

1 HVNL NTC Effective Enforcement

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0409359593 55 years of driving heavy vehicles in Tasmania.

My submission is.

Aspirations for a better law

Deliver a future law that is easier to comply with

QUESTION 2 How can the law support consistency.

Currently each state picks up the laws after they are passed through the Queensland Parliament.

When this is done those states in some cases make changes to suit their state as they feel necessary. While these changes are at times considered minor, they do however make it a separate state law and not the law as it was initially intended when passed through the Queensland parliament.

This then causes inconsistency between states, causing confusion for drivers and owners of heavy vehicles when travelling between states. This in turn has resulted in the issuing of infringement notices to drivers from another state to that which they are intercepted and consequently they are considered to have broken the law and issued with an infringement notice.

One case I was made aware of the driver asked the NHVR officers when arriving back in Tasmania and the officers on that day considered it not an offence in Tasmania as that which was issued in NSW.

Another case I am aware of again Tasmanian driver in NSW was intercepted by RMS officers after just leaving a rest area where he had just had a long rest break. Prior to leaving that rest area he has done his daily checks and all lights were working. Five minutes further on the officers intercepted him, checked his work diary and after some time found nothing wrong, so one officer went for a walk around the truck and trailer again and proceeded to write a ticket for one rear light not working. The driver knowing it was working when he checked it moments earlier decided to check again and it was still operating correctly. The driver asked the officer to come to the rear of the trailer to observe it himself. That officer refused claiming it was not working when he looked at it so it was an infringement, and he did not need to have another look. Because the driver rightly defended the fact the light was still operational the officer then proceeded to claim a second offence that the truck had one more clearance light on top of the cab than was allowed. Again the driver argued in his defence that the lights already fitted to top of cab were part of the original fitment for sale as a new vehicle and all of that make had same amount of clearance lights at that point and as such this was an ADR approved vehicle, so there was no justification for issuing an offence in that case. The officer still insisted on completing the issue.

A second instance again a different Tasmanian driver was inland NSW and again an RMS officer telling the driver he was not compliant with his work diary. That officer was claiming the work diary the driver had was different to the one they use in NSW. That was in 2016. The driver said he believed it was illegal (which it is) to carry two work diaries as stated in the national heavy vehicle law. The officer was convincing in his argument that the two states were different and driver needed a NSW diary to continue. The officer proceeded to write up a notice requiring that driver to purchase a new work diary at the next town some 40 km further along his route of travel, telling driver if he continued past the noted town in that notice, without purchasing a new diary he would be proceeded against in court Upon the purchase and getting the diary back to the truck, driver spent several minutes comparing the two diaries and both

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were identical. This action by that officer then had made this driver illegal as he then did have two work diaries in the truck. WHY IS THIS ALLOWED TO CONTINUE.

I have heard many more claims such as that where different state officers are claiming a driver from another state has infringed the law of the state the driver was in at time of interception.

There are some horrible stories coming from drivers being forced to courts by officers of the RMS in NSW.

Recently a South Australian court heard a case where a driver was accused of breaking the 24 hour rule in his work diary. The judge in this case did his due diligence and researched prior cases of this sort as he appears to not have presided over one like this at this time.

His research found two identical cases. One in NSW and one in Qld. In both those cases both drivers were acquitted of the offence. The law enforcers then challenged that by appeal in a higher court. Both drivers lost and received the higher penalty when the case was heard. Drivers were first acquitted then re charged and in second court lost their cases.

The South Australian judge noted that driver had in the judge's opinion not broken any law as the judge had same interpretation as the driver about the 24 rule for work.

The judge proceeded to say the law was written in such a way as to have two bob each way bet on it being penalised in a court. The judge said that as that piece of law is written it can be considered to have two meanings and that it can mean there are two 24 hour periods in the same day. Why have such laws?

The judge then determined that as the precedent set in the NSW and Qld cases the driver would inevitably be fined by same method as those in the NSW and Qld cases by appeal, so he set the fine at the lower end of fines listed for that offence. Maybe he felt this would negate the ability for an appeal to succeed.

A judge to hold his position of judge has a level of education considerably higher than that of most heavy vehicle drivers.

For this reason these laws need to be written in a way that a person of lower level education can read it and get the correct meaning of that law. This then will negate a large number these fines and court appearances for what is really trivial offences.

THIS NEEDS TO STOP.

This review needs to take these stories into account as well as differing laws caused by states making changes to the law originally passed in Queensland parliament, if it is serious about making the law easier to understand and enforce.

COMPLIANCE AND ENFORCEMENT

3. 4. 2 Fatigue and driver distraction and monitoring devices are not recognised under NHVL

I can relate to a company in Tasmania who is progressively updating their fleet with monitoring devices and internal and external cameras are fitted to monitor the driver at all times.

As stated already the NHVL does not recognise these, so one can only assume the company fits these devices for insurance purposes or as a condition of contract.

Condition of contract is most likely the reason as they have contractual arrangements with Woolworths.

Should Woolworth have this power when by law it is not needed.

WHY DID I MAKE THAT STATEMENT ?

Well this company have new Scania trucks. These trucks have a nice set up for wired or Bluetooth phone connection. The controls are on the steering wheel for answer and end of call, radio volume, then all details like phone numbers are all displayed in the dash immediately in front of the driver in the speed screen. Speed is still shown in digital form.

When this company have had the monitoring device fitted there has been an I pad screen device set to the left of the driver. To view this screen the driver has to take his eyes from the road completely to view all messages sent from the company. This company call the drivers to check where they are even though they have a Sattelite devices fitted to all trucks for monitoring the where about of trucks to check ability to make delivery times.

All this may sound reasonable to the reader of this. I have serious concerns because they expect drivers to answer the phone when company personnel call them.

My concerns are, when these I pad devices were fitted the phone and radio controls were diverted from the steering wheel to the I pad causing drivers to take their eyes off the road ahead to see the button for answering the phone.

Had the controls been left on the steering wheel they can be actioned by feel as the Scania have designed their trucks very well for driver amenities which allows drivers to maintain eye contact with the road ahead at all times.

If a driver of new model Scania trucks need to action phone while driving the eyes need only be from the road view for 1 second if at all.

The way these changes have been made to these new Scania's I quoted the driver has to take eyes from the road for up to 5 seconds.

There must be a way for this to be monitored so wrong fitment of what is supposed to be safety monitoring devices can be challenged by the officiating officers.

If this can be done, the driver must not be the one to have the infringement notice given as he is told if he does not drive the trucks supplied he has no job.

To me on one hand this sort of equipment can be made to make a driver safer.

But as the way they have been fitted they are not driver friendly at all and should be either taken out or have the phone reinstated to the steering wheel as a minimum.

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ASPIRATIONS FOR A BETTER LAW

5.2 A law that is easy to comply with.

Several parts of the present law have confusing interpretation as it is written.

All the laws need to be viewed to make sure the written law is understandable by a person of low education levels. A large number of heavy vehicle drivers are not well educated and this needs to be taken into account. Not to make it easier for them to break the law, but to make it so they have no difficulty understanding it.

Most drivers I know didn't know there is over 800 pages in the heavy vehicle national law, nor did they know there is over 40 pages of infringements.

In this list of infringements there is some that appear to be repeated in the next infringement so this then can give the impression of the same law being stated twice, giving lesser educated a sense of double dipping on the same law.

If these can be reviewed and re worded in a way that lesser educated persons can get the correct interpretation first time then that should make the laws easier for drivers to comply with and officers to enforce. Thus reducing the angst between drivers and officers.

Another section that is disputed by NHVR who are engaged to uphold the laws for the HVNL is the stated fact in the front of the lead in to the NHVR operational papers where it states that the NHVR must be set up as a for profit organisation and be self sufficient going forward.

This appears not to be happening and may explain the way RMS operate in trying to get as much revenue from fines as possible and this then causes officers to create fines/ infringements for the sake of making it pay its way.

The whole system is too top heavy with a body in Canberra initiating a hopeful law that that body can't bring into law itself, so then passes the job to the Queensland Government to pass as it only has one house of review so as long as the Government of the day have a majority to law passes, for other states to then pick it up for the purpose of calling it a National Law.

It is and always will be a state law and only a state law when it passed to law by a state.

This must be changed and put under the national Government control. It then will be National and will not be able to be manipulated by a state as it is now.

Please have a serious look at this or consider disbanding the whole law as it is now.

FIX IT OR ABANDON IT.

