

Briefing Notes
Wednesday July 1
Canada Day 2009
Boardroom BC Transit Corporate Offices

Welcome to the staff	Phil/Bill
Operational Plan Overview	Bill
Alcohol Ban	Phil/Bill/Dave

Alcohol Ban

Decision to ban possession of alcohol on board BC Transit buses operated by Greater Victoria Regional Transit...employee and passenger safety, regulatory requirements to provide a safe work place as well as possible liability /due diligence issues to BC Transit were prime considerations

Several meetings and discussion internally with Safety, Training, Security, Operations, SLT, Marketing and Maintenance

Numerous meetings and discussion with our local jurisdictional police departments

Review history of the event, consideration of operational service delivery issues, rights, obligations and legal considerations

Each stakeholder worked together and was kept up to date regarding development of strategies for the Canada Day service day

Meeting in early June it was decided to invoke a ban of alcohol onboard buses for the service day

Legal opinion were sought and returned favourable opinion

Further meetings held to develop internal roll out, PR strategy for public and details for operational plans

Legal Summary

BC Transit relies on the BC Transit Act, Transit Tariff and the Conduct and Safety Regulations for its authorities

TCSR Sec 6 (1) provides the ability to "make rules, or post signs of transit vehicles or other transit property, for the safety, good order or convenience of persons while they are on, entering or leaving a transit vehicle or other transit property..."

The rule we made is no alcohol onboard. The signs are posted on board and in stops as well as a communication strategy headed by Joanna Morton

Sec 6(1) goes on to say "a transit employee may require as a condition of allowing any person to enter or remain on the transit vehicle or property that the person obey the signs or comply with the rules."

This is a key point.

Review

Sec 9(2) and Sec 9(3) are the offence sections. If any person enter a transit vehicle or transit property after being refused they commit an offence or if they disobey an order to leave a transit vehicle or other property they commit an offence.

Further Sec 9 also creates an offence if any person places an obstacle on or in a track(other places as well)"road"..., damages or tampers with equipment or device, prevents or interferes with operation of a vehicle, occupies a place not intended for public use (drivers seat, roof), or impedes a transit employee>

Searching

Our view and this is supported by our legal opinion is that we derive our rights of determining compliance by the sign/rule section. As a condition of use we have the need to determine in they are in compliance. In some cases it will obvious and some cases it will not be obvious.

If we are not satisfied they are in compliance then they will need to find alternate transportation. No body will be forced to open a bag or backpack if they chose not to board the bus.

This is a controversial ban with intense interest.

We feel confident in our plan however we must be consistent in our approach.

Our primary purpose is to determine if they are in compliance with our signs. Period.

We cannot seize liquor or forcibly search anyone. We expect a large percentage of voluntary compliance however we are also expecting a "test" if you will of our abilities under the law. This is not a bad thing and a ruling would contribute to clarifying our position in future events.

Buses

There will be as many as twelve teams dedicated to interdicting liquor from buses inbound from Oak Bay, Saanich, North Saanich and West Shore
Out of Scope

All buses assisted will be as a result of a complaint from a driver to the Transit supervisor and relayed to the appropriate agency. Transit will have signed the buses and bus stops with posters reflecting sec 6(1) of the BC Transit Act, to wit...

"Where British Columbia Transit makes rules, or posts signs on transit vehicles or other transit property, for the safety, or good order or convenience of persons while they are on, entering or leaving a transit vehicle or other transit property, a transit employee may

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require, as a condition of allowing any person to enter or remain on the transit vehicle or transit property, that the person obey the signs or comply with the rules."

Where a person does not obey a sign or comply with the rules when required to do so by a transit employee acting in accordance with subsection (1), any Transit employee may:

- (a) refuse that person permission to enter the transit vehicle or other transit property, or*
- (b) order that person to leave the transit vehicle or other transit property.*

"To ensure the safety of staff and passengers, alcohol will not be permitted on board buses. You may be subject to search." The driver will be directed to a check stop.

1. Members at the check stop will assess the situation and determine if they can actually board the bus or remove some or all of the passengers, for the check to take place.
2. Obvious situations where RG to search backpacks etc exist will be dealt with.
3. Any search must be justified by law. Discretion must be used for members of the public who are found to be lawfully in possession of unopened liquor, and who are not otherwise in contravention of the Liquor Act. (ie. a responsible adult going to their residence with unopened liquor)
4. Any minors where grounds exist or can be developed, will have their liquor seized.
5. No persons will remain on the bus in possession of liquor.

In regard to liquor interdiction in relation to BC Transit property (buses), if a member of the public does not want to consent to a search for liquor (as per BC Transit policy), they have an option of not boarding the bus. This would be in situations where no other grounds for search are present.

Out of Scope

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**Canada Day – July 1, 2009
Search Framework & Legal Authorities**

The primary goal for members engaged in policing duties on Canada Day is to ensure public safety. In response to crowd behaviour in past years, early liquor interdiction and liquor enforcement have been identified as key steps towards the prevention of personal injury and property damage in order to provide a safe environment for all. The following information is intended to provide members with the current legal framework that allows for early liquor interdiction, including searches.

Basic Liquor Interdiction & Search Strategy - 2 General Situations

Out of Scope

2. Public area – BC Transit Bus, Bus Stop or Transit Exchange

In addition to the authorities set out for the general situation above, for this year BC Transit has enacted a **complete prohibition against alcohol possession on any BC Transit bus, effective all day July 1**, pursuant to the *Transit Act – Transit Conduct and Safety Regulation*. Signage announcing this prohibition will be in place on buses and at bus stops and transit exchanges, including notice that passengers are subject to search.

Pro-active police actions in relation to BC Transit buses, bus stops and transit exchanges are intended to assist BC Transit in facilitating the liquor prohibition, in order to help ensure public safety. This may include search of passengers or prospective passengers waiting at bus stops or transit exchanges, as it is neither safe nor practical to conduct searches of bus passengers once they have boarded a bus.

In order to pro-actively search a passenger or prospective passenger, the officer must:

- have individualized and reasonable suspicion that the person to be searched may be in the possession of liquor, including the means to transport or conceal that liquor;
- provide the person with the opportunity to decline the search (and therefore not board the bus), although that person may leave the area and subsequently act in a manner that justifies a search under situation 1, noted above;

This memo is not a directive to search all persons on a BC Transit bus or waiting at a bus stop or transit exchange. Where an officer has the requisite suspicion noted above, the officer may conduct a search where the person who is subject to the search is given the opportunity to decline (and not board). This provides an element of consent to searches in these circumstances.

Summary - Liquor Interdiction & Search Strategy

Out of Scope

Public Areas - BC Transit Buses - Bus Stop or Transient Exchange

Authority to search for the purpose of assisting BC Transit in facilitating the BC Transit prohibition of liquor on any transit bus.

- Search subject may decline search, leave the area and not board the bus
- Officer must have individualized and reasonable suspicion that the search subject may be in unlawful possession of liquor
- Officer must consider if likely that liquor may be found by the search (i.e. bag or package large enough to contain liquor, or other indicators)
- Officer's past experience of the individual or area conducting the search with similar subjects in similar situations is relevant

THIS IS NOT A DIRECTIVE TO SEARCH ALL PROSPECTIVE BC TRANSIT PASSENGERS.

Shearer, Bill

From: Guthrie, David
Sent: Friday, June 12, 2009 8:00 PM
To: Easton, Phil; Shearer, Bill; Watson, Ian
Subject: Re: Canada Day - Legal Opinion from BC Transit

Out of Scope

-----Original Message-----

From: Easton, Phil
To: Guthrie, David; Shearer, Bill; Watson, Ian
Sent: Fri Jun 12 19:19:55 2009
Subject: Re: Canada Day - Legal Opinion from BC Transit

Personally I am looking forward to it. We have public support, the law is arguably on our side and quite frankly the safety of our operators and passengers outweighs everything else. Its all about how we message and manage the operational plan. We just need everyone to understand we are not seizing the liquor simply ensuring compliance with the signs. I understand the view of the police given the past history nevertheless the plan is sound. If we do it right we should be able to withstand a challenge. I have no major concerns at this point. Phil

Sent using BlackBerry

-----Original Message-----

From: Guthrie, David
To: Shearer, Bill; Easton, Phil; Watson, Ian
Sent: Fri Jun 12 15:26:06 2009
Subject: RE: Canada Day - Legal Opinion from BC Transit

Out of Scope

From: Shearer, Bill
Sent: Friday, June 12, 2009 3:21 PM
To: Easton, Phil; Guthrie, David; Watson, Ian
Subject: FW: Canada Day - Legal Opinion from BC Transit

Out of Scope

-----Original Message-----

From: Sawyer, Tom [mailto:vi5032@vicpd.ca]
Sent: Friday, June 12, 2009 3:09 PM
To: Shearer, Bill