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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 HVNL Issues Paper 2.

Question 1: How can we change our approach to fatigue management so we reduce fatigue-related incidents and deliver Australia's road transport task efficiently and safely?

Currently the prescriptive rules often work against drivers who do not have complete control of their work times. Those with set schedules or reasonably standard worktimes are not as much affected, sometimes only on occasion. Those who deal with customers who are supposed to be a part of COR law, but who see no requirement or legal need to pay for downtime, will simply use the drivers time as their own. With no cost for a linehaul driver, but forced to pay hourly rate for a local driver, the linehaul fellow is left to wait. I have had this happen on a number of occasions and when I asked why, was told, "We don't have to pay for you, but we have to pay for them, so they will get loaded first."

This type of abuse and delay can be intentional, or indiscriminate, but either way, will then affect the linehaul driver in many ways. Often they are not told how long the delay will be, so could rest or sleep, or can be told a lie to shut them up. If you ask too often, you will then be delayed more to "show you who is boss". You then fall behind with your planning, your time, meals, trip and sleep. Currently NO ONE ELSE CARES!!!! It is always the drivers fault, their responsibility and they are punished every which way. If they does get to sleep, they are then forced to still have a continuous 7 hour break later, where they may not then need that time or sleep. They can then be fined, when they had no control over those delays. If they complains or threatens to disclose such activities, they are unlikely to have any proof and will be told, if you wants to complain, will never be allowed back.

There are insufficient rest areas, little shade and fewer clean toilets, no separation of trucks, let alone from frig motors or stockcrates, to always get good quality sleep when you need it, let alone to manage it and comply. We need to be allowed to have split rest, so can sleep when tired and drive when fit. We may sleep and then wake and it is then better to go on, we may need a "nanna" nap to

manage our fatigue, but then having done so, do not need another 7 hours in the hot sun in the middle of nowhere with no facilities.

The requirement now to have two consecutive night rests, forces our bodies to change shifts twice a week and all studies I have seen, say shiftchange takes your body 3 days to accept, so the change in the law has made things worse. This is where many drivers need a nap on the first day back, as they are again changing shift, forced on them by the law to “Make them safer” and doing the exact opposite. Fatigue data again shows many fatigue crashes in the first shift out and drivers who stop and manage their fatigue, are then punished one way or another as above, so many will “drive” through it knowing if they don’t, they will likely be fined or lose income or both. The law here is wrong for some!

Then the fines for a 15 minute breach, when we are forced to count work time forward or up and rest time down, means you can “lose” time during the day and then get fined for it months later. This is not fatigue management, this is revenue raising and overzealous policing. No one else gets fined for 15 minutes overtime, they get paid.

Question 2: What fatigue risks that are currently out of scope for the HVNL should be brought into scope? What is in scope that shouldn't be?

All drivers suffer from fatigue, not just heavy vehicle drivers. Car drivers are not taught, policed or ever checked and it is true, you cannot currently test someone, nor is there a scientific measurable scale for use on the side of the road. For a truck driver, it is their life, their income and living on the road is not good for health, family or life expectancy. Car drivers are a bigger problem in working normally, then driving interstate for example. Will they be checked, policed and punished? Truckies have to learn their limits, but then the law works against them as above.

I do agree that all trucks, including local should be educated about fatigue and hours monitored in some way. I also agree with all commercial and for hire trucks should be included, for example above 4.5 tonne weight with one exclusion. I have spoken to drivers carrying certain loads and commodities that have said, because I am under 12 tonne, logbooks don't apply to me and I can drive 20 hours a day legally. The one exclusion I seek, is to be allowed personal use to drive a bobtail prime mover for PERSONAL USE ONLY when on a major break, for example to buy food or access a shop or chemist or whatever. I have a license, a registered vehicle, so why should I have to rent a car or get a taxi to do normal shopping or visiting in my own time. This is currently available only on standard hours and has stupid restrictions included. It is available in the USA if the owner also allows it.

COR is a marvellous concept, but from where I sit it still only applies to the driver who is the poor bugger swinging at the end of the chain and copping it from all above. Until this changes, the driver will still be in the middle, forced to do all the “managing” to comply with rules and delays controlled and or policed by others and the only one held to account.

Question 3: What are the key risk factors associated with long hours, night shifts and other work schedule factors? How do we account for the fact that not all work hours have the same risk without introducing excessive complexity?

As above re shifts, but one other thing has been overlooked. Those drivers who do all night regular shifts, if they suit that work, can I believe be safer and less fatigued than those on irregular shifts. Yes it means they must have the capacity, ability and facilities to get good sleep during the day, but they have been punished and lost income by “night hours” which now mean they cannot work 6

nights a week, even if that is only 10 hours a night. They too are worse affected by the requirement for two consecutive nights rest, again forcing them to change shift twice in three days, working nights for 5 days, sleeping two nights, then back to working nights, complete stupidity, causing fatigue, not managing it at all. Allowing split rest will help if the stupidity of being forced to change shifts is not removed. Or split rest can allow a driver with different time needs to have that sleep when needed as and when fatigued, but still get the job done. I would happily accept an 8 hour total with split rest, but recognise that it may not be best on consecutive nights, but would allow more flexibility to manage fatigue safely.

I honestly think three things directly affect our ability to manage our fatigue and compliance.

1. Suitable well designed and sufficient rest areas, will allow us to get good quality sleep when we need it. Icepacks on trucks and shade for the heat, toilets and separation will make this much easier to achieve. In cities is another problem that I cannot provide a solution for, due to the cost of land and the intricacies of hundreds of different clients, but it is a factor with rest and sleep.
2. DCs and other customers being forced to pay for any more than one hours delay, would be next.
3. Increased flexibility with work hours, not more hours per se, but the ability to move hours to manage our fatigue and still get the job done. Counting forward from the last major break, allowing split rest and minor breaches up to 30 minutes allowed once a week. If done regularly, then a pattern exists and further investigation should follow before breaching.

Another ignored factor now, is the making us safe, by forcing us to fill in forms saying we are safe, then holding us up even more to again make us safe with rules that increase loading times by perhaps double, again, without paying for it. Yes, there must be rules and safety, but again, it is the truck driver who is “paying” even if only with his time. The boss gets paid at work, the clerk gets paid, the forklift gets paid, the truckie is told to stand in the corner and wait, and DOES NOT GET PAID!

Question 4: How should a new HVNL address driver health and lifestyle factors? What kinds of controls could be effective?

I am in TRUCKSAFE and do believe the yearly medicals to help with drivers overall health. You must recognise lack of sleep and or bad quality sleep affect not only fatigue, but health as well, so rest areas again assume a major role here. Personal use to be able to buy good quality food and access health care and services, as you cannot park a b-double in any shopping centre I know of, is another reason for its allowance. Drivers previously worked hard and had to eat to survive, much of that has changed but the diet of many has not. Healthier food or the ability to access it is important as well. The current fitness for duty has some flaws, but is better than nothing, but the customer should not have the right to inspect logbooks etc, as many would not know what they are reading.

There have been attempts to offer healthy food at truckstops, but the cost as with normal people who have far more choice, is exacerbated on the road. Rest areas again, do not always provide a good place or reason to “get out of the truck for a break” without suitable facilities. BBQs and showers in at least some sites, would contribute to better health for some, but are currently nearly non-existent.

Question 5: How do we ensure the HVNL is agile enough to adopt best practice fatigue management as it emerges? How do we encourage continuous improvement? Can training help?

If the COR worked, we were not screwed by customers, but recognised and paid for our time, if we had suitable and sufficient rest areas, if we had some flexibility in hours, if drivers were not under stress of overzealous enforcement for things that had no relevance whatsoever to road safety, then that in itself would make an enormous difference to our safety and compliance. Those factors all contribute to pressure on drivers now. Training is a factor, but must be relevant and worthwhile. Few I have spoken to see any real value in the current BFM training, its relevance and value for money.

Many drivers believe that any driver who has survived on the road for five years, should not need to fill in a logbook. I agree that is going too far, but there is little recognition of good behaviour and the ridiculous penalties and fines given out for non-safety things, punish many for the rest of their time on the road. We have driven out many who are excellent drivers, by these fines, but who drove when fit and slept when tired and made the logbook suit. They can't do that legally now.

Question 6: How can we better accommodate emerging technologies? How can the new HVNL get the best value from technology and data? Do you think fatigue monitoring technology can supersede work and rest hour requirements?

Fatigue monitoring technology has come a long way, yet it may have factors not yet recognised and it is all good for others to tell us, you must use it to get more hours than others, when the following factors need to be considered.

These systems are monitored by supposed experts, not drivers. Are they really right? The technology is not perfect, it can supply false positives, people are different and it can simply add a level of further unneeded stress on drivers. I have recently been told of some drivers being affected by the infra-red light, causing headaches etc. Who knows what health problems this may cause after years of exposure? How then does an owner driver compete?

The level of stress of a current interstate driver does not need to be ramped up yet another level by the outright application of these new technologies, which, monitored by someone in another country, can decide what you will earn this week or whether you will have a job next week. Do we again, as in the current rules, penalise the many for the actions of the few. How does an owner driver compete and pay for this technology whether he has never had a crash or not. Why is a drivers record not considered in how they are treated in any way whatsoever, currently?

We can not just change from one to the other tomorrow, so why should those who wish to put drivers through any of the above, get an advantage, again at the cost of the driver. These issues could cause further or new health issues after years of use.

Autonomous trucks are a complete other step and I believe should only be considered when they are likely to hit the road and are still separate from this review.

Question 7. How can the new HVNL meet the needs of all Australian states and territories? What should the new HVNL adopt from Western Australia and the Northern Territory, other transport modes and other industries' fatigue management approaches?

You recognise the industry is diverse, that drivers can be the best person to decide, yet our current laws do not recognise this. A new driver and one with 30 years experience, are treated the same. It does not matter what state the driver is in, what load he is carrying, what matters is their ability to manage their fatigue subject to how they feel. If they are free to drive when fit and sleep when tired, then they will and can do so. If they are controlled by a logbook and camera monitoring systems that see only black and white and impose penalties from afar, not knowing or caring what facilities are

available for the driver to use to safely manage their fatigue, is it no wonder drivers drive when fatigued to both comply with these laws and the accompanying severe penalties and to get the job done. I have had discussions with road authorities about our jobs. One issue raised was pay. Years ago you worked 100 hours a week, got the job done and made good money. You cannot do that now and that is most likely an overall safety and health improvement for drivers and others.

But wages, if anything, have not recognised this change. Yes even then, we did not get paid fully for what we did, but we certainly do not get paid for what we do now on an overall basis. Some may, but most don't and if you do not have the wheels turning for many, you are not earning. This is a major part behind drivers and their actions and must be addressed!

I do think that the rules in WA, particularly recognising that a break from driving is a good thing, where as in NSW if you walk around the truck kicking the tyres or are on the phone in the toilet, that is work. How stupid is that. We must have a better definition of what is work and recognise that if I can watch loading etc, or talk about trucks to an RMS officer, that is a break, not work. This interpretation, definition only lead to fines that have nothing to do with road safety in many instances.

I see nothing from overseas that will improve road safety here in Australia and follow and have been to the USA and some of their problems are worse than ours. I am awaiting two things from the USA. The latest FMCSA changes and the attempted effort to bring in a law that would mandate payment at Distribution Centres for any delay above one hour. This alone would have an enormous affect on those who deal with such sites. I spoke with a driver recently who simply refuses any load to a distribution centre, because of the inevitable delays.

Question 8: Are prescriptive rules desirable in a new HVNL? If so, how can we simplify rules in the HVNL to make them easier to understand so that they're easier to comply with?

I whole heartedly agree there must be some rules and they must be simple to understand and easy to comply with. The current system I fear, makes it easier for drivers to be punished and harder for them to comply. I fear we are punishing the majority for supposed breaches that often have little to do with road safety and too much to do with control of the minority, who I do recognise will break the law whatever it is. Even with EWDS, I see the driver attempted to be micro-managed by some one else who sleeps in their own bed, has hot and cold running secretaries and toilets on every floor, when often all we have is a bit of dirt on the side of the road.

I think that the first issue must be that a suitable break can see a reset of hours, that rest areas must be improved, that flexibility must be provided to allow a driver to safely manage their fatigue, but that there must be some overall controls in place so we are not taken back to the dark ages, where if you said to your boss, "Sorry mate too tired to go again now" and he would say, "If you don't, I'll put someone else in your truck". That does not happen now because we do not have enough drivers and why do you think that is?

We have driven out those who may have driven for 30 years without a crash, but who drove when fit and slept when tired and simply made the logbook match. They cannot do that now with cameras etc and have not been able to comply and have left the industry, taking with them years of experience. Few are stupid enough now to enter into a job where you can lose weeks wages for working 15 minutes overtime to get to a roadhouse or for doing an extra half hour to get to a good place to sleep, let alone to your own home. Pay and facilities to live on the road, are major disincentives to do this job, relevant to the lifestyle you lead and the way you are NOT recognised nor respected for the job you do.

There must be a fairer way to seek a review of a penalty instead of clogging up our courts with minor non safety breaches, where that is the only way we can get a fair go. I want to know who as God does these reviews now and how they can simply say, our provided video evidence that validates our reasons behind a breach, do not meet their requirements, let alone not recognising a drivers previous record. How can any person do one million kilometres every ten years on our roads now with the level of scrutiny available to authorities without an occasional error?

Question 9: Would the compliance options described in section 4.5 be a more effective approach to regulating fatigue management? If so, what should be included in the new HVNL, its subordinate documents, or elsewhere, such as in work health and safety laws? How would the appropriate fatigue management option be allocated to an operator – by selfselection or other means?

I think there is an opportunity to see both better compliance in not driving while fatigued and less penalties driven by over-zealous enforcement. Let's face it, as in not all truckies are perfect, neither are all authorities. With NHVR taking over enforcement nationally we hope, there will be national standards of training and understanding of laws, less roadside interpretation causing issues, but how do we get the Police on the same page? Do we say unless they have received similar Heavy Vehicle training, they will not be authorised to stop heavy vehicles for anything other than standard road rules? What can be done to see this achieved?

I also think that not just anyone should automatically get higher levels of operation, but that even a driver be recognised, not just the company they work for in ascertaining if they should be given higher levels. This is hard to comment on till we see what the outcome of this reviews recommends. At that time it may well be required to gain some comments then on this issue.

Question 10: Should the new HVNL give operators the option of taking full responsibility for risk management? What would be the roles of the regulator and roadside enforcement (BE) in such a system?

Yes but this would obviously require a base line from which to establish the ability of the operator to manage this. Perhaps for those enrolled in TRUCKSAFE and the like, should those procedures and audits be deemed to be sufficient to show suitable and on going compliance to then allow for operators to be given that responsibility. The regulator would then be able to do more back office compliance checks and roadside could be for those who have been proven not to comply.

Currently one driver can be pulled up, up to 5 times in one day and be compliant and then wonder who they have killed, when the driver they should really be targeting will not be stopped at all. This then completely fails the driver stopped for nothing and lets the other get away with cheating.

Question 11: How can we get the best overall value from a compliance and enforcement strategy for fatigue management? How are scarce resources best allocated, and what tools do regulators need? What provisions in the law do operators need?

This is a serious and difficult question to answer from a drivers point of view. I want to be safe and I want other drivers who share the road with me to be safe as well. It is no good being safe and still being killed by another driver, who is not. Without sufficient and suitable rest areas, flexibility to manage our fatigue and the capacity to do so, without over-zealous enforcement preventing us from doing so, how do you legislate and or control the minority who will not stop when tired, even if they can do so and be compliant?

I still think that if rest areas, including green reflector bays and others sites were provided nationally to the level needed, this would be the first step, then we need that level of flexibility to manage our

fatigue and without somewhere suitable to do that, whether in a capital city or the back of beyond, without such a place, you simply cannot. I can stop, not get good sleep and then drive on legally tired (realistically till such times as you can prove otherwise), but if I am woken because there is no separation or shade etc, then I can't manage my fatigue no matter what laws are in place. If you do not address this, then nothing will change.

Question 12: What else would you like to tell us about effective fatigue management?

It may well be worthwhile to have new drivers monitored for the first twelve months with some form of technology. If you mandate it for all, you will only increase cost, force out some with years of good driving and experience, make it harder for small companies to compete by giving big companies an unfair and possibly realistically no safer advantage, that others cannot afford.

Similarly with EWDs, you cannot micro-manage drivers without good quality places to sleep and many rest areas are NOT! Why should I be punished and forced to stop by some machine, when I pulled up alone, only to have others with frig vans or stockcrates wake me. I know they need to sleep too, so there must be room and suitable designs for them to pull up away from others. Please supply me with a list of rest areas with suitable shade for me to sleep comfortably in Australia. I can tell you they are few and far between, let alone those with toilets.

Even if I do all I can to comply, but then are woken by hoons or anything else, then have to comply with a law that will then punish me if I have a kip when I need it, but then force me to stop for another continuous 7 hour period, where I may get 4 hours sleep, then sit there getting tired waiting for my logbook or EWD to say I can work, only to be bugged before I start. How do you legislate for that? Without rest areas that allow me good sleep, all the rest is chasing your tail.

Those drivers who do nights all the time and are set up for it, I believe are far less of a hazard than drivers with differing runs, yet this group is forced to drop wages and work one less day a week to comply with "night hours" restrictions that do not even ask, let alone recognise how I operate.

Forcing on us the two consecutive nights rest, forces a shift change the first night which we used to shake off, but now we have to have two shift changes, so our body says, OK we are changing shift to sleeping nights, all good, only to try and go back to working nights. By those with the best intent forcing a change, you have actually made it harder to comply and be safe. My understanding of shifts, is that it takes your body three days to acclimatise to a shift change. With the current law we are forced to now change shift twice in three days. No wonder blokes need a sleep on the first day back, then get punished and forced to stop for another continuous 7 hours when they have managed their fatigue.

I understand you must use data and experts, but if those experts tell how to, when they don't and have never had to, the outcome as now, can be worse for the majority and help barely any. I have spoken to drivers who are given shifts to maximise truck use with no consideration whatsoever to their ability to have a life, let alone manage their health with such work patterns. Some of these drivers have told me they don't know what day it is with the shifts involved, but the company gets to have the truck running 24/7. Who bears this responsibility?

Do you recognise there are some who can drive all night every night safely and some who can't drive all day safely? How do you regulate that is a big question, but for all those who tell me how to do my job and who want to punish me if I don't do it "their" way because they know better than me, let them do it for a week and then tell me they understand and I will be far more likely to listen. The same applies for those who want to enforce the law on me when they get paid to work overtime and

mostly go home to their own bed or get paid a damn site more to sleep in far more luxurious and hospitable surroundings that I can get on the side of the road. Drivers will mostly act safely if they can and aren't pushed by others and how we are paid (and not paid for waiting time) is a big factor in this too.

There is currently no recognition for anyone with a complete and suitable set up for good sleep. For example, the truck I drive is fitted with an icepack, a diesel powered refrigerated air conditioner, has thermal curtains placed over the bunk area providing complete darkness. I have the same laws and penalties as the driver who Has nothing more than a narrow bunk. The quality of the sleep will vary from these two extremes, yet none of this is covered anywhere. Others suggest such as icepacks should be mandatory at the absolute minimum, for tropical areas. Others again say the bunk size and or the truck length should be increased to allow bigger bunks and therefore better sleeping facilities for drivers.

Sleep is a major part of health, I agree, yet the current laws often require me to sleep when fit and or drive when tired, there is insufficient flexibility to allow for the lack of rest areas and other considerations, the penalties are completely ridiculous, subject to the above and if there is nowhere to stop and sleep, how can I get sleep and stay healthy? We must have a national truck rest area strategy now!

It has taken me 19 years to get one highway marked with green reflectors showing informal truck bays. If we had enough rest areas, we would not need the green reflectors. We have more and more caravans and cars, yet we are still begging for sufficient and suitable rest areas. Someone must make a start.

I have asked for two changes for some time. Count hours forward from ***last*** major rest break, not from the ambiguous last relevant break, (who then decides which is the **relevant** period)? Any vehicle under 12 tonne weight (not gross weight, though a bobtail prime mover cannot carry a load and should then not be a Fatigue Related Heavy Vehicle) to allow us fair personal use when on a 24 hour break. These two changes would be welcome, fair and are achievable and would increase flexibility, lessen over-zealous breaches. Safe Travelling, Rod Hannifey.