

# Legal Torque

## Liability for Vehicle Defects

- Catherine Bormans -

There has recently been much publicity about a freak accident which involved a Pukekohe man. While driving along on the Southern Motorway near Penrose, he was decapitated by a section of a truck's driveshaft which had broken off from the truck and flown through his windscreen.

The matter was investigated as a possible manslaughter charge, but the Crown in the end decided not to lay any charges over the accident. The matter then went to a Coroner's Inquest for an investigation into the exact cause of the accident.

The resulting Coroner's inquest into this accident has highlighted the need for greater safety checks for vehicles.

This is an area the Road Transport Forum and others have been seeking to change for many years, and is perhaps further justification for the Land Transport Safety Authority's recent move to have a system which would categorise defects found in vehicles depending on their risk to the public safety.

The system is in its draft stage and the LTSA has sought submissions on it.

### Categorisation of Defects

The LTSA's proposed system would categorise

the defect according to the risk to public safety. Vehicle Inspectors would then take different enforcement action depending on the categorisation of the defect discovered.

### Perceived Benefits of the System

Currently, on inspection, items are given a pass or fail. Under the proposed system vehicle defects will be recorded more accurately in terms of their severity and risk to the public. This is intended to give vehicle operators a better ability to schedule maintenance work for their vehicles and to better assist operators to manage the safety of their vehicles.

The proposed system will have three elements to it:

- Inspections;
- Defects;
- Enforcement actions.

### Inspections

The proposed system will have four levels of inspection which range depending on what is involved with the inspection.

They are:

- *Full WOF / COF Inspection* - a full inspection carried out indoors using prescribed equipment.
- *Comprehensive Roadside Inspection* - a comprehensive inspection carried out at the roadside using prescribed equipment.
- *Partial Roadside Inspection* - a partial inspection at the roadside using limited equipment.

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- *Visual Roadside Inspection* - a limited visual inspection carried out at the roadside using limited or no equipment.

## Defects

The defects discovered will be defined depending on their level of severity, from dangerous through to minor.

The categories will be:

- Dangerous Defect;
- Serious Defect;
- Minor Defect;
- Recordable Weakness;
- No Defects Found.

## Enforcement Actions

There will be specific actions to be taken by vehicle inspectors depending on which category of defect is discovered. For example:

- *Dangerous Defect* – the Vehicle Inspector would issue a non-operational order (pink sticker) and the driver would not be allowed to operate the vehicle until it is repaired.
- *Serious Defect* – the Vehicle Inspector would issue a non-operational order (green sticker) and the driver would be given specific conditions for limited operation of the vehicle until it is repaired.
- *Minor Defect* – the Vehicle Inspector would either issue a warning or if appropriate a non-operational order (green sticker) and the driver would be given specific conditions for the operation of the vehicle until it is repaired.

## NEW TRANSPORT STRATEGY

In February of this year the Government announced a new Land Transport Strategy which sets out its vision for NZ's transport system into the future. This strategy has been incorporated into the Land Transport Management Bill which was introduced into Parliament in early December.

The Land Transport Strategy provides funding priorities for various land transport initiatives. The initiatives are:

- To reduce severe traffic congestion.
- To improve the funding and delivery of public transport.
- To promote walking and cycling.
- To assist local authorities where regional development and alternatives to roads are constrained by inadequate investment.
- To improve road safety.

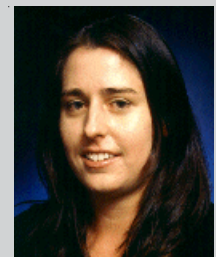
To achieve these priorities the Government is making more funding available, largely through increasing fuel excise duty and road user charges for light diesel vehicles.

The Government will be looking to achieve its initiatives in a number of ways, including:

- Enabling more tolling. Tolling projects will no longer require their own legislation.
- Allowing public/private partnerships to fund land transport infrastructure projects.
- Allowing more flexibility in funding projects other than roads.
- Using electronic methods for collecting road user charges. An electronic system (e-RUC) will be introduced on a voluntary basis with the expectation that the majority of heavy and diesel vehicles will switch to e-RUC and the current paper-based system will be phased out.

The bill will now be referred to a select committee for consideration. So... watch this space.

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