

Road Safety Bulletin



TRUCKING CAN'T RELY ON THIRD PARTIES TO SATISFY COR REQUIREMENTS

Trucking operators are being warned against relying on consignors to load freight correctly in the wake of a case involving Western Freight Management.

Gillian Bristow from law firm Cooper Grace Ward says the New South Wales Court of Appeal's ruling shows transport operators should make sure their drivers review and inspect any freight loaded by a third party. The company was prosecuted under chain of responsibility law for an overloading breach even though Minova was responsible for loading the truck at its yard.

However, the Court of Appeal upheld a previous ruling that found Western Freight Management did not take all reasonable steps to comply with its obligations because its truck driver did not verify the freight was loaded correctly. "The appeal demonstrates the difficulties faced by operators and others in the 'chain of responsibility' in defending proceedings for breach of mass, dimensions and restraint provisions," Bristow says. "For example, relying upon the professionalism of a third party without carrying out independent checks is unlikely to amount to 'reasonable steps'."

Bristow has recommended transport operators carefully review their driver manuals and training and induction procedures to ensure drivers are aware of the need to take steps to prevent a breach.

This includes having drivers check information in relation to weights and dimensions in documents consignors supply and querying documents from consignors if there are any concerns about their accuracy.

During the case, Western Freight Management argued the documentation supplied to its driver was incorrect.

Bristow says the case provides useful guidance on the reasonable steps defence.

The defence allows a trucking company to defend a charge of breaching chain of responsibility law if it can show it took all reasonable steps to prevent the breach from happening.



Article: <http://www.fullyloaded.com.au/news/industry/1406/trucking-can%E2%80%99t-rely-on-third-parties-to-satisfy-cor-requirements/>

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