

OFFICIAL
Heavy Vehicle National Law statutory instruments consultation overview,
National Transport Commission, Melbourne.

Heavy Vehicle National Law, Statutory Instruments, Accreditation, Fatigue Management, Safety Management System, National Audit Standard, NHVR, Consultation, Transport Reform
SUBMISSION

Critical Perspective on Australian Heavy Vehicle Regulations

1/The population of Australia at this time approx. 27 million current workforce 14.6 million ,approx.all these people work and live under the rule of law and human rights that is denied to long distance drivers requiring the use of a work diary, which they must purchase with their money and fill it out as instructed then the information is used to prosecute them under the demand of National Heavy Vehicle Authority . out of a total industry work force of approx. 650000 is approx. 105000 long-distance drivers employed by some of the approx. 47000 companies are effected .

2/Driver Safety and Training Concerns

Truck driver deaths in Australia last year totaled 154, with an expected increase of 8% this year according to the ABS. This alarming statistic is linked to the failure of state and federal governments to heed the expertise of experienced drivers. Licensing processes that do not require adequate knowledge or ability, placing both truck drivers and the general public at risk. Political and industry leaders are criticized for their lack of practical understanding and for allowing unqualified individuals to obtain heavy vehicle licenses, sometimes without even basic English proficiency. South Australia's courts have ruled that holding a license does not guarantee the competence to drive safely, and specific laws now apply (slims law) to ethnic drivers following Slims fatal accident involving poorly trained operators.

3/With 24000 PBS vehicles with up 20 axles on our roads that were never built to handle the length and weights they carry, unqualified drivers, and with ordinary motorists on those same roads, and also the reason why road maintenance cost is now impossible to maintain due to ,hysteresis (rolling resistance)of 3 & 4 axle equipment , it's a recipe for disaster,
Roads don't kill but drivers do, as current statistics show. Are we in a new era of cowboy truck drivers and owners? Just design what you want and NHVA will let you run it .

4/Transport associations in Australia including the TWU and combined knowledge of what a driver needs to know before allowing them the privilege of being on Australia roads you could write on the back of a postage stamp, 6 out 10 heavy vehicle drivers on Australian roads are licensed but not qualified.
The risk is inherent for every road user.

5/Ethnic drivers are an issue, unqualified, lack of ability, language barrier, under trump ,USA now removing all ethnics off the road if they can't do a roadside test, which is, read A CHILDRENS BOOK, over 177000 drivers have lost their heavy vehicle driver's license for failing to read English, in particular road signs. This must be made law in Australia in the interest of road safety for all drivers.

6/They contribute to wage theft for all drivers including themselves, using student visas, holiday visas ,the use of abn in contract driving, and hired, and work visas by sponsorship which carries a penalty wage.
Without substantial changes to heavy vehicle driver testing and broader transport policies, Australia risks further tragedies on the scale of past highway disasters.

7/The need for responsible, fair, and effective lawmaking in the transport industry has never been more urgent but the new laws are not the answer.

8/In my 60 odd years of driving I have never seen so many preventable accidents involving heavy vehicles especially head ons, resulting in death and serious injuries and under current law and current accident statistics no matter how many billions are spent on roads government wont stop it,

9/In 2013 the then federal government formed a corporate entity, with a regulator in control, National Heavy Vehicle Authority, to abrogate of all federal transport law into one government entity to enforce transport law across Australia.

They would nominate the state of Queensland parliament to enact law that the NHVA would enforce, that all

states could follow in relation to transport law thus removing themselves from any federal vote fallout from this body .

10/In 2016 with a one off 4 million dollar grant from the attorney general at the time ,it took effect with a new National drivers work dairy enforced by 718 pages heavy vehicle transport law, which only 1 in 10000 drivers would have read and which are a summary offense in law ,but the act abrogates the right for summary offenses to altered to indictable offense by simply changing the words on the charge brief ,but no right to defend as such as set in in criminal law defense .

11/Incorporating all the laws the industry has been using for 70 yrs with major changes of various sections, with all penalties for breaches multiplied, enacted by the Qld parliament.
Starting with a small staff in 2013 ,10yrs later in 2025 a work force of 1030 enforcing draconian law on all transport companies and drivers in 5 states including the drivers of the non-involved states whose drivers visit the eastern states weekly.
1030 employees/inspectors of the NHVA act in pairs of 2 with a limited knowledge of law operate in 5 states.

12/The NHVL is joined by a chain of responsibility law enforced by HNVA and state police forces from the 5 states. it is drafted with the intent of enforcement by fear, harassment, intimidation offence, the fines for breaches they have set are more than you would receive for criminal offences, some up to \$24000 per offence, plus as usual as with most laws,if you are incorporated the fine is increased 5 times that amount .

13/Considering the district court and lower courts do not adjudicate to the request of legal entities, but are controlled by the laws as set out in the separation of powers between government and the judiciary ,and summary offenses are handled using the courts use of penalty units for traffic offenses ,and a limit of \$11000, however I was surprised by the temerity of NHVA last year when they put out a document to the courts and enforcement how they want their laws enforced.

14/Its my opinion they want the states to go back to the future of the NSW DMT when they had their own court and judge in Sydney just to hear and adjudicate their offenses ,when any one who went there would remember the prosecutor with a stack of briefs 18 inches high and as quick as he could read a brief he had judgment and after calling a name if some said appearance your Honor it would put them out of sync .

15/1 state and 1 territory did not agree to be bound to the new NHVL and enforcement and remain neutral W.A.and N.T,

16/NTC /NHVA are about to bring out another revised edition of heavy vehicle law which includes a not fit to drive offense with \$24000 penalties as with all other fatigue sections it will rely on an opinion from unqualified persons, opinions unproveable in any court of law and deem you guilty of noncompliance.

17/ As is current in the fatigue sect of the act penalties that are ambiguous, that promote and enable drivers deaths because of the impossibility of safe performance that are only in the act to satisfy multi-national companies. These provisions when explained to an ordinary person they cannot understand them .
It is so hard to understand current provisions on the 3 types used to count time that drivers have to spend money on electronic time counters to keep track of time .

18/Unfit to drive is already provable by the actions of any driver who has an accident, and where there is cause, any attempt to further use unprovable opinions on side of the road by non-experts is no more than further deeming for unfair enforcement .

19/The arbitrary deeming under the act that any time of the day or night 105000 drivers will be tired, need to eat, sleep or others are not liable any of that, opens the door for the legal precedent that makes governments liable to a legal defense of the fatigue act of impracticality and breaches human rights law .

20/Office workers are not penalized for clerical error or strict liability, however 13 offense in the NHVL are clerical error that have been requested by submissions to be omitted and NTC and NHVA have refused are subject to draconian fines .

21/Fatigue comes in 3 ways, knowing which one is important, must be explained to all drivers so they are

prepared and any penalties must be fit for purpose.

This point is ignored by the NTC fatigue expert panel in any of their recommendations.

22/The transport laws were never considered in the last ALRC review of the privilege of self-incrimination but accepted as a general regulatory act to deny the privilege .

23/The NHVA say its about risk to the public, however, Cambridge ,Oxford and other Academics agree, risk is the NOW and the FUTURE acts, not the past 48 hrs month or 3 mths or 6 mths, as enforced in the Act ,and how they want to enforce NHVL fatigue law,it simply a big stick to raise revenue for governments. We need law but it has to be responsible law, with penalties fit for purpose which they are not .

24/With no checks and balances for ten yrs because of inaction by the TWU and other transport associations we have enabled a monothetic entity to control the lives of 105000 drivers and their families, if it was Russia it would be normal, and it will get worse.

25/The TWU time representing long distance drivers needs to be terminated for lack of performance in their fiduciary duty of care to its members.

26/All transport associations refuse to be critical of new laws out of concern for members who may have government contracts and may face government backlash.

27/The industry including TWU and its alleged leaders have enabled the law to be accepted in its current form by acquiesce, social media is leading and the push is on so rebellion is already starting because of the new law and its time drivers had a say and stay home for a month and get some changes made that are less draconian .

28/STD ,BFM AND AFM work time counting and penalties that apply by the act are ambiguous ,and by the drafting of the act sets its own precedent and impossibility for a court of law to assist in its performance, where experience of drivers is not considered by companies before putting them under pressure ,and must be removed from the act before it kills more drivers for the benefit of employers,

29/When drivers don't earn enough safely working a 12 hr day and 6 days a week as we have done for 70 years this industry has a major problem.

30/For 60 odd yrs I have worked under these same law as enforced by the states enforcement bodies and contemplated purchasing the diary/logbook pursuant to the act and reserving my right of privilege of self-incrimination as a defense and not filling it out as required ,once its filled out its too late ,but I used other ways to get around it ,and im still alive today.

But in my opinion all drivers who use electronic work diaries have agreed to be bound to following the law as it is enforced.

31/Consider ,every one of those office workers employed by those 47000 tpt companies as does the other 14.6 million workers families work live and play under a different law to the long distance drivers who generate the income for the transport entity and deliver goods and services to the Australian people and in doing so are denied those same rights .error of judgment, the mistake of fact defense ,the right of the common law privilege against self-incrimination ,how long you work, the right of deciding when to sleep, when to work ,when to eat and drink ,they live with freedom of equal rights before the law ,as stated in the constitution and human rights law and denied to transport drivers .

32/One of those laws is the common law right of privilege not to incriminate yourself as stated in the Australian constitution, human rights law, and followed by every country in the world where the Westminster law is practiced, and also practiced in criminal law in all states of Australia ,it is, a due process of law under the rule of law .

33/ The act needs to be sent to the federal court or high court for revision on the breaches of human right law and constitution ,strict liability ,on error of judgment, the mistake of fact defense ,the right of the common law privilege against self-incrimination ,how long you work, the right of deciding when to sleep, when to work ,when to eat and drink ,work with equal rights before the law as stated in the constitution and human rights law and impossibility to perform .

34/Mistake of fact, explained, I would explain it as , if I read every 718 pages of the act, formed an opinion acted on the opinion, and was wrong, that's a mistake of fact ,if you didn't read 718 pages that's ignorance of the law..

Equal **substance** of the law.

The content of a law should not treat one group unequally compared to another. Equality is tied to generality. Laws should be written in general terms to apply to everyone, not just against particular individuals. This is because these rights are considered inherent, they belong to all people just because they are human.

35/The industry including TWU and its alleged leaders who advise and who government are listening to are 5 minute wonders who couldn't drive a truck out of sight on a dark night, who wouldn't have a clue what drivers need to know to stay alive.

36/Its only a matter time before we have another Grafton .25 dead or Nambucca, or Kerang disasters, only next time it might be a bigger passenger train ,like the Indian pacific unless something is done with heavy vehicle driver testing and knowledge which currently is pathetic and these transport ministers don't care but they will be held responsible if it happens .

Xmas is coming how many families wont come home this year ?

21/11/25

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