

Legal Torque

MAJOR CHANGES AFOOT

- Cathy Bormans -

You may have heard whispers through the transport grapevine of proposed changes to the two primary pieces of transport legislation, being the Land Transport Act and the Transport Act.

The Land Transport Amendment Bill which is currently tabled in Parliament, seeks to make numerous changes to the existing law which will have a significant impact on many transport operators. The purpose of the Bill, according to the Minister of Transport, the Honourable Peter Hodgson, is to improve safety and to reduce the road toll.

The Bill has the support from the Greens, United Future and New Zealand First. At present the Bill is before the Select Committee and if it is approved it will go before Parliament again for a further reading.

The Land Transport Amendment Bill which is currently tabled in Parliament, seeks to make numerous changes to the existing law which will have a significant impact on many transport operators.

The purpose of the proposed amendments to the Bill can be stated as: to enhance enforcement, to improve the targeting of serious and repeat drink driving offenders, to improve the operational and administrative efficiency of transport and to update the land transport safety laws.

One of the most significant changes is with respect to the driving hours and logbook systems.

The rationale for changing these systems is to improve road safety and to specifically target the risk of driver fatigue.



The submissions in support of the Bill give strong support to the implementation of a better driving hours system to combat the risk of driver fatigue.

The reasons for the change to the driving hours and logbook systems is that the LTSA, in their review of the systems, identified certain weaknesses in the current systems, in particular:

1. The current driving hours provisions do not address the situation of drivers who have irregular rest or work periods (for example shift type work);
2. Current logbooks are relatively easy to misuse and there has been an increase in the number of drivers who carry more than one logbook to falsify records;
3. The current system of driving, rest, and on-duty hours is difficult to understand.

The key changes to the driving hours and logbooks are:

- The two classifications of on-duty time and drive time will be amalgamated into the term "work time". There will therefore only be two classifications for logbooks, work time and rest time; *(Continued overleaf)*

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- The total on-duty time of 14 hours will be reduced by one hour to 13 hours “work time” in any 24 hour period. This means that there is an increase in rest time from 9 hours to 10 hours;
- There will be infringement tickets issued and demerit points incurred for logbook and other record keeping offences, with Court action reserved for breaches of driving hours.
- Mandatory licence disqualification will only occur for driving hour breaches in excess of one hour;
- Compliance with logbook and driving hours will not be enforced against the driver only. A new chain of responsibility has been recognised. It is considered that employers and other transport participants (other than drivers) may be the cause of driving hour breaches.

The Bill proposes to hold other people accountable for their actions or inactions. In other words, a person who requires or allows a driver to breach driving hour restrictions, provided it could be proved that the person ought to have known the breach was occurring or was reasonably likely to occur, will be charged.

The proposal for a maximum of 13 work hours, instead of 14 on-duty hours has been criticised by logging and rural contractors who indicate that their sectors would be most affected. They estimate the cost of “work time” loss to be between \$15-19 million per annum. The LTSA however are of the view that there will be annual reductions in compliance costs associated with logbook completion and the overall simplification of the driving hours system.

It is estimated that there will be as many as 161,000 drivers affected, being made up as follows:

- Truck drivers: 70,000 – 100,000;
- Large passenger service vehicle drivers: 40,000;
- Small passenger service vehicle drivers: 20,000
- Tow Truck operators/drivers: 1,000

The LTSA advise they will carry out a publicity campaign to bring the transport industry up to speed with the proposed changes. It is anticipated that this campaign, which will involve updated fact sheets and training materials, will assist employers in minimising compliance costs.

We will continue to monitor the progress of the Bill through Parliament. If you like to discuss any of the proposed changes, please call Cathy Bormans or Michael Jamieson.

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