




Speech By
Hon. Mark Bailey

MEMBER FOR MILLER

Record of Proceedings, 7 March 2018

TOW TRUCK AND OTHER LEGISLATION AMENDMENT BILL

Second Reading

 **Hon. MC BAILEY** (Miller—ALP) (Minister for Transport and Main Roads) (4.27 pm): I move—

That the bill be now read a second time.

Firstly, I would like to thank the members of the Transport and Public Works Committee and the members of the former Public Works and Utilities Committee for their time considering the matters contained in this bill. The Transport and Public Works Committee has now delivered its report and recommended that the bill be passed. I thank the chair of the committee, the member for Kurwongbah, and all committee members for their hard work on the inquiry. I would also like to extend my thanks to the committee staff.

This bill addresses three very important issues: firstly, it introduces much needed reforms to the towing industry, particularly regarding private property towing; secondly, it progresses a number of important measures, including road safety measures, required as a result of 17-year-olds transferring back into the youth justice system; and, finally, the bill provides a clear statutory basis for aggregating unpaid tolls and associated image processing fees on demand notices, putting beyond doubt a toll operator's ability to issue a single demand notice for multiple unpaid tolls with only one administration charge applied.

As was indicated when introduced in February, this bill implements recommendations and matters for consideration outlined in *Independent investigation into the towing industry: removal of vehicles from private property*. I am sure that members are familiar with that report by Mr Michael Forde which was commissioned by the Palaszczuk government and finalised in the second half of 2017. This comprehensive report analysed a complex legal environment and took into account information received from 368 callers to the tow truck hotline, 41 written submissions and meetings with a range of stakeholders. Rarely have we seen an issue garner such community outrage as the practices occurring in the private property towing industry prior to this report.

I can advise that, as of yesterday, more than 500 calls had been made to the tow truck hotline about private property towing alone. Notably, many of these complaints have come from areas within the Clayfield electorate, notably along Racecourse Road, highlighting the lack of action by those opposite on this issue when they were led by the member for Clayfield. This is clearly a genuine issue impacting a lot of real people—property owners or occupiers being frustrated by motorists parking on their property unauthorised and also motorists being charged excessive amounts to recover their vehicle after it has been removed.

There are also stories of people turning up with no idea of where their car was taken, leaving them stranded and feeling unsafe and very distressed. By implementing the recommendations in the report, this bill balances the competing interests of property occupiers and motorists. Property occupiers can still remove unauthorised vehicles from their property and motorists are not exploited.

Perhaps the most recurring complaint relating to private property towing was excessive charging. The investigation revealed 74.4 per cent of complainants were charged more than \$500 to regain their vehicle, with at least one report of a person being charged \$920. As a result, a significant protection for motorists in this bill is the capping of private property towing charges and providing clarity around when a motorist cannot be charged.

Firstly, the vehicle is to be released with no charge if the owner returns to the property and agrees to remove the vehicle before it is fully loaded and secured onto the tow truck. Secondly, if the vehicle has been loaded and secured onto the tow truck when the motorist returns, a \$150 on-site release charge will apply, ensuring the vehicle is released before being towed. Otherwise, a standard tow will be capped at \$250 which includes three days storage at the holding yard. After the initial three days, storage charges are capped at \$25 per day. No other charges are able to be charged for a standard tow. There have also been reports of aggressive behaviour from some tow truck drivers towards motorists, and privacy concerns raised that tow truck operators might inappropriately use motorists' personal information in the future, when it has only been provided for the purpose of recovering a vehicle.

This bill deals with these issues by introducing tow truck licensing, accreditation and conduct requirements, including provisions prohibiting the disclosure of personal information relating to the towing or release of a private property motor vehicle. The licensing, accreditation and conduct requirements for private property towing are consistent with the requirements that already apply to other areas of the tow truck industry. Importantly, licensing and accreditation will mean only 'appropriate' persons who have undergone a thorough criminal history check will be able to provide private property towing services, and there will be significant penalties applied if they step out of line.

But the bill has been drafted with an understanding of the practical realities of private property parking and towing. As I mentioned when the bill was reintroduced, in line with the recommendations in Mr Michael Forde's report, this bill will not regulate signage. Regulating signage for private property parking would affect private property owners and occupiers' common law rights and the legal basis for removing vehicles from private property. There is no general right to park on another person's property, and this bill does not deny property owners and occupiers' legitimate rights to remove unauthorised vehicles just because a regulated sign has not been installed.

Regulating signs could also lead to these businesses installing signs to pre-empt the possibility they may have to remove a vehicle in the future, imposing unnecessary costs and inconvenience for them, as well as potentially unnecessarily restricting parking for motorists. Instead, guidelines will be published on the Department of Transport and Main Roads website tomorrow to assist property occupiers to ensure their signage provides motorists with clear conditions for parking and the consequences for breaching these conditions. The guidelines will cover: sign positioning, size, design, and content such as parking conditions, consequences of noncompliance, towing operator details and towing costs.

Another common story heard throughout the investigation was of people returning to where they had parked their vehicle with no idea where it had been taken. This bill will therefore ensure tow truck licence holders must notify the police as soon as practicable after the vehicle is towed, helping motorists to locate their vehicle as soon as possible. In addition, the bill does not impose maximum towing distances. The evidence from the independent investigation is that 97 per cent of vehicles were towed less than 25 kilometres, with 90 per cent being towed less than 10 kilometres.

As tow truck holding yards must comply with certain standards including local government planning requirements, mandating maximum towing distances could limit the ability for property occupiers to remove unauthorised vehicles if there is no holding yard within the maximum distance. Instead of maximum towing distances, this bill requires motor vehicles to be towed to the nearest holding yard for the tow truck licensee. The maximum penalty for noncompliance is \$2,523 and, coupled with capped towing charges, there is little incentive for tow truck operators to tow a vehicle further than necessary as extra costs for them in time and petrol would erode any of their profit.

In essence, this bill will put rigour and enforceability around who can tow a vehicle from private property, their conduct and what they can charge, with significant penalties for those who do not comply. Consequently, this bill aims to promote a professional approach from industry, weeding out the unscrupulous operators for a fairer outcome for all.

Turning now to the other amendments in the bill. The Palaszczuk government has been progressing wide-sweeping reforms to our youth justice system. On 12 February this year one of those reforms saw 17-year-olds transitioned out of the adult justice system and included in the youth justice system. In the interests of road safety, however, this bill will amend the Youth Justice Act 1992 to ensure

that mandatory driver's licence disqualifications will continue to apply to 17-year-olds who commit serious traffic offences, including drink driving, drug driving and disqualified driving.

In addition, the bill amends the State Penalties Enforcement Act 1999 to ensure SPER can enforce unpaid infringement notices issued to 17-year-olds for demerit point offences. This will mean that demerit points will continue to apply to 17-year-olds and, again, this is an important road safety measure.

This government's fundamental principle is that 17-year-olds are to be treated as children. So a sound rationale is required for making them subject to the enforceability of infringement notices or mandatory disqualifications as if they were adults. This rationale is road safety. At 17 years of age, a person becomes eligible to obtain a P1 provisional driver's licence which authorises them to drive without supervision. P1 licence holders are six times more likely to be killed driving than learners, and twice as likely to be killed as other drivers.

While the Palaszczuk government's primary focus is to improve education and awareness for these drivers, compliance and enforcement is also a vital component. The threat of fines, licence loss through demerit points and driver's licence disqualification are key tools to deter drivers from committing traffic offences and engaging in unsafe driving behaviour.

The changes outlined in this bill will ensure that 17-year-olds can continue to be held accountable for their behaviour on the road. Amendments in the bill will also allow SPER to continue to enforce any debts owed by 17-year-olds who were registered with SPER prior to 17-year-olds transitioning to the youth justice system.

The bill also amends the Transport Infrastructure Act 1994 to provide a clear statutory basis for demand notice aggregation when a toll road operator aggregates unpaid tolls and associated image processing fees on demand notices. The amendments put beyond doubt a toll road operator's ability to issue a single demand notice for multiple unpaid tolls with only one administration charge, and ensure consistency of this approach on both state toll roads and local government tollways.

The current bill reflects the former Public Works and Utilities Committee's recommendation with regards to tolling demand notices. Demand notice aggregation will result in a significant decrease in the number of demand notices issued and a reduction in the value of fees passed on to toll road users, in other words motorists. Today is a very important day for those who have been victim to any of the dodgy and dishonest practices that have plagued private property towing in this state for years. I commend the bill to the House.