

AIHS Submission:

Quad bikes and side-by-side vehicles safety

WHS Queensland
Office of Industrial Relations
Queensland Government

(By email: whspolicy@oir.qld.gov.au)

Dear Committee Secretary and Steering Group Committee Members,

We are pleased to make this submission on behalf of the Australian Institute of Health and Safety (AIHS). Specifically we represent institute members, including the AIHS Queensland Branch and the AIHS Policy Committee. The AIHS represents more than 800 work health and safety practitioners and professionals in Queensland. Some additional background on the AIHS is appended for your information.

We have reviewed the Discussion Paper (May 2022) provided by Workplace Health and Safety Queensland (WHS Queensland) and a range of publications relevant to Quad bikes and Side-by-side vehicles in order to provide this submission. We appreciate the opportunity to provide comment on an important proposed changes to Queensland WHS regulations.

The AIHS acknowledges the risks associated with the procurement and operation of quad bikes and side-by-side (SSV) vehicles, and the sobering statistics around fatalities and serious injuries that have been reported across various industry sectors. We also acknowledge the scope of the review as per the Discussion Paper page 2, and the Phase 1 and 2 proposed regulatory changes.

This submission has been prepared in accordance with the guidance provided in the Discussion Paper and is respectfully presented for consideration. In summary, the AIHS broadly supports proposed regulatory changes in the areas of helmets; operator age and carriage restrictions; seatbelts; and training identified in the Discussion Paper with further detail outlined in the *Key Question Response* section attached.

As the peak body representative of the health and safety profession, the AIHS looks forward to seeing the outcomes of the discussion paper and responses and are willing and able to contribute to any further consultation and drafting/review processes relevant to Queensland WHS Regulation changes.

Yours sincerely,

Luke Konstanciak
AIHS Policy Committee – Queensland Lead

Brett Jones
AIHS Queensland Branch Committee Chairperson

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AIHS Submission: Quad bikes and side-by-side vehicles safety

Context:

For the purpose of this submission, the following terms and meanings have been applied to ensure clarity:

- **Quad bike** - means a 4-wheeled motor vehicle that is ridden in the same way as a 2-wheeled motor vehicle (i.e. it uses motorcycle-like controls, handlebars and includes a saddle-like seat)
- **Side by side vehicle (SSV)** – means a 4-wheeled utility off-road vehicle, other than an amphibious vehicle that has car-like controls with pedals, a steering wheel and either a bench seat or a more technical seat that resembles a seat you'd find in a car. It may have one seat, a two-person side by side seating arrangement or two rows of seats.
- **Golf cart** – means a 4-wheeled low speed vehicle intended to be used at golf courses, car parks, over flat or even terrains.

Key Question Responses:

1. *Do you support the proposal to mandate the use of helmets compliant with UNECE 22.05 and AS/NZS 1698–2006 standards? Are there any other standards that should be considered?*

- AIHS supports the proposal to mandate the use of helmets for work-related **quad bike** use (operators and passengers), compliant with UNECE 22.05 and AS/NZS 1698–2006 standards.
 - AIHS supports the application of the UNECE 22.05 and AS/NZS 1698–2006 standards on the basis that no other standards should be considered appropriate for this application. As part of this, AIHS believes that AS1801:1997 – Type 1 and NZ8600:2002 ATV should specifically be noted in any guidance material as not being appropriate for use on work-related quad bikes due to restrictions of effectiveness at certain speeds of travel.
 - Given the typical operational speeds of quad bikes; their use on sloped / uneven / obscured terrain; the lack of an operator restraint; and their use typically without a higher order engineering control being fitted (roll-over protective device or crush prevention device) – this control, albeit personal protective equipment in nature is seen to be a reasonable one that is and aligned with common motor bike operating practices.
 - This position is aligned to the existing *QLD Transport Operations (Road Use Management—Road Rules) Regulation 2009, Section 270 Wearing motorbike helmets.*
 - This position supports the recommendations and observations from a range of sources not limited to:
 - Australian Competition and Consumer Commission. (2019). *Quad bike safety: final recommendation to the minister*. Canberra: ACCC. (pp 6, 48, 49, 117, 118).
 - The Federal Chamber of Automotive Industries (FCAI) in its May 2018 submission to the ACCC Regulation Impact Statement which stated: *“The industry has been recommending the most effective safety device (helmets) since the inception of the ATV, yet only 22% of riders use a helmet. The state governments must follow up on the coronial recommendation of mandating helmets as it is beyond doubt that this would cause the largest improvement in safety outcomes”* (Federal Chamber of Automotive Industries, 2018).
 - Lower, T. Temperley, J. Fragar, L. (2010) *Preventing death and serious injury caused by rollover of quad bikes on Australian farms - Policy Paper*. ACAHS. Moree, NSW.
 - Australian Centre for Agricultural Health and Safety. 2009 (Revised 2016). *Safety of quad bikes and small utility vehicles on Australian farms - A practical management guide*. ACAHS. Moree, NSW.

- AIHS supports the proposal to mandate the use of helmets for work-related **SSV** use, (operators and passengers) compliant with UNECE 22.05 and AS/NZS 1698–2006 standards, in some circumstances.

- AIHS does not support a mandate on the use of helmets for golf cart use. This position is based upon the following factors:
 - Golf carts are typically operated on flat or even terrains where there is good visibility of the travelled path and potential hazards.
 - Speeds are typically limited on these vehicles.
 - Their use is typically short range and/or restricted to designated areas.
 - If mandated for these vehicles (typically involved with passenger, customer, mobility challenged people movements), that barriers to compliant use (e.g. helmet hygiene, variable sizing, storage, inspection, and maintenance regime) would likely impact operational compliance outcomes.
 - Where helmet use is deemed to be non-compliant and operations are ceased, other hazards may be introduced.
 - Queensland Department of Transport and Main Roads already have limitations on registration for golf carts (or derivatives) that maintain their use to the designated applications (via conditional registration).

- AIHS supports a mandate on the use of helmets for **SSV** use (operators and passengers) in the following circumstances:
 - Where the SSV does not have a compliant rollover protective structures (ROPs); or
 - Where the SSV does not have 3-point seat belts fitted; or
 - If the SSV manufacturer specifies/mandates the requirement to wear a helmet; or
 - Where a PCBU prescribes the use of a helmet as a mandatory control as a result of a SSV operational risk assessment, taking into consideration factors such as:
 - operational terrain
 - slope of terrain
 - potential speeds
 - visibility and low-light conditions
 - passenger carriage practices
 - operator practices such as failure to wear seat belts.

- The above SSV position is based upon the following factors:
 - SSVs fitted with engineering controls (e.g. ROPS and seatbelts) provide a higher level of protection than personal protective equipment alone.
 - It recognises and reinforces manufacturer specified key protection measures.
 - Such an approach reinforces the requirement to undertake a plant risk assessment (aligned to *QLD WHS Regulation 2011* and *Managing the risks of plant in the workplace Code of Practice 2021*) while summarising a range of relevant factors relevant to SSV operation.
 - Such an approach would not mandate a helmet approach across all work related SSV activities, but rather focus the use of helmets in certain higher risk situations.
 - This approach, combined with a mandatory requirement for helmet use with quad bikes, would likely factor into potential PCBU procurement decisions and may lead to procurement of SSVs instead of quad bikes.
 - This approach is somewhat similar to the approach taken within the existing *QLD Transport Operations (Road Use Management—Road Rules) Regulation 2009, Section 270 Wearing motorbike helmets* which provides (via s270 clause 2A) a current exception clause to the helmet requirement if the SSV “*is required, under the safe movement guideline, to comply with the conditions mentioned in ‘code LO3’ under the guideline; and is fitted with seatbelts and a roll over protection system that were fitted to the vehicle at the time of the vehicle’s manufacture*”. The Code LO3 relates to *Restricted to designated area* situations and condition description detail as follows:

A vehicle operating under this condition is only permitted to operate in the following areas: Carparks (shopping centres, airports, and so on); Parklands; Beaches; Resorts University grounds; Hospital grounds; Refuse/recycling depot; Wharf; Some areas that are State or freehold land and reserves; Cemetery; Showgrounds; Mining leases; Any area designated by the Chief Executive, Department of Transport and Main Roads.

Other Conditions

– A vehicle operating in the areas listed above must have authorisation from the land or area owner

– Authorisations must be produced when required by an authorised officer

– Vehicles operating under this condition are to operate off-road within the designated area. However, incidental road use, including crossing roads within the designated area, is allowed as required.

– A vehicle operating under this condition is only permitted to operate at a speed no greater than the specified “SP” (Speed limited) condition code (if applicable). That is SP10: 10km/r through to SP50: 50km/h.

2. In your experience, do businesses already use compliant helmets and to what extent?

- AIHS is of the view that QLD businesses are currently not using compliant helmets in an extensive manner across workplaces, relevant to quad bike and SSV operations. This includes (but is not limited to):
 - Farming / agricultural workplaces.
 - Gardening and landscaping workplaces.
 - Schools and sporting fields / precincts.
 - Workplaces outlined in the aforementioned section relating to designated areas (carparks, shopping centres, airports, parklands, resorts, university grounds, hospital grounds, refuse/recycling depots, cemeteries, showgrounds).

3. Do you anticipate any barriers to complying?

- AIHS do anticipate barriers to complying with a mandate of helmets as this will create a notable change to some PCBUs. This is likely to be due to cost, helmet hygiene and maintenance factors, heat/ventilation factors (for those working for extended periods), or simply a change to worker custom and practice.
- However, AIHS is of the view that implementing helmet change relative to quad bikes is likely to be easier than the SSVs, given that:
 - Helmet use is commonly seen throughout society and on roads (e.g. motorbikes), and occasionally in recreational settings.
 - Quad bikes are likely to be used by individuals, or a smaller group of workers, and by a smaller ratio of passengers, as opposed to SSVs that are regularly used by larger groups of workers that share the plant, and/or for the purposes of carrying other passengers.
- If helmets were to be mandated across all quad bike and SSV use in an occupational context, AIHS anticipates potentially substantial rates of non-compliance. In some workplaces AIHS anticipates that this mandate could change procurement and plant use approaches, potentially resulting in less suitable plant, vehicles or mechanical aids being used. This may inadvertently increase the risk of manual task incidents or access and falls from height incidents, given that SSVs in particular present a useful plant item for carrying equipment and tools at ergonomically practical heights, which don't require access / climbing into or onto vehicles, utilities, trailers or similar.

4. Any other comments relevant to this proposal?

- To further encourage industries to comply with any future helmet regulations, a rebate scheme similar to other jurisdictions could be considered. For example, in July 2016, SafeWork NSW introduced a quad bike

safety improvement program that offered NSW farmers and small businesses rebates (i.e. for the purchase of compliance helmets) and training packages. In May 2018, NSW launched a communication campaign across regional NSW involving television, print, radio and social media to raise awareness of safety issues and the rebate scheme.

- While AIHS recommends limiting the application of compliant helmets to work-related quad bike use, consideration needs to be given to PCBUs that hire quad bikes for recreational use in a controlled setting (e.g. farm stays or similar). The PCBU duty could be prescribed as requiring a 'risk assessment', or a clearer requirement for mandatory compliant helmets in specific circumstances.

5. Are there any unintended impacts anticipated from the proposed age and design restrictions (setting a minimum age for quad bike operators/passengers; and, for SSVs, a minimum operator age, minimum passenger age/height requirements, and seat belt requirements)?

The AIHS anticipates there may have been an inadvertent drafting error in the Discussion paper given that the proposed regulatory changes on page 5 of the paper differ slightly from those on page 6. That is, page 5 addresses helmet, operator and passenger age aspects, whereas page 6 addresses operator and passenger age aspects for quad bikes (not helmets), but then helmet and operator and passenger age aspects for SSVs. Although subtle this was seen to be worth raising.

- AIHS supports the proposal to mandate minimum age of operators of quad bikes and SSVs to 16, or the minimum age recommended by manufacturers (whichever is greater).
- AIHS supports the proposal that a quad bike is not used to carry a passenger, unless it is designed to carry a passenger, and the passenger is at least 16 years of age. The AIHS also supports a mandatory requirement for the passenger to wear a compliant helmet which was not specified in Discussion Paper on page 6.
- AIHS supports the proposal to mandate that a SSV is not used to carry a passenger unless the passenger is at least eight years of age, the passenger is wearing a seatbelt, the passenger's feet can be placed flat on the floor of the SSV (while seated), and the passenger can (while seated) hold the vehicles handrail (if any). Per the previous section in relation to helmet requirements however, AIHS does not support a SSV passenger helmet mandate for all SSV situations.
- The AIHS does not anticipate any significant unintended impacts if the above proposed approach was to be mandated.

6. Do you anticipate any barriers to compliance with the proposed regulations?

- AIHS does not anticipate significant barriers to compliance with the proposed regulations relevant to age of operators and passengers. From an operator perspective, it is anticipated that the proposed regulations would affect a relatively small cohort of workers between 13 and 16 years. From a passenger perspective there may be a larger cohort (especially in family run farming or agricultural settings) where these ages may impose restrictions that would not have previously been in place, but this is not seen to be significant or unreasonable given that prevention of child deaths and harm in the workplace should be avoided wherever possible. A risk assessment for a workplace setting may be applied, however this is not recommended as a biased result is likely.

7. Are there any other comments relevant to this proposal?

- No other comments.

8. Do you anticipate any barriers to compliance with the proposed regulations?

- AIHS supports the proposal to mandate use of seat belts in SSVs (operators and passengers) where the vehicle has seat belts installed. Specific or widespread barriers to complying with such a requirement is not anticipated, especially given that use of seatbelts in vehicles is typical and socially the norm.

9. Are there any other comments relevant to this proposal?

- AIHS is of the view that consideration should be given to specifying further requirements in relation to seat belts, although it is acknowledged that this may not be within the scope of this discussion paper.
- It is suggested that SSVs (not golf carts) must be fitted with a 3-point design seat belt (rather than lap or 2-point design) for every seat provided. It is suggested that some further research could be done with manufacturers of SSVs sold in Australia to confirm the current extent of conformance to this requirement which could subsequently inform any transition period relative to this higher standard.

10. Do you use formal quad bike and SSV training? If so, what was the training, and what was your experience with it?

- Items 10 – 13 (relevant to an OIR Proposed Phase 2 of WHS regulatory change) were not reviewed in detail by AIHS as part of this response, hence specific comments have not been provided at this stage. Pending the outcome of Phase 1, AIHS would be interested in providing additional feedback with respect to training approaches.

11. What are your views on the AHCMOM217 and AHCMOM216 courses? What types of workers would benefit from these courses?

- This aspect was not considered as part of the AIHS response

12. Are there other types of training suitable for workers or persons who use these vehicles in the workplace?

- This aspect was not considered as part of the AIHS response

13. Do you anticipate any barriers to compliance with mandated training? If so, what are they? How could these barriers be overcome?

- This aspect was not considered as part of the AIHS response

14. Are there any other comments relevant to this proposal?

- While AIHS supports proposed regulatory change to reduce harm and improve safety requirements in the area of quad bike and SSV operation, its preference is for a national / harmonised approach across the state and territory jurisdictions of Australia. The AIHS appreciates the consideration of our response and any future opportunities to provide input into this process.

APPENDIX: About the AIHS

The Australian Institute of Health and Safety (AIHS) is the national association for people who work in generalist health and safety roles (practitioners and professionals), and for leaders in health and safety more generally¹. We have many members in the resources industry, including in Queensland.

On 1 July 2019 our name changed from the Safety Institute of Australia to emphasise the importance of occupational health as well as safety. For more than 70 years we have worked towards our vision of safe and healthy people in productive workplaces and communities. The AIHS is constituted as a not-for-profit company under Corporations Law. Our Patron is the Governor-General of Australia.

The AIHS is mainly funded by member contributions and has a Chief Executive and small paid secretariat based in Melbourne. Most of our work is undertaken by volunteers through State and Territory Branch Committees. About 5 per cent of the membership are Fellows; the College of Fellows are thought leaders within the Institute who seek to ensure policy positions are based on evidence.

The AIHS strongly supports collaboration, including with our long-standing strategic partners. We share a common commitment with tripartite stakeholders (e.g. government, employers and workers) to provide the best possible health and safety policy and practice advice for the benefit of the wider community. However, our own voice as a profession and association of health and safety experts is often distinct from those of unions, employers, and government. Our focus is on the science and practice of health and safety based on best available evidence, in order to create safer and healthier workplaces. As a result, it is not uncommon for the Institute to present a view on an issue which unions, employer groups, or even regulators, may not agree with.

Legislative and WHS policy framework

As a Commonwealth, we are faced with the challenge of varying legislation, and more significantly, varying *application* of that legislation amongst different state and territory jurisdictions. This presents a range of challenges, especially for businesses and workers that operate on a national scale across jurisdictional boundaries. An impact of this is that scarce internal funding and focus can be diverted to managing varying compliance regimes rather than controlling critical hazards and managing risk.

The Australian Work Health and Safety Strategy 2012-2022 as amended in 2018² has strong support by the AIHS and other stakeholders across the nation. The Strategy is managed by Safe Work Australia (SWA) through its CEO and Board utilising a tripartite committee framework comprising jurisdictions (governments/regulators), employers and unions. SWA's website provides background on the model WHS Act and Regulations and model Codes and guidance material³. SWA operates with regard to a July 2008 Intergovernmental Agreement (IGA) signed by all jurisdictions⁴ that undertook to harmonise OHS legislation.

The OHS Body of Knowledge

The *Australian OHS Body of Knowledge*⁵ (BoK) represents the best repository of its kind in the world on the practice, science and psychology of workplace health and safety and possibly Australia's greatest single health and safety asset, based as it is in the world's best evidence and research into health and safety practice. The BoK is used as an underpinning knowledge base used by universities providing OHS studies, and accredited courses. The BoK is used internationally. The *Steward* of the BoK (protector of the IP) is the AIHS, *which maintains the BoK as a public good* and provides the BoK open-source and free of charge.

¹ See <https://www.aihs.org.au/about>

² <https://www.safeworkaustralia.gov.au/about-us/australian-work-health-and-safety-strategy-2012-2022>

³ See <https://www.safeworkaustralia.gov.au/law-and-regulation/model-whs-laws>

⁴ See <http://www.coag.gov.au/content/intergovernmental-agreement-regulatory-and-operational-reform-occupational-health-and-safety>

⁵ [The OHS Body of Knowledge](#)

The profession and its capability to provide high quality advice to prevent deaths and injuries

While oil and gas, mining, explosives and other high-risk work like electricity have their own important qualification and competency criteria and assessment, two distinct levels of education form the key entry points to work in the generalist health and safety profession who work alongside such specialists:

- **Practitioner level work:** is at the operations level implementing health and safety systems, and requires VET training. Commonly, people at these levels hold a minimum of Cert IV or Diploma in Workplace Health and Safety. At the practitioner/operational level, training standards have dropped significantly since the de-regulation of the VET system and are a serious concern. Employers can no longer trust the level of knowledge of recent Cert IV and Diploma graduates. The implications of this are very serious, especially in high risk industries, where health and safety advisors' actions can directly affect the lives and wellbeing of the workforce. The Institute sees this is a critically important issue, and recently successfully advocated for a priority review of VET health and safety course content. Unfortunately, this view was not shared by either union or employer groups involved in the review, who argued that they did not wish to make the courses harder for their members and users of the training to undertake.
- **Professional level work:** is more applicable to management (and board) levels in designing health and safety systems within the broader organisational context. Commonly, people in these roles have bachelor's degrees or post graduate qualifications in health and safety. At the professional level, the process for continuous improvements in the quality of education is well structured and strongly underway. *The Australian OHS Body of Knowledge* underpins the work of the Australian OHS education accreditation board (AOHSEAB)⁶, constituted under the AIHS, which now accredits all but one of Australia's higher education courses in OHS, in a program which is focused on continuous improvement and development based on current knowledge and emerging research.

⁶ [Australian OHS Education Accreditation Board](#)