

Submission to the Senate Standing Committee on Rural and Regional Affairs and Transport Inquiry into "The need for regulation of mobility devices, also known as motorised wheelchairs"

Mobility Devices and travel on Buses and Coaches

Bus Industry Confederation

March 2018



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Bus Australia Network



Bus Industry Confederation

About the Bus Industry Confederation of Australia

The Bus Industry Confederation (BIC) is the peak national body representing the interests of Australian bus and coach operators and suppliers to the industry. As the primary voice of the bus and coach industry the BIC works with all levels of Government, regulatory authorities, strategic partners, our industry and the community to:

- Encourage investment in public transport infrastructure and services.
- Coordinate and make more effective existing Federal, State and Local Government policies and programs that relate to passenger transport.
- Improve public understanding of the contribution made by the bus and coach industry to Australia's economy, society and environment.
- Ensure that the accessibility and mobility needs of Australians are met, regardless of where they live or their circumstances.
- Ensure that buses and coaches operate safely and effectively.

Introduction

This paper is primarily focussed on the following Inquiry Terms of Reference:

- c) any current regulations governing the use of mobility scooters throughout Australia
- e) what support structures are in place to ensure the safe operation of mobility scooters?
- f) the regulatory role of government and non-government bodies and
- g) any related matters.

This submission reflects specific issues and concerns as they relate to the bus and coach industry and the use of mobility devices such as mobility scooters and motorised wheelchairs, whilst travelling on a bus or coach. This includes the restraint of the mobility device on the vehicle and the risks associated with their use whilst travelling on a public transport, tourism or booked service bus or coach.

These concerns directly relate to the requirements of the Disability Standards for Accessible Public Transport 2002, (DSAPT), that form part of the Disability Discrimination Act 2002.

The DSAPT require that buses are manufactured to meet specific requirements in relation to access to the bus (ramp and aisle widths) and specified dimensions for allocated spaces for people with disabilities in mobility devices. This by de-facto imposes a range of criteria related to size, mass and manoeuvrability of mobility devices on buses.

Unfortunately, these requirements are difficult to gauge in the daily operation of bus and coach services where, on most occasions, no pre warning occurs in relation to what kind of device will attempt to travel on a bus or coach.

Following are a range of Industry concerns that have been raised in the first two five year reviews of the legislation, as required by the Act, with no changes or resolution to any of the industry concerns raised in that period.

The BIC provides this information to the Committee for consideration and with the hope of seeing recommendations made to support safe travel for all passengers on buses including people

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travelling on mobility devices.

Mobility Devices – Identification

The bus and coach industry believes that a system is required to have mobility devices clearly identifiable as being able to be carried on relevant modes of public transport and in this case buses and coaches.

Currently there is no satisfactory requirement or mechanism for bus and coach operators, drivers or people with disabilities to determine which mobility devices are suitable for use on accessible buses and coaches.

The Bus Industry Confederation would like to see introduced the requirement for mobility device manufacturers to ensure that all devices are appropriately identifiable as being safe and suitable to be carried on a public transport conveyance as per the requirement of the DSAPT, and that purchasers of such devices are made aware of the limitations that the standards impose, for example in the areas of size, mass and manoeuvrability of a device on a bus.

Currently many mobility device manufacturers advise in their user manual and warranty documentation that use of mobility devices whilst travelling in a moving vehicle is not recommended, but no formal identification of this is available on the mobility device itself. This creates an environment where bus operators are forced to undertake an inherently unsafe activity at the risk of a complaint to the Australian Human Rights Commission or other Anti - Discrimination bodies (as per the complaints process outlined in the Disability Discrimination Act) by the person with a disability, often at great legal and operational expense to the bus operator.

The BIC supports a labelling process that should be supported by a Federal and State by State education program for people with disabilities to understand the requirements of the standards for mobility devices.

This would enable Bus and Coach Operators and drivers to not allow access to a public transport bus or booked coach service for mobility devices that are not labelled as safe to travel on public transport.

Mobility Devices – Safety

A concern for bus and coach operators in relation to mobility devices is the safety of people using them and the safety and amenity of other passengers.

The areas of concern relate to:

- Mobility devices and their inherent stability and the impact on the safety of the user and other passengers on buses in the event of an accident, heavy braking or swerving incident if the device/passenger is not adequately secured.
- The inconvenience caused to other public transport users and the personal impact on the dignity of people with disabilities, when mobility devices which are not suitable for use on a conveyance can result in accessibility ramps breaking on entry or alighting the bus, or devices not being able to maneuver into allocated spaces due to their size and turning circle. Devices can and do get stuck and/or protrude

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into aisles, impacting on access and egress and resulting in "man handling" to free the device.

- The consequences of mobility devices of the "scooter" type that carry wet cell batteries is a safety concern. Wet cell batteries can be susceptible to leakage, the fluid is very acidic and flammable. Wet cell batteries have also been known to explode on impact and may be a safety hazard in the event of an accident or other form of impact.
- The effective restraint of mobility devices is a major concern to the industry. The bus and coach industry is required to meet stringent seat strength and anchorage requirements under Australian Design Rules. Key issues to be considered here are seat and mobility aid strength, and the risk of mobility devices that are not secure becoming projectiles.
- The restraint of mobility devices is an ongoing area of uncertainty. The actual restraint of mobility devices is an imperfect science that results in people with disabilities being put at greater safety risk in order to obtain equal access to services.
- Australian Design Rules provide for seat strength and seat anchorage requirements that provide a level of occupant protection that cannot possibly be met by the mobility device, whether it is restrained or not. Further the wheelchair spaces on buses do not provide the compartmentalization benefits provided to other seated passengers.
- In relation to the restraint of mobility devices the accepted practice is for mobility devices to be tethered to a rearward facing device known as an "ironing board device". The practice of facing rearward is not accepted by many people with disabilities who wish to face to the front of the vehicle like most other passengers. However, this is a less safe option.
- Some discussion has been raised that active restraint of mobility devices be introduced for buses similar to taxis. This option is considered impractical due to the varying types of mobility devices that would be required to be restrained, the cost impacts, the vehicle mass increase, the inconvenience that would be imposed on other passengers and, as outlined below, driver responsibility issues.
- Bus operators' company policies vary on the instructions to drivers regarding leaving their seat to engage the wheelchair ramp to assist passengers with mobility devices. In some cases, the driver needs to make an assessment of the relevant circumstances including security of the cash box, number and type of passengers on board, suitability of the bus stop/kerbside.
- The BIC from broad consultation with Industry has summarized the general Industry operational policy and advice given to drivers as:
"the driver should only leave the driving position to assist a passenger to enter or leave the bus to set and return the access ramp. This should only occur after the driver believes it is safe and reasonable that the bus is secure. All other reasonable assistance that is required should be provided by a carer, e.g. getting on and off the bus and manoeuvring into an allocated wheelchair space or seating and for any restraint requirements".

Specific Coach Issues

- A number of specific concerns have been raised by coach operators who operate in the deregulated long distance, tour, charter and express sector of the Industry.
- Some companies do not allow for people to travel on coaches without transferring to a seat belted passenger seat.
- Some users of wheelchairs and mobility devices request that they travel on the coach in their device. Coach operators are inclined to accept this request despite the fact that this is the less safe option and restraint of the device can in no way meet the requirements of the ADR's for seats, seat belts and seat anchorages. There are also concerns that drivers could injure a person in a wheelchair or themselves in attempting to restrain a wheelchair where no restraint or wheelchair strength standard exists and no crash testing simulation has been undertaken for a wheelchair tied down in a coach.
- In the above circumstances a coach operator would need to remove four seats to accommodate one chair space and six seats to accommodate two wheelchair spaces. This is a timely and costly exercise in the workshop and requires 2 people to undertake the seat removal task. If the journey is only one way the operator loses the seating capacity for the return trip.
- People using wheelchairs and other mobility devices to travel on coaches are boarded using a wheel chair lifter. A wheel chair lifter if used requires that four or more seats are removed from the bus to allow access into the bus and manoeuvrability into a seat or wheelchair space. Due to aisle width requirements for bus and coaches it is impossible for people in wheelchairs or other mobility devices to have access to water fountains and toilets. Instead, people in wheelchairs are restricted to remaining in the left hand of the bus for the duration of the trip. This places an extra burden on the operator and the driver to ensure that the person with a disability is afforded the necessary rest breaks. This has flow-on effects to timetables and driver fatigue law requirements. This is further compounded as many refreshment stop businesses are not DDA compliant. Given that refreshment breaks are part of the overall service, operators are concerned that they might be made accountable for non-compliance.
- A wheelchair lifter and the required engineering to install and operate it can add up to 600 kilograms to the Gross Vehicle Mass of the bus. This can mean, depending on the type of bus, more seats having to be removed to remain under the legal mass limits of the vehicle. Wheelchair lifts also add up to \$40,000 to the cost of purchasing the vehicle. Operators in effect are doubly impacted: they pay more for the vehicle to have a lifter and when it is required for use they lose seats and therefore cannot maximize the productivity of the vehicle. Depending on the location of the lifter there is also a significant loss of luggage space.
- It should also be recognized that the floor height of some large coaches means that a wheel chair lifter cannot be fitted.
- It should also be noted that regular long distance coach services are meeting DDA requirements (currently 80% of services) and moving to 100%, however this compliance and the fact that the take up rate and usage of wheelchair space is low is currently creating the type of issues outlined above. These issues are compounded by the lack of information on what mobility devices are acceptable for

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- travel.
- Coach operators are seeking greater flexibility in the DSAPT to meet the needs of people with disabilities. This include for example the sub-contracting a service, if an accessible vehicle is not available to meet people with disabilities mobility need. The philosophy being that the mobility *outcome* is the priority. Coach operators are generally moving to become DDA compliant, however some tours, for example adventure and camping-style tours, are not suitable for DDA. Coach operators need the flexibility to be able to nominate in their marketing which tours are wheel chair accessible and friendly without fear of discrimination.
 - This area of coach operation would again benefit by labelling to understand which type of mobility devices they need to cater for. Further analysis could also then be undertaken on access for these devices to the various venues and components of the tour.
 - Like accessible ramps mentioned above, wheel chair lifts are subject to breakdown and damage due to the size of the mobility device and the combined weight of the device and the person with a disability. At the same time people transferring to a seat belted seat request the mobility device be carried in the luggage bins of the bus. Often these cannot fit and can create OH&S concerns with drivers having to load these devices. Mobility device labelling for bus and coach use would address this.
 - Coach operators strongly believe that based on the actual use of wheelchair lifters and seat productivity losses, a strong case exists to argue unjustifiable hardship in meeting the requirements of the Act.

Workplace Injury and Practices

With the increase in safety requirements through bus operator accreditation, bus service contracts, Australian Design Rules for vehicles, Work Health and Safety laws, National Heavy Vehicle Laws and particularly Chain of Responsibility laws, there is a need to review the current requirements of the DSAPT in relation to mobility devices through a broader legislative lense than "equal access".

Equal access in the context of people with disabilities and the requirements of the Disability Discrimination Act and DSAPT should not be at the expense of or undermine other legislative and regulatory requirements that bus and coach operators are required to meet. Currently laws that are aimed at ensuring the safety of passengers and employees, and laws aimed at providing equal access for people with disabilities, create an environment where employer's obligations are compromised in trying to achieve legislative requirements. Simply put, the different Acts are not complimentary.

The BIC believes that a thorough cross review of these laws is needed to ensure that compliance can in fact be achieved and that the laws work together to reduce the risks for people with disabilities travelling on bus and coaches on mobility devices, ensures the welfare of bus and coach company employees, and protect the employer in relation to their due diligence.

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DDA Compliant Bus Stops and Infrastructure

BIC is also concerned about the lack and suitability of mobility device infrastructure at bus stops and the path areas to get to bus stops. It would appear that local councils are not providing adequate infrastructure to meet the needs of people with disabilities boarding and alighting from buses. It should be noted that some local councils, such as Brisbane City Council, are working to provide adequate infrastructure, but much more needs to be done. There are instances of passengers falling from their devices, even with driver assistance because of unsuitable ground areas outside the bus.

Recommendations of this Submission

A safety review of mobility devices be undertaken in relation to the stability and suitability of mobility devices to be used whilst travelling in a moving vehicle.

Mobility devices be labelled by the manufacturer to identify that the device is safe and suitable to be used whilst travelling in a moving vehicle.

Mobility devices be labelled by the manufacturer to identify that the device meets the requirements of the Disability Standards for Accessible Public Transport.

A comprehensive review be undertaken of the requirements of the Disability Discrimination Act 2002 and the Disability Standards for Accessible Public Transport and other areas of law, such as Australian Design Rules, National Heavy Vehicle Law, Occupational and Workplace Health and Safety Laws where ambiguity, lack of clarity and the competing requirements of the different laws, create an unsafe workplace, road safety concerns and due diligence and legal risk implications.