



From **1 February 2010**, South Australia will be implementing new nationally consistent Heavy Vehicle Speeding Compliance laws. If you use, operate or manage heavy vehicles (including buses) with a gross vehicle mass of more than 4.5 tonnes these laws apply to you.

Heavy Vehicle Speed Compliance legislation is the third tier of the Compliance and Enforcement road safety reform and is another step in reducing road trauma by stamping out speed in the heavy vehicle industry.

Why do we need the new laws?

The new laws don't change the speed rules that apply to drivers, they just increase the responsibility of off-road parties to make sure that they take reasonable steps to make sure they do not cause the driver to speed.

Businesses are responsible for business practices that require them to review and if necessary, implement changes to prevent drivers speeding.

Specific parties in the Chain of Responsibility also have new duties to stamp out speeding.

LET'S STAMP OUT **HEAVY VEHICLE SPEEDING**

FACT SHEET 2

Speed information for drivers

Nothing changes for drivers under the new laws. Speeding fines and demerit points continue to apply to breaches of speed limits.

Drivers should not speed. No driver can afford to speed; it puts your licence, your livelihood, your life and the life of other road users at risk.

The new laws will give you added protection because they create offences for off-road parties if those parties don't take all reasonable steps to ensure their activities do not cause you to speed.

You cannot be requested or directed to do anything that would require you to exceed a speed limit. The first rule for drivers is easy – don't speed.

Every driver has a professional and legal obligation to:

- comply with relevant speed management procedures – work within the speed limits
- use the training or information provided by your employer or other sources
- respond to changing on-road circumstances (such as loading/unloading delays) – communicate with your base (if possible) to get advice on schedule changes.



Speed information for off-road parties

In the transport industry, many of the decisions made by off-road parties directly affect the work of the driver. Under the new speed laws a party which is a corporation, partnership, unincorporated association or other body corporate is liable for any offences committed by its employees, directors or officers.

If you fit into any of the following categories you are a party in the Chain of Responsibility and must comply with the new Speed laws.

- Employer of the driver
- Prime contractor of the driver
- Operator of the vehicle
- Scheduler of the driver or vehicle
- Consigner of goods
- Consignee of goods
- Loading manager of goods



Managerial Liability

Where a corporation, partnership or other body corporate commits an offence, anyone who is involved in the management of the organisation may also be personally responsible. For example, employers will be liable for any offences committed by their employees. Other managerial liability may include:

- directors or managers of the company
- partners in the partnership
- those involved in the management of unincorporated associations.

Speed information for employers, prime contractors and operators

Transport employers, prime contractors and operators now have a legal obligation to have business practices in place that manage driver speed. Even if drivers don't speed you may still be prosecuted if you haven't taken all reasonable steps in your business to implement practices that manage speed.

Examples of what business practices constitute taking reasonable steps

- If vehicles are speed limited (all heavy vehicles over 12 tonnes must be) regularly check that the speed limiter is working and meets the required standard.
- Advise customers/clients of how unreasonable schedules and deadlines are no longer legal. Document details when such discussions took place and who with.
- Regularly download engine and GPS tracking data to monitor driver speed and discuss any breaches with the driver.
- Maintain the speedometer, engine maintenance systems and speed limiters.
- On regular routes ensure that the scheduler is aware of the minimum legal travel times.
- Consult drivers about schedules and confirm they are able to meet them. This can be as simple as a checkbox on a schedule.
- When developing contracts ensure that speed compliance is included as a contractual requirement.
- Have documented policies and procedures around the counselling of drivers detected speeding.
- Educate drivers about not speeding and make sure they report speed related issues such as faults with equipment.



- Provide regular reminders about the importance of working together to ensure compliance with these new laws, including toolbox sessions, internal newsletters or information distributed with pay slips.
- Develop procedures for drivers who encounter unexpected delays to complete their journey without speeding.

If a driver is found guilty of or expiates a speeding offence then you as the employer or prime contractor or operator are also guilty of an offence. If you are charged you can use as a defence that you took reasonable steps to make sure the driver had no cause to speed.

Speed information for schedulers

Schedulers influence the driving task and driver behaviour. You have a duty to take all reasonable steps to ensure that schedules you prepare for the transport of goods or passengers by the vehicle or for the work/rest time of the driver of the vehicle, do not cause the driver to speed (taking into account speed limits, required rest breaks and expected delays such as traffic).

Examples of what a scheduler can do to take reasonable steps

- A scheduler must take into account distance, average lawful speed, possible traffic or loading delays and required rest breaks when scheduling.
- Consult drivers about schedules to get their input and confirmation they are able to lawfully and safely meet them.
- Encourage drivers to report scheduling problems, new road works, major accidents, traffic delays on regular routes.
- On regular routes make sure that you are aware of the minimum legal travel time.
- Build flexibility into the schedule to allow for unexpected delays such as flat tyres, load checking and/or adjustments.



Speed information for consignors and consignees

Consignors and consignees may have an influence on the driving task and driver behaviour. They must take all reasonable steps to ensure the terms of the consignment (e.g. delivery times) do not cause the driver to speed and do not encourage or provide an incentive to the employer, prime contractor or operator to cause the driver to speed.



Examples of what the consignor and consignee can do to take reasonable steps

- Make sure that transport contracts include agreed requirements relating to speed compliance and appropriate monitoring of heavy vehicle speed.
- Get advice from the operator, prime contractor or employer that your requested delivery times will not cause the driver to exceed a speed limit
- Consult operators and prime contractors about schedules and that they are able to legally meet them.
- Ensure that loading and unloading times enable the driver to remain compliant in terms of work/rest hours.
- Ensure the driver is able to load and unload as quickly as possible and as close to any agreed loading/unloading time.
- Build flexibility into schedules and deadlines to allow for unexpected delays and events such as loading/unloading, equipment break downs.

Speed information for loaders, unloaders and management

A loading manager is a person who manages premises where five or more heavy vehicles are loaded or unloaded each day or who supervises, manages or controls such loading or unloading. The loading manager has a duty to take all reasonable steps to make sure that the arrangements for loading and unloading of a heavy vehicle do not cause the driver to speed.

Loading managers have the responsibility of unloading vehicles as quickly and efficiently as possible. They also need to have back-up plans if unexpected jobs come in. Delays in unloading add to drivers working hours and reduce the time they have to travel between each task.



Examples of what the loading manager can do to take reasonable steps

- Ensure that loading and unloading times enable the driver to remain compliant; that is to safely load and unload as quickly as possible and as close as possible to any agreed loading/unloading time.
- Regularly look at your loading and unloading times and what causes delays and implement improvements, when possible.
- Identify loading and unloading bottlenecks in consultation with drivers and other parties in the Chain of Responsibility.
- Ensure that time slots for loading and unloading are reasonable and reliable.

Further information

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