



Australian Road Transport  
Industrial Organisation

# INDUSTRIAL RELATIONS NEWS



## SAFE RATES



## ROAD SAFETY REMUNERATION BILL 2011

The QTA Ltd Transporter News Brief (*Issue 40*) dated 21<sup>st</sup> November 2011 carried the breaking news that the Federal Government, Minister for Infrastructure and Transport, Hon Anthony Albanese MP would table in the House of Representatives a Bill to provide for Safe Rates.

The Bill tabled proposes an Act to make provision in relation to remunerated-related matters to improve safety in the road transport industry. The objects of the proposed Act, to commence on the 1<sup>st</sup> July 2012 is to promote safety and fairness in the road transport industry by doing a number of things including the following:

- Ensuring that drivers do not have remuneration related incentives to work in an unsafe manner;
- Ensuring that drivers are paid for loading, unloading and waiting time;
- Ensuring that hirers of drivers in the supply chain take responsibility for safety standards; and
- Facilitating access to dispute resolution.

A road transport “driver” may be an individual, a corporation, an independent contractor. The Act can have application to sub-contractors, prime-contractors and others in the logistics chain and their inter-related activity.

Clearly the intent of the Federal Government is to create this Legislation within the existing boundaries and framework of the Nation’s Workplace Relations system.

### HOW DID WE GET TO THIS POINT??

- October 2000 – the House of Representatives Standing Committee Report *Beyond the Midnight Oil* was released examining fatigue and the economic causes of fatigue in road transport.
- November 2001 – the Quinlan Report – Inquiry into Safety into the Longhaul Trucking Industry was released.
- May 2003 – a SCOT (State Transport Agency Chief Executives) Discussion Paper entitled *Heavy Vehicle Safety and Safe Sustainable Rates for Owner Drivers* was released.
- March 2007 – the Independent Contractors Act 2006 came into effect.
- November 2008 – the NTC submitted to the ATC (Ministerial Council) the report *Safe Payments Addressing the Underlying Causes of Unsafe Practices in the Road Transport Industry*. Prof. Michael Quinlan and the Hon. Lance Wright QC assisted the NTC.
- July 2009 – the Fair Work Act 2009 came into operation.
- November 2009 – the Federal Government released a Direction’s Paper – *Safe Rates Safe Roads*.
- December 2009 – the Commonwealth Government through the then Workplace Relations Minister, Julia Gillard established the Safe Rates Advisory Group which included QTA Ltd President, Tim Squires.
- Wednesday 23<sup>rd</sup> November 2011 – the Federal Minister for Infrastructure and Transport, Hon Anthony Albanese MP and the Federal Minister for Tertiary Education, Skills, Jobs and Workplace Relations, Hon Chris Evans MP jointly announced the creation of the Road Safety Remuneration Tribunal and tabled in the House of Representatives the *Road Safety Remuneration Bill 2011*.

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## **POLITICAL / LEGAL PROCESS**

Queensland Trucking Association/Australian Road Transport Industrial Organisation (ARTIO) Queensland Branch has been a participant in the decade of deliberations on this subject through written submission, appearance in hearings/tribunals and as part of the collective activity of ARTIO. The Bill as tabled is not the product of the direct outcomes from the decade of deliberation nor is it a direct product of the Safe Rates Advisory Group. Several Commonwealth Departments led by Department Education, Employment and Workplace Relations (DEEWR) have had responsibility for the implementation of Government policy and drafting instructions.

The Bill, having been now tabled in the House of Representatives will be referred to the Senate in 2012 sittings (presumably February 2012). Conceivably the Bill could in the first instance be referred to a Senate Committee for review and recommendation. The Government expects the Legislation to operate from the 1<sup>st</sup> July 2012.

## **QTA LTD / ARTIO QLD BRANCH POSITION AND ACTIONS**

The QTA Ltd will be using the resource of its Employment Relations Manager to examine the detail of the Bill and its impact on the industry. As a Branch of the ARTIO we will participate in ARTIO led consultation, negotiation and lobby of all relevant parties to ensure that the application of the Bill, if and when it becomes Law, does not result in perverse outcomes nor onerous regulation overlaid on existing Road Law, Workplace Health and Safety Law etc.

The matter will be considered by the QTA Ltd Board of Directors and ARTIO Branch Committee.

The Bill as drafted expresses the intent to compliment the existing Fair Work Act and Work Health and Safety Law. It clearly contemplates the continuance of application of Modern Awards. The Minister's Reading Speech and the Explanatory Memorandum appear to suggest that the Legislation will provide an opportunity, through the creation of a Road Safety Remuneration Tribunal, in part consisting of Fair Work Australia Judicial members and Commissioners, to consider applications which seek to test commercial and employment arrangements, where those arrangements are alleged to be a causation of adverse road safety practices and outcomes.

The initial reaction of QTA Ltd/ARTIO Qld Branch is that this industry does not need to have overlaid additional red tape on what we anticipate will be a streamlined regulatory environment under a National Heavy Vehicle Regulator and Harmonised Work Health & Safety Law. The evidence is very clear in that causation of road crashes, the resultant fatalities and injuries, are complex and have many components.

Nonetheless, on the assumption that this Law (even if amended in some form) will be enacted, QTA Ltd/ARTIO Qld Branch will enter into any discussions within industry, with the TWU, and or in the Political environment with a view to achieving an outcome which would not impose cost or complexity on all honest operators who seek to remunerate their employees or sub-contractors in a safe sustainable way without raising road safety risk.

Finally, members should be aware that if they have a view they should feel free to express that and may do so by directing their comments to [travis@qta.com.au](mailto:travis@qta.com.au). The Association's Employment Relations Manager, Travis Degen will be happy to enter into discussion and or provide further explanation as we enter into a period of research and understanding in relation to the provisions in the Bill tabled this week by the Minister.

Copies of the Bill, the Explanatory Memorandum, the Regulatory Analysis and the Second Reading Speech may be obtained from the following links:

- **Bill** - [http://parlinfo.aph.gov.au/parlInfo/download/legislation/bills/r4733\\_first\\_reps/toc\\_pdf/11267b01.pdf;fileType%3Dapplication%2Fpdf](http://parlinfo.aph.gov.au/parlInfo/download/legislation/bills/r4733_first_reps/toc_pdf/11267b01.pdf;fileType%3Dapplication%2Fpdf)
- **Explanatory Memorandum** - [http://parlinfo.aph.gov.au/parlInfo/download/legislation/ems/r4733\\_ems\\_169e7124-d755-439f-bf5e-6a8ac230b13b/upload\\_pdf/11267EM.pdf;fileType=application%2Fpdf](http://parlinfo.aph.gov.au/parlInfo/download/legislation/ems/r4733_ems_169e7124-d755-439f-bf5e-6a8ac230b13b/upload_pdf/11267EM.pdf;fileType=application%2Fpdf)
- **Regulatory Analysis** - [http://parlinfo.aph.gov.au/parlInfo/download/legislation/ems/r4733\\_ems\\_4d7a34ea-6f6e-420c-8c8e-be29ef15ce70/upload\\_pdf/11267RIS.pdf;fileType=application%2Fpdf](http://parlinfo.aph.gov.au/parlInfo/download/legislation/ems/r4733_ems_4d7a34ea-6f6e-420c-8c8e-be29ef15ce70/upload_pdf/11267RIS.pdf;fileType=application%2Fpdf)
- **Second Reading** - <http://www.workplaceexpress.com.au/files/2011/23RSRB2RS.pdf>

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