

A Preventative Approach to Heavy Vehicle Road Safety – Reforming Australia’s Heavy Vehicle Chain of Responsibility Laws.

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Abstract

This presentation considers how reforms to Australia’s heavy vehicle chain of responsibility laws are likely to help reduce the rate of heavy vehicle road crash fatalities by considering the impact of similar reforms to other safety laws, both in Australia and overseas.

Context

Despite reductions in the number of heavy vehicles involved in road crash fatalities, heavy vehicles still accounted for almost 20% of all road deaths in 2012 (BITRE 2015). In addition, although road freight workers comprise only a quarter of all transport, postal and warehousing workers, in 2012 road freight workers accounted for 71% of deaths (Safe Work Australia). This number is 15 times the national all industries rate and is two and a half times the rate for the transport, postal and warehousing industry as a whole (Safe Work Australia).

Australia’s heavy vehicle sector is expected to double between 2006 and 2020, and triple by 2050 (BITRE 2014), with interstate trucking expected to generate a significant portion of this growth (IPA 2009).

Accordingly, and unless something more is done, road deaths involving heavy vehicles will continue to be a safety issue for the foreseeable future.

Chain of Responsibility Reforms

Unlike many parts of the world, Australia does not use operator licencing to regulate its heavy vehicle sector. Instead, and for almost 20 years, Australia’s heavy vehicle laws have relied on the concept of chain of responsibility (CoR).

CoR is designed to ensure that any party in a position to control and influence on-road behaviour is identified and held accountable. In simple terms, CoR recognises the on-road effects of the actions, inactions and demands of off-road parties in the transport and supply chain, and provides a mechanism for holding these parties accountable. The CoR provisions apply to operators, prime contractors, employers, schedulers, consignors and consignees, loading managers, loaders, packers and unpackers.

In early 2016 Australia’s transport ministers approved reforms to the Heavy Vehicle National Law (HVNL) to provide a more outcomes based approach to CoR. These reforms are intended to promote a more proactive culture of safety and enforcement, and to better align with Australia’s other national safety laws.

Key features include:

- reformulating the existing CoR obligations as a primary duty of care to ensure the safety of road transport operations;

- adopting ‘so far as reasonably practicable’ as the standard of care, to align with the standard applied in other national safety laws;
- aligning penalties with the penalties for breach of the primary duty of care as set out in other national safety laws; and
- applying the primary duty to executive officers through reformulating existing executive officer liability CoR offences as a positive due diligence obligation.

Amending legislation is expected to be introduced to Queensland parliament as the host jurisdiction for the HVNL later this year.

Reducing the Rate of Road Crash Fatalities

The focus of this conference presentation is to explain these reforms and explore how they are likely to help reduce the rate of heavy vehicle road crash fatalities. This presentation will include considering the impact of similar reforms to other safety laws, both in Australia and overseas.

Conclusions will then be drawn as to the likely impact of these reforms.

References

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