



Health and Safety Reform Bill 2014

NZAA submission

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NZ Automobile Association Submission on the Health and Safety Reform Bill 2014

1. The New Zealand Automobile Association (AA) is an incorporated society with over 1.4 million Members. This submission is made in our role as advocate, whereby the AA represents the wider public good interests of Members and motorists on safety, mobility and costs. There is a strict division between the AA's public advocacy role and its operation and interests as a corporate entity, and often the AA will put in separate submissions from those different perspectives. This submission on the Health and Safety Reform Bill 2014 (the Bill) represents the views of the AA on behalf of our Members: it is not the view of the AA as an employer; in that role, the AA has been well briefed and engaged, and supports the proposals.
2. The AA advocacy team became aware of the Bill's significant implications for motorists at a presentation on 18 March by WorkSafe to the Road and Traffic Incident Management Seminar (RTIMS). The AA advocacy team has had only a limited time to quantify the implications and has not fully analysed the checks and balances that may already be contained within the draft legislation.
3. The AA believes that modifications to the Bill are required to avert some potentially serious unintended consequences on road crashes including added risks and costly traffic delays. This is not an area of legislation with which we are familiar. Our approach therefore is to raise issues and identify potential problems, rather than our preferred approach of constructively suggesting ways to address these. We would welcome the opportunity to work through these issues with Officials.
4. **The AA would appreciate the opportunity to make an oral submission to the Transport and Industrial Relations Select Committee on the Health and Safety Reform Bill 2014.**

Executive Summary

5. The AA supports:
 - The intent of the Bill which will improve road safety
 - Increasing flexibility of ACC to combine the Work and Motor Vehicle Accounts to incentivise workplace road safety, including reporting management systems and training

6. The AA does not support:

- Strict requirements to protect the site of all work-related notifiable injury crashes, which place those working in the traffic corridor and injured persons at greater risk, imposes significant costs of delays on the road network, runs contrary to Quick Clearance laws and practice, and potentially overstretches WorkSafe resources
- Requirement that site inspection has to be carried out by a WorkSafe inspector and cannot be delegated to Police and authority to reopen the site cannot be delegated to the road controlling authority or their representative contractor, and fails to integrate with existing road safety frameworks
- Requirements to report near misses of work related travel where there is risk of notifiable harm
- That the legislation does not allow for the integration of the ACC Motor Vehicle Account into the proposal for workplace safety incentive schemes
- The legislation does not recognise that Fire and Ambulance workers responding to crash incidents are working in a hazardous environment performing a role to save lives and reduce the severity of crash victims' injuries.
- That deaths and injuries during travel to and from work are not generally included in health and safety definitions but can be directly affected by workplace practices and hours, and should be covered.

Statement of Support for the Bill's Purpose

7. The AA is a strong road safety advocate and fully supports the intent of the Bill that to increase practicable preventive action to reduce the burden of injury and death on our roads.

Site Protection for Notifiable Events

8. Health and safety legislation has long considered a motor vehicle a 'place of work'; but this Bill appears to extend injury sites to include public roads. However the way the Bill is drafted appears to continue to envisage that injury sites, and hence site protection, would predominantly be at a fixed site under the direct control of the PCBU, rather than mobile site not under the control of the PCBU, such as a public road. Extending the requirements of site protection (and inspectors' obligations) to a public area in such a way carries a likelihood of significant unintended consequences.
9. The AA is already concerned about delays resulting from crashes (particularly fatal and heavy vehicle crashes), and has been an active participant in the National Road and Traffic Incident Management Group, which seeks to improve road clearance and reduce delays. For example, a fatal crash currently results in at a minimum a four-hour road closure while Police carry out investigations on behalf of the Coroner. In isolated rural areas, it can take several hours for first responder team to reach the crash scene. Police are the only first responder that is enabled to legally close a road and protect the scene, while the Road Controlling Authority or its designated contractors are the ones with the expertise and equipment to physically close roads and protect the scene.
10. In terms of defining notifiable events, the AA supports the Bill requiring notification of light motor vehicle crashes that result in deaths, but considers that the strict requirement (Subpart 4 Clause 53) to protect the site has the potential to create longer delays than are currently experienced on the roading system, as well as increase risk to those on site managing the incident.

11. As drafted, this requirement in the Bill to protect the site for serious injuries carries the risk that inspectors will be overwhelmed by the number of crashes, creating substantive additional delays on the road network and placing lives at risk. The AA considers that the Bill needs to be amended to allow for greater leeway to clear sites quickly in the event of non-fatal crashes. If the sheer volume of notifiable events on the public road system overwhelms WorkSafe resources, this may result in further delays in WorkSafe accessing the site, potentially resulting in extended road closures.
12. These requirements to protect the site of injury crashes could potentially cause significant issues for the road system, longer exposure of personnel to a hazardous environment, frustration and delays for motorists and trucks, millions of dollars of time lost and a significant cost to the New Zealand economy.

How many crashes are involved?

13. The 2013 Ministry of Transport Household Travel Survey shows that “*work-related travel¹ is about a third of all household travel both in terms of driving time and distance. Much of this is commuting to and from work, but travel during work time on business makes up about 13% of household driving. This includes going to meetings as well as travel from job to job by tradespeople or other mobile workers.*” The Ministry of Transport notes this **excludes** professional driver travel².
14. There are significant bodies of work around theoretical issues of work related road safety, and these include varying definitions. While driving for work is included, some also include using company cars for personal travel, commuting to work (as does the Ministry above), and bystander involvement eg a driver travelling for work has no injury themselves but, through unsafe loading or driving poses a risk to, or injures a member of the public in a public place (not for work). **Depending on definitions of work related crashes, around a quarter to a third of all crashes could involve at least one work related driver.**
15. ACC has a strict differentiation of work related and non-work related motor vehicle claims, because there are different entitlements from the Motor Vehicle Account. The AA recommends that the Regulations consequent to the Bill should acknowledge and preferably be integrated with the ACC definitions of work related travel.
16. While it may have been a misapprehension, the WorkSafe presentation to RTIMS seemed to imply that the heavy vehicle fleet was the primary object of the legislation, and that WorkSafe was being resourced accordingly.
17. However, the light vehicle fleet will provide by far the greatest caseload in terms of sheer numbers. In 2013 there were 239 fatal crashes (involving 254 deaths) 53 or 20% of these involved heavy vehicles. These are already analysed extensively for the Coroner and by the Serious Crash Unit. We do not anticipate that the Bill’s requirements will significantly increase delay times for fatal crashes, *unless WorkSafe is not adequately resourced to respond and travel immediately to the site.*
18. However injury crashes are two orders of magnitude higher. The Crash Analysis System records just under 10,000 Police reported injury crashes per annum, and estimates of under-reporting of 40% on serious injuries and 60% on minor injuries when cross matched

¹ to main job or other jobs, or on employers business

² to transport goods or people as a professional eg courier, taxi driver, bus driver, paper route delivery

to ACC motor vehicle injury data, hence there may be some 20,000 injury crashes. Severe injury crashes might make up about a quarter of these, again depending on definition.

Of all the ACC accounts, the Motor Vehicle Account has the highest severity of injuries (high costs per injury, particularly head injuries and spinal injuries). Note that definitions of serious injury crashes in CAS may differ to those defined as notifiable in the Bill and again from those used by ACC and the health sector. The AA suggests that coordination of definitions of severe injury could be useful. It is difficult for Police at the scene to identify the severity of injury; often this is not identified until the injured person has been admitted to hospital.

19. The difference between a crash that results in no injury, a minor injury or a fatality may be a matter of millimetres or milliseconds. Including minor injury crashes can provide statistical significance for crash analysis and prevention strategies. In the road safety sector, including minor injury crashes adds statistical power to any crash prevention analysis and is likely to similarly improve any WorkSafe injury prevention analysis, but these are orders of magnitude again higher than serious injury crashes. In-depth investigations of work related minor injury crashes, vehicle damage only crashes and near misses could easily overwhelm the proposed resources (and risks duplicating existing prevention efforts).
20. **Taking together the proportion of work related crashes, and severity of crashes, there may be over a thousand severe, work-related crashes per year, or four per day.**

What are the potential costs?

21. In response to questions at the RTIMS, WorkSafe indicated it has 12 inspectors in each of its 3 regions. Assuming 1250 severe work-related crashes per year, each inspector would investigate 3 crashes per month. Up to two thirds of crashes occur in the WorkSafe Central region; but the WorkSafe website indicates inspectors will be relocated as required.
22. It is difficult to estimate how long it would take inspectors to arrive at the site. At the RTIMS, the WorkSafe presenter estimated a couple of hours on average but we expect there would be outliers. Some crashes happen in isolated areas, particularly in the geographically large Southern region, and it can take hours to reach a crash on the remote West Coast from Christchurch, for example.
23. The social cost of delays due to closure of a two-lane State highway has been estimated to be about \$20,000 per hour on average³. In the 2009/10 year there 6000 reported hours of disruption⁴ from 400 recorded incidents on the State highway network. 50% of incidents (26% of closure hours) were traffic related, while 50% of incidents (76% of hours) were environment related (slips, flooding, winter conditions etc). These closures amounted to \$120m in social cost of delays for the year. These percentages illustrate that per incident, environmental incidents like slips close roads for longer than crashes. The average closure time for a traffic incident is 7.8 hours. The underreporting rate for traffic crashes could be as high as 30%.
24. To these delay costs must be added the direct cost to Police, Fire and Ambulance and road controlling authorities who attend the incident, maintain the road closure and provide site protection. Health and Coroner costs are also excluded.

³ *Risk Assessment Methods in Road Network Evaluation*, Transfund Research Report 148, University of Canterbury, 1999

⁴ Presentation RTIMS 2013, NZ Transport Agency road closure records 2009/10, Alan Burkett, NZTA

25. The State highway network (12% of the road kilometres) carries about 50% of travel (vehicle kilometres) and has about 50% of fatalities. The much more dispersed local road network accounts for the rest. Delays on local roads are likely to be longer due to distance but affect fewer vehicles per closure (lower traffic volumes). Taking these factors together, as a back on the envelope estimate, crash delays currently cost New Zealand in the order of \$100m per year.
26. If the incident inspectors attend all work related injury crashes, and the s 53 injunction against disturbing the scene continues to cover all crash sites, this could increase clearance of injury crashes to similar timeframes as currently achieved for fatal crashes (minimum 4 hours per incident) to collect data for crash reports and the Coroner. Instead of applying to 300 crashes per year, it would apply to another 1000-2000 crashes per year, increasing the cost of delays from \$100 million to the order of half a billion dollars per year. It could also compromise WorkSafe's investigations in the other traditional areas of employment safety.
27. The current wording of the Bill, which requires the site to be preserved until WorkSafe inspectors can arrive and complete collection of data, is likely to result in excessive costs to the economy. Technology to collect crash data can shorten road closures significantly, but because of cost, such technology is limited to basically the Auckland motorway network. If WorkSafe inspectors are required to collect data on a significant number of work-related injury crashes, the AA would strongly recommend WorkSafe is resourced to roll out of rapid roadside data collection technology to all WorkSafe inspectors, transport options to enable rapid deployment of inspectors to remote crash locations and maintain multiple regional offices.

Exposure Time: Secondary Incidents

28. The AA supports New Zealand getting "Quick Clearance" laws to allow authorities to clear road crashes more quickly, such as the Quick Clearance laws in some states of the USA, Australia and European countries. At the RTIMS, a US expert identified that 25% of fatal crashes in Arizona were secondary to an initial incident. Secondary incidents were likely to be *more severe* than the primary incident. Hence quick clearance is more important than reducing delays and frustration; Quick Clearance laws save lives and result in fewer injuries for road users and first responders. Getting crashed vehicles and first responders out of harm's way by moving the worksite off the road is now the primary focus of Arizona incident management, and has been extremely successful in reducing secondary incidents.
29. The Bill's requirement to protect the site until notified by an inspector directly conflicts with Quick Clearance laws and practices, creating both risk to victims and responders, and delays for road traffic.
30. Notwithstanding s 29, which prevents anyone in the Bill from contracting out their responsibilities, the AA suggests that the regulator be enabled to delegate powers to the Police to carry out the inspector's site specific investigations at the roadside for fatal crashes, just as the Coroner delegates Police to carry out the scene investigation. Police are responsible for filling in the crash forms that recording the details of all Police attended crashes, which are the basis for the Crash Analysis System(CAS). Note that CAS is currently being reviewed and WorkSafe may want to add some fields to record relevant WorkSafe information.

31. It is not always possible for Police to identify at the scene of a fatal or serious injury crash (eg where the victim is unconscious) whether it was a work-related crash, and hence Police may have to treat all such crashes as work related until they know otherwise. Thus it makes sense for Police to treat all crashes the same. **There is a risk that WorkSafe inspectors will duplicate existing crash detail recording through NZ Police.**
32. For notifiable injury crashes, the AA considers that the Bill (Subpart 4 Section 53) should provide an exemption that prevents Police from closing roads for site investigation purposes unless there are special circumstances. Site protection should be extremely limited so that it allows Quick Clearance and ensure that lives are not placed at risk by extending the exposure of first responders and others by leaving crashed vehicles on the roadway.
33. Further, there must be no requirement for site protection of near misses, as this would be totally impractical. While it may be recorded on camera, once the participants have departed the scene there is no reason to preserve the scene and a significant cost to do so. For near misses, there may be some value in providing for recorded evidence to be preserved, as traffic camera evidence is otherwise deleted. However, the sheer volume of such incidents makes the immediate reporting requirements impractical; it may make sense to enable traffic camera centres to collate information regarding certain patterns of near misses, (to provide evidence for remedial action) but exempt them from the requirement to report every incident and immediately through the fastest method possible.
34. New Zealand already has one of the best road safety crash analysis systems in the world. **While the intent of the Bill is to improve road safety, there are potential duplications with existing procedures and it has not been demonstrated that the added costs (WorkSafe investigations plus delays in incident clearance, and subsequent exposure of responders and injured to greater risk) will produce commensurate benefits.**
35. There are also already various government and non-government agencies involved in practical initiatives for work related road safety including fleet safety initiatives, and it is important to integrate the inspector's roles with the existing framework and not duplicate existing structures and frameworks.
36. **The AA submits that:**
 - road injury crashes be specifically exempted from the absolute prohibition against disturbing the injury site
 - Police officers be delegated the authority to collect information at the site on behalf of WorkSafe inspectors and WorkSafe should provide Police the technological resources to do so quickly and efficiently
 - the legislation should specifically place no barrier to 'Quick Clearance' laws for road incidents and indeed would assist if it specifically enabled quick clearance by giving first responders powers to decide to move the crash scene to a safer location to protect the injured and workers on site
 - the WorkSafe legislation should integrate with the existing framework for reporting analysing and managing road crashes.

Reporting Requirements for Notifiable Incidents

- s. 19 a notifiable incident means an incident in relation to a workplace that exposes a worker or any other person to a serious risk to that person's health or safety arising from an immediate or imminent exposure.
37. The WorkSafe presentation on the Bill made it clear that WorkSafe expects notification not only of severe injury crashes but also of minor injuries or near misses that potentially could result in severe injury or death. In the three years 2010-2012 there were 863 fatal crashes 5,301 serious injury crashes and 24,105 minor injury crashes (crashes are rated by the most serious outcomes)⁵, so there are around 30,000 over 3 years or 10,000 per year. In many of the less serious outcomes, there was potential for a more serious outcome. There are also hundreds of thousands of near misses recorded on the traffic cameras. It is not possible for traffic operators to know whether a near miss involves someone on a work related trip.
38. The AA supports the greater oversight that WorkSafe would provide, which may result in increased preventive interventions for road crashes, but considers the sheer volume of reporting requirements is not practical or feasible. Given that every time a person drives they are at risk of imminent serious injury or death, and near misses are extremely common, the AA recommends that there need to be guidelines to ensure reporting requirements are practicable.
39. **Specifically, the AA asks that regulations be considered to exclude motor vehicle near misses and minor injuries occurring on a public road from notifiable incident reporting requirements. A compromise position could be that WorkSafe consider a sample of such incidents in detail, as resources permit, and on specific issues as required with a focus on work related travel.**
40. New Zealand already has one of the best road safety crash analysis systems in the world, and while the proposals may improve road safety, it is yet to be demonstrated that the added cost will result in commensurate benefits. There are also already various government and non-government agencies involved in practical initiatives for work related road safety including fleets, including for light vehicles. **The AA recommends that the legislation integrate the WorkSafe inspector's roles with the existing road safety framework.**

Include ACC Motor Vehicle Account, not just the Work Account

41. The draft legislation focuses on enabling the ACC Work Account to be used for workplace safety incentive programmes. Workplace road safety is currently in a philosophical no man's land between the Work Account and Motor Vehicle Account (funded through Motor Vehicle Registration MVR annual licence fees, and petrol tax). Good workplace and fleet safety initiatives is not simply having a safe driving policy. It involves systemic workplace practices such as senior management championship and leadership, driver licence and history checks, vehicle purchase and maintenance policies, crash recording, crash analysis, 'at risk' driver tracking and re-training, policies around driving offences and penalties while driving for work, alcohol interlocks or drug testing, in-vehicle acceleration monitoring and so on. Comprehensive fleet safety programmes make a significant difference to road safety records.

⁵ Ministry of Transport, *The Social Cost of Crashes and Injuries 2013 Update*

42. To date most of the health and safety emphasis has been only on the heavy vehicle fleet and professional drivers (eg the Commercial Vehicle Inspection Unit CVIU and the Operator Rating System). There has been much less emphasis on small and medium enterprises comprised mostly of light vehicle fleets and even sole operators with personal vehicles being used as workplaces. ACC faces the difficult reality that it is difficult to adequately incentivise road safety initiatives through the MVR discounts it is able to offer. However, injuries and deaths on the road are a significant portion of, if not the main, workplace injuries and deaths for many lower risk work sectors. The AA recommends that the legislation specifically enable the effect on both the Work Account and Motor Vehicle Account to be combined in developing workplace safety incentive schemes.

43. The AA supports

- **including the Motor Vehicle Account in workplace incentive programmes**
- **ACC being able to require road safety systems and driver training in workplace incentive schemes**
- **make it a top priority for ACC to develop workplace framework to incentivise high cost high risk motor vehicle injury prevention.**

Response Times For Injured Persons

44. Advice provided to the National Road and Traffic Incident Management Group⁶ advises:

The road as a workplace

"When the responder agencies arrive at an incident site the site becomes a workplace under the Health and Safety in Employment Act 1992. With the number of agencies that may be involved the health and safety obligations can be extensive. The employers are required to take 'all practicable steps' to ensure the safety of employees and to ensure employees have appropriate training for dealing with the hazards in the work they are doing. Principals are required to take all practicable steps to ensure that contractors or employees of contractors or subcontractors are not harmed while doing work.

Those in control of workplaces are required to take 'all practicable steps' to ensure no hazard in the workplace harms 'people' in the vicinity of the workplace."

Negligence and duty of care

Whether harm has been caused by a negligent act is a prerequisite to all negligence liability and has clear relevance to all aspects of road incident management. At what point do the acts of formal or informal rescuers and those clearing the scene, break the chain of liability and perhaps start to incur liability themselves?

This is in itself a complex issue with various approaches taken by the Courts. It is worth saying an important practical piece of advice for avoiding negligence is ensuring that an appropriate removal contractor with sufficient skill for the job is chosen in the first place.

45. The AA is concerned that the legislation may have the unintended consequence of delaying access to medical treatment at the roadside. With the legislation now applying to Fire and Ambulance volunteers, these first responders at roadside crashes are often

⁶ David Cochrane, Simpson Grierson: Presentation to RTIMS 2012

exposed to immediate risk of harm working on the road when working with crash victims. They have limited ability to secure the site to protect their personnel, as they cannot carry traffic control equipment, nor to move the worksite somewhere safe. They do not have legislative powers to close the road.

46. In personal discussions ambulance personnel have said they would prefer to attend to injured persons immediately rather than await Police or road contractors to put full traffic control in place, as timing can be critical to survival. Further, the longer the Ambulance officers leave an injured person(s) exposed in the crashed vehicle with no protective traffic control, the longer the risk of increased injury or death from a secondary incident (another vehicle crashes into the first crash site).
47. **The AA recommends that specific exemptions be developed to enable Fire and Ambulance responders to continue to work in a hazardous environment where this is justified to reduce the severity of injury or to save lives.**
48. Similar issues apply at roadside breakdowns, where breakdown officers do not carry full traffic control equipment and have no powers to close a road. In those cases delays can also extend the risk for stranded vehicle occupants at the site of a breakdown.
49. **The AA suggests that transitional arrangements need to be developed to ensure that practicable safety for both the first responders (as workers) is balanced against the need to get injured or stranded persons (also potentially workers) to a place of safety or to medical care in a timely manner.**

Implications for Roading Safety Standards: Road Controlling Authorities

50. Road Controlling Authorities (RCAs) design, construct, operate and maintain roads (RCAs include NZTA, local government, and the Department of Conservation). Roads are both open to the general public going about their (non work-related) daily affairs, and places of work (eg for work related travel, construction and utility workers, traffic and parking enforcement officers, breakdown service responders, tow truck operators etc). It is not clear whether the legislation opens up new implications for RCAs who are in control of the site of a workplace injury.
51. For example, a WorkSafe inspector assessing a crash site may conclude that a contributing factor to the likelihood or severity of a crash was that the road layout, design or maintenance was not to the safety standard that could be expected for that a road of that type. The AA is unclear as to whether this would have implications, for example for the NZTA Board, local government officials or politicians, or roading engineers/ contractors, but recommends that WorkSafe fully consider and discuss the implications with the roading sector before the legislation applies to the sector to avoid unintended consequences.
52. In particular NZTA and local government jointly are currently developing the One Network Road Classification system, which classifies roads according to their use and function and defines draft Customer Levels of Service (CLoS) to achieve consistent standards around the country. These CLoS, which include Safety levels of service, are aspirational and are likely to take some time to work towards. While some RCAs are well placed in terms of safety levels, others may be well short but could need decades to reach them, if ever.

53. NZTA (in partnership with the AA) has also developed KiwiRAP, based on the international Road Assessment Programme (iRAP) which provides an objective measure of a road's inbuilt levels of safety. NZTA uses KiwiRAP and the KiwiRAP Analysis Tool (KAT) to proactively prioritise interventions to target high risk intersections, rural roads and route treatments before crashes happen. NZTA and RCAs are currently also developing urban RAP systems and methods for assessing risk on local government roads. However local government in particular does not always have funds to address inbuilt risk across their road networks.
54. One major advantage of the objective RAP analysis is that it enables a rational proactive approach to targeting investment. This is a major step forward from the retrospective approach which meant investment priorities leapt about from year to year because of the random nature of road crashes.
55. It is likely that WorkSafe inspectors, particularly if they work with existing road safety tools and frameworks, could contribute significantly to positively impact safe system road design and operating practices, which the AA would strongly support. However, if it means greater focus on individual crashes as opposed to patterns, road safety could revert to the retrospective approach and divert funds from the most effective uses, adding to costs. At worst, a 'knee jerk' response to individual crash circumstances and a blame seeking culture could introduce a risk averseness and 'finger pointing' culture which would undermine the current cooperative collaborative prevention and mitigation culture.
56. **The AA recommends that WorkSafe investigations be integrated with existing road safety and Coroner investigations so as to strengthen rather than undermine these and avoid duplication of effort.**

Utilities in the Road Corridor

57. One area where the AA would value WorkSafe attention would be in the area of deadly hazards that utilities deliberately place in the road corridor. Current legislation permits utilities to construct, without liability, hazardous poles and other hardware within inches of vehicles going 100 km/h, with no health and safety considerations required. RCAs have very little control over this, despite technically being in control of the site. Crashes with narrow objects such as fixed poles are extremely severe and often fatal (even at speeds as low as 30km/h). Utility companies have even been known to fortify poles that have been hit more than once, and hence are an identified hazard.
58. In Australia, for example, utilities are required to use frangible poles but in New Zealand only NZTA installs these. That is, there are practicable affordable steps to isolate, mitigate or minimise serious injury or death, but the utilities are not required to take these and no avenue is open to require them to do so currently.
59. **The AA strongly supports the Bill applying to utilities, in terms of design to mitigate the severity of hazards that utilities place in the road corridor, which is currently not caught in any legislation.**

Penalties: Double Jeopardy or More Effective

60. There is already an established system for penalising drivers for traffic offences. Sometimes those penalties do not address the underlying health and safety issue. For example, some international evidence shows that the majority of repeat drink drivers are

assessed as having either alcohol addiction or alcohol abuse issues, yet traffic penalties involving fines and licence disqualification do not address these. It would be of great road safety value if WorkSafe recommendations would consider the underlying issues and recommend appropriate treatment.

61. Further the AA supports the concept of 'chain of responsibility' in workplace driving. For example their crash history shows that junior doctors have higher than normal fatigue related road deaths. They are required to work long hours, but the workplace provides no frameworks around requiring them to sleep on site and not drive when tired. In this instance, the journey to and from work is considered to lie outside of workplace driving, but the effect is that the workplace is contributing to their injuries or deaths.
62. **The AA supports the wider application of Health and Safety to cover chain of responsibility for safety on the road driving to and from the workplace where this is impacted by the work or hours required.**
63. There is also the contrary risk of duplication of penalties for traffic offences and health and safety offences. For example, if while driving for work, a driver is apprehended talking on a handheld cellphone, he or she may receive traffic penalties, employment repercussions and potentially WorkSafe fines or penalties.
64. **The AA considers any potential for double jeopardy in traffic and health and safety penalties needs to be carefully considered.**

Conclusion

65. The AA supports the intent of the Bill but considers careful drafting is required to mitigate unintended consequences for the land transport system. Some of these requirements appear to not have been thought through in terms of how they apply to public spaces (of which roads are just one example), which are used by workers and non-workers alike, at all times of the night and day. Transitions in this area are needed but need to be carefully managed.
66. **The AA would like to make an oral submission to the Transport and Industrial Relations Select Committee on the Health and Safety Reform Bill 2014.**

Yours sincerely



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