



Speech By  
**Hon. Mark Bailey**


**MEMBER FOR MILLER**

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Record of Proceedings, 25 October 2023

## **TOW TRUCK BILL**

### **Second Reading**

 **Hon. MC BAILEY** (Miller—ALP) (Minister for Transport and Main Roads and Minister for Digital Services) (3.28 pm): I move—

That the bill be now read a second time.

I am pleased to speak again on the Tow Truck Bill 2023. I want to thank the members of the Transport and Resources Committee for their comprehensive review of the bill and for considering the views of Queensland's tow truck industry. The committee tabled its report on 1 September this year. The committee report recommended that the bill be passed and included four recommendations. I now table the government response to the committee's recommendations.

*Tabled paper:* Transport and Resources Committee: Report No. 39, 57th Parliament—Tow Truck Bill 2023, government response [1755](#).

I want to acknowledge the industry stakeholders for their submissions to the committee and thank them for their participation in the public hearing. Their general support for the amendments in the bill and advocacy on behalf of industry is to be commended. Their commitment to ensuring Queenslanders have access to regulated tow truck services in a responsive and safe way is appreciated.

The committee's second recommendation requested consideration of additional natural justice measures in the bill, in particular around whether the bill provides sufficient consideration for the rights and liberties of individuals where evidentiary provisions reverse the onus of proof. It is considered that the evidentiary provisions in the bill adequately address any natural justice concerns. The matters covered by evidentiary provisions are straightforward and rarely in dispute. These evidentiary provisions have been in place for many years and there have been no identified instances of them causing concerns related to natural justice in practical application. As such, with respect to the committee, the government did not support this recommendation.

The third recommendation asked that consideration be given to amending the statement of compatibility to provide clearer differentiation between charges and convictions. The committee also recommended giving greater importance to criminal convictions over criminal charges when making decisions. The government supports this recommendation, and Transport and Main Roads has amended the statement of compatibility to further differentiate between charges and convictions and clarify that heavier weighting will generally apply to criminal convictions than to charges when making decisions. However, it remains important that the department be able to act when serious criminal offences, such as those involving acts of violence, are alleged. In such circumstances, taking action on the basis of a charge that has not yet been finalised may still be necessary in the interest of community and public safety. Accordingly, I seek leave to table an erratum to the human rights statement of compatibility.

*Tabled paper:* Tow Truck Bill 2023, statement of compatibility with human rights: Erratum [1756](#).

The final committee recommendation was to convene a working group of tow truck industry stakeholders to facilitate the formation of an industry peak body. In response to this, Transport and Main Roads met with industry on 17 October 2023 and will again meet with them in early 2024 to discuss the legislation changes and their implementation. Transport and Main Roads will also provide necessary support to the industry should it wish to establish a peak industry body to advocate on behalf of regulated tow truck operators.

An efficient and fair tow truck scheme is important to the Palaszczuk government. In 2018, the Palaszczuk government introduced fundamental reforms to the regulation of private property towing. The impact of these changes was found to be an effective response to the unacceptable behaviour of some operators when removing vehicles from private property. Following the success of the reforms, the government conducted a review of the entire tow truck legislative framework. The focus of this review was to ensure that a balance is struck between protecting the interests of motorists whilst ensuring the ongoing viability of the tow truck industry. This includes ensuring that motorists who are involved in a crash and are placed in a vulnerable state are appropriately protected under the legislation.

I would like to take this opportunity to thank the industry for their engagement throughout this review process. Their insights and feedback have been invaluable. I would like to publicly acknowledge the 17 industry stakeholders that made submissions to the committee: Mansell Heavy Towing; Harvey's Towing Service; Knight's Heavy Towing; the Ready Towing Group; Caboolture City Towing; Clayton's Towing Service; Sunshine Coast Regional Towing Association; Border Towing; Maroochydore Towing Service; Barnes Auto Co; Bryce Steer; RACQ; David Barnbaum; Moreton Bay Regional Towing Association; and other stakeholders who wish to remain anonymous. Thank you again to these industry stakeholders for their invaluable contributions.

The tow truck industry is an essential service in our community. Currently, there are 99 regulated operators and about 1,200 drivers assisting motorists. Not only do they assist motorists who may be in a vulnerable condition following a crash—I have certainly seen that firsthand; they also ensure our roads remain clear and safe from obstructions. Their direct actions ensure motorists can get to where they need to go as safely and as efficiently as possible.

The Palaszczuk government values comprehensive consultation and engagement with industry stakeholders. Consultation with the towing industry, motoring groups and the community has been at the centre of the tow truck legislation review process over the past few years. Consultation measures included holding two tow truck industry forums, releasing a public discussion paper, an online survey and meeting with motorist advocate groups, insurance companies, the Queensland Police Service and tow truck businesses.

Queensland's tow truck legislation takes a balanced approach by only applying to those towing practices and areas where there is a clear case for government intervention. The bill will maintain this approach. The legislative framework will continue to apply to removal of vehicles after a crash, vehicles seized by the Queensland Police Service and vehicles removed from private property. It does not apply to breakdown towing or other towing services.

The framework also continues to apply only to those geographical areas of high population density, including South-East Queensland and major regional cities along the east coast. For these services in these areas the bill establishes clear objectives to facilitate best practice in the industry whilst protecting the community by ensuring safe and efficient removal of motor vehicles from our roads or private property. The bill achieves these objectives by requiring the individuals who are undertaking these towing activities to be appropriately qualified and accredited and to comply with a range of ongoing obligations.

Individuals undertaking regulated towing activities must be accredited by the Department of Transport and Main Roads. In determining whether someone is suitable to undertake towing activities, TMR ensures comprehensive checks are undertaken, including criminal history and traffic history checks. These checks aim to protect the safety of the community, which will be reinforced by an ongoing obligation on accredited persons to notify the department if they are charged or convicted of a notifiable offence.

Red tape for the industry will be reduced through the streamlining of notifiable offences that need to be reported to TMR. In addition to minimising the burden on industry, streamlining the list of notifiable offences helps to protect individual privacy. It ensures that only those offences which have direct relevance to the towing profession are required to be notified to the department. Notifiable offences will therefore include offences involving violence or abuse, theft or intimidation, as these are likely to make a person unsuitable to interact with vulnerable members of the community and their personal property.

The bill further provides for the protection of the community by prescribing clear obligations and offences that seek to manage risks that are associated with each element of the towing task. Offences and penalties continue to be a critical element of the tow truck regulatory framework. They are the mechanism through which the objectives of the bill are achieved. They make expectations on the industry clear, encourage compliance and give the community a sense of protection.

As part of the legislative review process, TMR conducted an extensive review of offences and their associated penalties to ensure they remain relevant and appropriate. Penalties must directly reflect the seriousness of the offending behaviour in order to provide a suitable deterrent to noncompliance. As a result, the bill introduces several new offences and penalties to provide further protection to motorists and their vehicles. These offences directly encourage professionalism and integrity in the tow truck industry and will not impact those operators who are already doing the right thing. For instance, the bill makes it clear that only accredited tow truck drivers can undertake regulated towing services. This ensures motorists have assurance that the individual has been vetted by TMR and is considered suitable for undertaking this service. Similarly, it will be an offence to use unauthorised tow trucks to undertake regulated towing activities. This ensures only appropriate vehicles can be used to safely transport passengers and towed vehicles. The maximum penalties for breaching these requirements range from over \$7,400 to \$12,384, signalling the seriousness of the offences.

The bill also makes clearer requirements that only authorised holding yards are to be used to store towed vehicles. The department approves holding yards to ensure they have appropriate security measures in place. Clearer requirements will give motorists peace of mind that their vehicles and property are safe.

A very serious offence will be introduced to discourage tow truck operators from using their position to direct employees to undertake activities contrary to the law. This offence will attract a maximum penalty of almost \$25,000. This high penalty reflects the gravity of, for instance, directing someone to perform regulated towing work when they are not authorised by TMR to do so.

The bill addresses dishonesty offences, attracting a maximum penalty of \$9,288. For example, there is a specific offence for forging documents such as accreditation documents, towing authorities and private property towing consents. There is also an offence for knowingly using or directing someone else to use an accreditation document fraudulently. These documents are foundational to the effective operation of the tow truck scheme and fraudulent behaviour presents direct risk to the public as well as to the integrity of the industry.

The bill introduces a requirement for executive officers to notify their business partners within 14 days if charged or convicted of a notifiable offence. Similar notification requirements are also included for partners in a business partnership. This requirement will help protect business partners and allow them to take action to protect their business interests and ensure business continuity.

To support the operation of the revised offence and penalty provisions, the bill also provides for contemporary enforcement powers consistent with those used in other regulatory frameworks. Authorised officers will have the necessary and appropriate powers to undertake effective compliance activities, including an ability to enter business premises and seize evidence. These powers are balanced with relevant protections. For example, if an officer is exercising a general power to enter a business then they are not able to do so if it is a place at which a person resides.

The bill provides stronger grounds for amending, cancelling and suspending accreditations, including the addition of public interest grounds to refuse an accreditation application. These changes align directly with the bill's purpose of protecting the community whilst ensuring the industry has access to natural justice in the form of appeal rights for affected individuals. This further aligns the tow truck scheme with other transport industry accreditation schemes.

The review of the current legislative framework also identified an opportunity to simplify and modernise provisions. The bill clarifies some existing requirements to ensure that they can be readily understood by the industry to support their compliance. New more contemporary terminology is being introduced, with 'driver's certificate' and 'tow truck licence holder' being replaced with 'tow truck driver accreditation' and 'tow truck operator accreditation'.

A new tow truck regulation is also proposed following the passage of this bill. This regulation will complete the new regulatory framework for tow trucks by providing for the operational elements of the scheme. The bill enables the regulation to provide for a number of matters, including the department approval of temporary vehicle holding yards. It is foreseeable that emergency circumstances will arise that require vehicles to be relocated. The current legislation requires a complex exemption process in these circumstances. Under the new arrangements, temporary exemptions will be available using a more efficient and streamlined process. This change will support business continuity and the protection of vehicles in a challenging situation. This may include situations such as imminent flooding when

vehicles may need temporary relocation from an existing holding yard. The new regulation, as provided for in the bill, will also prescribe the administrative processes for accreditation applications, industry conduct requirements, auditing provisions and industry fees.

This bill provides a modern legislative framework that supports a responsive, efficient and safe tow truck industry while delivering positive outcomes for the community. The bill includes a range of improvements and protections for Queenslanders, ensuring tow trucks undertaking regulated towing activities are operated safely, competently and professionally and at a reasonable cost to consumers. The bill demonstrates the Palaszczuk government's commitment to delivering better services to the Queensland community, ensuring the integrity of our industry regulations. I commend the bill to the House.