



TRUCKRIGHT ABN 17426245866

TRUCKRIGHT Industry Vehicle (TIV)

Ten Years on the road, 2019.

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TRUCKRIGHT Awarded Highly Commended, 3M ACRS Diamond Road Safety Awards 2015.
Finalist 3M ACRS Diamond Road Safety Awards 2016, Awarded Churchill Fellowship 2016.
Green Reflector Marking Informal Truck Bays, finally completed the Newell Highway 2019.

Response to Paper 7 Effective Enforcement.

Question 1: Which compliance obligations in the HVNL that do not link to safety and efficiency are most important for us to remedy as part of this review?

Under this model the full, punitive force of the law is only directed towards those who have decided not to comply (NTC, 2013, p. 28). In contrast, more educative or persuasive strategies are used with those who are inclined to comply but have made an inadvertent mistake or misinterpreted the rules and their implications (NTC, 2013, p. 28).

I would initially argue, this is not what happens now with those who enforce the law. Yes there are those who behave this way. But it seems there are too many who only want to raise revenue and punish drivers for simple mistakes or minor infringements, that as you suggest, may well have little or no road safety benefit. The financial penalties and the lack of a fair system under which you can dispute such penalties, does not give drivers a fair go.

Some officers are fair and reasonable, others are not. I agree some truckies do not behave well and deserve such punishment, but the level of stress encountered and felt by drivers to comply and the punishments if you do not do so to the absolute letter, have been ignored by all those who police the law. Until such officers all act with the intent given above and clearly understand the law, (which must be fair and reasonable and not ambiguous or able to be mis-interpreted by such officers) then drivers will suffer unduly.

Being fined \$600 for 15 minutes overtime has no bearing on road safety. Doing so months after the event is even less relevant. Then knowing a driver living in Victoria will struggle to get a fair review or then will struggle even more, to be able to afford the time and cost to fight such a penalty issued in Queensland, means drivers do not have access to fair and reasonable justice.

Question 2: How can the law better support a risk-based regulatory approach to enforcement? How can the law support consistency, predictability and proportionality in enforcement responses?

National standards and training for enforcement personnel, not having any Police officer, untrained in Heavy Vehicle Law, able to willy-nilly fine drivers would be a good start. I recognise this is in some way currently underway as the NHVR takes over state enforcement duties, but the Police aspect has not changed. I recognise NHVR now having the capacity to control and implement national standards of training and then also, national efforts to ensure consistency of enforcement and behaviour of its officers. There must be some driver input into such training and enforcement rules.

I believe there must be a national avenue available to all drivers to dispute and or seek review at a nominal cost. Murderers can give video testimony, yet as stated above, drivers booked in another state, must seek review, first problem as the reviewers are not impartial, nor do they have to live by the laws. I do not believe this is currently an open and fair process as the enforcing officer is asked for review as well and simply says no, fine them. Then if the review is unsuccessful and they wish to dispute in court, they must lose income, travel interstate, pay accommodation, pay representation and can be charged costs. Few know they can seek to have those costs recovered if successful. This nearly excludes fair justice for many charged. I asked for this when the NHVR was first mooted. It was initially taken on board as a good idea, then was said to be impractical or too expensive, yet the cost and penalties to those wrongly charged, was obviously not considered in such decision.

Question 3: Are all enforcement tools being used effectively? If not, why not? Could a different set of enforcement tools give us better compliance outcomes?

I continually hear of intelligence-based enforcement and how COR will follow the offenders up the chain. Yet I have never heard nor seen any follow up or court proceedings from such acts. What I have seen (and I follow much of the transport media) is drivers fined in initial investigations and major companies being much later, let off and all charges dropped. I know nothing of the guilt or otherwise of either parties, nor do I have any inside information on any such cases, but as a driver, it still seems the driver cops it in the neck and all those above get off.

Yes this is perception, but if the drivers perception is we still carry all of the guilt and the companies perception is we can get away with it, then nothing has or will change. I have lauded the concept of COR, but from where I sit, that is all it is, a marvellous concept. I see and have written of the aims of COR in comments on USA pages and they too see it as a way to stop the drivers being the only targets, but until others are captured and fined and this information becomes wide-spread, nothing will change. The truckdriver is still the one swinging at the end of the supposed chain of responsibility and still wears all the blame, guilt and penalty. That along with the over-zealous enforcement of non-safety related laws and penalties is yet another reason we are losing drivers from this industry and why we tell our children to do something else.

As one simple example, how can a driver who picks up a sealed trailer still be held liable for the load restraint? How can a company load things so badly and the driver gets the ticket and nothing is done to the company?

I would welcome the chance to work more with the authorities to solve all these problems, but to this point, it seems the authorities have not wanted drivers to even speak with, let alone work with those on the roadside, other than during enforcement. Yes there are driver information days, there is now coffee with a cop, but if I don't run that road on that day, where else can I get such a chance to participate. This review should have been promoted on posters in every truckstop!!!!!!!!!!!!!!!!!!!!

Question 4: How can data and information be better used to support enforcement under the HVNL? Who should own the data, who should be able to access it, and how should privacy and security concerns be managed?

I was on the panel for EWDS many years ago. I was the only driver involved then and had to chase to be involved. I was then expected to attend meetings to be heard. Drivers do not always have the time, are never paid, certainly not by their companies and if we don't push, will not get heard. I pushed many issues, the first being that EWDS can not be used with the current law. We will simply be punished for every minor breach. Yes, logbooks are called cheat sheets and other things, but the reasons anybody cheats are not simply to break the law for the fun of it. It may be, you only need 10 minutes to get to a roadhouse that has good food instead of rubbish, you may want to get to a rest area with shade or a toilet.

The vast majority of the delays and issues we face, are caused and controlled by others with no risk, penalty or issue to them. No one else cares whether I get a shower, a decent meal or good sleep, until they can catch me out for 15 minutes over my time. No one cares that the logbook expects me to count work time up, losing up to 10 minutes each entry, so for 6 entries, a possible loss of one hour worktime, that could later mean stopping in the middle of nowhere with no facilities to be "Legal".

EWDS will count in minutes and this will be good and bad. Yes it should mean I will only be counted for the time I work, but how will you capture loading and unloading? But they will also see me infringed for one minute over or one minute short of rest unless such things are considered and treated fairly, no one who deals with customers will ever want them, because the customer is not and will not be held to account. Until there is a recognised agreement that time on site is charged for after an agreed time, for example one hour and both the driver and the company are paid for that time, then drivers time will be abused and stolen and they will then be punished for using more than allowed.

Authorities, specifically the police, wanted EWDs data to be available forever, so they could book you for an alleged offence, no matter how trivial, ten years after the event. Such efforts were seen as officiousness gone mad. The simple fact this was asked for and expected, shows they are not interested in safety, only in tickets. It was eventually agreed that data would be available for one month, much like the keeping of the last work diary. This however was four EWD panels and groups ago and I have not been asked for input since, other than by NHVR, though have tried to keep involved.

Electronic Logging Devices (ELDs in the USA) have become mandatory there, but there is some data showing they have increased crashes and the thing they have done for certain, is show the problems with a lack of rest areas, with trucks parking on road shoulders and off ramps, again, simply to comply with a law designed, written and policed by those who do not have to live by it themselves. The micro-managing of drivers by others will not stop fatigue crashes, it will only increase them.

The Safe-t-cam system initially took away drivers flexibility. Yes drivers would say they were here when there, but many drivers with long years experience, simply drove when fit and slept when tired. They managed their fatigue, but now someone else does it by the book, but the book does not make you fit, it makes you comply. This does not remove fatigue from the job, it removes the ability to be safe. Lack of rest areas and the facilities in them only exacerbates this problem. Safe-t-cam took this away and the current expanding system is making it worse. It should be signed and the network made available to drivers, not to allow us to cheat, but to help us comply. It seems that

those who do the wrong thing and I know this is true of many things in life, stuff it for all. The national camera network is said to be used for data only, yet already it is being used to punish drivers who aim to be safe, but are not in control of all factors affecting their time, nor do they have the facilities and flexibility to always safely manage their fatigue.

I recognise and welcome Vicroads and TMR for leaving their weighbridges turned on at site to help us comply, yet RMS will not do this.

Driver distraction technology in this document is claimed to prevent between four and ten percent of fatigue crashes, yet I believe just as many if not more, would be prevented if two things were done. One is to have suitable and sufficient rest areas and this is supported by every driver, yet little has been done for many years. There is a range of things which could be done simply and cheaply, but little has changed. The second is allowing drivers to manage their fatigue. I have been told by drivers, since the advent of Safety-t-cam and other enforcement, they have never struggled so badly, to be both safe and compliant with the law. Yet you want to put a device in that will tell them when they are tired, so where will they stop if there are no rest areas then? Will they be punished and or lose pay?

I have been told by some drivers, they are affected by these devices. Will we find out in ten years time that they do affect our sight or have other side effects?

The current TRUCKRIGHT Industry Vehicle has been collecting data on the road network for more than ten years, showing road failures and the impacts into the vehicles, yet no one will pay for this data and then use it to fix the bad bits of road. It seems data that can be used against us is fine, but data that can help make us and the roads is not. There is little talk or action on the roads impact into both the health and fatigue on drivers. Let alone the impacts and effects on the high cost of maintenance of the trucks. We should be able to bill the road authority for such damage, we should be able to get roads fixed and we should be able to see both roads and repairs done to an agreed high standard, but I am sick of ringing road authorities to get bits of road fixed. These impacts increase my fatigue, my stress, impact on my safety and that of others, yet NOTHING is being done to improve this! Why is this not even mentioned as a good technology here. Doing such road surveys in a car is near to useless, yet we pay thousands for such inspections.

I have no problem with collecting data to see traffic patterns and flows and would hope this would lead to road repairs and improvements.

Many companies have their own data monitoring and use this for compliance. They do use it to help drivers achieve compliance, yet if the road authorities had access to this data, they could simply issue tickets, which will only punish drivers and do little to help them achieve that compliance with a very complex set of laws. The logbook has 28 pages of instruction.

As per the example given and I can attest to many such offences issued, if the logbook pages are consecutive what has leaving the date off one page, anything remotely to do with road safety? Drivers, if they make a mistake, may not even be aware of it till intercepted, it may have been months ago, yet they are more often than not, likely to get a ticket for something that did not mean they were fatigued then, simply not compliant, yet they arrived home safe. Why should they be punished later?

Question 5: Have we covered the issues relating to supporting compliance through effective enforcement, technology and data accurately and comprehensively? If not, what do we need to know?

I agree with the intended principles in this section. I know of drivers who have been stopped four or more times in one day by enforcement, when others who perhaps should have been stopped and inspected, got away. This is not effective or good value enforcement. Those drivers stopped many times will only get more aggressive and upset. On the other side, many drivers simply wish to avoid the stress and likelihood of tickets, when as you suggest, most aim for compliance or even more so, their own safety on the road. Punishing them for minor and non-safety related offences, is mostly counter-productive.

Currently, no driver will pull into an enforcement site if not directed to do so, to ask a question, or to seek help, as they know they will be fined if in the wrong. There should be some recognition of their record. As a driver, it is all stick and no carrot, all punishment and fines, no recognition of a good record. All this does is ramp up stress to be compliant and reduce the likelihood that drivers can and will get help, from roadside authority staff.

Question 6: What are some options for the future law to improve the current compliance and enforcement approach? How can the law best support enforcement strategies aligned to a risk-based approach to regulation?

I have no doubt, there is no perfect and easily available system that will see every truck and driver compliant every day. Currently it seems to me to be driven by those who don't have to do it, telling us how to. It seems those who don't have to live on the road and deal with our problems, simply think they can micro-manage every driver every minute of every day and all crashes will stop tomorrow. The first thing they totally ignore is that we are not at fault the majority of the time, so what is being done to stop others crashing into us? Too little too late for my thinking, but I do recognise this is changing slowly.

There must be both some flexibility given to allow us to safely manage our fatigue, we must have somewhere to do that and we must be paid fairly for what we do and the lifestyle we lead to supply Australia's needs.

We must have a fair and reasonable system for those who do the right thing to the best of their abilities, but as humans make a simple mistake or simply want or need to get to a better spot to use a toilet, have a decent meal and or sleep. We need a national rest area strategy now to see this change.

The law and its penalties must reflect the real road safety risk, if drivers are to respect it, not a perceived and flawed way to make money for government. We need a fair, national system, officers trained to recognise our issues, not to punish us if we don't fit in a box designed and policed by others.

Those who flagrantly flout the law with no regard to their drivers or others safety, must be punished and if they will not change, be removed from the industry for the safety of all.

As a driver, I go to work to feed my family, to do my job, to get home safely each trip. As part of that, I recognise I must act accordingly, drive safely and comply with fair and just laws, or be penalised. The trouble now, is I am likely to be the only one punished if I break any of those laws, my issues and the fact others have influence over every single minute of my day is not recognised and they are immune from being held to account to either pay for that time, or be held responsible for delays or theft of my time for their benefit.

COR must reach further, it must be recognised by all others and until it is, drivers will remain the only ones accountable, the only ones punished and the only ones who will do their best to comply, only to be punished if they are not seen to do so by others not involved.