home for a long haul is going to be a long drive tonight.

It's important for families like Brittany Murray whose life may have been saved by amendments like this, and I think there are a number of folks here who will remember Brittany tonight and ask that you remember what was taken from that family.

Please keep her in your thoughts as you debate and determine the fate of this legislation because I think this would be a fitting legacy to the Murphys—and Murrays and to Brittany if we came together unanimously to support this.

I thank you again for this opportunity to speak on behalf of our members and my son.

Madam Chairperson: Thank you very much for presenting.

Do members of the committee have questions?

Ms. Braun: Michelle, thank you very much for coming this evening and sharing your perspectives and also sharing the advice and giving us direction with this bill, and we look forward to continuing working with you in the new year.

Mrs. Rowat: Thank you very much for your presentation, Michelle, and thank you for your comments with regard to this legislation. It is important legislation. We do believe that and we do support that.

And travel safe tonight.

Madam Chairperson: Thank you again for coming out.

Our next presenter is Wally Fletcher, private citizen.

And do you have any materials, Mr. Fletcher? All right, our staff will help you. And go ahead whenever you're ready.

* (18:20)

Mr. Wally Fletcher (Private Citizen): Okay, good evening. Thanks for the opportunity to make a presentation on this very important subject of amendments to the road safety legislation. My name is Wally Fletcher and I have been an employee—have been employed by the Manitoba Infrastructure and Transportation for over 31 years. My job is that of a

maintenance worker 3 for the maintenance side of the Department of Highways.

One of our responsibilities is that of flagging for our co-workers during numerous types of maintenance on our highways. The role of the flagger is to control the flow of traffic through our work zones in a manner that is most safe for the motoring public and all workers. The role of the flag person is one of the most responsible jobs on these work sites. The risks and hazards are continuously on the rise with increased traffic volume, speed limits and cellphone use by motorists.

We have seen by a court decision this past year in the Brittany Murray case that a worker flagging can lose their life on the job with no one being held accountable. In today's world that is very wrong and shameful, to go to work and not know that doing your job is not respected in a court of law. All Manitobans deserve the right to a safe workplace, and working on our roads and highways should be no exception.

The time is now to put legislation and regulations to ensure workers can have a safe work environment and return home safely to their family and friends at the end of each and every workday. We need these tools to do the job, and I thank you for considering giving them to us.

Thank you very much.

Madam Chairperson: Thank you, Mr. Fletcher, for coming down.

Questions from the committee?

Ms. Braun: Thank you very much, Wally, for coming this evening and sharing your experiences as an MIT worker and directly being able to tell us what it's like to be out there. We really appreciate this. Thank you.

Mrs. Rowat: All right, thank you, Wally, for present-coming out tonight and doing a presentation based on your workspace and workplace, and I appreciate your comments. Thank you.

Mr. Ashton: And as minister responsible for MIT, thanks, first, for your long service to the department. Thanks for bringing your perspective here. This is really important that we hear what's really happening out there and some of the impacts this bill will have in making it safer for you and everyone else that's involved with our roadwork and construction. Thank you very much.

Madam Chairperson: Thank you again for coming down, appreciate it.

That is the last of our out-of-town presenters. So we'll now return to the top of the list and go from there. Christian Sweryda, if I'm pronouncing that wrong please correct me.

Mr. Christian Sweryda (Private Citizen): Sweryda.

Madam Chairperson: Sweryda. Do you have materials to hand out?

Mr. Sweryda: Yes.

Madam Chairperson: Okay, thank you, and go ahead whenever you're ready.

Mr. Sweryda: Okay. I am here today to speak against this bill. There is no debate whether or not speeding past construction workers is dangerous and deserves a hefty fine. By all means, the fines couldn't be high enough for those people, but that is not what this bill is about.

It has been pointed out that most other provinces already double their fines in construction zones and, therefore, we should too. What is not mentioned is that our normal fines are already higher than most other provinces doubled fines. For example, a ticket in Alberta for doing 10 kilometres per hour over the speed limit is \$78. Here in Manitoba it's \$181.50. I've enclosed a chart on the first page of comparisons between the Canadian average and our Manitoba fine amounts. When in a construction zone Alberta's doubled fine is \$156 for doing 10 over, which is still lower than our normal fine. Our current fine for doing that speed in a construction zone is much higher at \$266.

Now, one of the primary reasons this bill—for this bill is because of a driver speeding through a construction zone at twice the speed limit, killing a construction worker. I wish to highlight to you some of the facts regarding this case that are not widely known. The sign at this zone said 60 when passing workers, in an otherwise 90-kilometre-per-hour zone. One person claimed that he was travelling 112 and was therefore going twice the speed limit. But that was only considered opinion evidence in the court. According to court files, the driver behind this vehicle stated that there is nothing abnormal about the manner in which the vehicle in front of him was being driven. This 60-kilometre-per-hour speed only applied when passing workers, and because a worker was not observable there was no reason to expect

that he should be driving at anything other than 90. There were other causal factors of this collision not related to the behaviour of the driver.

The construction company testified that there were no be-prepared-to-stop, slow-down-lane-closure-ahead, or two-way-traffic-reduce-to-one-lane-ahead signs. The accused suddenly saw Ms. Murray in front of his car and didn't know from where she came. One contributing factor was the possibility as she came from behind a parked car, which is why she wasn't observable in advance. She was wearing headphones and walked into the middle of the road, both of which are contrary to policy. The construction company testified that she was supposed to stand on the shoulder of the road. She was also well away from the work zone so the presence of other workers and equipment was not visible to the driver.

In reality, this worker was distracted by wearing headphones. She came up from behind an obstruction and walked into the middle of the road, in front of an oncoming car doing 90 kilometres per hour.

According to the judge, quote: There is insufficient evidence that the accused's manner of driving was a marked departure from the standard of care expected of a reasonably prudent person in the circumstances. I reiterate that I'm not satisfied that the accused's manner of driving was a marked departure from that of a reasonable and prudent person.

Increasing penalties is not going to change behaviour that is considered reasonable and prudent for the average driver. I'm not here to blame the victim; I'm simply here to point out that there's more important causal factors in this collision that are not related to the behaviour of the driver. Policies regarding workers' actions need to be much more strictly enforced. There should be minimum sightlines in construction zones to when workers are present, so that drivers can observe that these workers are present, working in the zone. They should not be stepping out from behind parked vehicles.

Even if this driver was going twice the speed limit as was inaccurately portrayed, the punishment would not have been severe enough if this were true. Although Manitoba has the highest fines in the country for most speeding offences, our laws are quite lax when it comes to excessive speeds. What is a problem in Manitoba is a lack of requirement

for a court appearance for speeds up to 99 kilometres per hour over the speed limit. Basically, a driver can be caught driving 159 kilometres per hour in a 60 kilometre per hour work zone, driving past workers, and still drive off with nothing more than a ticket.

In other provinces, such as Alberta and Ontario, going anything over 50 limit, the car would be automatically impounded and that driver would be in for a court appearance. This is something that Manitoba needs to implement if safety's really a priority. But rather than focusing on extreme speeds, Manitoba seems to be raising fines and collecting money from people who are going slightly over the limit. Not saying that that is justifiable in an active work zone, but the reason for Manitoba's lack of action regarding excessive speeds is apparent when the numbers are considered. According to the photo enforcement report, drivers doing 35 kilometres per hour or more over the limit only represent 0.3 per cent of speeders. It's a very small minority. Targetting those—that small minority may make the roads much safer in getting those people off the road, but it doesn't make money, and that seems to be what the problem here is.

Although this is being showcased as an increasing of fines, the biggest change is the requirement that workers do not have to be present. In other provinces, workers still have to be present in order for doubling of fines to occur. Current enforcement practices of both the police and especially photo radar are the target to zones when workers are not present. When you see workers around, photo radar is very scarce. Speeding still occurs at all times, but when workers are out, the vast majority of drivers are not speeding.

Currently, Manitoba has no legislation stating how far reduced speeds are allowed to extend from actual work sites. This allows the reduced speed to extend many miles away from the actual work. One example is the Perimeter, where the reduced speed for westbound traffic occurs at St. Mary's Road; the construction's on the Pembina Highway overpass. We have a two-mile section of wide-open highway that we are calling a construction zone, with no work being done, no workers present and yet police are in there on a constant basis enforcing it on the basis that it's a construction zone but nowhere near the actual workers.

If this new legislation passes, it will allow police and photo radar to continue targeting workerless

zones. They can be miles away from the actual work site, but now they can charge double fines. This is obviously not what the legislation should be about. For drivers speeding through actual work zones, past workers, at even minor speeds over the limit, by all means increase the fines exponentially. They couldn't be high enough. There just aren't enough of these real dangerous drivers to make a profit.

Manitoba has currently has no Highway Traffic Act requirements saying that signage must be posted at work sites. I wish to give a personal example. I was driving down Lagimodiere. After passing Dawson heading south, I hit the CNR overpass between Dawson and Maginot. I go under that overpass and almost drove right into a work site. The lane in front of me was closed. I had no—I could not see that because of the blocked sightlines due to the overpass and almost drove straight into those barricades.

I felt like an idiot. I slammed on my brakes. I stopped in time, but I thought I must have missed the signs. So I went around, drove back to Marion, did a U-turn, took a look. There was signs; they said construction zone. They said 60 when passing workers; they said lane closure ahead. All six of those signs were lying in the ditch, knocked over. I went up to the workers and told them this. They said they knew all about it. They noticed it when they set up the work site, but the City contracts signing to Guardian. Therefore it's not their problem that the signs are lying in the ditch; therefore, it's not their responsibility to fix it.

I contacted the City about this and again got referred to the fact The Highway Traffic Act has no requirements for signing in work zones. The City can essentially do what they want.

* (18:30)

This is the problem we have in Manitoba, not just in work zones. We have major voids in our Highway Traffic Act in regards to the expectations of traffic authorities. Signing is strictly optional. We have no requirement for school zone signs, which is why I found 206 missing school zone signs when I studied every school zone in Winnipeg. Again, when I went to the City about this, nothing can be done because the Province doesn't require school zone signs; they're optional.

Now, on my third page, you can see pictures of two signs here—one lying in the ditch. This has been an active work site. This construction ahead sign has

been lying in the ditch here for over a week. I drive past it every day. The next one over, lane closure sign, pointing in the wrong direction, pointing you to drive up into the trees. These are the kind of problems that we see on—in Manitoba construction zones on a steady basis. And yet we can't do anything about it because The Highway Traffic Act doesn't require proper signage.

So, in conclusion, there are many issues with The Highway Traffic Act that currently hinder safety, and they create abusive enforcement opportunities, such as the lack of requirements for proper speed limit signs, school zone signs, adequate amber timing, et cetera, et cetera. These are all oversights in the traffic act. They need to be addressed long before we start doubling fines that are 'gro'—already grossly higher than those of other provinces and enforcing workerless zones miles away from the work a—from where the work is actually being done.

If we care about safety in construction zones, we need to require the zones be a reasonable size, the signs to be marked near the workers where the work is actually being done, and require proper signing advising of these zones. Changes have to be made to target excessive speeds and the drivers that are going at excessive rates of speed. Enforcement needs to focus on those who are actually speeding past workers at an—currently active enforce—work zone. This targeting of workerless zones, miles from the work site, and, now, doubling of fines, would appear as nothing more than a cash grab under the guise of safety.

And, in conclusion, I'd like to say that we talk a lot here about drivers and drivers' actions and signing, but the causal factors of this collision were distraction of the construction worker, walking out in the traffic, not abiding by policy. And when I looked at the court files, there were a lot of issues with that zone where they didn't meet MIT standards. These are the things we need to address. These were the causal factors in this collision. Not blaming the drive—I'm not blaming the victim here. But I'm simply saying that this is what caused this accident, and this is why this judge found that this was a reasonable and prudent action of a driver. And doubling the fines is not going to deter reasonable and prudent actions.

Thank you for your time.

Madam Chairperson: Thank you for your presentation.

Excuse me—just hang on for a second.

Are there questions?

Ms. Braun: Thank you for coming this evening and sharing your concerns. And I think we can reassure you that many of the issues that you've raised in your presentation are specifically what we are addressing in the legislation. Thank you.

Mrs. Rowat: Thank you for your presentation this evening. Thank you.

Madam Chairperson: Thank you very much for coming.

Our next presenter is Dave Sauer, president, Winnipeg labour congress. Do you have any materials with you, Mr. Sauer?

Mr. Dave Sauer (Winnipeg Labour Council): I do.

Madam Chairperson: All right. Our staff will help you with those, and you can go ahead whenever you're ready.

Mr. Vice-Chairperson in the Chair

Mr. Sauer: Thank you very much for the opportunity to come here this evening. Just a few things I've been hearing tonight, I think I want to be very clear about one point here, that a person's privilege to drive never outweighs anyone's right to life and to a safe workplace. It doesn't matter how high the fines are. Fines do deter. And I'm a very good example. I have only ever had one speeding ticket in my entire life; once bitten, twice shy, never going to happen again. So, it is a deterrent, a very effective one.

The Winnipeg Labour Council is 'prea'-pleased to have an opportunity to present its views regarding Bill 2, The Highway Traffic Amendment Act. The WLC has been 'exis'-in existence since 1894 and currently represents 47,000 workers from 77 affiliated union locals within the city of Winnipeg. Workplace safety and health is one of the primary concerns of the WLC and has been a key platform issue for us since 1895. We're here today in support of this government bill.

Manitoba is on the path to creating a workplace safety and health culture. Safe workplaces make for safe workers. The WLC sees Bill 2 as a piece of larger puzzle of workplace safety and health. We believe the government of Manitoba should be doing everything in its power to reduce the number of workplace injuries and fatalities that occur in the

province. We believe the government is moving in the right direction with these changes.

Bill 2 ensures everyone goes home safe and sound to their families. Highway construction zones are dangerous places. Heavy machinery is moving around the construction site, and workers need protection from the other heavy machinery moving by them, vehicles. Drivers need to be aware of the full danger they present to workers on these job sites. They need to slow down.

The current rules in place leave too much up in the air as to when and where they need to reduce their speed. No driver wants to be responsible for serious injury or death of a worker. Bill 2 removes the guesswork imposed on drivers as to when and where workers are present. By clearly indicating that drivers should slow down when construction signs are present, drivers can be made fully aware of their speed requirements, rather than relying on their own judgment. Drivers need to focus on the road and this will narrow their focus around construction zones. Mandatory signage will help in this regard.

Bill 2 has brought labour and business groups together. And I think you've heard other labour leaders tonight speak on that issue. It's not very often we do find common ground on a lot of things. This is something where we have found common ground.

The government will be able to use the provisions in Bill 2 to consult with both labour and business representatives, community representatives, to discuss issues around clear signage, mandatory traffic controls, and develop detailed guidelines for construction zone safety. It is important that the input of all stakeholders is taken into account. We hope the same level of co-operation from all political parties in the Manitoba Legislature.

It is important that the Manitoba government move quickly and enact this legislation as soon as possible; 2014 is slated to be a very active construction season. Municipal, provincial and federal governments are investing heavily in road and infrastructure, high-or highway infrastructure.

Workers on the ground and drivers on the road need to be equipped with the proper legislative protections and restrictions going forward. Brittany Murray's death is a tragic example of the need for better protections for road workers. Let's not delay any further and ensure her death was not in vain. We

can and must do better, because one death is too much.

Mr. Vice-Chairperson: Thank you for your presentation.

Do members of the committee have questions for the presenter?

Ms. Braun: Thank you very much for coming this evening, Dave. And, as you were saying, we'll be working very closely together with labour and employers, to make sure that these things are brought forward, and to make the road safe for everyone. Thank you.

Mr. Vice-Chairperson: Mrs. Rowat.

Mrs. Rowat: Oh—

Mr. Vice-Chairperson: Excuse me, Dave. One more. *[interjection]*

Mrs. Rowat: I just wanted to thank you for your presentation and your representation here tonight.

Madam Chairperson in the Chair

Madam Chairperson: Thank you, once again.

And our next presenter is Patrick Campbell, Operating Engineers Local 987. Do you have any materials?

Mr. Patrick Campbell (Operating Engineers Local 987): I have some reading notes. It's an oral presentation.

Madam Chairperson: Okay, that's just fine. Go ahead whenever you're ready.

Mr. Campbell: So I'm here to speak on Bill 2. And honourable members of the Standing Committee on Human Resources and members of the public, my name is Patrick Campbell, and I'm an employee representative of the Operating Engineers of Manitoba Local 987.

The Operating Engineers of Manitoba represent a wide array of heavy equipment operators who work in a variety of construction industries. Our members perform work in road building, sewer and water and pipeline construction, to name a few. They are the men and women who are responsible for the safe and efficient operation of the heavy equipment that is an integral part of getting the projects in these industries done on time.

Now, as a key stakeholder in the construction industry, we come before you today in support of Bill 2, which is referred to as the safety of workers in highway construction zones. We applaud

the government for taking the necessary steps to put in place laws that will hopefully make the tragedy that occurred to Ms. Murray in 2010 an isolated incident. And, as an organization, we, again, send our deepest condolences to her family.

Now, the focus of much of the presentations this evening may be on the safety of workers like Ms. Murray, and we applaud and support that wholeheartedly. However, some people lose sight of the fact that a flag person is an important component of health and safety measures that are put in place by an employer to ensure the health and safety of not only the workers, but also of the general public. Whether the general public realizes it or not, every time that they pass by a construction site, they, too, are being exposed to the many hazards of the construction industry.

Now, companies and unions in the industry have continued to make increased efforts to ensure that their employees and members are trained and warned of the potential hazards that they will face on a day-to-day basis. There is definitely room for improvement in educating the public of these hazards.

* (18:40)

Now the area of health and safety in the workplace always has room for improvement and I have no doubt that Bill 2 will provide an added layer of health and safety for the workers who are employed in this industry.

However, today I come to speak on a section of Bill 2 that construction industry outsiders and the general public might look at and question, and that section that I'm referring to is section 77.1(7) and it's dealing with the maximum permitted speed applies—when maximum permitted speed applies, and it reads as follows: unless otherwise stated in a traffic control device placed or erected for the purpose of subsection (5), the maximum permitted speed established by the traffic control device applies, (a) at all hours of the day and all days of the week including holidays, and (b) whether or not workers are present in the construction zone or equipment is being used in it.

Now, this is one of the many sections of Bill 2 that really hits home for construction industry insiders. We realize that the intent of this section does not only ensure the health and safety of workers, but also the general public, which is a key tenant of The Highway Traffic Act.

Now, what do I mean by that? Well, it's really very simple and what it comes down to is your weight class, similar to the term used in boxing. As I stated before we represent heavy equipment operators throughout Manitoba and I'm sure that many people in the room this evening have seen the pieces of heavy equipment that are present on these sites: dozers, hydraulic excavators, compactors or steam rollers, loaders and graders.

Well, in an effort to drive home my point considering—consider the following weight classes. The average 2013 mid-size car on the road today weighs approximately 3,400 pounds. Definitely not what people would consider light-weight; however, in contrast with that, some of the common pieces of equipment found parked on today's modern building construction zones: a 259D compact track loader, no larger than the width of this table here, 8,945 pounds; a 973D track loader, this would be the big brother to the 259, weighing in at 61,857 pounds; a PM200 cold planer, these are seen on the streets stripping up the old road surface, weighs in at 63,052 pounds; or a tandem vibratory roller, also known as a steam roller, 26,230 pounds; wheeled loaders, 53,310 pounds; a D6 dozer, considered medium in size, 53,651 pounds; and a hydraulic excavator, 64,990 pounds. There is a reason they call it heavy equipment.

Many people don't understand that based on their sheer size, this equipment can pose a serious risk whether in operation or parked, and we see more and more incidences of distracted driving occurring around us and the possibility of someone losing control while passing a construction zone is seemingly in the increase, on the rise. So, if Joe or Jane Public crashes their 3,400 pound car into a stationary D6, weighing over 53,000 pounds, this will not end well for Joe or Jane Public. The D6 dozer comes with every bell and whistle you can imagine for pushing dirt, but one that it does not come equipped with is an air bag, and that's for one simple reason, the operator of a D6 does not need one. If you strike that piece of equipment while passing a construction site, you will lose every time.

So, on behalf of the Operating Engineers of Manitoba and the men and women that make up our membership, we are in support of Bill 2 in its efforts to recognize the risks associated with road construction, not only for the men and women that make this their workplace but also for the men and women passing by on the weekends and in the

evenings after all of our members have gone home to their family. Thank you very much.

Madam Chairperson: Thank you very much for your presentation.

Do the members of the committee have questions?

Ms. Braun: Thank you, Patrick, for coming this evening and representing the Operating Engineers and sharing your perspective. I know the discussions we've had have gone around the variety of hazards that exist for drivers, including poor roads, but also now you've shared what the impact of heavy equipment can be. Thank you.

Mrs. Rowat: Thank you, Patrick, for sharing your perspective and your stakeholders' perspective. It does provide another venue in another area that we may have overlooked. Appreciate that.

Madam Chairperson: Thank you again for coming down and taking the time.

Our next presenter is Kelly Moist, president of CUPE Manitoba.

Do you have any materials with you? Our staff will help you, and please go ahead as soon as you're ready.

Ms. Kelly Moist (CUPE Manitoba): Hi, good evening, and I would like to thank Minister Braun and the committee for allowing me the opportunity to speak tonight.

CUPE Manitoba represents thousands of municipal workers for whom this legislation will directly benefit. Our members, those who work in construction areas in Winnipeg, The Pas, Brandon and other municipalities across the province, are dedicated to their work, building, fixing and maintaining our roads and infrastructure. With both the City of Winnipeg and the Province dedicating new money towards infrastructure in 2014, the time to ensure safety for those delivering and maintaining this infrastructure is now.

The matter before us today is simple. Manitobans rely on our members to do their jobs so the roads that they drive on are safe. The least we can do is ensure that those workers are safe in return. Many of us will admit when we drive by the signs that indicate a speed limit when workers are present, we look around desperately trying to find workers. The fact is, drivers are not always able to spot

workers, and despite reflective vests, workers may otherwise be obstructed from motorists' views.

We know about the tragic death of Brittany Murray, but how many near misses have there been? Are we willing to have another fatality because of unclear signage and unreasonable expectations? Bill 2 helps to clarify what drivers' responsibilities are in a construction zone. There is no place in this bill for ambiguous signage that could put motorists and workers at risk of accident. This bill sets forth in a clear manner exactly what is expected of drivers in a construction area.

In addition to safety for those workers, the bill—this bill also helps ensure the safety of motorists. Knowing exactly when reduced speed limits are in effect in construction areas helps Manitobans avoid tragic accidents. Nobody wants to be responsible for an accident, but we're all responsible for each other's safety.

Bill 2 shows our government's commitment to safety in Manitoba. It shows that our government is willing to react responsibly to the needs of the public as well as the needs of the industry. Raising the fine for drivers who speed through construction zones from \$5 to \$7.70 per kilometre is also an excellent way of enforcing this bill. At the same time, regulations on this bill will go even further in ensuring that other mechanisms are in place to protect workers such as additional traffic controls, rumble strips, speed readers and more.

We're pleased that the opposition have decided to allow this bill to be read. Accidents don't wait for legislative sessions to conclude their regular business. Bill 2 needs to be passed as soon as possible in order to begin addressing the regulatory aspects of this bill and to allow stakeholders to discuss its implementation. For our members, the issue of workplace safety is a matter of life and death. I urge you to pass Bill 2 as soon as possible so our members can get back to work knowing that they have a government that supports them.

And I thank you for your time.

Madam Chairperson: Thank you for your presentation.

Questions from the committee?

Ms. Braun: Thank you for coming this evening, Kelly, and sharing your members' views and concerns, and we look forward to continuing our work in the new year.

Mrs. Rowat: Thank you for your presentation today. I just have one question today with regard to your presentation. You indicated that—you had a brief paragraph here on regulations. Have you been in discussions with government with regard to the proposed regulations at any point?

Ms. Moist: I haven't yet, but I'm hopeful that we'll be able to be part of that process and provide some feedback.

Mrs. Rowat: Okay, thank you very much.

Madam Chairperson: Thanks again for coming down.

Our next presenter is Joe Dooley, private citizen.

And do you have any materials?

*(18:50)

Mr. Joe Dooley (Private Citizen): Yes, I do.

Madam Chairperson: All right. Staff will help you with that, and please go ahead whenever you're ready.

Mr. Dooley: Okay, I'm a MIT worker. I'm a maintenance worker 3, been there for 14 years, and I work on the Perimeter Highway. And I've been blown off a paver into the augers—nothing happened, mind you, but I went in and down and out—because nobody obeys the speed signs. There has to be something done.

I've been pushing it with Health and Safety through the Manitoba government, and it's like, talk to a wall. That's about how much you'll get accomplished. Since the day I started, I said they should change the sign to 60 kilometres an hour, period, because people that have been caught in it—friends of mine—said there was nobody on the road, so the judge says, okay, you don't pay the ticket. If you're going to change this law and enforce this law, you're going to seriously have to enforce it, because nobody's going to make a difference. I put out the signs; it doesn't make a difference. They travel what they want. You can put up arrow boards, trucks with speed boards on it, and you close the lane—right?—with all the proper signage set to the government standards. They go by the truck and they drive right in behind the vehicles. And you're working on a bridge clearing it with a loader, and all of a sudden there's a car there. What are we supposed to do? This bill is ideal, but it has to be enforced if it's pushed through.

And, with that little piece of paper that everybody got there, it just states in there that the pilot truck has no authority on the highway than another vehicle. Same with the truck plows in the wintertime. This stems back from a few years ago where one of our truck plows got hit. The guy went around the pilot vehicle, over top of raised median, hit the truck plow. Our driver got charged. The government itself does not protect its employees.

It's the same with the flagman courses. In the private sector, it's two to three days to take this flagman course. Ours is six hours, and we were told, with ours, it's no good for the private sector. You couldn't, you know, take two weeks off in the summer and go help a friend out on a construction site, because our licence is no good in the private sector. And we were also told, if we don't have our licence on us at all times when we're on the highway, if Workplace Health and Safety shows up, you're terminated. This is not—there's double standards for the government workers and the private sector. You have to get this bill pushed in, so it includes everybody.

It's not an easy way to go. Like, I know people in the back here lost somebody. I've had friends hurt—been hit by vehicles in work zones. Doesn't make a difference. You ask them, what were you thinking. Well, there's nobody on the road. I don't have to slow down. The rule reads before that it was if there's a piece of equipment on the road.

RCMP will sit out there if you beg them to control a work zone. Actually, all you need is just put a student RCMP officer there. They don't actually have to hand out tickets; just show up with the car.

But we definitely need this bill to make it safer, so, like, all my friends can go home, I can go home at night.

That's about it for me. I just don't want to see it go on the wayside. Something's finally being done. Thank you.

Madam Chairperson: Thank you for your presentation.

Questions from the committee?

Ms. Braun: Thank you very much for coming this evening and sharing your stories with us. I appreciate it. Thank you.

Mrs. Rowat: Thank you as well for presenting an employee's—or an employ—yes, an employee's perspective on this. Thank you for your presentation.

Mr. Ashton: Yes, as Minister responsible for MIT, I really appreciate your perspective, seeing it directly there. And, certainly, your advice is well-taken.

Mr. Dooley: Yes, that was, like, an incident from two years ago, and we just sort of—been trying to get something done with it and it's not working.

Madam Chairperson: Thank you, Mr. Dooley.

Our next presenter is Mr. Ken Guilford, private citizen.

Do you have any materials with you?

Mr. Ken Guilford (Private Citizen): No, I don't.

Madam Chairperson: Okay. Go ahead whenever you—

Mr. Guilford: Sorry about that, but I can't afford a computer.

Madam Chairperson: Sorry, Mr. Guilford. Pardon?

Mr. Guilford: I don't have access to a computer, so I can't do it.

Madam Chairperson: That's fine. No problem. Go ahead whenever you're ready.

Mr. Guilford: My name is Ken Guilford and a lot of you know me here. I'm in favour of the highway transit—traffic act—amendment act, Safety of Workers in Highway Construction Zones.

I wish that Brittany had been the only one. There are many people that have been hurt, killed and everything else and you hear it all the time, but it's not right.

I'm hoping that the NDP and the Conservatives, and especially the Liberals, get together and they put it through unanimously within a day or two. I can't see any reason why you can't and then keep going. It's crazy.

And I was wondering, I'm new to this, people, a little bit, but is there only one lady mostly asks the questions. I'm wondering why that is. Nobody knows. Nobody cares. Just *[inaudible]* act here.

And I was driving south on Isabel one day in Winnipeg and all of a sudden this police officer steps back into my car. I'm driving 50 miles—50 kilometres an hour. I was lucky. I steered into the traffic and

they all stopped. But this man could easily be dead and he's not alone.

Let's please work on this act and let us get it together now.

Madam Chairperson: Thank you, Mr. Guilford.

Questions from the committee.

Ms. Braun: Thank you for coming this evening, Ken, and presenting for us and sharing your perspectives. Thank you.

Mrs. Rowat: Thank you, Mr. Guilford, for your comments this evening. I thank you for coming out tonight.

Madam Chairperson: Thanks again for coming down.

Our next presenter is David Grant, private citizen.

And do you have any materials with you?

Mr. David Grant (Private Citizen): Yes.

Madam Chairperson: All right, the staff will help you with that and go ahead as soon as you're ready.

Mr. Grant: Okay, thank you.

Let's see, don't like reading stuff anyway. I have been involved in this topic for many years. In recognition of the other people, I am in favour of making the 24-7 speed limit change rather than when occupied. Initially I like the fact that Michigan and Minnesota have conditional speeds; 10, 15 miles an hour when kids are present and regular speed limit the rest of the time around school zones, that seems to make sense. In this case the courts have forced this change on us, that there's no other way of safely protecting workers to make it 24-7. So that's the one obvious thing.

Anyway, as I say, I've been involved in this for a long time. Over 40 years ago I worked in a team of two in a city in Ontario and we made frequent stops, we were actually sampling combined sewers for the BOD level and we had to stop eight hours a day, stopping at the side of a city street. And even in those days we were aware of the danger and our procedure—our protocol was park the car way back from the manhole we're going into, turn the wheels, or park the thing at an angle so if somebody slams into it, it goes over there not over us, and we always

did that. And then I move here and I hear about the two guys doing cable work and the van is over there, and they're half out of a manhole and somebody loses control and kills somebody. And I was horrified that why wasn't the technology that was used in '71 in Windsor applied here and applied by law.

And we have tragedies because people don't think, and that's fine, people make mistakes, but that's our job here is to make sure that the Legislature, the legislation protects people and that's part of what this is doing. Anyway, I don't understand why—you know, you can read your handout there—why we are not protecting people as much as we could.

The other thing is the student I was supervising at the time on this Windsor job, he and I would always park the vehicle carefully but we also watched for traffic. So the other rule we had was that when we're out of the truck, because we're at the side of a city street, nobody went anywhere, nobody did anything unless one of us was looking at the traffic. So you only get one person actually doing the job because the other ones a watcher.

* (19:00)

Anyway, moving on to the next half of this, 17 days ago I was in charge of an intervention team at the US Formula One Grand Prix in Texas. I've been doing this stuff for 45 years just about. And intervention team does not mean helping people with gambling addictions; in this case, our team was there to assess a race car crash if it happened in our sector, and, if needed, we would rush to rescue the driver, put out any fire and remove the car and debris from the track. So we have the use of a large crane and so on. But this is all done while the fastest race cars in the world continue to race.

There are protocols adopted by the best safety experts in the world to do this in the best way possible. We practise, we analyze. We have the use of a database of thousands of incidents like this at countless racing events. Most of our time is spent behind nearly impenetrable barriers. Manitoba road workers mostly work without the protection of barriers, and that horrifies me. I drive a lot through the States and through Manitoba, and whenever I see a workplace where the poor sign girl is the only one protecting all those people over there, that troubles me, because things go wrong. And certainly, at a

racetrack, if we didn't have concrete barriers and chain-link fence and so on, I'd be scared.

There was a while when I volunteered at lots of tracks. The one in Toronto, the IndyCar race downtown Toronto, made the mistake of having the monstrous barriers behind the workers, so all the volunteers have a little piece of concrete between them and the race cars, and I was afraid to work that one. So I would—I never did work Toronto Indy. And sure enough, Gary Krosnoff, driver, loses it, kills himself on a tree and takes out a bunch of workers. So it's really important to have an effective barrier between dangerous traffic and workers. And I contend that we're not doing nearly enough about that.

Anyway, I'm all flustered here, but, anyway, the drivers with which we work are the most skilled in the world, and their attention and reactions are at a peak when they're racing. The driver who will next injure a Manitoba road worker will probably be distracted or drowsy. We can hope that it never happens again, but it's a—the future is a long time. The legislation much—must deal effectively with this root problem. I have the—I'm in the disadvantage of not having received press releases. I'm a journalist, but not on your list, and all I had to go on was the legislation, the bill as presented. And I see that it's silent on these topics. Anyway, increased fines will not be as effective at getting drowsy people to pay attention as the steps I'm recommending.

Anyway, observation: no one goes down to the racetrack without a safety watcher. In Manitoba, no one goes into a confined space without a safety watcher. Why do we allow tow truck drivers to work alone? They're allowed to crouch with their backs turned to traffic while they hook up the car. That's scary to me. I would never want to do that. But the companies only send one guy out to do it. My guess is, if you're picking up a stranded vehicle on the Perimeter or Highway 1, the company must be—should be required by you guys to send a double team, so there's a watcher. Because if there's a watcher—we've all seen the dashcams, police cars in the US where the cop gets hit. If they'd had a watcher yanking him out of the way in time—because that's what we do on the racetrack. If there is a person working away, you know, on a rescue or trying to get a guy out of a car, the one beside him is watching traffic. If he sees somebody coming, he yanks him out of the way, and that's the job. And I think that Manitoba workers would be a whole lot safer—it would incrementally increase the amount of labour

on a job site, but not that much. The two—the one-person tow truck would become two. The eight-person road crew would still be an eight-person crew because you can always have a watcher. Usually the flag person is the watcher.

Anyway, I wandered way off my script, here. Anyway, to not oblige them to have a safety watcher and not use concrete barriers is to invite another tragedy. It will hope—it will happen, and I hope it's not your intent, but there's some holes in this legislation as proposed.

Back when we first dealt with the issue of tow trucks and police giving tickets, the initial run at this was to just reduce speeds. I've studied traffic data in the US and know that the gawker crash is one of the most common ones on a freeway in the US. Somebody goes in the ditch on the southbound lanes; the northbound lanes slow down to look at it; there's a tail-end collision, neck injuries. And so my first suggestion to the—before it even got to second reading, in the first run at this, was give those guys an extra lane. And that's the way the first legislation was worded. Have an emergency vehicle at the side of a four-lane highway, you move over one lane. If you can't, then you have to slow down, but the primary thing, the safest thing, is just move around it.

Anyway, so I was the one that suggested that stuff, and then the second kick at the can was to reduce the speed of traffic in certain situations. Reducing the speed at which drivers pass an emergent scene might make some comfy, but it's not the whole solution. I tried asking—I just found out about this stuff last night, but I tried asking who the engineer of record was on this major safety initiative because, generally, when there's a project, especially one involving safety, that's a—sort of professional expertise is called on.

Anyway, this new set of rules completely misses the root cause of the fire truck crash and the flagger death. You know, Brittany—there was an allegation that she stepped into traffic, but the prudent driver, I still maintain, in spite of what the court says, that a prudent driver wouldn't have gone zinging past that car just in case somebody pops out. But certainly the truck that hit the fire truck was not related to whether he was going 60 or 100 kiloms an hour. If you can't see a bright red fire truck in your lane in front of you with lights flashing, you're asleep or you're doing something else. And a little white speed limit sign is not going to prevent that crash.

On the other hand, these amendments are completely silent on the issue of waking up sleepy drivers. *[interjection]* Oh, one minute? I'm sorry. Okay; anyway, so I am calling for buzz strips being mandatory for any construction zone. There are occasions in the US where, before you get to the work site, your lane changes, so your little concrete medians in Chicago, concrete barriers take you over this way eight feet, which means if you're asleep you slam into it. So it's a bad way of waking people up, but, where possible, they do use buzz strips. I want you to use that.

And, let's see. What else have we got here? This very particular, peculiar legislation spelling out the \$7.70 surcharge, but it's silent on the really important changes, like the buzz strips and the barriers and the safety watchers. And I'm guessing this is the only legislation in North America that actually spells out dollar and cents.

Anyway, and I think it would do a disservice to those who've been harmed at the roadside and those who depend on us for a safe workplace if we do not make the appropriate amendments to this legislation. We should mention those three topics.

Madam Chairperson: Thank you very much for your presentation.

Questions?

Ms. Braun: Thank you, David, for coming this evening. You've offered some very interesting observations, and we appreciate the work that you've done in researching this. Thank you.

Mrs. Rowat: Thank you for your presentation this evening and providing another perspective. Thank you.

Hon. Jon Gerrard (River Heights): Tell us a little bit more about if you require buzz strips, where would they be positioned relative to the construction site and how would they work?

Mr. Grant: In my further on pages that I didn't get to read because I had taken and put red footnotes on all the amendments as they were published, my position on that is that a reasonable driver see—feels the buzz strips, slows down in a cautious—normal, cautious manner, and is down to the appropriate speed limit before he gets to the construction zone. So we're talking four or five hundred metres before the zone and not two miles before, but enough hundreds of meters before that they can take their foot off the gas, lightly apply the brakes, and be

down to 60 kiloms in an appropriate time. So that's the position.

Mr. Gerrard: Are there jurisdictions where these are already mandated for construction zones?

Mr. Grant: Most of the buzz strips I see are on non-freeways in the US, like US 81 and so on, the state highway system, and they are at places where something's happening, a speed limit change or a stop sign or sharp curve. So places where they want to prevent death and injury, they put buzz strips on the road. And, as far as doing them in construction zones, I don't—I can't name one where it's been applied, but I certainly think it would deal with this problem we have.

On the other hand, I don't remember an interstate construction zone that didn't have linked Jersey barriers on both sides of the danger zone. So the other thing I would suggest that I got into here is changing the speed limit. If you're going to say 60 kiloms for you and me in our vehicles, perhaps that should be 20 kiloms for a heavy truck, because a heavy truck can plow right through those barriers. I've seen it done in other jurisdictions, that if the heavy truck has a problem, it just flops those things out of the way. So, if you reduce the speed for the heavy truck down to 20 or 30 kiloms and he has a big problem, he doesn't hurt anybody. But I think a differential speed limit is a very important safety issue.

* (19:10)

Mr. Gerrard: Just one more follow-up. You're talking about linked Jersey barriers. Can you just—so that we all understand exactly what you're talking about.

Mr. Grant: The concrete barriers that were first introduced 30 years ago, 35 years ago in the US for lining construction sites were a tapered concrete structure 30 inches tall, about a foot wide at the base and tapered in like a little curb and then a vertical part. The design of those is such that your tire hits the little toe of it and diverts you back into traffic before you have bad problems. And these blocks are linked, meaning the end of them includes a loop of rebar or steel-wire rope, and the—two of these loops stick out from the end of each one; a steel bar sticks down there, so that if you hit one, it yanks on its buddy and doesn't just flop over. The other mechanisms used are to bolt them to the ground, so you can have ones where they're semi-permanent. On major US bridges on interstates, they have

the same barrier, which has grown heavier. They've grown five times, four times the weight, so now they're much wider and thicker. But now they run large screws into the pavement.

The other method used in a few US cities, I think, Dallas is one, where the barriers are ground on one side, so they bolt a piece of angle iron on each side to link them together. So that's interesting, because when a truck hits it, it breaks that end of the barrier off, but, other than trucks, it's bulletproof. So that's linked barriers. And there are other ways of doing the job, but they—the primary one is this concrete one, because it doesn't tip over, and 90 per cent of the people that hit them at a shallow angle are diverted off without any damage. Okay.

Ms. Braun: It's just to indicate as well that one of the things this bill will be doing is enable regulations, and one of the things that we will be certainly looking at very closely are barriers and other kinds of processes to make sure that the coming into a construction sign-site is safe. So that's one of the things we'll—we definitely will be looking at.

Mr. Grant: After I did the research this morning and typed it this afternoon, I then talked to Mike Kelly, who I knew from another position he had here, and your assistant and learned that a whole bunch of good stuff's in the regulations. And that makes me—that's why I say this is weird stuff, because the legislation goes into \$7.70, but it completely misses the really good stuff, which is in the regulations. And that's why I'm suggesting that, if it weren't a big rush to get out of here, tweaking the legislation—the amendment to put that stuff right in the amendment, because it would make everybody happier to know that barriers and rumbles are in the works. And I think it really should be in there.

Madam Chairperson: Thank you.

Mr. Grant: So, thank you.

Madam Chairperson: Thank you. Thank you very much. Our time for questions is expired, and we appreciate you very much coming down. Thank you.

That concludes the list of presenters that I have before me. Are there any other persons in attendance who wish to make a presentation? Seeing none, that concludes public presentations.

We now proceed with clause-by-clause consideration of Bill 2. During the consideration of the bill, the enacting clause and the title are postponed until

all other clauses have been considered in their proper order. Also, if there is agreement from the committee, the Chair will call clauses in blocks that conform to pages with the understanding that we will stop at any particular clause or clauses where members may have comments, questions or amendments to propose. Is that agreed? *[Agreed]*

We will now proceed to clause-by-clause consideration of the bill.

Does the minister responsible for Bill 2 have an opening statement?

Ms. Braun: Yes, I do.

Madam Chairperson: Go ahead, Minister Braun.

Ms. Braun: Thank you. I am very pleased that this bill has come to committee this evening and that it will become law in time for the next construction season.

I would like to thank the family and friends of Brittany Murray who've joined us here tonight, and they've pushed through many of the changes that we are making here and I have to thank them very much. And that what you've done has allowed her legacy to continue in having a safe workplace that other families will have their family members come home safely. So thank you for the work that you've done and the advocacy that you've shown. And I know you've worked closely with the Manitoba Federation of Labour on this, and I thank them for working with you and making sure that this has come about.

I also want to thank our friends in industry and labour for supporting this bill and for working so tirelessly on it with us, and I know we will continue that relationship and continue to work on the regulations as we move forward. So thank you very much.

Madam Chairperson: We thank the minister.

Does the critic from the official opposition have an opening statement?

Mrs. Rowat: Madam Chair, I just want to thank the Murray family for their diligent work and persistence in having, you know, a safer working environment for future family—or future workers. And I just am very sorry for the loss that your family has had to go through. And I believe that Brittany would be very proud of your efforts today, and I would just want to thank you for that.

I also want to thank labour and business for coming forward and presenting their comments and their suggestions, and also private citizens.

Thank you.

Madam Chairperson: We thank the member.

Okay, we're going to move to the clause by clause.

Clauses 1 through 4—pass.

Shall clause 5 pass?

An Honourable Member: No.

Madam Chairperson: No, we have an amendment. Is that correct?

Ms. Braun: I move

THAT Clause 5 of the Bill be amended by replacing the proposed subsection 77.1(7) with the following:

When maximum permitted speed applies

77.1(7) The maximum permitted speed established under subsection (5) applies

(a) whether or not workers are present in the designated construction zone or equipment is being used in it; and

(b) at all hours of the day and on all days of the week, including holidays, unless a traffic control device states that it applies only at certain hours or on certain days, or both.

Madam Chairperson: It has been moved by Minister Braun—

Some Honourable Members: Dispense.

Madam Chairperson: Dispense.

The amendment is in order. The floor is open for questions.

Mrs. Rowat: I'd just like a little further clarification on the change. What exactly are you intending to amend here? Is—if you can be more clear in what this will do exactly, compared to what the current legislation says?

Ms. Braun: One of the main goals of Bill 2 is to remove when-passing-workers signs from use in Manitoba. This minor amendment is to clarify in legislation what will be made explicit in regulation. Bill 2 contains regulation-making powers to govern the use of traffic-control devices, including approving traffic-control devices, requiring traffic authorities to place or erect specified traffic-control devices for specified purposes, and governing the use of traffic-control devices.

Regulations will be drafted to expressly prohibit the use of signage that ties speeds in construction zones to the presence of workers. Moreover, the traffic-control devices order will be amended as part of Bill 2 regulation development process to repeal section that currently allow for the use of signs indicating the presence of workers.

Madam Chairperson: Is the committee ready for the question?

An Honourable Member: Question.

Madam Chairperson: Amendment—pass; clause 5 as amended—pass; clauses 6 and 7—pass; clause 8—pass; clause 9—pass; enacting clause—pass; title—pass. Bill as amended be reported.

The hour being 7:20, what is the will of the committee?

Some Honourable Members: Committee rise.

Madam Chairperson: Committee rise.

COMMITTEE ROSE AT: 7:20 p.m.

WRITTEN SUBMISSIONS

To the Members of the Legislative Committee:

Re: Bill 2 - The Highway Traffic Amendment Act

I am writing this letter to address you on this very important topic. Brittany Murray, a young flagger, just 21 years old, was killed when she was struck by a vehicle driving at 112 km/hour through her workplace.

The driver who caused this tragedy was acquitted. The judge ruled that the signage was not clearly indicating that a reduced speed limit was in effect. In fact, the driver was exceeding the regular posted highway speed limit of 90 km/hour and was in a construction zone.

This situation needs to be reviewed so that no one would have to experience another tragedy such as the death of Brittany Murray.

A number of changes were called for by the Manitoba Federation of Labour (MFL) and were publicly supported by Neil Murray, Brittany Murray's father, and Chris Lorenc, President, Manitoba Heavy Construction Association (MHCA). We at the Manitoba Building and Construction Trades Council (MBCTC) also whole heartedly support these called for common sense changes.

The changes I have referred to include:

- Clear signage showing drivers when reduced speed limits begin and end and what those reduced speeds are to be.
- The requirement of safety controls such as barriers, rumble strips and speed readers.
- Stronger enforcement of workplace safety rules in construction zones by Safety and Health Officers. (Because as we all are very aware...a law without teeth is ineffective.)

The introduction of Bill 2 - The Highway Traffic Amendment Act, by the Honourable Erna Braun, Minister of Labour and Immigration, would protect the safety of road workers by requiring clear speed limit signage in construction zones, along with some requirements for traffic control devices. Bill 2 would also double fines against drivers who speed through construction zones.

I believe that drivers need to see clear signage indicating a construction zone and to have signage listing the reduced limits.

Employers need to know what requirements are to be in place to ensure a safe workplace for their employees. Bill 2 would make these regulations clear to everyone.

The need to know when reduced speed limits are required and when it is safe to resume the prior speed is common sense. Imagine if you would, a vehicle bearing down at 112 km/hour in your, or your child's, workplace. New road construction projects for 2014 require a need for these new rules to be in place.

With the upcoming construction season in the spring of 2014, I would hope that the political process can be worked out to pass this very important piece of legislation. It is essential that a clear message is sent to all drivers that failure to respect speed limits in construction zones is a serious issue and violators would face serious consequences.

We have heard employers, workers and the family of Brittany Murray call for changes to make construction zones safer workplaces. We also need to have stronger enforcement of regulations covering workplace safety in construction zones.

I find it difficult to understand how anyone could stand in the way of bringing this bill to fruition. This bill has been stuck in first reading since November 15 when it was first introduced. This type of

legislation should not be hampered by political agendas.

Thank you for your attention to this extremely important matter. Best regards,

Ron Stecy, Director
Manitoba Building and Construction Trades Council

I am not a politically aligned individual. I am also not part of a labor group - by any stretch of any imagination. I am just a parent. I am the father of Brittany Lynn Murray who was struck and killed on Highway 207 primarily due to an unsafe and ambiguous worksite. Now it is time to make a difference so no other parents, family members, friends or Manitobans ever have to go through what we are going through as a family over the last three (3) years.

Bill 2 is not a Bill based on politics, egos, power play winner/loser concepts - it is a Bill made from common sense and unfortunately typically post a tragedy like Brittany's situation. There is nothing to describe the feeling when this happens and potentially even more hurt when it appeared to be getting bypassed in making a difference for the future. No one wants that to happen and it just can't.

I sincerely hope that the MB Legislature, with all parties foresight acting as a whole, would see the urgency to push forward with the passing of Bill 2, the Safety of Workers in Highway Construction Zones so as to amend the Highway Traffic Act to allow for a safer workplace for Road workers and Manitobans alike. These changes are long overdue and if made years ago, when other provinces saw them as necessary, we may still have our Brittany with us today - enjoying her very young and vibrant life.

Please give Bill 2 it's just dues and help our Province come to terms with significantly enhanced Road Legislations that will facilitate the ability for more people to come home safely at the end of each and every day!

Thanking you in advance for doing what is right and not outweighing that by thinking of any political reasons to not do something so fundamentally sound for all Manitoba families.

Sincerely,

Neil R Murray - Brittany Murray's Father

Our 21 year old daughter Brittany Lynn Murray was working on a highway as a flag person, ironically ensuring the safety of others, when she was struck by a vehicle and subsequently died from her injuries. This should never have happened! No family should ever have to go through this tragedy which was preventable.

The vehicle that hit Brittany was going a minimum speed of 112 km (almost double the speed limit) Judge Abra in the court of queens bench trial ruled that Mitch Blostein the person who is responsible for the death of our daughter was driving with due care because the signage stated 60 Km only when passing workers !!

Safety practices should have been better and going forward they must be improved! New rules / regulations need to be put into place that could have protected our Brittany and anyone else's loved one and many more workers going forward!

Some changes needed

- Better clear signage that includes the removal of words " only when passing workers"
- Barriers and rumble strips to help protect flaggers in construction sites.

- increased training in mandatory flag persons training. No longer online test or classroom open book test. do randomly on the work site testing after completion.

- We need to send a clear message to drivers that if they fail to follow the speed limits and signage that their will be serious consequences including increased fines and suspension of drivers licence and automatic jail time if causing injury or death.

- Make employers responsible for proper signage, barriers, controls and work positions to ensure workers are protected on the road work site.

We need to send a clear message to drivers that if we fail to follow the speed limit and signage there will be consequences. This should have been done long ago and maybe our daughter Brittany would be with us today. ! Our Government needs to step up to the road and make it safer on road construction sites in Manitoba so every worker can make it home safely after work to their loving families.

Please slow down and pay attention as it could be your child

Charlene & Russ Harrison

The Legislative Assembly of Manitoba Debates and Proceedings
are also available on the Internet at the following address:

<http://www.gov.mb.ca/legislature/hansard/index.html>