

Health Promotion Workshop

Vancouver, BC

May 31, 2012

Background

- Smoking in taxis has been against the law in NL since **1998**.
- Number of complaint calls surrounding smoking in cabs increased significantly in the fall and into the winter of 2010-11.
- **Types** of complaints varied: passengers (lingering smell in car), “smoking” taxi offered vs. “non-smoking”, cab drivers complaining of loss of business. – not about that it was against the law.
- **Sources** of complaints varied: passengers, drivers, ACT, directed to H&CS and GS.
- Previous action taken would be a visit to the cab company to present a warning letter – ineffectual.

CO-OP TAXI

CO-OP TAXI



SFEA, 2005

Crown bound

3. This Act is binding on the Crown.

Prohibition

4. (1) A person shall not smoke in

(a) a workplace;

(b) a place that is normally open to members of the public;

(c) a ferry, ferry terminal, airport terminal, bus, bus station or shelter, taxi, taxi shelter, limousine or vehicle carrying passengers for hire;

Challenges

- EHOs do not routinely issue SOTs – Education vs enforcement
- Not a fixed location – moving vehicle
- Potential for confrontation
- Collection of information
- “Owner” vs ‘broker” vs “operator”
- MRD – certified owner of vehicle?
- 10 (a) or 10 (b); \$50 or \$500

Recent Past

- In February, 2011 a “reminder” letter was sent to all taxi cab companies in the province.
- It identified the SFEA, 2005 sections that were relevant and the fines that could be applied when in contravention.
- Taxi “stands” identified throughout city, and in other locations.
- In March and April, 2011, several surveillance activities took place at various taxi stand locations. A number of SOTs were issued.

SFEA Convictions

- **From April 21, 2011 to July 28, 2011**
 - 8 - \$50 fines for taxis
 - 1 - \$50 fine for ferry
- **Another focused effort was conducted in April 2012.**

Issues with ownership have arisen, where another ticket has to be written and served.

Lessons Learned

- “Undercover” activities gathered first, before any effort to approach vehicle is attempted.
- Get plate number, cab ID, photo, etc. **prior** to approaching vehicle.
- Proper identification of EHO – ID and government jacket (minimum).
- Officer to dress appropriately - shows that “you are what you say you are”. No jeans or t-shirts.
- If any indication of uncooperative response, then **leave area**.
- Be confident of how to complete the ticket before writing it. If alleged violator is cooperative (provides Driver’s Licence and registration of vehicle) then ticket can be written on site, if EHO is confident. If not, then take Driver’s Licence and registration information and put in notebook.
- Issues with “broker”, “owner”, “operator”, etc.
- Protocol developed.

Protocol Summary

- Presenting yourself in a professional manner – dress and demeanor.
- Government vehicle or rental.
- Proper gathering of evidence/information – when and what (pictures, ID number, etc.)
- Travel with partner.
- Notes and documentation.
- ID yourself, and explain that the person is in contravention of the SFEA by smoking in the taxi.
- Cooperative: Seek alleged violator(s) identification information (i.e. driver's licence) and vehicle ownership information. Once information gathered, return to your vehicle and write out ticket.
- Uncooperative: Return to vehicle and leave area.

HEALTH

Smoking charges laid against taxi drivers

One stand owner says enforcement is lacking

By STEVE BARTLETT
THE TELEGRAM

News that some cabbies were charged for smoking violations in an apparent stakeout this spring is being applauded by an anti-tobacco group.

"I think it's long overdue," said Kevin Coady, executive director of the Newfoundland and Labrador Alliance for the Control of Tobacco (ACT).

"The taxi legislation has been in for some years now, and just looking around town, you do see breaches of it regularly. I think it's a good wake-up call to the drivers and the owners."

Services Newfoundland and Labrador, formerly Government Services, confirmed this week its investigators focused on Avalon region cabbies last spring after it received complaints.

"Letters were issued to several operators, followed by warnings in a couple of cases. Subsequently, charges were laid against some drivers and operators," a spokesman wrote in an email.

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Fines range from \$50 to \$5,000

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He also confirmed the department used surveillance techniques in its investigation.

The charges that resulted are summary convictions for which the fines can range from \$50 to \$500 for drivers and from \$500 to \$5,000 for an owner.

The official did not disclose how many charges had been laid or which companies were fined.

Coady said he likes the fact someone was fined. He said he thinks it sends the right message.

"If ticketing can make the difference, then it's time to do it so we can get the legislation adhered to."

Coady suggests drivers who smoke should step outside their cars for a butt, as employees everywhere else are expected to do.

"The car is a taxi driver's workplace. It's a little more serious with a taxi, though, because it also becomes the home of the passenger for a period of time. ... The driver is inflicting second-hand smoke on an innocent passenger who has to use the taxi for five, 10 or 15 minutes to get from A to B. So it's a double whammy."

Coady said ACT wrote the taxi companies a year ago reminding them of the legislation and encouraging them to be smoke-free.

He said the letter didn't get a lot of response, so he doesn't know if the taxi companies are supportive or not.

Tom Hollett, who owns the Jiffy Cabs stand in St. John's, supports no-smoking legislation, but he said he thinks the government's enforcement of it is lacking. The recent charges, he points out, were among the first laid since the laws were enacted in 2005.

"What kind of bullshit is that?" he asks. "To throw a rule out, turn people into basically criminals, and let them go ahead and do it. That's like saying there is a law against speeding, but we're only going to give one ticket out for speeding every six years."

Hollett, whose company wasn't among the ones charged recently, said he also believes it's hypocritical the government continues to rake in millions of dollars off smoking, but doesn't accommodate the smoking public.

"You should be able to have smoking and non-smoking cars," he suggests. "You should be able to have a smoking room off your business for your staff."

"If they are going to start ticketing these people," Hollett adds, "they'll find a source of revenue, but would they put it into helping people quit smoking or just put it into general coffers?"

The spokesman said Services Newfoundland and Labrador is committed to ensuring a smoke-free environment for all users of public and private contracted transportation.

sbarlett@thetelegram.com
Twitter: bartlett steve

Problem Continues

- Regular anecdotal confirmation
- Complaints continue
- Phone call from an “informant”

Revisions to Protocol

- Where information could not be gathered at the approach of the driver, other means had to be used.
- MRD access prior to approach of vehicle needed to occur.
- It was agreed that MRD Information System would be available to the Regulatory Enforcement Officer.
- The REC would be available by phone on the day of the focused surveillance.
- The EHO would contact the REC prior to approaching taxi to gather all info.

Further Options

- OH&S (workplace)
- ACT (Public Awareness)
- Regular/Routine Surveillance and SOTs (monthly?)
- Focus on other areas of legislation (signs)
- More promotion; bumper sticker?
- Re-visit protocol – MRD information system access?

Issues/Questions

- Push or Coax?
- Education versus Enforcement? Or in conjunction with?
- Should the protocol be both enforcement and education?
- Is this issue too evolving? That is to say, will societal change take care of the issue w/o significant time and resources being applied?
- Media involvement? Who should do it?