




Speech By
Hon. Mark Bailey

MEMBER FOR MILLER

Record of Proceedings, 15 February 2018

TOW TRUCK AND OTHER LEGISLATION AMENDMENT BILL

Introduction

 **Hon. MC BAILEY** (Miller—ALP) (Minister for Transport and Main Roads) (12.17 pm): I present a bill for an act to amend the State Penalties Enforcement Act 1999, the State Penalties Enforcement Regulation 2014, the Tow Truck Act 1973, the Tow Truck Regulation 2009, the Transport Infrastructure Act 1994 and the Youth Justice Act 1992 for particular purposes. I table the bill and the explanatory notes. I nominate the Transport and Public Works Committee to consider the bill.

Tabled paper: Tow Truck and Other Legislation Amendment Bill 2018 [\[164\]](#).

Tabled paper: Tow Truck and Other Legislation Amendment Bill 2018, explanatory notes [\[165\]](#).

I seek leave to have the remainder of my speech incorporated in the *Record of Proceedings*.

Mr DEPUTY SPEAKER (Mr Stewart): Has the Speaker seen and consented to the material sought to be incorporated in accordance with standing order 25?

Mr BAILEY: Correct; yes.

Division: Question put—That leave be granted.

AYES, 53:

ALP, 47—Bailey, Boyd, Brown, Butcher, Crawford, D'Ath, de Brenni, Dick, Enoch, Farmer, Fentiman, Furner, Gilbert, Grace, Harper, Healy, Hinchliffe, Howard, Jones, Kelly, King, Lauga, Linard, Lui, Lynham, Madden, McMahon, McMillan, Mellish, Miles, Miller, Mullen, B. O'Rourke, C. O'Rourke, Palaszczuk, Pease, Pegg, Power, Pugh, Richards, Russo, Ryan, Saunders, Scanlon, Stewart, Trad, Whiting.

KAP, 3—Dametto, Katter, Knuth.

PHON, 1—Andrew.

Independent, 1—Bolton.

Greens, 1—Berkman.

NOES, 39:

LNP, 39—Bates, Batt, Bennett, Bleijie, Boothman, Boyce, Costigan, Crandon, Crisafulli, Frecklington, Hart, Hunt, Janetzki, Krause, Langbroek, Last, Leahy, Lister, Mander, McArdle, McDonald, Mickelberg, Millar, Minnikin, Molhoek, Nicholls, O'Connor, Perrett, Powell, Purdie, Robinson, Rowan, Simpson, Sorensen, Stevens, Stuckey, Watts, Weir, Wilson.

Resolved in the affirmative.

This Bill is essentially, save some minor adjustments, the same as the Bill first introduced during our previous Parliament. I am bringing the Bill back to the House under this Parliament to ensure the delivery of key reforms to the tow truck industry and other important amendments to youth justice legislation and tolling legislation.

I note that the previous Bill was the subject of an inquiry conducted by the former Public Works and Utilities Committee.

During that inquiry, submissions were invited from industry and the public and written submissions were received from a range of interested stakeholders including the RACQ, the Queensland Trucking Association and the Queensland Law Society.

After consideration, the Committee recommended the tow truck and youth justice amendments in the Bill be passed, although I note the Member for Southport submitted a statement of reservation about maximum towing distances and signage relating to private property towing and I will address those matters.

The Committee did suggest an amendment to the tolling demand notice provisions which I will also address.

There have been some minor changes made to the Bill prior to its reintroduction.

Specifically, the commencement clause has been updated, a number of cross-references have been corrected, a reference to a repealed Act has been updated and a transitional provision has also had an update. There are also minor changes about which tow truck offences need to go to court versus those dealt with by an infringement notice. However, the policy direction and the detail of how that is implemented in the Bill remains unchanged.

The Tow Truck and Other Legislation Amendment Bill 2018 will implement recommendations made by former District Court judge Mr Michael Forde from the independent investigation into the towing industry, and I again thank Mr Forde for his thorough and thoughtful consideration of the issues.

His report, titled Independent Investigation into the Towing Industry: Removal of Vehicles from Private Property, was delivered in August 2017.

The report made 22 recommendations to reform the towing industry for the removal of vehicles from private property and outlined eight matters for consideration regarding broader issues in the tow truck legislation.

Importantly, the report's recommendations and matters for consideration were developed through a comprehensive analysis of the complex legal environment surrounding private property parking and towing, while also taking into account considerable input from a variety of stakeholders who provided information throughout the investigation.

As a result of the rigour of that investigation, it is with confidence that I present the reforms to the towing industry outlined in this Bill. These reforms include clear requirements for industry and consumer protections so that motorists are not exploited, along with appropriate penalties and powers to ensure the department and police can respond to rogue operators.

Regarding industry requirements, where previously there was no limitation on who could provide private property towing services, this Bill will require, in regulated areas, the licensing of tow trucks and the accreditation of tow truck drivers and any assistants.

This will mean tow truck drivers, assistants and licence applicants who are involved in towing vehicles from private property in regulated areas will now be subject to suitability and conduct requirements, including criminal history checks.

New requirements relating to safety and security will apply to business premises and holding yards used to store vehicles towed from private property.

Significantly, this Bill will mean there must be an occupier consent document before a towing operator can remove a vehicle from private property.

The occupier consent document aims to ensure there is an arrangement with the private property occupier before the tow truck operator removes the vehicle—stopping operators from enforcing parking restrictions on their own initiative.

Also adopted through this Bill are conduct requirements for those performing private property towing to ensure their practices are fair and reasonable. For example, before a vehicle parked on private property can be loaded onto a tow truck, the tow truck drivers will have to take reasonable steps to locate the motorist. Further, if the motorist is found before the vehicle is fully loaded, and agrees to move the vehicle, the vehicle must be released at no charge.

The Bill also addresses inappropriate conduct relating to the towing of vehicles from private property such as intimidating, abusive or insulting behaviour by ensuring offences with a maximum penalty of \$6307 apply.

Vehicle owner and driver privacy will be also safeguarded by the Bill restricting the disclosure of personal information.

To provide protections from motorists being exploited, the Bill adopts Mr Forde's recommendations about the regulation of fees.

In particular, the Bill introduces a maximum charge of \$250 for a standard private property tow. This fee includes three days' storage. The Bill also ensures no additional or separate fees, such as fuel or administration fees, can be added to that charge. Also, the Bill introduces an on-site release fee of \$150 to apply where a vehicle has been fully loaded on the tow truck—but the driver returns before the vehicle is towed.

This Bill does not impose maximum towing distances as doing so could leave property occupiers with no options for removal of an unauthorised vehicle if there are no holding yards within that distance.

However, to assist motorists, the Bill requires vehicles towed from private property to be taken by the most direct route to the towing operator's nearest holding yard, thereby limiting inconvenience for motorists when recovering their vehicles.

Once a vehicle has been towed, the towing operator must also notify the police as soon as practicable—reducing driver confusion about the location of towed vehicles.

Underpinning these new industry requirements and protections for motorists are significant amendments to increase penalties and facilitate effective investigation and enforcement by the department to deter noncompliance by rogue operators.

This Bill is a comprehensive approach to address private property towing issues.

However, I note that since this Bill was previously introduced there has been some comment about the fact this Bill does not regulate private property parking signage.

In this matter the government is again consistent with the recommendations in Mr Forde's report.

As he noted, there is no general right to park on private property. Private property parking is a complex area of common law. Imposing signage requirements through legislation could alter property occupiers' common law rights to remove unauthorised vehicles.

Potentially, this could lead to property occupiers who usually do not have any concerns about parking having to install regulated signs just to ensure they can remove a vehicle at some point in the future—that is not what this Bill aims to achieve.

This Bill aims to balance the competing interests of property occupiers and motorists so unauthorised vehicles can still be removed, but motorists are not exploited in the process.

In addition to the towing industry reforms, the Bill also proposes changes to ensure young drivers are accountable for their driving behaviour.

The Youth Justice and Other Legislation (Inclusion of 17-year-old Persons) Amendment Act 2016, which commenced on 12 February 2018, moved 17-year-olds into the youth justice system and this has consequential effects for young drivers.

The amendments contained in this Bill, however, will ensure that, following the youth justice reforms, 17-year-olds continue to be accountable for their driving behaviour.

In particular, the Bill will ensure 17-year-olds will be liable for mandatory driver licence disqualifications if they commit serious driving offences. In addition, the Bill will ensure there is enforcement action for recovery of unpaid fines for demerit point offences and any consequential demerit points will be recorded against their traffic histories.

The Bill will also allow the State Penalties Enforcement Registry to continue to enforce any debts owed by 17-year-olds that were registered with SPER at the time 17-year-olds transferred to the youth justice system.

Finally, the Bill introduces amendments to provide a clear statutory basis for demand notice aggregation where toll road operators may issue a single demand notice for multiple unpaid tolls.

The former Parliamentary Committee made one recommendation in its report with regard to demand notice aggregation.

To address this, the Bill has been amended to put beyond doubt the requirements for toll road operators issuing aggregated demand notices to limit administration charges to one per notice.

Demand notice aggregation benefits toll road users by reducing fees and providing a clear record of outstanding debt.

This Bill is the first step in overhauling the towing industry, thereby ensuring a fair outcome for motorists, property owners and the towing industry. It promotes road safety by ensuring our young drivers are held accountable for their actions and provides motorists and toll road operators with the basis for a fairer tolling system.

I commend the Bill to the House.

First Reading

Hon. MC BAILEY (Miller—ALP) (Minister for Transport and Main Roads) (12.26 pm): I move—

That the bill be now read a first time.

Question put—That the bill be now read a first time.

Motion agreed to.

Bill read a first time.

Referral to Transport and Public Works Committee

Mr SPEAKER: In accordance with standing order 131, the bill is now referred to the Transport and Public Works Committee.