

**Submission
No 3**

INQUIRY INTO ROAD TRANSPORT AMENDMENT (MOBILE PHONE DETECTION) BILL 2019

Organisation: Australian Road Transport Industrial Organisation NSW Branch

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24 October, 2019

Hon Robert Borsak MLC
Chair
Portfolio Committee No 5 – Legal Affairs
Legislative Council
NSW Parliament
Macquarie St
SYDNEY NSW 2000

Dear Mr Borsak

RE: Inquiry into the Road Transport Amendment (Mobile Phone Detection) Bill 2019

1. Thank you for providing the Australian Road Transport Industrial Organisation NSW Branch ("**ARTIO NSW**") with the opportunity to make a submission in relation to the Inquiry into the Road Transport Amendment (Mobile Phone Detection) Bill 2019 ("**the Bill**").

About ARTIO NSW

2. ARTIO NSW is a registered organisation of employers under federal workplace law and a registered association of employing contractors under NSW industrial law. ARTIO NSW's members are engaged in a wide variety of transport tasks, across urban, rural, regional and remote areas of NSW as well as in other jurisdictions. Their work can be short distance or long distance. It takes place in all types of vehicles from vans to prime mover/multi-trailer combinations, extends across many supply chains and includes interaction with other freight modes.

ARTIO NSW's Interest in this Inquiry

3. The Australian Bureau of Statistics¹ ("**ABS**") provides the following statistics on the trucking industry in NSW for the year ending 30 June 2018:
 - a. There were 169,411 articulated and rigid trucks registered in NSW.
 - b. Together, articulated and rigid trucks travelled 5,806 million kilometres on NSW roads.
 - c. Articulated trucks registered in NSW travelled an average of 88,000 kilometres, compared to 22,100 kilometres for rigid trucks and 12,800 kilometres for passenger vehicles.
4. There are 179,800 drivers of trucks, courier and postal drivers and delivery drivers in Australia, according to the ABS². About one third of these workers ("**professional drivers**") would be based in NSW. The road is their place of work. They spend more hours driving than other road users.
5. Many professional drivers have experienced severe trauma due to their involvement in, and/or being a first responder, to fatal and other serious crashes. ARTIO NSW wants this place of work to be as safe as possible for professional drivers. Accordingly, as a matter of principle, reform to road laws designed to improve the safety of this work environment has ARTIO NSW's strong support.

¹ Australian Bureau of Statistics (2019), "9208.0 – Survey of Motor Vehicle Usage, Australia, 12 months ended 30 June 2018" <https://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/9208.012%20months%20ended%2030%20June%202018?OpenDocument>

² Australian Bureau of Statistics (2019), "6291.0 – Labour Force, Australia, Detailed, Quarterly, Aug 2019" www.abs.gov.au/AUSSTATS/abs@.nsf/MF/6291.0.55.003

6. Mobile devices are widely used in the industry to communicate between drivers and owners/management, principally for operational and customer service reasons.

ARTIO NSW's Position on the Bill

7. ARTIO NSW supports the Bill in principle because using mobile phones illegally while driving endangers the lives of all road users and the broader community. Further, every effort should be made to utilise reliable technology to improve compliance and enforcement.
8. ARTIO NSW supports Clause 139B (2) of the Bill on the basis that there are adequate safeguards in place in Clause 139B (3) for a defendant to rebut what is presumed to be the fact.
9. ARTIO NSW also supports amendments to Road Rule 300 on the basis that these amendments clearly outline the rights and obligations of an authorised officer to enforce the law.
10. ARTIO NSW notes the Government's position, as well as concerns raised by Opposition and minor party members during debate, and makes the following comments in relation to education and privacy issues.

Education

11. Education is critical because, based on the Government's own statistics showing the extent of illegal mobile use, current laws are widely flouted. This reflects society's dependence of mobile phones as a means of communication and entertainment, which is also evident on public transport, in our neighbourhoods and where we live.
 - a. This level of dependence and acceptance means it is likely to require fundamental cultural change reminiscent of random breath testing, and the compulsory wearing of seat belts, before these proposed reforms are widely accepted and adopted. Bringing about the cultural change necessary to stamp out this illegal practice can be expected to take considerable time and justifies a long term, broadly based strategy which recognises that each of us as individual drivers react differently to different messages and experiences.
 - b. Accordingly, all avenues of education, and all media, should be used to raise awareness. This means responsible authorities need to deploy the widest possible range of educational and enforcement tools at their disposal.
 - c. Consistent with a broadly based strategic approach, ARTIO NSW supports an amnesty at the outset, as this of itself will contribute to awareness raising and, in the case of some drivers, be sufficient incentive to bring about beneficial change. ARTIO NSW also believes two types of roadside signage are required, general warnings about the new laws proposed in the Bill, as well as signs specifying where mobile phone detection equipment is located. This is because some of us as drivers will respond differently, depending on the message and our exposure to it. ARTIO NSW believes the value of signs specifying where mobile phone detection equipment is located should be evaluated in the medium term.
 - d. Education is also critical so that drivers, including professional drivers as well as their employers, know in what circumstances the use of a mobile phone is allowed under the law and what constitutes illegal use as this can be expected to encourage more widespread use of mobile phones in a manner consistent with the law.

Privacy Issues

12. Professional drivers wear practical clothing which is appropriate for the tasks they perform, which include loading, unloading, driving, picking up and delivering. Accordingly, ARTIO NSW does not believe privacy concerns related to exposure of parts of one's body will be an issue in the industry.
13. However, ARTIO NSW believes privacy concerns raised during debate on the Bill are legitimate. They need to be spelt out to ensure the right balance is struck between the use of a technology which can be expected to help save lives and reduce social and economic costs, while giving the community confidence that legitimate privacy concerns are addressed through strict protocols, supported by adequate accountability measures.

Other Issues

14. Please contact Hugh McMaster, tel: _____ email, _____ if further information is required.

Yours sincerely

Hugh McMaster
Secretary/Treasurer