

## HEAVY VEHICLE NATIONAL LAW AMENDMENT BILL 2025

**Submission No:** 1  
**Submitted by:** Name Withheld  
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### Submitter Comments:

To Whom It May Concern, I write in response to the consultation on the proposed amendments to the Heavy Vehicle National Law (HVNL), particularly regarding the revised penalty framework and enforcement discretion provisions.

**1. Penalty Increases – Disproportionate and Counterproductive**  
The proposed increase in maximum penalties from \$10,000 to \$20,000 is excessive and lacks proportionality. This doubling of penalties risks undermining the credibility of the enforcement regime. It is worth noting that many Authorised Officers (AO's) already viewed the previous \$10,000 ceiling for some offences as severe along with many other offence amounts. Escalating these penalties further may deter officers from issuing infringements altogether, particularly in cases where the offence is technical or administrative in nature. I have seen this where an AO just verbally warns a driver and says to be on your way because he does not believe the crime fits the penalty, this is just reality. Moreover, the contrast between these increases and the modest reductions for other offences (e.g., from \$4,000 to \$3,000 for minor fatigue breaches) raises serious concerns about consistency and fairness in the penalty framework. The rationale for such disparity is unclear and appears arbitrary, especially when viewed through the lens of risk-based regulation.

**2. Formal Warnings – Insufficient Reform**  
While the proposed expansion of formal warnings is a step in the right direction, it does not go far enough to reflect operational realities. The NHVR has previously advised its officers to issue warnings where enforcement is not in the public interest or where mitigating circumstances exist, and to use "discretion". However, the legislative framework continues to constrain officers from exercising discretion in a meaningful way. For example, the limitation that warnings may only be issued for clerical errors in work diaries is overly prescriptive. It fails to account for a wide range of scenarios where an offence may be technically substantial (e.g., a 41mm, yes 4 cm's width breach or 81mm for severe, yes 8 cm's) but practically insignificant—especially in remote or low-risk environments. Under the current framework, such breaches are not eligible for warnings, despite their negligible safety impact.

**3. Recommendation – Empower Authorised Officers**  
To ensure enforcement is both fair and effective, the law must empower AOs to make informed judgment calls based on training, procedures, and the specific facts of each case. This includes:

- Expanding the scope of formal warnings to include substantial breaches at least, if not severe, where public interest considerations warrant discretion. Imagine you are a first-time user of a work diary, remembering there is no requirement to be trained in how to use one before being handed a diary and told to drive from Sydney to Brisbane in a fatigue-regulated vehicle. Now you exceed your hours by 1.5 in a 24-hour period (the most misunderstood requirement there is—even the NHVR has a video on this, and even that is confusing). You've now committed a critical offence. A fine that has just been increased, not to mention the 4 demerit points. Now I'm a first-time user or a person with low English comprehension, and the AO can see this and provides formal counselling/education on the side of the road—but the law says he must issue a court attendance notice for something the driver misunderstood. He drove 12 hours like the book says, rested 7 hours like the book said, and started driving again. Can you not see how impractical the law is given different situations? This person is not trying to elude law enforcement; he is just your regular new heavy vehicle driver.
- Amending Section 590 to explicitly include all categories of breaches within the warning eligibility criteria is a must. The people that do not want to amend this section to this extent are overzealous and outdated AO's that believe the only education is a fine. Failure to address these issues will likely result in continued under-enforcement not due to negligence, but due to the impracticality and inequity of the current penalty structure.

**Conclusion**  
The HVNL must strike a balance between deterrence and fairness. Excessive

penalties and limited discretion do not serve the interests of safety, justice, or regulatory efficiency. I urge the responsible Ministers and the NHVR to reconsider the proposed penalty escalations and to broaden the scope of formal warnings to better reflect operational realities and public interest considerations.