



E. B. Mawson & Sons
Pty Ltd

Chain of Responsibility
Awareness Seminar

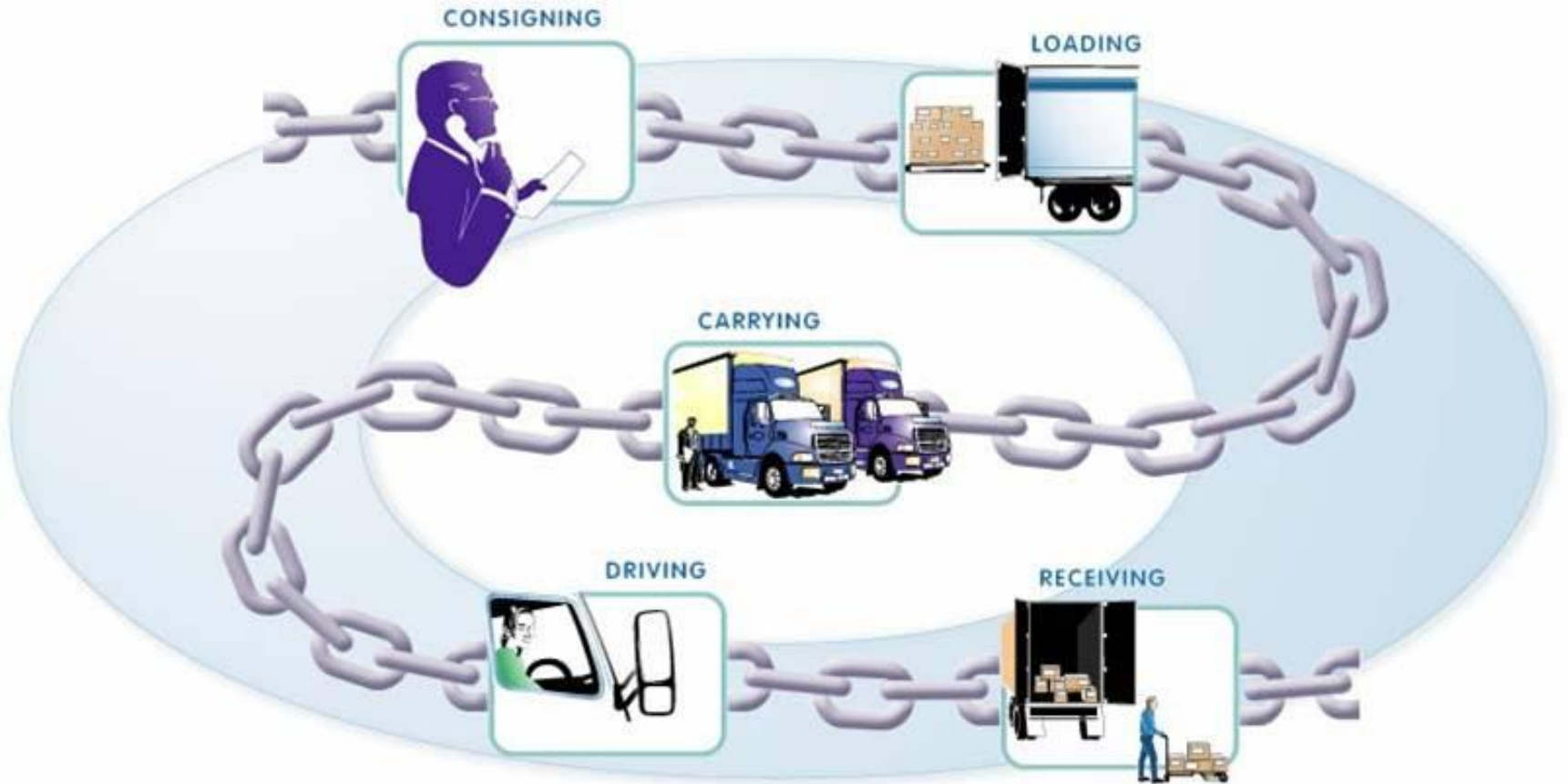


Housekeeping

- Evacuation Procedures
 - If we need to evacuate, please leave your belongings and depart immediately
- Evacuation Warning
- Evacuation Points
 - Toilets
 - Telephones



CHAIN OF RESPONSIBILITY





COR LEGISLATION

Introduced into Victoria in 2005

New South Wales 2006

South Australia 2007

Queensland 2007-8



Responsible Positions

- A person who:
 - consigns goods,
 - load goods,
 - unloads goods,
 - Owner/operator of weighbridge used to weigh heavy vehicles,
 - Controls, or directly influences, the loading or operation of a heavy vehicle,
 - Agent, employer, employees or sub-contractor of any person previously referred to.



Engage In Conduct

- Means –
 1. To do an act; or
 2. Fails to do an act.



Legal Liabilities

- Consignor /Contractor/Customer –
 - Who engages an operator, either directly or indirectly or through an agent or other intermediary to transport good, or
- This person or company is guilty of an offence if—
- (a) a vehicle is in breach of a mass, dimension or load restraint limit or requirement; and
- (b) the person is the consignor of any goods that are in or on the vehicle.



Consignee

- A person who is intended to or actually receives of goods consigned for road transport is guilty of an offence if—
- (a) the person engages in conduct that results, or that is likely to result, **in inducing or rewarding** the breach of a mass, dimension or load restraint limit or requirement; and
- (b) the person intends that the outcome.



Operator

- Sect 195
- A person is an operator of a vehicle if –
 - (a) in the case of a vehicle (including a vehicle in a group of vehicles that are physically connected) - the person is responsible for controlling or directing the operations of the vehicle; or
 - (b) in the case of a group of vehicles that are physically connected - the person is responsible for controlling or directing the operations of the towing vehicle in the group



Loader

- Means –
 - Loading a vehicle, or
 - Supervises, or
 - Manages or controls loading.



Multiple offenders

- (1) This section applies if more than one person is liable to be found guilty of an offence in respect of the breach of a mass, dimension or load restraint limit or requirement in relation to a vehicle.
- (2) Proceedings may be taken against all or any of those liable in relation to the breach.



Vicarious responsibility for officers and employees

If the conduct was engaged in on behalf of a body corporate by a director, employee or agent of the body corporate while acting within the scope of his or her actual or apparent authority, it is deemed to have been engaged in also by the body corporate, unless the body corporate establishes that it took reasonable precautions and exercised due diligence to avoid the conduct.



New Penalties

- Sect 204 Commercial benefits penalty orders
(A penalty of up to 3 times the amount estimated by the Court to be the gross commercial benefit relating to the transaction. i.e. the amount gained by encouraging overloading)



New Enforcement Powers

- Extension of Statute of limitations to 2 years for these offences
- Ability to inspect and search vehicle (weigh, measure, test, take photographs, copy and examine documents and goods. Seize and remove documents or devices)
- Ability to enter, inspect and search business premises (examine and copy documents, seize and remove documents or devices)
- Take business records, including computers from premises for up to 3 months
- Start and run vehicles



Reasonable Steps Defence

- If person charged establishes
 - Did not know, and could not have been reasonably expected to have known the conduct, and
 - Either-
 - The person had taken all reasonable steps to prevent conduct from occurring; or
 - There were no steps the person could reasonable be expected to have taken to prevent conduct from occurring



When things go wrong

- Ensure you have evidence to demonstrate how you assessed risk (Truck Audit)
- Produce evidence of sub contractors compliance systems (Provided evidence)
- File and maintain sub contractor evidence and your audit outcomes
- Even when things go wrong, having evidence that you considered is better than doing nothing at all.



What can you do to help?

- Develop a strategy to maintain control whilst seeking evidence of compliance from contractors
- Promote stakeholder, staff and customer awareness of obligations and implications
- Educate your people to inspect, reject, report and seek corrective action
- Participate in developing Industry Specific Guidelines (Codes of Practice)



Proactive C & E Management

- What does this legislation mean for your business?
- What do you need to do to stay ahead of the law?
- What can you do to help?
- What do you need if things do go wrong and your system fails?



Accept that doing nothing,
is still making a choice!!