

# Get ready for the new safety rules

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# Objectives of this session

- Overview the chain of responsibility reforms
- Pointers about next steps
- Information about how the ATA/ALC master registered code of practice will support businesses
- How you can provide input to the maintenance section
- Chain of responsibility enforcement.

## **26C Primary duty**

- (1) Each party in the chain of responsibility for a heavy vehicle must ensure, so far as is reasonably practicable, the safety of the party's transport activities relating to the vehicle.

**Primary  
safety duty**

Chain of responsibility party

Ensure safety of transport activities

So far as is reasonably practicable

Eliminate and then minimise  
public risks

Not directly or indirectly cause or  
encourage truck drivers to breach  
the HVNL or speed

Not directly or indirectly cause or  
encourage another person to  
breach the HVNL

(ii) to carry out another activity associated with the use of the vehicle (such as maintaining or repairing the vehicle);  
or

**Transport  
activities**

Business practices and making decisions, associated with the use of a heavy vehicle on a road, including contracting, directing or employing a person

drive the vehicle

carry out another activity associated with the use of the vehicle (such as **maintaining or repairing the vehicle**)

*reasonably practicable*, in relation to a duty,  
means that which is, or was at a particular time,  
reasonably able to be done in relation to the duty,  
weighing up all relevant matters, including—

Reasonably  
practicable

# ...so what are the relevant matters?

Likelihood of safety risk or road infrastructure damage occurring	Degree of harm or damage	What the person knows or reasonably ought to know		The cost and whether it is grossly out of line
		The risk or damage	Available ways to remove or minimise it	



## **26D Duty of executive of legal entity**

- (1) If a legal entity has a duty under section 26C, an executive of the legal entity must exercise due diligence to ensure the legal entity complies with the duty.

**Executive  
due diligence**

# Who is an executive?

<b>Corporation</b>	<b>Unincorporated partnership</b>	<b>Unincorporated body</b>
A director  Any person who is concerned or takes part in the management of the corporation	A partner in the partnership	Management member of the body

# Elements of due diligence

## Know and understand

Safe conduct of transport activities  
Nature of the business's transport activities  
Hazards and risks involved

## Lead

Appropriate resources  
Processes to:

- Eliminate or minimise hazards or risks
- Receive, consider and action new information
- Comply with primary safety duty

## Verify

Resources and processes are being provided, used and implemented.

# Truckie law implication driving the wrong way

"It runs completely counter to the well-established principle of criminal law that a person remains innocent until they are proven guilty, without any proof of personal complicity or wrong-doing.

"Reversal of the onus of the proof is inappropriate, contrary to fundamental tenets of our legal system and unfairly discriminates against corporate officers.

Penalties and  
burden of  
proof

1

Engages in conduct without a reasonable excuse related to the duty that exposes an individual to a risk of death or serious injury or illness; and is reckless as to the risk

\$3 million

\$300,000  
or five years' jail  
or both

2

Contravenes the primary duty and the contravention exposes an individual or class of individuals to a risk of death or serious injury or illness

\$1.5 million

\$150,000

3

Contravenes the primary duty

\$500,000

\$50,000

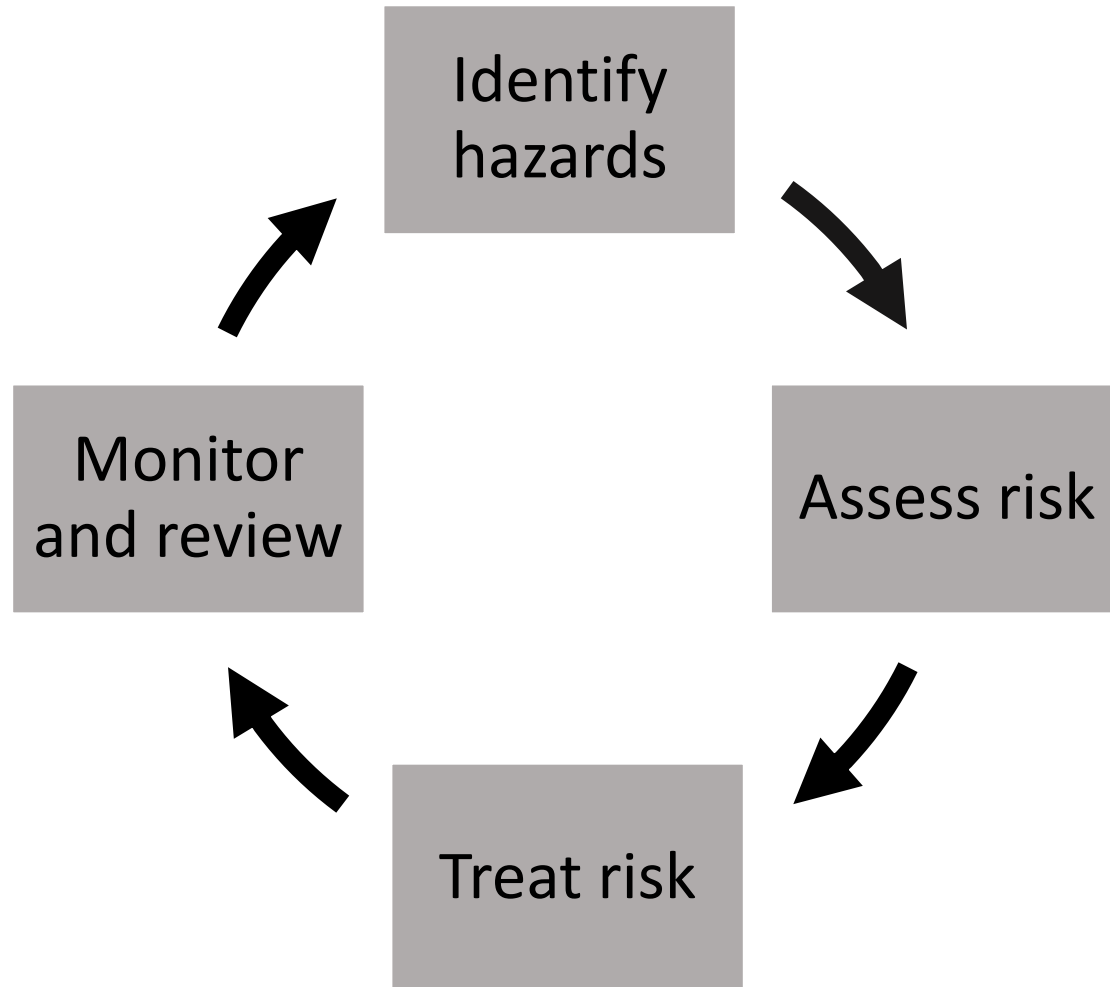
# **TruckSafe® standards and accreditation guide**

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**Next steps**

# Next steps: risk management process



- Documented
- Understandable
- Sustainable

# Next steps: executive officer due diligence

Determine the executives in your business



Build a due diligence checklist



Carry it out and review



# Resources

- NHVR guidance material and gap analysis tool
- ATA member association webinars and conferences
- ATA/ALC master registered code of practice
- Audited accreditation through TruckSafe®