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Employment Law E-alert

Victorian decision under the “chain of responsibility” legislation

The campaign to reduce road transport accidents has been strengthened by a recent major decision under the “Chain of Responsibility” legislation. The Dodmaide Transport decision was handed down on 16 March 2007 by the Horsham Magistrates’ Court and will have a significant impact on the transport industry.

The “Chain of Responsibility” legislation provides that all parties involved in the transport chain, not just drivers, are responsible for unlawful practices in the transport of road freight.

Dodemaide Transport was prosecuted following a police audit after a driver was found slumped on the steering wheel of a truck at a service station in Dimboola on 21 July 2005.

During the audit, which lasted more than a year and involved more than 100 witnesses, police found that Dodemaide Transport and its drivers had often breached the law. The audit resulted in more than 300 charges under the “Chain of Responsibility” legislation, 22 of which were charges against the company. Four employees faced charges relating to logbook offences, driving over hours limits, and not taking sufficient rest periods.

Magistrate Capell convicted the company and fined it \$25,000.00. The four employees were fined a total of \$19,000.00.

The prosecution of Dodemaide Transport sets a new chain of responsibility benchmark.

The Dodemaide Transport prosecution followed two separate decisions, one by the Queensland Magistrates’ Court, and the other by the New South Wales Industrial Commission, respectively.

The trucking company, Harker Transport, pleaded guilty to 46 offences permitting employee drivers to drive in excess of relevant driving times and was fined a total of \$40,000.00 by the Brisbane Magistrates’ Court on 16 March 2004.

The other prosecution was against James Hitchcock as a director of Sayogi Pty Ltd, trading as Jim Hitchcock Haulage, a New South Wales based transport company. Hitchcock was found guilty of failing to provide safe conditions for his employee following a fatal accident in 1999 and was convicted on 28 February 2005 and fined \$42,000.00. The company was not prosecuted because it went into liquidation after the accident.

What should you do in order to comply with the requirements of the “Chain of Responsibility” legislation?

As the “Chain of Responsibility” legislation applies to all parties involved in the road transport chain, it is important that you are aware of the responsibilities that are imposed on you and your company by the legislation.

Appropriate systems should be set up to prevent non-compliance with the laws.

For practical advice on compliance with the legislative requirements, you may wish to review the Transport Industry Code of Practice and the “Guidelines for the Practical Application of New Chain of Responsibility Provisions” prepared by AustRoads. A copy of the Guidelines can be obtained from the AustRoads website www.austroads.com.au.