

# Bulletin

## Tasmanian Automotive Chamber of Commerce



Reference No. Tasmanian manslaughter laws/dh-09-24

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### Tasmanian Parliament passes misguided Industrial Manslaughter Laws

Without any genuine industry engagement or the benefit of a parliamentary inquiry, the Tasmanian Parliament has passed the *Work Health and Safety Amendment (Safer Workplaces) Bill 2024* on 10 September 2024. This is disappointing given there was no political mandate from the Tasmanian people or demonstrated evidentiary basis to justify the introduction of industrial manslaughter laws in Tasmania. Rather, the justification appears to have simply been that other states and territories have passed similar legislation, so Tasmania should too.

The amendments to the Tasmanian *Work Health and Safety Act 2012* introduce penalties of up to 21 years' imprisonment or fines of up to \$18 million for a body corporate in workplace death convictions. The offence applies to persons conducting a business or undertaking (PCBU) and Officers of the PCBU (e.g. company directors), where their conduct causes the death of an individual (e.g. employee) to whom they owe a health and safety duty and they are found to have been either negligent about causing the death of the individual by the conduct, or reckless as to the risk to the individual of death or serious injury or illness. In setting the threshold for the offence at the test of criminal negligence, the amendments reflect Victorian legislation, rather than the Tasmanian Criminal Code.

Importantly, the changes do not apply to other employees in the workplace, regardless of their level of culpability, on the claimed basis that such individuals do not have the power and resources to improve safety. This means that in the tragic event of an employee causing the death of a co-worker in the workplace, if the employee is deemed to have been acting within the actual or apparent scope of their employment (or within their actual or apparent authority), it will be the PCBU and its Officers, rather than the culpable employee, who will be subject to prosecution under the industrial manslaughter offence.

TACC is particularly concerned that the changes will not improve WHS outcomes in Tasmania and may in fact achieve the opposite – with the real risk that proactive, collaborative and practical approaches to work health and safety will be discarded in favour of defensive and legalistic ones. TACC believes that the proposed changes will interfere with the practical, risk-based framework of WHS laws, and will ultimately disproportionately impact small businesses, who make up approximately 97% of Tasmanian businesses.

Whilst disappointed by the rushed passage of these misguided industrial manslaughter laws, TACC remains committed to working collaboratively with the government and regulators on behalf of its members to uphold and maintain safe working practices in the industry. We will continue to work with our members to promote a culture of safety that is collaborative and evidence-led, and one that protects workers whilst also supporting the growth and sustainability of the Tasmanian automotive industry.

TACC will continue to keep members updated, including through member briefings once the commencement date of the changes is known. In the interim, members seeking further information are encouraged to contact the TACC head office on (03) 6278 1611 or the VACC Workplace Relations team on (03) 9829 1123.

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