



ASSOCIATION OF TOURIST & HERITAGE RAIL AUSTRALIA

ABN 19 755 744 868

Department for Planning and Infrastructure
GPO Box C102
PERTH WA 6839
Attention: P. Ariti

Consultation – WA Rail Safety Bill 2009

The Association of Tourist and Heritage Rail Australia (ATHRA) on behalf of its Members makes the following submission regarding the omission of clause 128 (10) and (11) of the NTC Model Bill from the WA Rail Safety Bill 2009 consultation draft 2. This clause reads:

- (10) An officer –
 - (a) of a body corporate (including a body corporate representing the Crown); or
 - (b) of a partnership or unincorporated body or association-
who is a volunteer is not liable to be prosecuted under this section for anything done or not done by him or her as a volunteer.

- (11) In this section-
“**volunteer**” means a person who is acting on a voluntary basis (irrespective of whether the person receives out-of-pocket expenses).”

ATHRA was instrumental in the inclusion of this clause in the Model Bill, which follows Clause 144(5) of the Victorian OH&S Act. Without this clause, ATHRA believes that many potential volunteer Officers with good professional qualifications and experience to lead and positively promote safety will not make themselves available to serve on Boards or undertake supervisory roles. This is likely to result in the Board’s or Safety Committees positions being filled with less qualified volunteers who may not concern themselves as much about the possibility of being prosecuted. There is the possibility as well, that no one will make themselves available for any volunteer Board or supervisory positions and that the closure of a community-based rail heritage operation will occur.

The safety of our Member’s operations is of prime importance to ATHRA. We strongly believe that the omission of NTC Model Bill clause 128 (10) and (11) jeopardises safety within the rail heritage sector and could potentially contribute to the loss of important community-based enterprises.

If you wish to discuss this matter, I can be contacted on 0405 559 012.

Yours Sincerely

Peter Silva
Chairman
17 June 2009



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By email to: Railsafety.bill@dpi.wa.gov.au

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Further to the Association of Tourist and Heritage Rail Australia (ATHRA)'s submission dated 17 June 2009, we advise that ATHRA made a similar submission to the NSW Government at the time of the consultation phase of their Rail Safety Act in 2007.

ATHRA's submission to the NSW Government regarding the omission of the volunteer exemption clause from their draft Act was accepted by them and is now encompassed in Section 136(6) of the NSW 2008 Rail Safety Act. The SA Government has also included the clause in their 2007 Rail Safety Act (Section 132(5)). In the draft Queensland Transport (Rail Safety) Bill 2008, a similar clause (236(5)) was included as well.

Yours Sincerely

Warren Doubleday
Rail Safety Co-regulation Group Panel Representative
Association of Tourist and Heritage Rail Australia
19 June 2009