

**Submission
No 16**

**INQUIRY INTO PRESSURES ON HEAVY VEHICLE
DRIVERS AND THEIR IMPACT IN NEW SOUTH WALES**

Name: Mr Trevor Warner

Date Received: 18 September 2023

Portfolio Committee No. 6
Transport and the Arts
Parliament House
Macquarie Street
Sydney NSW 2000

Inquiry into pressures on heavy vehicle drivers and their impact in New South Wales

Introduction

I thank the committee for Transport and Arts for engaging with the road transport industry participants and interested parties on this important issue.

My name is Trevor Warner, I have been a long-distance truck driver and industry advocate for the pasted 15 or so years.

Previously, I only drove trucks in Queensland for my own business and various employers for an additional 15 years. Collectively in that time, I have driven some 4million kms and operated in high risk transport operations.

I have also worked in road transport operations, where I managed schedules for long distance drivers, with qualifications in

Applying Fatigue Risk Management system TLIF0005

Administer Fatigue Risk management system TLIF0006

Quality Management systems in ISO 9001, 14001 and 45001

Lead Auditor- Intergrated Management Systems

My current employment involves long distance truck driving between Cairns and Melbourne with the occasional trip to Adelaide.

I trust you can appreciate that I did not major in English at school and have drafted this submission as an experienced truck driver, not a legal practitioner.

Terms of Reference

The characteristics of the heavy vehicle industry in NSW that shape driver practise

- Just in time freight
- On-demand adhoc freight
- Driver work regulations
- Roadside infrastructure
- Law enforcement
- Lack of training

Impacts to long distance drivers

Just in time freight

Finding freight efficiencies has led supply chains into using road transport as mobile warehousing. Whilst this is workable, truck drivers find themselves caught between the freight task, delays and driving regulations (work diaries)

Problems here generally relate to matching the freight task to the driver's body clock.

Drivers can be wide awake well before the freight is ready.

I have given testimony to the Australian Senate on how we manage a 26hr shift.

Road transport is so diverse and geographically spread out that only the large businesses can afford to provide parking and rest facilities for their Drivers.

Small and medium businesses are faced with lack of infrastructure issues and instruct their drivers to wait nearby for further instructions to arrive for the appointment time for the JUST IN TIME freight.

Eg. While allocated a Coles Supermarket load from Sydney to Brisbane, I would wait in a nearby side street for my entry time. At which point, I could enter the warehouse facility and be allocated a loading dock immediately.

The nearest Truckstop typically had no available parking space to wait for my appointment time. This is one reason why Drivers are wanting vehicle dimension rules changed, to facilitate cooking and entertainment devices inside the truck cabins.

Parking is a major problem for the industry.

Once trucks are loaded, the receival time at the destination is already booked.

Typically drivers are given 12hrs to complete their journey.

Some drivers have received extra training and have Basic Fatigue Management accreditation which allows them 2 extra hours in any 24hr period to complete the delivery and find a place to sleep.

As you can appreciate, these loads require a precise military style execution of the task.

It is this pressure that encourages drivers to push themselves beyond their capabilities and fatigue limits.

If they fail at their task, several things can happen;

- They miss their appointment time and have an extended wait.
- They cannot make their next appointment for the return load.
- May have to wait overnight to unload and reload.
- Lost productivity of that vehicle.
- A potential breach of work diary regulations

Any delay always means lost revenues for the vehicle owner and the driver.

Adhoc Freight

Adhoc freight is when transport operators do not have a load arranged at a location and place their name on a list with a Freight Agent.

This can see Drivers waiting at TruckStops, in side streets or anywhere they can find a parking spot.

Drivers may be awake for many hours waiting for a phone call.

With a chronic shortage of suitable parking spaces in NSW towns and cities along with the threat of work diary rules and Employer surveillance, the pressure on driver's is enormous.

The same situation applies to work diary requirements when faced with unknown scheduling. When parked in a side street, workplace facilities are simply not available.

Town Planners around the country have "landscaped" streets or "upgrades" as they call them, which has removed many unofficial parking spaces. Wide road shoulders that have been replaced with curbing and bike paths, no longer provide sufficient space for vehicles to utilise. Parking near shopping centres have been removed or were non-existent in the first place. All these issues apply to any heavy vehicle driver who may be required to wait or to sleep.

Driver Work Regulations

Heavy vehicle drivers are a cohort of Australian workers who face a unique set of workplace rules, where drivers have a regulatory requirement to carry a National Work Diary and if they are required to exceed a 100km radius from their home-base, they must complete a work diary to record of work and rest time.

Failure to do this may incur excessive penalties under the Heavy Vehicle National Law (NSW) Act 2012.

The government has proclaimed one set of rules for all drivers. Most times these rules work as intended, but in certain circumstances stated in the above sections, these rules apply do not provide enough flexibility for the drivers.

Whilst law enforcement will say the employer must solve this problem, often it is not possible, and drivers are left to find a solution. Chain of Responsibility (CoR) rules may force a solution to be provided by the employer, but as seen by the amount of CoR prosecutions, employers are rarely held accountable.

Whilst we understand NSW does not make these laws, the state does apply the law.

What other employment category is it a criminal offense to record an incorrect day or date?

What other Australian worker faces fines from \$386 to \$12,600 per offense?

Heavy vehicles drivers dread the prospect of incurring any offense because quite often, even if no fine or conviction is decided by the courts, the legal process becomes the punishment.

Nobody disputes the requirement to rest. Nobody disputes the need for a safe workplace.

Every driver is different, we all have our own way to executing our duties.

What suits one driver, may not suit another, yet we are faced with same work/rest regulations which can challenge drivers to mentally reconcile why we are being told to

Follow the rules because of road safety, when we know these rules sometimes make our work harder.

The mental stress of balancing schedules and driving duties with work diary regulations is a factor for why drivers are leaving the industry or finding work that is less stressful.

Brisbane Truck Show 2021, I had a young man tell me that he loved trucks but did not drive because of the work diary regulations and the associated penalties.

That Management that did not care about the regulations and only about getting the work done.

Social media is rife with negative comments about how the work diary is making the industry unworkable and law enforcement stealing wages by issuing penalties for minor infringements that have no relation to Public Safety.

Since when does an incorrect day or date in a work diary become unsafe?

The term "Public Safety" has become the go to label for Authoritarian overreach.

Roadside Infrastructure

This recognise this topic is being addressed at the Commonwealth level, but NSW along with other States seem intent on pushing heavy vehicles away from townships.

Driver health has long been discussed and yet we see town planning push trucks out of townships by removing unofficial parking spaces.

Access to good fresh food is available in most towns, but there is nowhere to park.

Local Area planning appear ignorant to the fact that truck drivers like to shop at supermarkets too and cook food in their trucks.

Truckstops seem intent on eliminating good healthy food from menu's, with many drivers resorting to cooking their own food or have special dietary needs that are not commonly catered for in Truckstops.

The National Heavy Vehicle Regulator is drafting further exemptions to allow larger high productivity vehicles (HPV's) on our roads, but the NHVR does not have control or influence over State or town planning. Where are these larger vehicles going to park for mandatory rest breaks?

Truck drivers are required to plan their trips and manage fatigue, but where?

You are driving along with the hope there is available parking when you arrive at your desired location.

Eg. A recent trip from Melbourne to Sydney which departed around 7pm, placed me at Pheasants Nest around 4am. Feeling rather fatigued at this hour, I planned to stop for a short Powernap prior to tackling the early AM traffic in Sydney.

I was out of luck with No parking available... I was reluctantly continued my journey.

We know infrastructure is expensive to build but it continues to amaze me that some of the most effective solution can be made rather cheaply.

Utilising old road surfaces when building new roads or when realignments are planned.

Why are we tearing up old infrastructure when it can be repurposed?

Bundjalung Rest Area is one the best rest areas on the Pacific Highway and it was not expensive to create because it was the old highway.

There is a large group of industry experts who can provide information on these inclusions if the engineers and planners desire this input. Maybe if some people placed their ego on hold and actually asked for planning idea from Interested Parties, the road transport industry might receive suitable outcomes.

At present there seems more focus on spending money on landscaped parks instead of practical areas for heavy vehicles.

Clybucca rest Area is a prime example of inaccurate input to planning. It looks great during the day when all the trucks are not there but is a nightmare at 11pm when its full.

Law Enforcement

Nobody disputes society needs law enforcement officers and Police.
The road transport industry must comply with thousands of pages of Acts and Regulations and a percentage of heavy vehicles drivers struggle to read.
These people may be excellent workers but are poor at record keeping and paperwork.
Other drivers suffer mental issues which excludes them from some type of work but make good truck drivers.
Many of us do not have an IQ of 140, but we operate our vehicles safely and do our best to balance the work schedules, but law enforcement is Black or White.

Many of us get incredibly frustrated when laws are made by people who appear to have little knowledge or understanding of what we actually do as truck drivers.
Drivers infringed for simply driving to a Truckstop to use the facilities.
The law is silent if we drive a car or a light truck, but the law comes to life if we drive a heavy vehicle. If fatigue management was the real reason for these Regulations, it would not matter what type of vehicle we drive.
How ridiculous it is that heavy vehicle drivers are denied workplace facilities because of the vehicle they drive?

Then there are the unjust penalties incurred by heavy vehicle drivers.
NSW has handed out thousands of penalties for "driving an unregistered vehicle".
This penalty can be incurred by the SafeTcam system identifying an alleged damaged or unreadable registration plate, which the relevant processing office issues an infringement notice for driving an unregistered vehicle.
We now know there is no such offense under these circumstances (Transport for NSW v Roobottom) where the charges were dismissed in the local court.
However, the process to deal with this matter required the driver to engage a solicitor, which incurred at least \$3000 plus GST in legal fees.
Most legal firms these days would charge amounts like this, if not more, to deal with the process arising from work diary offenses.
Hence my view that the process becomes the punishment.
Interestingly, the SafeTcam system knew where to send the penalty notice, when they claimed that the registration plate was unreadable..

Another ridiculous penalty is based on images collected by the SafeTcam system, being;
"Crossing a continuous edge line in a SafeTcam zone"
Essentially, driving 100mm too far to the left may trigger an offense.
Heavy vehicle drivers cannot avoid SafeTcam detection by placing their vehicles outside the marked lanes. Crossing the marked centre line of the highway carries the same penalty.
Either way, placing a tyre on or over these marked lines may trigger an offense.

ROAD RULES 2014 - REG 150

Driving on or across a continuous white edge line

150 Driving on or across a continuous white edge line

(1) A driver must not drive on or over a continuous white edge line on a [road](#) unless subrule (1A) or (1B) applies to the driver.
: [Maximum penalty](#)--20 [penalty](#) units.

Heavy vehicle drivers are not avoiding any detection devices, they are simply attempting to do their job, yet are faced with huge penalties in the process.

The penalty for this offense is far greater when driving a heavy vehicle. There is some level of "intent" that is applied to the offense, when that is not factual.

There is way to avoid detection of a heavy vehicle. The cameras system covers all angles.

I believe the SafeTcam system has been weaponised by the State to apply any offense that can be evidenced by the images collected, whether lawful or not.

I request for this Inquiry to recommend that the SafeTcam system be reviewed and the relevant office that processes these images be subject to a separate Inquiry into their decisions and actions around the issuing infringement Notices using malicious prosecutions.

Lack of training

Driving a heavy vehicle is far more challenging than many industry participants think.

Many of the older drivers learned by a series of mistakes and not repeating them.

Today we have transport operators who have no trained schemes in place and expect the government to furnish trained drivers for employment opportunities.

I see the industry attract people keen to become truck drivers but are poisoned by bad experiences and poor management. Driving a heavy vehicle has its own set of unique challenges, from laws to load restraint that are difficult to be taught but are learned over time. Driving schools may educate a driver to pass their test, but the true test is out there on the roads. In placed that can injure others or attract heavy penalties to the drivers themselves..

The apparent shortage of willing drivers only exacerbates the problem of skilled work force.

Drivers being accepted for driving positions, only be to handed the keys to an unfamiliar vehicle, a GPS and a list of instructions.

Employers expecting the new Driver to know all there is to know regarding the task at hand.

Maybe the driver has all the tools to execute the freight task correctly, maybe not.

An inexperienced Driver will never know until they need something in the kit.

Eg. Why are we having overheight vehicle impacts around our cities?

Have they been shown how to measure their vehicle?

Have they been given a strict route plan?

Are they familiar with the location and route?

Have they been given sufficient time to execute the task?

All these things have an impact on the safe execution of the task.

Training takes time and money and the road transport industry has been squeezed beyond what should be acceptable. Freight rates must be increased to facilitate the requirement for better safer truck drivers.

We all know when the budget is tight, the easiest things are cut first.

Training programs, Safety management systems, maintenance programs and driver wages.

Conclusion

While each one of these issues is not overwhelming on its own, when you add them all together it places extraordinary pressure on heavy vehicle drivers.

In 2006, The 60 minutes TV program called a meeting of the Industry to discuss the state of the road transport industry. The focus at the time was a Blenners Transport driver working excessive hours and the accidents that have occurred from driver fatigue.

The only thing in that program that has been changed is the enforcement of the mandatory 7 hour rest break.

The use of drugs is rarely seen these days, but nothing else has really changed.

The pressure from the supply chain is still there.

All that law enforcement has done is drive workers away and increase the pressure and anxiety in the work force.

Customers still demand better performance for less money.

If I was asked what would 3 things this inquiry could change first?

I would suggest

we need two 200-300 space parking spaces in Sydney in a Joint Venture with major fuel suppliers and also midway points between Sydney/Melb. and Sydney/Bris.

and

Place a greater focus on the Chain of Responsibility and back off the drivers.