

**Understanding Chain of
Responsibility Legislation**

What is the 'Chain of Responsibility'?

Road safety is not just the responsibility of road transport operators and truck drivers. It is well recognised that the conduct of other links in the road transport chain has a significant influence on road safety. This includes the actions of freight loaders, customers, packers, exporters and receivers. Accordingly, our road safety regulation covers all the links in the transport chain, and ensures that each individual or company is responsible for actions affecting the safety of trucks on our roads.

What Legislation Applies?

Compliance and Enforcement (C&E) legislation was originally drafted by the National Transport Commission (NTC) in 2003, and approved by the Australian Transport Council of Ministers (ATC) in 2004. To date, all States, except WA have C&E Legislation in place and WA is currently processing the Bill in parliament. It should be noted that some states are yet to enact the Compliance and Enforcement laws and thus cannot be enforced at this time.

Objectives of the Legislation

The new Compliance and Enforcement legislation has 5 Key Objectives:

- Improve road safety;
- Reduce damage to infrastructure;
- Promote a 'level playing field' for industry;
- Improve deterrence and enforcement; and
- Improve business efficiency and compliance.¹

What Does the Legislation Cover?

The legislation relies on a simple premise: if you or your company knew of, or should reasonably have known of a breach occurring (for example speeding, load restraint, mass and dimension limits and driving hours violations), you have a legal liability to ensure it does not happen. Importantly, it is not just companies ("corporate liability") that can be prosecuted under the new legislation, but also individuals ("managerial liability") within the company with the power to influence events.

¹ http://www.transport.wa.gov.au/mediaFiles/freight_goods1.pdf

Penalties for Breaches

Penalties have been significantly expanded, and now include the possibility of:

- Fine Multipliers for corporations;
- Improvement Notices (similar to those issued under OH&S laws);
- A Cancellation or Disqualification Order resulting in suspension or cancellation of licence or vehicle registration;
- An Intervention Order appointing a Manager or Auditor for the business; and
- A Prohibition Order banning an individual from any involvement in the road transport industry.

Legal Defence

Companies and Individuals have the ability to protect themselves from fines and other penalties by using the “Reasonable Steps Defence” included in the legislation. This will change from situation to situation. However, they can also limit their liability by complying with a registered industry code of practice – the law will assume they have taken reasonable steps in this case.

You will not be liable for an offence within the “Chain of Responsibility” if you can demonstrate that:

- You did not know of a breach; *and*
- Could not have been reasonably expected to know of the breach; *and either*
 - a) You had taken all reasonable steps to prevent the breach, *or*
 - b) There was nothing that you could have reasonably been expected to do to prevent the breach.

Further Information

For more detailed information, contact your local road transport authority or visit the following links:

- National: “Compliance and Enforcement Laws: What you need to know” Transport SA Brochure (Feb 06) http://www.transport.sa.gov.au/pdfs/legislation/TSA_CEA4.pdf
- National: NTC - Protecting yourself under the Chain of Responsibility <http://ntc.gov.au/filemedia/bulletins/PROTYourselfunderCORJuly2006.pdf>
- QLD: TMR <http://www.tmr.qld.gov.au/Business-and-industry/Heavy-vehicles/Compliance-and-enforcement/National-Compliance-and-Enforcement-Bill.aspx>
- SA: DTEI <http://www.transport.sa.gov.au/publications/legislation.asp>
- VIC: Vic Roads <http://www.vicroads.vic.gov.au/Home/Moreinfoandservices/HeavyVehicles/ComplianceAndAccreditation/ChainOfResponsibility.htm>
- WA: Department of Transport <http://www.transport.wa.gov.au/imate/20040.asp>
- TAS: TFLC http://www.tasfreightlogistics.com.au/hot_contents/Chain_of_Responsibility_Legislation.pdf
- NSW: RTA <http://www.rta.nsw.gov.au/heavyvehicles/complianceenforcement/cor/index.html>