

ONLINE ARTICLE

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Interstate trucking operators will soon gain a reprieve from inconsistent fatigue management regulations after transport ministers agreed to implement a uniform model.

After more than a year of campaigning, the trucking industry has finally convinced Victoria and South Australia to adopt the same time counting system used in Queensland and NSW.

The Australian Transport Council (ATC) voted in favour of the National Transport Commission's proposal, which came on the back of sustained pressure for reform from the trucking industry.

"The NTC thanks governments and industry for working so constructively and proactively together with us on this issue," NTC CEO Nick Dimopoulos says.

Under the current regime, Queensland and NSW count driving time from a major rest break to determine if a driver has worked the correct amount of hours in a 24-hour period.

Victorian and South Australian enforcement officers can count time from any rest break, potentially exposing drivers to multiple fatigue breaches.

The practice has plagued interstate drivers, who might be compliant in NSW and Queensland but guilty of breaching fatigue regulations in Victoria and South Australia.

INDUSTRY TO PUSH FOR IMMEDIATE ACTION

Despite the decision, there is no word when the changes will be implemented.

A spokesperson for Victorian Transport Minister Terry Mulder says the amendment requires a simple change to the state's regulations.

"VicRoads is now working with Victoria Police, industry and colleagues in South Australia to determine an appropriate timeframe and arrangements for the preparation and implementation of the revised regulations."

ATN is yet to receive a response from South Australian Transport Minister Patrick Conlon.

NTC legal policy manager Keith Ryan, who is also involved in the National Heavy Vehicle Regulator, says ministers will need to find a slot in their legislative agendas for an amendment to fatigue management regulations.

“They would probably take some time. They would be working through that now,” he says.

“There’s still a process for getting changes to regulations through. They have to slot it into busy work programs so we can’t tell yet when they are likely to be able to do that.”

Australian Livestock Transporters Association Executive Director Philip Halton, who led the industry’s push for change, says the group will now turn its attention to getting the new rules introduced as soon as possible.

The NSW Transport Workers Union (TWU) Secretary, Wayne Forno, says he also wants governments to act quickly in getting the amendment on the legislative agenda.

“It’s long overdue,” he says of the change.

In a statement, Dimopoulos told the industry the changes will only take effect once the relevant legislation is made.

Ryan says interim measures are not being introduced to permit Victoria and South Australia to recognise the the NSW and Queensland system.

It means truck drivers will need to continue working with multiple fatigue management obligations when crossing the border.

“I’m not aware of any discussions about interim solutions and realistically the law as it stands would still have to be enforced until it was changed,” he says.

Ryan says government enforcement officers and police will be trained on how to apply the new counting scheme once respective governments determine when the changes will be introduced.

MORE CHANGES ON THE HORIZON

The move to end inconsistent regulations will not end the reform process, however. Ryan says the NTC is now working with governments to resolve concerns about risks from adopting the Queensland and NSW model.

While saying the Queensland and NSW system is easier to understand, Ryan says it has the potential to allow drivers restricted to 12-hour workdays to work longer than their allotted time within a 24-hour period.

“That’s a glitch that caused a concern. For one day at least you can actually, if you time yourself properly, get away with up to 15.5 hours work time,” Ryan says.

“It is not a common occurrence. You would have to use some unusual driving times to make it happen, but it is possible.”

He says the NTC has just started discussions with governments on developing solutions to alleviate any concerns, but hopes any changes will be made before national heavy vehicle regulations take effect in 2013.

“There is still acknowledgement that there’s an issue that has to be resolved. We can’t just leave things as they are,” he says.

ALTA Executive Director Philip Halton has questioned the focus on the issue, labelling it a “mathematical anomaly” rather than a genuine concern.

He says drivers would need to start work late on their first day, time their rest breaks at set intervals, begin work the following day as early as legally possible and again time their rest breaks to try and gain more work hours within that 24-hour period.

Regardless, the driver will still need to take a continuous seven hour break between shifts.

“It is a mathematical phenomenon rather than an issue to do with fatigue and risk,” Halton says.

He says the industry must be involved in roundtable discussions with government and fatigue experts on any proposed changes.

BIPARTISANSHIP PAYS OFF

Following the announcement that uniform time counting would be adopted, the ALTA thanked the Victorian and South Australian governments for acting on the industry’s concerns.

The ALTA also praised the efforts of trucking associations and the TWU, which was instrumental in getting the ball rolling when it successfully defended two drivers in South Australia caught out by inconsistent regulations.

“The Transport Workers Union actually fought these laws in the courts and were successful in defeating charges against drivers. They secured a written commitment from a state solicitor general that the laws would be reviewed,” ALTA President David Smith says.

“The Queensland Trucking Association also fought these laws in court, providing a clear signal to governments the employers too were committed to these laws being changed.”

Smith personally praised TWU National Secretary Tony Sheldon and his NSW counterpart Wayne Forno, as well as QTA President Tim Squires and the group's CEO Peter Garske.

Forno has welcomed the bipartisanship on the issue and singled out the ALTA for recognition for playing a key role in securing reform.

“This is a victory for all heavy vehicle drivers who cross state borders in the course of their work, because it means driving hours will be calculated the same way for heavy vehicle drivers across all Australian states,” he says.

“This will end years of frustration and confusion for truck drivers who in some cases have been wrongly charged with breaching fatigue laws when crossing state borders into states where driving hours are counted differently.”

The nation's largest transport and logistics carrier, Toll, also used its influence, with Smith saying it “helped us enormously”.

A LONG-RUNNING CAMPAIGN

The QTA highlighted the problem in May last year when it defended a Queensland driver charged with seven offences for violating his driving hour limits in Victoria.

The QTA sought financial backing from the Australian Trucking Association (ATA), but the peak body claimed it did not have the funds to help.

The NSW branch of the TWU successfully defended long distance drivers John Small and Wayne Roberson in a legal stoush that dragged on for 15 months.

Following the case, the South Australian crown solicitor told the union the government would review the counting rules.

The ATC's decision comes despite claims from the South Australian Road Transport Association (SARTA) that there would be no changes to fatigue counting times.

Earlier this year, Shearer claimed the Department of Transport, Energy and Infrastructure was not proposing any review and that the TWU had created the wrong impression when it said a change was on the cards.

“The law is just like it was yesterday and the day before and it will continue to be that way for some time, probably until there's a single national regulator,” Shearer said in March this year.

The National Heavy Vehicle Regulator is due to be introduced in mid 2012.