

**SAFE VEHICLES: Innovation Compatibility and Productivity
HVNL REVIEW ISSUES PAPER**

**SOUTH AUSTRALIAN ROAD TRANSPORT ASSOCIATION SUBMISSION
21 AUGUST 2019**

1. About the South Australian Road Transport Association (SARTA)

SARTA is the peak industry body in SA and a member of the Australian Trucking Association (ATA) and we share the strong commitment to safety, professionalism and viability.

SARTA is working closely with the ATA in response to the HVNL Review and the NTC's Discussion Papers and so we are in broad agreement with the ATA submission on this matter. We submit the following additional thoughts.

2. First Principles Approach

The HVNL 2.0 must, as a risk based law, recognise that it is impossible to expect all, or even any, working HV to be 100% compliant at all times, with zero faults, because:

1. they are work horses often performing their vital task on sub-standard infrastructure that causes wear and tear on the vehicle; and
2. the fact that things do not break whilst the truck is parked in the depot but whilst it's being used on the road.

This requires a genuine and fair approach that fosters and encourages maintenance management including the appropriate handling of faults that occur en-route.

As such the fundamental focus of the HVNL 2.0 in relation to Safe Vehicles should be the identification and appropriate management of safety-related faults in a responsible risk-based manner. This should require and result in:

1. Appropriate monitoring and checking of HVs by the operators and their employees;
2. Recording of faults and assessment and implementation of appropriate management or resolution of the fault in accordance with the level of safety risk associated with the fault;
3. Scheduled maintenance of HVs by the operator or their third party service providers;
4. Recognition and acceptance by roadside enforcement officers, including police, of the operator's maintenance regime, including for example acceptance of the fact that a fault has been recorded by the operator and will be, or is being, managed appropriately and as such there is no need to issue a defect notice unless the fault presents as an imminent and substantial safety risk;
5. Recognition of the well-established fact, from countless crash investigations, that roadworthiness contributes at most to a very small percentage of accidents, and that the focus should primarily be on certain core safety/roadworthiness features, such as brakes and steering.

a. Objective:

Under First Principles, the question must be asked what **should** be the Objective of any regulated HV Safety regime and we strongly suggest that it should be:

To underpin the economy, through productive and efficient heavy vehicle road transport, safely and sustainably

This objective should be enshrined in the HVNL 2.0 as the fundamental principle that should direct all decisions and processes regarding HV roadworthiness and safety.

b. Construct:

The second question under First Principles re HV Safety should be what would be the best construct for HVNL 2.0 re HV Safety, and we suggest that it should:

1. Obligate all officers enforcing the law to comply with the HVNL 2.0 and any Enforcement Instructions (including for example the HVIM) issued by the NHVR. This may require all such instruments to be issued as Notices, so they are law and not mere 'guidance' which police officers may choose to ignore;
2. Be simple and minimal in size and content;
3. Have a tiered structure to facilitate responsive and quick amendments:
 - a. Place the core/principal provisions in the Act;
 - b. Place operational detail level matters in Regulations; and
 - c. Place lesser matters in Notices and other third tier instruments.
4. Be focussed on enforcing the actual safety and productivity outcomes, such as not operating a HV that presents a clear and substantial imminent safety risk.
5. In this context the NHVR's national risk-based HV Inspection criteria and framework should be embodied within the HVNL 2.0.
6. HV Inspection regime should NOT require or result in automatic Full Inspections of a HV in response to the issuing of a Defect, including an ADR-related Defect, as this incurs substantial and unjustifiable cost for the HV operators by causing them to:
 - a. Go over every aspect of the HV prior to submitting it for the inspection; and
 - b. In the process discard perfectly safe and serviceable components, well short of their safe life, prior to the inspection so as to avoid the risk of having to undergo a second inspection. This results in an enormous amount of waste and cost being borne by the HV operator without any improvement in safety as the discarded components are well within the wear tolerances but the operators dare not take the risk and lost opportunity costs of failing the inspection.
7. The HV Inspection regime should provide a benefit to operators of HVs covered by their NHVAS Maintenance Management accreditation, through a substantially reduced requirement to present those vehicles for inspection because the operator's NHVAS regime is maintaining the vehicles to a higher standard than non-NHVAS rigs, as confirmed in the national HV Maintenance Audit undertaken by the NHVR.

8. **NOT** legislate for **Continuous Improvement** as that is a matter for the individual businesses and the markets. The HVNL 2.0 should set the Safety Outcomes Benchmark only.
9. Provide a reasonable and risk-based approach to the treatment of faults detected at the roadside; specifically if an officer detects a fault at the roadside:
 - a. That the operator can fix at the roadside in a safe and timely manner, allow them to do so;
 - b. That the operator can NOT fix at the roadside in a safe and timely manner:
 1. That is NOT an imminent significant safety risk:
 - a. If it is already recorded in a fault report in the truck, do nothing;
 - b. If it is NOT in a fault report, issue an advice to the operator or have the driver record it in their fault report;
 2. That IS an imminent significant safety risk;
 - a. Issue a self-clearing defect where the defect does NOT warrant grounding of the vehicle;
 - b. Issue a defect requiring inspection of the repair where the defect warrants grounding of the vehicle ;
 3. Where a number of imminent safety-risk faults that warrant grounding the vehicle are detected, issue a Defect requiring full inspection of the repaired vehicle.
10. HV Inspections should only be performed by officers, including police, who have successfully completed a HV Inspection Course approved by the NHVR and:
 - a. The inspection must be performed in accordance with the directions issued by the NHVR, including the HVIM; and
 - b. Officers should not be able to defect a HV at the roadside in respect of components that can't be assessed reliably without specialist equipment.
11. The HVNL 2.0 must bind and hold accountable all third party service providers involved in the maintenance or repair of a HV for the work they perform. This includes third party service providers who maintain a HV under a service contract for an ongoing monthly/set fee. Where a HV is maintained under a third party service provider maintenance contract, the operator of the HV should have a defence under the HVNL 2.0 that allows them to rely upon the service provided by the third party provider provided the operators meets their obligations in relation to the monitoring of roadworthiness within their ongoing operations.
12. Speed compliance: HVNL 2.0 should ban the sale, purchase and advertising of radar detection devices and technology and speed tampering technology for use in Heavy Vehicles.

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