

Heavy vehicle speed compliance reforms - frequently asked questions

Q. What is heavy vehicle speed compliance?

A. Heavy vehicle speed compliance is the third component of the national Compliance and Enforcement road safety reform and follows on from mass, dimension and load restraint and fatigue management chain of responsibility reforms that Queensland implemented in April and September 2008.

Heavy vehicle speed compliance also focuses on chain of responsibility and places obligation on certain parties within the transport chain to ensure their actions or inactions will not cause the driver of a heavy vehicle to exceed any speed limit (for example, their scheduling, loading or consigning activities).

Queensland is adopting national model legislation on heavy vehicle speeding compliance as developed by the National Transport Commission and approved by the Australian Transport Council in December 2007.

Q. Who does heavy vehicle speed compliance apply to?

A. Heavy vehicle speed compliance legislation applies to all heavy vehicles with a gross vehicle mass that exceeds 4.5 tonne (including buses).

Q. When will the new legislation take effect?

A. Heavy vehicle speed compliance is being implemented in Queensland from 1 July 2010 via amendments to the Transport Operations (Road Use Management) Act 1995.

Q. Who are the parties within the chain of responsibility affected by the new legislation?

A. The changes to the new legislation apply to employers, operators, prime contractors, schedulers, loading managers and certain consignors and consignees. These chain of responsibility parties have been identified as having the most influence over creating conditions that cause a driver to speed. They are required to take all reasonable steps to ensure their actions do not encourage, support or reward a driver to speed. For example, taking steps to identify what aspects of their activities might cause a driver to speed and to identify what steps can be taken to avoid or minimise the risk.

Q. Why are these reforms being introduced?

A. The heavy vehicle speed compliance reform legislation is based on national model legislation and will further improve road safety with an aim of reducing crashes involving heavy vehicles and contribute to nationally consistent road safety regulations.

Q. What are the impacts on drivers?

A. There are no changes to existing speed limits, so drivers maintain their responsibility to drive within nominated speed limits. Failure to do so will result in action being taken via the issuing of a penalty infringement notice and the accumulation of driver licence demerit points, as per the current process.

Q. What are the penalties associated with the new laws?

A. Penalties range from a \$300 infringement notice to a maximum court imposed penalty of \$8,000. These penalties apply to chain of responsibility parties (not the driver) and can be issued by an authorised officer.

Q. What information is available to stakeholders and the heavy vehicle industry?

A. The Department of Transport and Main Roads has developed a series of fact sheets that are available to industry stakeholders via post on request. Industry stakeholders have the opportunity to attend information sessions in selected locations and times across Queensland during late May and early June 2010.

Q. Have the other states implemented this reform?

A. The heavy vehicle speed compliance reforms have already been implemented in New South Wales, South Australia and Victoria.

Q. I am a heavy vehicle driver – what do I need to do?

A. Drivers must ensure they continue to drive within the speed limits. Existing speed limits still apply and driver licence demerit points continue to apply for breaches of speed limits.

Drivers should also advise their employer of any delays, issues, safety risks and/or scheduling difficulties.

Q. I am an owner/driver, what do I have to do?

A. You must ensure that you continue to drive within the speed limits. Existing speed limits still apply and driver licence demerit points continue to apply for breaches of speed limits.

You should also review your existing business practices, trip plans and schedules to ensure you can meet delivery deadlines and commitments without exceeding speed limits. Your existing contracts and agreements should be reviewed to ensure they allow sufficient delivery times and that they do not encourage, support or reward speeding.

Q. I employ drivers, what do I have to do?

A. You have a legal requirement to take all reasonable steps to ensure your actions or inactions do not encourage, support or influence drivers to speed.

You should review your existing business practices, trip plans and schedules to ensure your drivers can meet delivery deadlines and commitments without exceeding speed limits. Your existing contracts and agreements should be reviewed to ensure they allow for sufficient delivery times and that they do not encourage, support or reward speeding.

You also have an obligation to train and inform drivers, loading managers and schedulers of their responsibilities and implement appropriate speed management policies and practices.

Q. What happens if one of my drivers is caught speeding. How do I substantiate that I have taken all reasonable steps?

A. One of the most effective ways you can show that you have taken all reasonable steps is to carry out a risk assessment that includes:

- identifying and assessing the risks of anything that impacts on drivers
- taking steps to eliminate, manage or prevent the risk
- developing contingency plans and introducing new controls for any identified risks and removing any pressures put on drivers to breach a speed limit
- maintaining risk assessment records
- regularly monitoring and reviewing risk management processes.

Q. Does this mean I have to employ someone to look after this change?

A. No, once you have assessed your existing business practices, it should not be too difficult to make changes to your business operations and review them periodically.

Q. What do I do if my driver won't agree to comply with any changes I make?

A. You should advise the driver of your legal liability to take all reasonable steps and the obligation of other parties within the chain of responsibility to prevent heavy vehicle speeding.

You should also advise drivers of their responsibilities and refer to any speeding policies you develop and implement as part of your business practices risk assessment.

Q. What do I do if someone threatens to withdraw a contract?

A. You should advise them of your legal responsibilities and their legal obligations to take all reasonable steps to prevent heavy vehicle speeding.

Seeking legal advice is highly recommended.

Q. How does heavy vehicle speed compliance apply to schedulers, loading managers and certain consignors and consignees?

A. You have a legal requirement to take all reasonable steps to ensure your actions or inactions do not encourage, support or influence drivers to speed (e.g. a delay in loading/unloading time schedules).

Reasonable steps defence

Parties charged with an offence under this legislation have the benefit of the reasonable steps defence. This means they must be able to establish that they took all reasonable steps to prevent a heavy vehicle speeding offence from occurring.

One of the most effective ways you can show you've taken all reasonable steps is to carry out a risk assessment that includes the following actions:

- identifying and assessing the risks of anything that impacts on drivers
- taking steps to eliminate, manage or prevent the risk
- developing contingency plans and introducing new controls for any identified risks and removing any pressures put on drivers to breach a speed limit
- maintaining risk assessment records
- regularly monitoring and reviewing risk management processes.

Examples of reasonable steps that can be taken

For employers, operators and prime contractors:

- ensure all vehicles equipped with speed limiters comply with vehicle standards
- ensure regular maintenance occurs on vehicle components such as speedometers, engine management systems and speed limiters
- review customer contracts and agreements and inform customers of the effect unreasonable scheduling or deadlines can have on a driver's speed
- do not enter into contracts that could result in your driver(s) speeding and build speed compliance into regular contracts
- ensure schedules enable driver compliance by consulting with drivers about schedules and confirm they are able to meet them

- provide training to drivers, schedulers and loading managers
- develop speed policies and procedures for drivers detected of speeding (e.g. provide drivers with counselling)
- monitor trip times and vehicle's speed.

Schedulers have a duty to take all reasonable steps to ensure that schedules for drivers will not cause or contribute to causing a driver to speed. A scheduler must:

- take into account all lawful speed limits, distances of travel and required rest breaks
- take into account any traffic delays such as road works and detours
- ensure schedules are safe and achievable for drivers while allowing them to comply with speed limits
- consult with drivers when developing schedules and ensure they report any scheduling problems
- have a contingency plan for all schedules (i.e. allow for unexpected delays such as flat tyres and load checking).

Loading managers have a duty to take all reasonable steps to ensure that the arrangements for loading and unloading a driver's vehicle will not cause, or contribute to causing the driver to speed. A loading manager must:

- ensure loading and unloading arrangements facilitate compliance (e.g. consider opening times, queuing systems and safety)
- review loading and unloading times and delays at loading/unloading facilities
- identify and remedy potential loading/unloading bottlenecks in consultation with drivers and other parties in the chain of responsibility
- ensure allocated timeslots for loading/unloading are reasonable and reliable.

Consignors and consignees have a duty to take all reasonable steps to ensure that terms of consignment will not result in, or encourage a driver to speed and that it will not result in, or encourage an employer, prime contractor or operator to cause or encourage the driver to speed. A consignor or consignee must:

- ensure schedules and deadlines enable driver compliance
- ensure loading and unloading arrangements facilitate compliance
- ensure contractual arrangements include speed compliance and monitoring
- have contingency plans for schedules and deadlines.

For more information, please contact:

The Department of Transport and Main Roads on (07) 3253 4274