




Speech By  
**Glenn Butcher**

**MEMBER FOR GLADSTONE**

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Record of Proceedings, 8 March 2018

### **TOW TRUCK AND OTHER LEGISLATION AMENDMENT BILL**

 **Mr BUTCHER** (Gladstone—ALP) (11.26 am): I rise to speak in support of the Tow Truck and Other Legislation Amendment Bill 2018. I remember as a young chap when my parents owned fish and chip shops down at Southport back in the day—

**Mr Hart:** You had hair.

**Mr BUTCHER:** I did have hair, member for Burleigh, and I still have hair now. It is a little bit like yours. This bill certainly piqued my interest because of some of the things that happened back in the day 20 or 25 years ago. One of the best income earners at my father's fish and chip shops was to race to the phone when there was a major accident on the highway outside his shop. He would get \$80 cash in hand just by ringing up. Competition between businesses who rang up to get that cash turned nasty at times when police who were called out to the accident also had to sort out the big blue going on between tow truck operators. When Minister Bailey introduced this legislation I thought it was well and truly about time we sorted out some of the issues that we have seen here in Queensland in relation to the tow truck industry.

It did surprise me yesterday when the member for Mudgeeraba talked about the number of tow trucks that are stacked up on the M1 and on the exits. I did not understand why she would oppose tow trucks waiting to help clear accidents on these exits to make them flow more quickly. No matter what we do with this legislation, it has absolutely nothing to do with tow truck ramping. They are there providing a service to clear away accidents to keep traffic flowing, so I was a bit baffled by her comment yesterday.

One of the key things that will change in this legislation, should it be passed, is the issue of clarity around signage. I note that the previous speaker spoke a fair bit about signage on private property as well. Everyone agrees that signage is important to the issue of parking on private property. Clearly, highly visible signage ensures that all parties are aware of the conditions of parking and the consequences of not complying on that private property.

This bill seeks to achieve this clarity in a way that does not infringe on the common law rights of a private property owner and of occupiers. Regulating signage for private property parking would affect these common law rights and the legal basis for removing vehicles from private property. In Queensland, there is no general right to park on another person's property. As such, it is not proposed that this bill will deny property owners or occupiers legitimate rights to remove unauthorised vehicles just because a regulated sign has not been installed.

Regulating signs could prevent a business from being able to remove an unauthorised vehicle that causes a genuine problem simply because they have not installed the correct sign. Introducing signage requirements into law could also lead to these businesses installing signs to pre-empt the possibility that they may have to remove a vehicle in the future. This could impose costs and inconvenience that is unnecessary and may unnecessarily restrict parking for motorists when they are allowed.

This investigation considered information provided by many stakeholders, particularly in the committee process, and the competing rights and interests of all parties involved. As a result, it did not recommend regulating signage; instead, it recommended guidelines be developed for signage in Queensland. It is strongly recommended that businesses who intend to have vehicles towed install signs not only to warn motorists but also to protect themselves from potential litigation should they unlawfully remove a vehicle. I am pretty sure that the Law Society of Queensland were strong advocates for that.

This bill regulates towing of vehicles from private property, not the parking of vehicles on private property. The towing of vehicles is regulated by imposing conditions and requirements on who may tow vehicles from private property, how and where the vehicle may be towed and the fees that may be charged. I do believe we have heard a fair bit about where they get towed. I know listening to the previous speaker today and one last night that, if you do get your car towed, you want to make sure that you will be able to get access to that car, get it back and pay those bills if you have done the wrong thing without travelling all over the countryside. This effectively prohibits inappropriate towing related practices while balancing the competing rights of property occupiers and motorists for a fairer outcome for all.

The bill proposes that before a vehicle can be towed from private property without the express direction or request of the vehicle's owner there must be a towing consent between the property occupier and the tow truck licence holder. This towing consent must be carried in the tow truck while the vehicle is being towed away. The purpose of the towing consent is to ensure that the tow truck licence holder acts only at the request and with the approval of the private property occupier—that is, they are not independently monitoring and enforcing parking conditions on their own initiative. I am pretty sure that is where most of this legislation is coming from. It is because of tow truck operators just scoping places where their own enforcement officers take away these cars without the property owner's acknowledgement.

For practical reasons, it is intended that towing consent either covers the towing of a single vehicle for a one-off tow or, where the property occupier has an ongoing problem with unauthorised parking, covers removal of vehicles during a specified period outlined in the towing consent. For practical reasons, a towing consent will not outline all the specific details of the arrangement between the property occupier and the tow truck licence holder. The details of any arrangement may be included in a separate contract; however, it will include information about the tow truck licence holder, the property occupier who is providing that consent, the property and the period of time for which the consent is also valid. This will ensure that the rights of the vehicle owners are upheld whilst also allowing responsible and lawful operators to continue to conduct their legitimate businesses.

As we also heard over the last few days, a lot of tow truck operators in Queensland do the right thing. This legislation and these type of things are designed to stop those rogue operators running roughshod over people in Queensland and removing cars that they should not remove. The tow truck consent does not change the property occupier's or tow truck licence holder's obligation to comply with their obligations under the common law regarding the removal of the vehicle. Importantly, the towing consent must be presented to a vehicle owner or authorised officer if requested on the day.

It is important that any legislation passed in this place seeks to uphold the rights of the stakeholders involved. This bill strikes a balance between the rights of the private property owners, the rights of responsible tow truck operators and the rights of the community in general. I applaud the minister for introducing this legislation and also the committee that did the work to get it to this point where we see bipartisan support for this bill. I commend the bill to the House.