



21 March 2018

Committee Secretary
Transport and Public Works Committee
Parliament House
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Brisbane Qld 4000

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Heavy Vehicle National Law and Other Legislation Amendment Bill 2018

I write to advise you about the position of the Australian Livestock and Rural Transporters Association (ALRTA) on the chain of responsibility reforms (CoR) contained in the *Heavy Vehicle National Law and Other Legislation Amendment Bill 2018* (the Bill) that is currently before the Queensland Parliament.

Our Association

The ALRTA is the peak body representing road transport companies servicing the agricultural supply chain. We are a federation of six associations representing every state in Australia.

The ALRTA Position

The ALRTA strongly supports the reform package and recommends that it is implemented in full and without delay.

The CoR reforms contained in the Bill and the *Heavy Vehicle National Law and Other Legislation Amendment Act 2016* have been the subject of many years of focussed and public consultation.

The reform is necessary to bring the CoR provisions of the *Heavy Vehicle National Law 2012* (HVNL) into line with contemporary safety expectations and legal drafting practices.

The Bill, and the 2016 Act, will result in parties in the CoR having a positive duty to proactively assess the risks arising from their business practices and put controls in place where it is reasonably practicable to do so.

Fundamentally, the duty is no different to the requirements of workplace health and safety laws.

This style of duty will be familiar to all Australian businesses that are already observing their legal duties to protect safety.

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Together We Are Stronger

There is no Case for Exemptions

The ALRTA is aware that associations representing parties in the agricultural production chain have publicly claimed that the Bill and the 2016 Act will establish entirely new obligations or make their members a part in the chain for the first time.

This is not correct.

CoR laws have been in place since 1997. The Bill does not establish new parties.

As the peak national association representing the operators of heavy vehicles servicing the agricultural supply chain, the ALRTA can say without a doubt that other parties in the agricultural supply chain can, and do, influence on road safety outcomes.

For example:

- It is not uncommon for primary producers to request that drivers load more weight into vehicles than can be legally carried. This is because such practices will decrease transport costs, especially when only a partial load would otherwise remain.
- Feedlots often will not apply feed and water curfews to livestock prior to transport resulting in a level of effluent generation that cannot be contained within the vehicle. Producers routinely aim to maximise the weight of the animals for sale without regard for load restraint risks that will arise later in the trip.
- Saleyards engage in business practices that impact on driver fatigue or incentive to speed. This can come about through queuing practices, livestock weighing practices (e.g. delays caused by post-sale weighing), provision of poor quality loading infrastructure or other directions given to drivers entering the site.
- Parties in the chain can sometimes ‘turn a blind eye’ to defective vehicles or fatigued drivers if they are the lowest cost or most convenient option.

In the opinion of the ALRTA, all parties in the agricultural supply chain have a role to play in encouraging safe practices and this is precisely what CoR laws are designed to do.

In fact, the reforms will result in a much fairer legal framework than is currently the case.

Under current CoR laws, if the driver commits an offence, all other parties in the chain are automatically deemed to have committed the same offence. Everyone is deemed guilty without so much as an investigation. To avoid penalty, chain parties must go to court and argue a ‘reasonable steps defence’.

When brought into force, the 2016 Act and this Bill will abolish automatic deeming and replace the ‘reasonable steps defence’ with a positive obligation for each party to do what is ‘reasonably practicable’ (the same test as in workplace health and safety laws).

Surely, when it comes to road safety, it is far better to encourage all parties to do what is reasonably practicable to prevent accidents before they occur, rather than arguing about a 'reasonable steps defence' after a death has occurred?

With deeming provisions removed, assigning liability for breaches to chain parties one or more steps removed from the offence will naturally become more difficult.

The transport operator is always first in line in any investigation – yet the ALRTA is prepared to put safety first and is supportive of CoR laws while others in the chain apparently are not.

It is also critically important to remember that the chain party definitions enshrined in the HVNL are based on a description of role (e.g. consignor or loading manager) rather than particular business type (e.g. primary producer or saleyard operator).

This is useful for identifying influential parties, but also for limiting the extent of their liability to matters that they ought reasonably to have knowledge about.

Absolving any particular business type from CoR would establish a dangerous precedent that will result in:

- other influential lobby groups seeking a similar exemption for their members; and
- lives unnecessarily lost through reckless or wilfully dangerous business practices by exempt business types.

The principle is, and should remain, that chain parties be defined by their role, influence and knowledge rather than any particular sectoral interest or influence.

Conclusion and Recommendation

Protecting road safety is a shared responsibility of all parties in the road transport supply chain.

CoR laws encourage chain parties to work together in cooperation, rather than simply manifesting downward pressure on transport costs with no regard for safety outcomes.

For these reasons, the ALRTA strongly supports the *Heavy Vehicle National Law and Other Legislation Amendment Bill 2018* and recommends that it is passed and brought into force in full and without delay, along with the 2016 Act

If you would like to discuss this letter please contact the ALRTA Executive Director, Mathew Munro, on [REDACTED]

Yours sincerely



Kevin Keenan
National President