

Road Safety Bulletin



Passengers Also Have a Duty to Observe Safety Signs

[Australian Workers' Union v Veolia Environmental Services \(Australia\) Pty Ltd T/A Veolia Environmental Services \[2015\] FWC 5447 \(17 August 2015\)](#)

In December last year, a worker and a colleague were directed to perform cleaning services at a cement site in Western Australia. Both travelled to the site in a truck and as they entered the site, the driver ignored signs saying that a loader operated in the area, that vehicles without a two-way radio couldn't enter the site, and that drivers had to contact the loader operator by radio before entering the site. The loader subsequently reversed into the truck, causing nearly \$6000 in damage. The driver was subsequently terminated from his employment and the passenger received a formal warning.

The Fair Work Commission found the passenger and the driver had completed a job hazard analysis, which identified the risk of vehicle collisions at the site, just hours before travelling to the site and that the passenger conceded that he would have alerted the driver to the signage if he had seen it.

"The reason, according to [the worker's] evidence, as to why he wasn't paying attention is that he was having a drink and checking his mobile telephone for any 'missed calls from family or work'," Commissioner Cloghan said.

The passenger initially argued that the signs were only there to warn drivers, and not passengers, but "ultimately agreed, in evidence, that the signs relate to any person who enters the site". "[The worker] was correct to reassess his evidence because the signs are applicable to all persons who approach them... There is no difference in the responsibility of employees who are drivers or passengers in a workplace," the Commissioner said.

"While there may be some exceptions to this broad view, they are not relevant for the purposes of this incident," he said, adding that a driver's responsibilities only became "greater" than a passenger's after a vehicle left a workplace and entered a public road.

The Commissions finding clearly recognises that a vehicle is a work place and that a passenger has a duty to assist a driver in ensuring that all work activities are conducted safely.

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