

A revised version of the *Workers Compensation Act* took effect on April 6, 2020. The B.C. government's revisions aim to make the Act easier to read and understand, and to reorganize the numbering to make laws easier to find. The revisions make no changes to B.C.'s laws concerning workers' compensation, occupational health and safety, and employers' assessment premiums. Please be aware there may be a transitional period where correspondence from WorkSafeBC may include references to either the previous Act or the revised Act. For more information, visit [www.worksafebc.com/WCA2019](http://www.worksafebc.com/WCA2019) or call the Prevention Information Line at 604.276.3100, or toll free within BC at 1.888.621.7233 (SAFE).

### **Administrative Warning from WorkSafeBC**

**Pursuant to section 84 of the *Workers Compensation Act* (the "Act"), the employer must promptly post a copy of this document in a conspicuous place at or near the workplace to which it relates for at least 30 days, and also provide a copy of this document to the joint committee or worker health and safety representative, as applicable.**

June 08, 2020

CITY OF VANCOUVER  
ATTN: ORGANIZATIONAL HEALTH  
HUMAN RESOURCES SERVICES  
453 12TH AVE W  
VANCOUVER BC V5Y 1V4

**Reference:** Inspection Report #202018031001A

Dear Jennifer Irwin,

A WorkSafeBC officer issued an Inspection Report to you. The information below is provided by the officer, and describes their findings which resulted in this warning letter being issued.

This warning letter is being issued following the findings of an incident investigation conducted by WorkSafeBC's OHS Investigation Services department. At the conclusion of the investigation, it was determined that the City of Vancouver (the City) was in violation of the requirements of section 115(1)(a) of the *Workers' Compensation Act* (the "Act"), failing to ensure the health and safety of the workers at the worksite. Information relevant to the incident, the investigation findings, and the violation is described below.

The incident occurred in the early afternoon on September 28, 2019, on a public roadway (2<sup>nd</sup> Ave) in Burnaby, BC. Two workers had been in a 2002 Ford F-350 City of Vancouver vehicle (the truck), transitioning from one work location to the next. As the workers were ascending a hill in the truck, which was also towing a compressor trailer, power was lost and the truck stalled before the crest of the hill. Following several unsuccessful attempts to complete the ascent, the workers disconnected the compressor trailer in order to maneuver it to the side of the road. While the workers were moving the compressor trailer, it began to roll uncontrolled down the hill. One of the workers became caught up with the compressor trailer during the descent. The worker was fatally injured in the incident.

On behalf of the WorkSafeBC OHS Investigation Services department, the assigned Primary Investigator conducted a Regulatory investigation into the incident. In the course of the investigation, the following was identified:

After failing to ascend the hill with the truck and compressor trailer, the Driver made several more attempts to complete the action. While reversing during one of these attempts, the Driver collided with a vehicle that had been parked on the side of the road. Following the collision, the Driver failed to stop all activity, preserve the collision scene, and notify his supervisor immediately. Instead, the Driver attempted to handle the situation prior to notifying his supervisor. The Driver's additional actions were not required to address an immediately hazardous or unsafe condition, which is outlined as acceptable in the City's post-collision procedures. By failing to immediately stop, the Driver continued to take further actions that subsequently enabled the incident to occur. Had the Driver followed the procedures, the incident could not have occurred.

After the collision and further failed attempts to position the truck and compressor, the Driver disconnected the compressor trailer from the truck while it was on a steep incline. This act also conflicted with the City's established procedures, which state that trailers are not to be disconnected on a hill. Following the disconnection, the compressor trailer was not adequately secured against inadvertent movement while on an incline, or during the subsequent relocation to the curb. Once the compressor trailer was against the curb, the Driver attempted to reposition the tongue of the compressor trailer with the jack stand wheel resting against the curb. The compressor trailer had not been secured from inadvertent movement by application of the installed parking brake, nor was a wheel chock put in place. Prior to the repositioning attempt, the sole means of securement against movement was the jack stand wheel resting against the curb. As the Driver repositioned the tongue of the compressor trailer, the jack stand wheel moved away from the curb. Without the resistance from the curb, the compressor was able to begin to roll down the hill with rapidly increasing speed and momentum. The Driver became entangled with the compressor as it rolled down the hill.

The gear shift knob installed in the truck had been replaced by the City of Vancouver during a service appointment approximately two and a half years earlier. The shift pattern displayed on the replacement gear shift knob did not coincide with the shift pattern of the truck's transmission. Although this anomaly was reportedly known to various operators of the truck, the issue was not formally reported to the employer, and subsequently was never rectified. The Driver had limited familiarity with the truck, and operated it only on occasions that he substituted in with the paving crew. The investigation determined that the Driver was not aware of the issue, not familiar with the vehicle, and would be likely to experience problems related to the incorrect selection of gears, such as stalling or unintended directional movement, as was the case in this incident. Video evidence and vehicle telematics from the incident indicate that improper driving gears had been selected at numerous points throughout the span of the incident-related events.

In regards to the above information, as well as other non-causal related incident findings, it was determined that the City of Vancouver failed to adequately meet the requirements of s.115(1)(a) of the Workers' Compensation Act by failing to ensure the health and safety of its workers. The specific findings related to this violation include:

- Failing to ensure that pre-use vehicle inspections being performed were effective in identifying unsafe conditions.

- Although pre-use vehicle inspections for the truck were documented on a regular basis, these inspections failed to identify the issue of the incorrect shift knob or the damage to the driver's side flooring material.
- Failing to install a shift knob displaying the correct shift pattern of the truck's transmission. In doing so, the City of Vancouver failed to ensure that the truck was repaired as required by the manufacturer.
  - The installed knob shift pattern, which displayed a typical 5-speed configuration instead of the significantly different 6-speed configuration of the vehicle's transmission, indicated that 1 (first gear) was in the R (reverse) position for the transmission. This significantly increased the risk of an operator selecting reverse when intending to move in a forward direction.
- Failure to ensure that a defect which might affect the safe operation of the vehicle was corrected.
  - The truck's brake pedal rubber foot pad was not installed and had been found on the floor. Additionally, the F-350's vinyl flooring on the driver's side was buckled. These abnormalities could have foreseeably impacted an operator's ability to achieve proper foot placement. This hazard would be significantly increased during emergency or evasive driving.
- Failure to adequately address the Driver's documented history of "preventable metal on metal" collisions and poor driving assessments.
  - On May 17, 2018, the City of Vancouver performed a driving assessment of the Driver. In the assessor's report the Driver was deemed "not qualified" and the assessor recommended further one-on-one training to be followed up on by a complete reassessment. No records were provided by the City of Vancouver to demonstrate that the worker underwent additional training as recommended.

The City of Vancouver's policy states that "if a driver has more than one preventable driving incident within a 12 month period we will provide training followed by an assessment for that driver. If in the following 12 months the driver again has more than one preventable driving incident within a 12 month period we will provide additional training followed by an assessment for that driver followed by a warning that further incidents may lead to a suspension of driving privileges. If the driver has another preventable driving incident over the next 12 months, Driver Services will recommend a suspension of the employee's driving privileges."

The records provided by the City of Vancouver show that the Driver was assessed on May 17, 2018, two months after the March 26, 2018 incident occurred. The assessor rated the Driver as "Unsatisfactory" in Space Margins, Speed Maintenance, Following Distances, and Rules & Regulations, with four additional categories marked as "Developing." Only the sections labeled Parking/Backing/Maneuvering and Professionalism rated as "Satisfactory." In the comments section, the assessor notes the following criteria: "LOW RISK: under 40, MEDIUM RISK: 40-80, HIGH RISK: over 80 or Dangerous Action or Violation; Suspended from driving COV vehicles." The Driver scored 79 demerits during the evaluation. Issues that were noted included, but were not limited to, poor load securement, a speeding violation (65kmh in a 50kmh zone), cutting left turns, stopping past stop lines, turn into wrong lane, failure to use signal light, rolling stop, too fast for conditions, straddling lanes, and following too closely. The assessor marked the Driver as not qualified and recommended further one-on-one training followed by a complete reassessment. No records were found to indicate that the assessor's recommendations were followed.

On May 6, 2019, the Driver underwent another driver assessment, believed to be the result of the incident more than two months earlier which occurred on February 22, 2019 (the reason for the assessment is not specified). The second assessor in this evaluation did not issue a demerit rating but marked the Driver "Satisfactory" in all categories. In the comments the Driver was deemed qualified even though the second assessor noted issues regarding a tendency to rush, cutting corners, and stop positions, all items that were noted in the first assessment.

6951 Westminster Highway, Richmond, BC  
Mailing Address: PO Box 5350 Stn Terminal, Vancouver BC, V6B 5L5  
Telephone 604 276-3100 Toll Free 1-888-621-7233 Fax 604 276-3247

The Driver was involved in preventable driving incidents on November 28, 2016, November 21, 2017, March 26, 2018, and February 22, 2019. Based on the City of Vancouver's policy, the Driver should have been provided training and an assessment following the November 21, 2017 incident. After the March 26, 2018 incident, the Driver should have been provided additional training, followed by an assessment, followed by a warning that further incidents may lead to a suspension of driving privileges. Following the Driver's February 22, 2019 incident, Driver Services should have recommended a suspension of the Driver's driving privileges in accordance with the policy.

No records were found regarding a warning of suspension to the Driver, or of a suspension of driving privileges as per the City of Vancouver's policy.

Taking into account all of the circumstances outlined above, I find that the City of Vancouver failed to take all reasonable measures to ensure the health and safety of its workers.

Section 95 (1) of the Act provides that WorkSafeBC may, by order, impose an administrative penalty on an employer, subject to the applicable criteria set out in Prevention Policy P2-95-1. It has been determined that based upon the circumstances relating to the violations identified in Inspection Report # **202018031001A**, delivered on **March 26, 2020**, and a review of your relevant compliance history, the criteria for imposing an administrative penalty against your firm have been met.

Prevention Policy P2-95-10 provides that subject to certain criteria, WorkSafeBC may issue a warning letter to an employer in place of imposing an administrative penalty. It has been determined that at this time, issuing a warning letter is the appropriate course of action to motivate your firm to comply with the Act and Occupational Health and Safety Regulation. The issuance of a warning letter does not affect or limit WorkSafeBC's ability to pursue administrative penalties, prosecution, or other enforcement or compliance action for subsequent violations.

If you have any questions or wish to discuss any concerns related to the receipt of this Warning Letter, please do not hesitate to contact me at (604) 232-1933.

Sincerely,



LAURIE NEWTON  
OHS Investigation Services  
WorkSafeBC  
210 - 220 Brew Street  
Port Moody BC V3H 0H6

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Encl:

**Administrative Warning Reference:**

<b>Inspection Report (IR)</b>	<b>Date</b>	<b>Order No. in IR</b>	<b>Regulatory Reference</b>	<b>Section Violated &amp; Description</b>	
202018031001A	September 28, 2019	2	ACT	s. 115(1)(a)	Every employer must ensure the health and safety of all workers working for that employer, and any other workers present at a workplace at which that employer's work is being carried out.



# INSPECTION REPORT

Worker and Employer Services Division

6951 Westminster Highway, Richmond, BC  
Mailing Address: PO Box 5350, Vancouver BC, V6B 5L5  
Telephone 604 276-3100 Toll Free 1-888-621-7233 Fax 604 276-3247

The *Workers Compensation Act* requires that the employer must post a copy of this report in a conspicuous place at or near the workplace inspected for at least seven days, or until compliance has been achieved, whichever is the longer period. A copy of this report must also be given to the joint committee or worker health and safety representative, as applicable.

Inspection Report #202018031001A		
Employer Name	Jobsite Inspected	Scope of Inspection
CITY OF VANCOUVER	2nd Avenue Burnaby BC V5C	Incident Investigation

Date of Initiating Inspection	Date of This Inspection	Delivery Date of This Report	Delivery Method
Sep 28, 2019	Sep 28, 2019	Mar 26, 2020	Email

**THERE ARE TWO (2) ORDERS OR OTHER ITEMS OUTSTANDING**

**ACTION REQUIRED**

Summary of Orders or other Items		
See "Orders/Items - Full Details" section of this Inspection Report for orders/items cited		
Order/Item No.1 <input type="checkbox"/>	Status: <b>Outstanding</b>	Cited: <b>OHS4.3(2)(a)</b>
Notice of Compliance Required.		
Order/Item No.2 <input type="checkbox"/>	Status: <b>Outstanding</b>	Cited: <b>WCA115(1)(a)</b>
Notice of Compliance Required.		

ORDER STATUS LEGEND	
Order Status	Description
Outstanding	Order Outstanding - Action Required to Achieve Compliance
Complied	Compliance Achieved - No Further Action Required
Closed	Order is Closed
Rescinded	Order has been cancelled - No Further Action Required