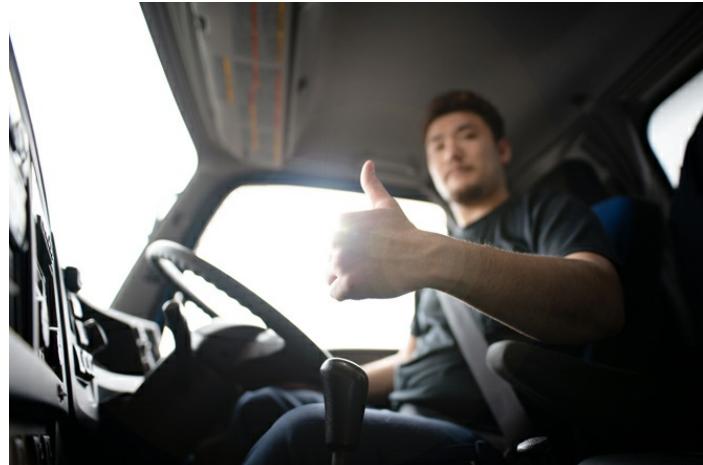


Regulatory Advice – Seatbelt use compliance in the heavy vehicle industry

Note: This information is intended as general guidance only and does not constitute legal advice. We encourage you to obtain independent advice about your legal obligations. If you have any feedback on the information provided, please contact us at info@nhvr.gov.au

This regulatory advice provides guidance on seatbelt use in the heavy vehicle transport industry and obligations under the Heavy Vehicle National Law (HVNL).



Who is this advice for?

This regulatory advice is intended for:

- parties in the [Chain of Responsibility \(CoR\)](#) and their executives.
- heavy vehicle drivers.

What are my legal obligations?

Under the [HVNL section 26C](#), each party in the CoR and their executives has a **primary duty** to - **ensure the safety of transport activities, so far as is reasonably practicable**.

This is an obligation to eliminate or minimise public risks, and a prohibition against directly or indirectly causing or encouraging a driver or another person, including a party in the CoR, to contravene the HVNL. CoR parties and their executives, should be aware that they remain a CoR party even when their transport activities are contracted, or subcontracted, to another party.

Under the [HVNL section 26D](#), executives of a businesses that are a party in the CoR have a distinct **duty** to - **exercise due diligence** to ensure the business complies with its **primary duty**.

Note: [Transport activities](#) ↓ includes all activities and business processes associated with the use of a heavy vehicle on a road.

What are the legal consequences?

If your business is a party in the CoR and it fails to eliminate or minimise public risks so far as reasonably practicable, then it may be in breach of its primary duty. If a breach is proven, the law provides sanctions against a company and its executives, ranging from education and formal warnings for minor offences to improvement notices and prosecution for more serious offences.

Why is this an issue for my business?

Seatbelt use for heavy vehicle drivers has been a legal requirement in Australian states and territories for approximately 20 years. When heavy vehicle drivers who are not wearing a seatbelt are involved in a crash, they will:

- very likely suffer much worse injuries than if they were wearing a seatbelt

- increase the likelihood of them suffering fatal injuries
- have a much greater chance of being ejected from the seat, which can result in loss of control of the vehicle
- increase the chances of them being ejected from the vehicle itself.

Despite these factors, rates of seatbelt use amongst heavy vehicle drivers remain lower than for light vehicle road users.

CoR parties should implement procedures to ensure seatbelt use by heavy vehicle drivers. This will contribute to driver safety and your business's compliance with the HVNL.

What are the hazards and risks?

Hazards associated with seatbelt use in the heavy vehicle transport industry may include:

- driver attitude towards wearing seatbelts
- not wearing a seatbelt
- faulty/missing seatbelts
- uncomfortable/outdated seatbelts
- cabin or floor mounted seatbelts that restrict driver comfort and functionality
- drivers losing control of vehicles during a crash
- drivers being ejected from the seat or vehicle.

The potential safety risks resulting from these hazards may include:

- serious or fatal to drivers and other road users
- increased risk of trauma to first responders in the event of a crash.

Why is it important to manage these hazards and risks?

By appropriately managing these safety risks and hazards, CoR parties can:

- prevent serious injury and fatalities to heavy vehicle drivers and other road users
- enable heavy vehicle drivers to maintain control of the vehicle during a crash
- assist heavy vehicle drivers to comply with relevant road transport legislation
- avoid regulatory and other legal sanctions
- create a safety culture within their business where heavy vehicle drivers are encouraged to make informed decisions about safety
- enhance a business's reputation, and position it as a business or employer of choice.

How do I manage these hazards and risks?

One of the most effective ways for CoR parties in the heavy vehicle supply chain to manage the safety of their transport activities is to adopt and actively use a Safety Management System (SMS) as part of their everyday business.

An SMS is a systematic approach to managing safety which, once implemented, will help CoR parties identify how to ensure the safety of their transport activities, so far as is *reasonably practicable*.

As part of the risk management process, CoR parties should:

- identify hazards associated with their transport activities
- assess the risks associated with those hazards
- identify and implement control measures to eliminate or minimise those risks
- review the effectiveness of control measures, either periodically or after any incident, to ensure they remain effective.

CoR Parties, such as operators and employers, may consider specific control measures such as:

- implementing policies and procedures that promote seatbelt use

- driver consultation and education on the benefits of seatbelt use and the consequences of non-compliance
- regular driver consultation about wearing seatbelts and the safety benefits
- ensuring that modern and properly fitted seatbelts are installed in all vehicles
- ensuring that seatbelts are regularly checked and maintained
- providing counselling to anyone found not wearing a seatbelt
- educating drivers on identifying and managing compliant and non-compliant seatbelts
- encouraging seatbelt use through reminders – for example, a poster in the meal room or a sticker in the cabin with a *buckle up* message
- ensuring that all vehicles have seatbelt warning systems or a seatbelt ignition interlock system, and that they remain operational
- observational monitoring
- retrofitting seatbelt devices to ensure better driver comfort in older heavy vehicles
- provide drivers with a break glass and seatbelt cutter in case of an emergency where the driver cannot remove the seatbelt.

Drivers can implement control measures such as:

- wearing a seatbelt whenever operating a heavy vehicle
- educating themselves on seatbelt use
- familiarising themselves with, and following, workplace policies and procedures regarding seatbelt use
- requesting devices to improve the comfort of seatbelts, if required
- reporting any faulty seatbelts to their supervisor
- not interfering with seatbelts or any other safety device
- implementing reminders for themselves to wear a seatbelt – for example, putting a sticker in the cabin with a *buckle up* message.

Resources

Master Code

Guidance and direction on how to effectively introduce a risk management process within your business can be found in Section 3 of the [Master Code](#).

Safety Management System (SMS)

Management of safety risks can be more effective with the adoption, development and active use of an SMS.

An SMS is a systematic approach to managing safety – including the necessary organisational structures, accountabilities, policies and procedures – which is integrated throughout the business wherever possible.

An SMS can help you:

- provide a safer work environment for your employees, customers, contractors and the public
- manage your safety duties under the HVNL
- demonstrate your ability to manage risk and ensure safety
- become an employer of choice and preferred supplier to customers
- make informed decisions and increase efficiency
- allocate resources to the most critical areas that have an impact on safety
- reduce costs associated with incidents and accidents.

Regardless of the size of your business, an effective SMS can help you have an appropriate safety focus and comply with your duty to ensure the safety of your transport activities, so far as is *reasonably*

practicable.

Targeted guidance, tools and information about the development and implementation of an SMS are available in the [9 Step SMS Roadmap](#).

Understand the HVNL and your primary duty

Under the HVNL section 26C, each party in the CoR has a primary duty to ensure the safety of its transport activities, so far as is reasonably practicable. This duty includes an obligation to eliminate or minimise public risks and a prohibition against directly or indirectly causing or encouraging a driver or another person, including a party in the CoR, to contravene the HVNL.

Transport activities

Transport activities include all the activities associated with the use of a heavy vehicle on a road. These activities include safety systems, business processes such as contract negotiation, communication and decision-making, as well as the activities normally associated with the transport and logistics sector, such as training, scheduling, route planning, managing premises, selecting and maintaining vehicles, packing, and loading.

So far as is reasonably practicable

So far as is *reasonably practicable* means an action that can reasonably be done in relation to the duty, considering relevant matters such as:

- the likelihood of a safety risk or damage to road infrastructure
- the harm that could result from the risk or damage
- what the person knows, or ought reasonably to know, about the risk or damage
- what the person knows, or ought reasonably to know, about the ways of removing or minimising the risk, or preventing or minimising the damage
- the availability and suitability of those ways
- the cost associated with the available ways, including whether the cost is grossly disproportionate to the likelihood of the risk or damage.

More information can be found in [Regulatory Advice - Reasonably practicable](#).

Executives of businesses that are parties in the CoR have a distinct duty under the HVNL section 26D to exercise due diligence to ensure the business complies with its duty to ensure the safety of its transport activities.

Due diligence

Exercising due diligence includes taking reasonable steps to:

- acquire and maintain knowledge about conducting transport activities safely
- understand the nature of the business's transport activities, including the hazards and risks associated with those activities
- ensure the business has, and uses, appropriate resources to eliminate or minimise the hazards and risks associated with its transport activities
- ensure the business has, and uses, processes to eliminate or minimise the hazards and risks associated with its transport activities, and that information about hazards, risks and incidents is received, considered and responded to in a timely way.

Examples of executive due diligence activities include:

- collecting information about incident rates to see if the safety management plan is working
- participating in industry-led forums and safety seminars
- ensuring work procedures are being followed and result in improvements in safety
- ensuring safety incidents are responded to and investigated
- implementing learnings from the investigation of safety incidents.

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