

Tow Truck Bill 2023

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Submitted by: Harvey's Towing Service
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Submitter Comments:

By Email: trc@parliament.qld.gov.au

07/07/2023

Re: Tow Truck Bill 2023

Attention: Transport and Resources Committee

Dear Committee Secretary,

Thank you for the opportunity to provide feedback in response to the public submission of the Tow Truck Bill 2023.

Harvey's Towing Service (HTS) have been providing towing and transportation services for over 40 years in the south east corner of Queensland and we consider ourselves one of the industry's leaders. Our company employs over 150 workers in the Brisbane, Logan, Ipswich and Gold Coast areas; areas that are governed by the Tow Truck Act 1973 and the Tow Truck Regulation 2009.

As the Tow Truck Bill extends to a broad range of measures, HTS would like to expand on two of the proposed changes and provide further comment; please find our response below.

HTS supports the Tow Truck Bill 2023 and commends the policy objectives however we would welcome further consideration to be given to the following two points.

Part 1 General Provisions - Division 3; Clause 13 and 14

Clause 13 sets out the matters to be considered when the chief executive is deciding whether or not a person is an appropriate person to hold or to continue to hold an accreditation. The types of matters that the chief executive must have regard to include the person's criminal history, whether an accreditation held by the person has been previously suspended or cancelled, the person's conduct while carrying out activities under an accreditation, and whether the person is or has been the subject to a control order under the Penalties and Sentences Act 1992 or a registered corresponding control order. Where the applicant is a corporation, the chief executive must have regard to a number of factors including, for example, the criminal history of each of the executive officers of the corporation. For driver accreditations, the applicant's traffic history must also be considered.

Clause 14 sets out the matters to be considered when the chief executive is deciding whether it is in the public interest for a person to hold or continue to hold an accreditation. Specifically, regard must be had to:

- *the legitimate expectation of members of the public, particularly vulnerable members of the public, that they will not be subject to assault or aggressive, coercive or otherwise inappropriate behaviour from persons involved in the tow truck industry; and*
- *any other matter prescribed by regulation or, subject to clause 15, any other matter the chief executive considers relevant.*

This section is relevant to the chief executive's power to make decisions about accreditation applications and take action against an accreditation holder. The chief executive may refuse an application to grant, renew or amend an accreditation if satisfied it would not be in the public interest to approve the application (see clauses 18, 25 and 31). The chief executive may also amend, suspend or cancel an accreditation if it is not in the public interest for a person to continue to hold an accreditation (see clause 38).

HTS Response: HTS acknowledge the significance of the powers that the chief executive must possess to make decisions around accreditation applications however the current approach appears to be inconsistent with unpredictable and contradictory outcomes, in addition HTS do not believe that the proposed approach resolves the issue. Our industry is facing some of the toughest times in recruiting and one of the major difficulties our industry faces is when a potential driver is denied a *driver's certificate* after being deemed not an 'appropriate person'.

To give context behind the above comment and to demonstrate the inconsistencies that our company has encountered to date, HTS are providing two examples.

In the first example, HTS had a driver assaulted by a driver from another company. The offending tow operator lost his *driver's certificate* for a short time as a result of this incident. This driver was then able to return to the industry conversely HTS have had applicants denied their *driver's certificate* due to an assault charge that occurred when the applicant was 18 (he is now in his 30's) and was not towing related; this action appears to contradict what is deemed to be an appropriate person.

Another example of disparity is when HTS had hired a driver and upon applying for his *driver's certificate*; his application was declined due to his traffic history. The driver then appealed the decision and a letter of support from HTS was submitted with his application; despite this his application was once again denied. The same driver has then left our employment and went to work for another towing company, where he was successful in obtaining his *driver's certificate* under their employment. It is difficult to not presume that there are discrepancies in the principles of how to determine who is an 'appropriate person' and that the decision-making method is not consistent.

The above examples demonstrate that current practices are confusing and at times imbalanced, and HTS consider that the proposed changes do not address this issue. Whilst HTS acknowledge that

there is not a 'one size fits all' application, it would be appreciated if there were clear guidelines and consistency around what measures are applied when determining if a person is appropriate.

HTS propose that clear guidelines are established and consistent decisions are made when the chief executive is considering an application.

Part 4 Offences and notifying particular matters - Division 1; Clause 53

Clause 53 establishes an offence for a person to drive, or offer to drive, a tow truck to carry out regulated towing if they do not hold a driver accreditation. The clause also establishes an offence for a person to otherwise operate, or assist with the operation of, a tow truck to carry out regulated towing without the necessary driver accreditation or assistant accreditation. The maximum penalty for non-compliance with these provisions is 80 penalty units.

HTS Response: The requirement for a driver to hold a *driver's certificate* to drive a tow truck, creates a problem when a driver is unable to secure a *driver's certificate*, even though they have the licence and qualifications to drive a tow truck. The restriction to hold a *driver's certificate* confines the operator (owner of the business) to utilise a tow truck for regulated purposes only, and this limitation restricts the potential and substantial financial earnings available to the tow truck in performing unregulated towing such as breakdown or trade towing. As mentioned in the point above, the towing industry is struggling to recruit drivers who can obtain a *driver's certificate* therefore the accessibility and opportunities for operators (owners of the business) are heavily reduced.

HTS proposed that operators are required to hold a *driver's certificate* when performing regulated towing, and that they can perform unregulated towing in a licenced tow truck providing that they hold the appropriate driver licence required for the vehicle that they are driving.

If you have any questions or require any further information in regards the contents of this letter, please do not hesitate to contact me using the information below.

Yours faithfully,

