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FOR THE STABILITY OF AUSTRALIA'S INDEPENDENT TRUCKING CONTRACTORS

National Independent Trucking Association Inc

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Committee Secretary
Senate Standing Committees on Rural and Regional Affairs and Transport
PO Box 6100
Parliament House
Canberra ACT 2600

Aspects of road safety in Australia

Submission

- 1/ This association thanks the senate for the opportunity to have its input into this very important and complex issue .
- 2/ Transport drivers in Australia are in the most dangerous vocation in the country, and this has been supported by many enquires into the industry.
- 3 /In 2014, 200 drivers (abs) were killed in truck accidents ,that's work place accidents, and non action to prevent this is condonance .
- 4 /In excess of 8500 Australians have been killed in truck accidents since 1981 which amounts to ,collateral genocide, those deaths were mainly, just for the profit of big business in this country .
- 5/Numerous inquiries into this industry have proven that cost recovery remuneration can prevent transport deaths .
There are 585.000 registered trucks in Australia = 100.000 articulated trucks of which 47.000 are multi combination vehicles and 70% of all trucks are operated by small business , independent contractors .
- 6/ The one common denominator is, every truck needs a driver ,and evidence shows that long distance drivers wages does compensate them for the work they do, and is a major component of road accidents by compelling them to work longer hours, and one of the major risks, in daily work time , is the current "advanced fatigue management" laws designed for the greed of prime contractors compelling their drivers to drive 16

plus hours per day, in our opinion, this law was never properly debated and is another road safety danger . . .

7/ It has been well proven that the lack of money to maintain vehicles is one of the main causes of truck accidents causing death and injury on highways of Australia and we have shown that this is caused by the greed of prime contractors in this country not to pay subcontractors cost recovery to operate their vehicles.

8/ The saying, “asset rich money poor” is the adage used ,its no good being owed thousands of dollars ,sometimes for up to 120 days ,by prime contractors when maintenance has to be done and repairers want money before releasing your vehicle . the 1st order of the RSRT covered that point ,however transport companies are refusing to adhere to the Act and pay within the time frame of 30 days as demanded by the order .

9/ Coupled to that is the requirement of all drivers to drive longer hours than they want, in order to earn the money required ,to sustain their business, or put food on the table and the pressure on every employee driver is the same, this causes mental and physical duress and accidents.

10/ **The Road Safety Remuneration Act 2012 (RSRA)** was assented in 2012 and the **RSRT**” (the tribunal) was formed to make legislated laws under the” Act “,

11/ It is our opinion, based on intrinsic knowledge of the industry ,that the only way to reduce road deaths in transport , is to support the RSRA and tribunal in its work to ensure genuine cost recovery in the transport industry for independent contractors

12/ This is not a claim from Australia’s 50.000 independent contractors for business or government hand outs ,this is about our rights at law ,and the rules of law that support our claim, and by the tribunal making and enforcing in its orders that the rule of law is supported by legislation and ensuring justice has and is being done

13/ Cost recovery for independent subcontractors is the only weapon that will prevent the need ;

The need to drive while fatigued ,speed ,overload ,drive un roadworthy vehicles , compel employee drivers not to contravene any laws to stay in business or keep their job.

14/ The next orders bought down by this tribunal could save hundreds of lives per year The findings of the government review into the tribunal has yet be to be revealed

15/ Our findings, and in our submissions to the tribunal, show support for the facts that independent contractors are under paid cost recovery, of 13 billion dollars per yr ,long distance transport drivers underpaid 1.9 billion per yr and collateral to that is the costs to the nation of bankruptcies , insolvencies, failed marriages ,suicides ,and road fatalities .

16/ This money in the pockets of the business where it is entitled would mean that money is always available for the maintenance of all heavy vehicles ,being able to pay drivers their rightful remuneration, and this means safer roads .

Can the nation afford for Australia’s independent contractors to be paid their legal entitlements of cost recovery ?

17/ Road trauma costs Australia 27 billion dollars per yr and growing ,and cost recovery for Australia's 50.000 independent subcontractors will prevent a major part of that ,possibly as much as 75% of truck accidents that contribute to the nations trauma costs.

18/ Cost recovery for independent contractors will rejuvenate the manufacturing industry at no cost to government ,this means more jobs in manufacturing ,more jobs in transport ,a win win for government with more taxes ,less unemployment etc .

19/ 50.000 small business that currently make little or no profit, would make reasonable profit without the need to operate in an unsafe manner , they become a taxable business, another win for government .

20/ Our evidence and enquiries shows that the major players in the industry are getting the freight rates to cover the major short fall paid to subcontractors ,in some areas they may need adjustment, but this would be offset to the Australian consumer by savings in other costs

21/ What the RSRA and this tribunal do, is become the arbitrator, of all future contracts between the prime contractor and the subcontractor „ensuring that the rules of law ,and the agreed customs of the transport industry , are followed in the terms of contract ,by legislation , because at this time, in the transport industry ,the rule of law has no place in negotiations between prime contractors and subcontractors

22/ The laws in question ,are due process , contract law , denial of rights under the rule of law of both statute and common law, unconscionable conduct ,discrimination , denial of equal opportunity, abuse of power , denial of a right to be allowed basic precedent of business practice ,applicable to any business ,any where in the world.

23/ The rule of law binds every person ,every company and the government to conduct themselves so as not to breach all laws, both common law, and black letter law (statute law) ,and we need to ensure that we don't condone again, the wrong that took place for 33 years between 1973&2006 when prime contractors of this industry put themselves above the law and traded in breach of statute in dealings with independent contactors and when regulatory agencies refused to act on that breach when advised.

24/ We know that the senate will be asked to repeal the RSRT act and dismantle the tribunal by the this government . we know that there have been many representations to senators by the business industries to support that request .

25/ We are led to believe, that recently a document ,we have obtained a copy of ,was presented to the senate members to support such a request from a transport association and others business groups . (a copy is available if required)

26/ We now reply to that document circulated to the senate by Nat Road , IA group and the ALC dated 3/12/14

27/ Contrary to the claim by Nat Roads in their document saying there are ample laws covering transport operators ,there is no legislation any where in this country at this time to ensure that independent contractors are protected from the greed of major companies, and to ensure that independent contractors are paid cost recovery in the rates paid to them by transport companies .and it is this practice that Nat Road want

to continue and by colluding with two of the biggest lobby groups in Australia they are attempting to get the government to support their illegal practices . .

28/ Their document states that the parties don't like the law ,one of the reasons is that its to hard to comply with (not that it cant be) and they want it repealed

29/ The document shows that tpt industry prime contractors ,the supply chain participants, know the law exists ,understand the law ,but refuse to adhere to it ,Nat Road admits that businesses that are their members, knowingly ,are trading ,operating in breach of statute and don't intend to change , that they as a group, support this action by these companies ,which is by their silence condonance and assisting in perverting the course of justice .

30/This document shows that big business in this country puts profit before road safety

31/ The halls of the parliament are part of our highest court ,(the parliament) where laws are made, and for people to admit in writing they don't the obey the statute laws handed down by the parliament and are trading in breach of statute is contempt to the members of the senate and the government .

32/ In my opinion ,seeking relief from the senate while admitting the breaches of statute being done by the companies as documented ,and their silence, is a wrong in law, as the parties ,when admitting their knowledge and condonation of them , come to the parliament "with polluted hands" (a legal maxum) and as such for the senate to give them the relief they seek ,would deny a rule of law upheld in every legal jurisdiction in the world .

We say the nation can not afford not to support the tribunal in its mandate to ensue this is done .

33/ We are seeking the support of the senate not to repeal the **Road Safety Remuneration Act 2012** and the dismantle of the tribunal (**RSRT**), and the withdrawal of any orders made by the tribunal ,when requested to do so by the government .

34 / In the interests of Road Safety for all Australians ,transport has to be a safer business, and it is the responsibility for all who use the transport industry to contribute.

35/ We need the government to give the Tribunal and the Fair Work Ombudsman more power to enforce the RSRA and the orders of the Tribunal or ,and, join ASIC to the list of regulatory bodies able to prosecute for offences under the Act ,because we know ,this will make Australia's roads safer, and, the current laws on enforcement of the Act are not strong enough .

Enforcement

36/ For 30 yrs independent contractors have been suggesting licencing of the industry as a road safety enforcement tool.

37/ In 1986 the government assented the **Interstate Transport Act 1986** ,except for, **PART 5** of the Act , which set out licencing of the industry .

38 / **Part 5**, only needs the assent by the current transport minister to be made into law.

39./ The license would effectively be a license to carry out the business of transport .

40/ It requires a trigger to make it workable and we now have the department to enforce the trigger, either through the RSRT or NHVR ,and an annual amount each year for the licence, to be agreed to by government and industry.

41/ It would be applicable to every person or company who carries or authorizes the carriage of any product what so ever on any road or highway in Australia, with no exceptions ,it could also be a licence for entry into the industry .

42/ It is not the cost of the licence that makes the enforcement work , but if the licence to operate is suspended, or cancelled, you are out of business, that will compel industry participants to adhere to laws that effect road safety.

43/ Currently governments both state and federal are using the big stick to enforce law effecting the industry ,and this has meant that laws being used are discriminatory ,deny basic rights of law ,and don't have industry acceptance for voluntary compliance and are not being adhered to .

44/ The most effective laws are laws that are accepted and have voluntary compliance by industry and this saves governments the cost of enforcement.

45/ Enactment of **part 5** puts every industry participant on notice ,if we have true cost recovery for independent contractors then there becomes no need for any company or driver not to voluntarily comply with all road laws, and laws that are made to ensure the financial viability of the industry .

Driver training

46/ Driver training is another area where we are falling down on the job, training for long distance transport is essential and there should be a way to apprentice drivers into the job .

The current driving schools do not teach or instruct, future long distance drivers, in things that matter, mainly ,in my opinion, because they cant teach what they don't know.

47/ Road safety is also compromised by 457 drivers who allowed entry to this country by misguided people .

48/ Documents should be available on how many of these drivers have been involved road accidents since they have been allowed to drive in Australia ,1 accident in Victoria caused the death of 3 drivers including the 457 driver .

49/ Australia has the biggest truck combinations in the world ,yet we let these 457 drivers who have not had any experience in operating these combinations any where else ,drive on Australian roads,(I have visa I can drive they say) ,and we consent for them to come in and just drive a bdouble or road train without any way of telling if they have the mentality or ability, training to drive them, further putting lives at risk .

50/ Roadside and industry experience tells us they don't ,and they cause many accidents .

Do laws of other country's work in Australia ?

51/ ABS braking for heavy vehicles might be ideal on Europe's roads ,but on Australian roads they are dangerous ,and from a drivers point of view they are ineffective and dangerous .

An experienced long distance driver knows how to compensate for the various road conditions we face in this country, and goes to proper training, but we are made to comply on laws which we have had no input in which we believe compromises road safety .

52/ To many laws are made without input from the people who are directly involved, the drivers ,and at the end of the day they are ones who's opinion matters most, not engineers and bureaucrats ,despite their best intentions.

Do we need to educate directors ,owners ,managers ,drivers, better ?

53/ Truck owners ,managers , drivers need to know approximately 4300 pages of law to operate long distance transport in Australia, but I think you would find that if they know 10% of that law ,they would lucky.

Again we thank the senate for the opportunity to put our points forward and hope these points assist the senate into understanding the issues of road safety from the industry's point of view .

At the end of the day it depends if the government and big business, are serious, about road safety, and how far they will go in implementing laws of effect ,and if big business will accept those laws .

Yours faithfully

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NITA