



Speech By
Hon. Mark Bailey

MEMBER FOR MILLER

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TOW TRUCK BILL

 **Hon. MC BAILEY** (Miller—ALP) (Minister for Transport and Main Roads and Minister for Digital Services) (12.31 pm), in reply: It is my pleasure to speak for the final time on the Tow Truck Bill 2023. It is pleasing that support for the bill has come from a broad range of members in the House. I thank members from all sides of the House for their contributions. I thank the committee for all of their work on what is an important bill and for their endorsement of the bill.

Being in a traffic crash can be a traumatic event and for the average Queenslanders it is thankfully one that is not experienced on a regular basis. If they find themselves in such a situation, having an accredited tow truck driver to attend the scene, load their vehicle and get it safely towed to a secure location alleviates some of the distress Queenslanders face in these circumstances. Being very quickly at a crash scene in my 20s I can attest to how distressing and shocking it is for people in those circumstances. It is important for them that the people who are responding deal with them with integrity. This bill is all about that.

Undoubtedly, the tow truck sector in Queensland plays a pivotal role in facilitating the quick and safe clearance of crashes from our road network. They are instrumental in helping restore traffic flow and keeping our road network safe and free from obstructions. For this reason, it is essential that we have a balanced and effective legislative regime for the industry.

The Tow Truck Bill is the result of an extensive review by the Department of Transport and Main Roads of the current legislative framework for Queensland's regulated towing industry. An important part of this review has been the invaluable feedback received during the considerable consultation process with Queensland's towing industry, motoring groups and the broader community. This consultation process was undertaken to ensure that the legislation continues to provide the required protections for Queensland motorists and guarantees the ongoing viability of the regulated towing sector.

The tow truck industry has been supportive of the need for clearer, more modern legislation, confirming their need for a legislative framework that is easily understood, aligned with current practices and provides clarity on compliance requirements. The outcome of this review is a bill that introduces a contemporary approach that is simple and accessible and addresses the current and emerging operational demands in the industry.

The bill's main goals are to enhance road safety outcomes through safe and efficient towing services and provide adequate protections to Queensland motorists. Of equal importance, the bill also supports a sustainable and viable towing industry.

I acknowledge the participation and contributions of members to this debate and I appreciate their support. I think we can all agree with the member for Kurwongbah's assessment that tow truck operators are the heroes of the highway.

Members of the opposition have, however, raised some matters that I consider are important to address. The member for Chatsworth raised fines being issued to people parking on private property. It is true that current transport laws have enabled private car park operators to access a registered operators' personal information to issue demand notices for breaches for parking contracts. There has been significant community concern that this access has not been for legitimate purposes and that it no longer meets community expectations for the use of their personal information. I had significant concerns about some of the practices being reported and that Queensland was the only Australian jurisdiction that enabled this type of access.

In response to those concerns, I announced a pause, effective from 20 February 2023, on the release of registered operators' personal information for private car parking enforcement. The pause has allowed the Department of Transport and Main Roads to review the current laws and examine options for future reform. Consultation has been undertaken seeking stakeholder views on reform options that are now being formally considered. In the meantime, I strongly encourage private property owners grappling with unwanted vehicles on their land to enter into an agreement with a tow truck operator as provided for in this legislation.

The opposition has also raised the time it has taken to progress this bill and the alleged inadequacy of consultation. In response to that I say that this time has been taken to get the bill right. Since 2019, the department has been in regular contact with stakeholders to seek their views on how the industry should be regulated. Forums with the tow truck industry were held and a public discussion paper was released. The department also met with motorist advocacy groups, insurance companies and individual tow truck businesses. There has also been ongoing engagement with the industry, seeking their views on issues such as holding yard storage fees, exemptions for heavy vehicle towing and proposed offences. This has ensured that the legislation is responsive to industry needs while delivering positive outcomes for the community. I am pleased to add that just this month the department met with tow truck operators again to keep them updated on the legislative changes. The department plans to meet with operators again in early 2024 to discuss the implementation of the changes.

The members for Chatsworth, Gregory and Callide also noted that operator accreditation can be suspended in response to untested charges. At the same time, they acknowledged the important role tow truck drivers have in assisting vulnerable people at the roadside. It is for this exact reason that the bill enables the department to immediately suspend the accreditation of tow truck drivers charged with serious crimes.

Assessing a person's suitability to be a tow truck operator is an important part of the regulatory scheme. Checks are in place to ensure operators are suitable for the inevitable interactions they will have with vulnerable members of the community. Given the varied nature of criminal and traffic histories, each application is assessed on its merits. Offences with no relevance to towing will be disregarded. However, offences that may make a person unsuitable for a towing role, including those involving violence, abuse, theft or intimidation, are closely considered.

For the most serious of offences, the department will act based on criminal charges rather than waiting for a conviction. This is purely in the interests of community safety—for the safety of vulnerable people left stranded on the side of the road after a crash. These decisions are, however, reviewable, both internally and through QCAT, in accordance with natural justice arrangements that are standard in Queensland. Similarly, the department thoroughly investigates all potentially vexatious complaints against tow truck operators and only takes action if there is sufficient evidence. An operator's accreditation is only suspended if the individual's conduct justifies this action. Natural justice arrangements apply.

The members for Chatsworth, Gregory and Surfers Paradise also noted industry concerns that the new legislation does not appropriately deal with aspects of operator behaviour, including bribery. As a number of government members have noted, the bribery protections in legislation will be maintained and in some instances strengthened. Most of these provisions are simply being moved from the bill to the regulation. The new regulation—that is currently under development—will make it an offence for towing operators to offer inducements to vehicle owners and for a person to benefit in exchange for providing information about a crash, including using what is known as crash spotters.

A number of opposition members noted industry objections to the bill's obligation not to unnecessarily damage towed vehicles. Under the current legislation, tow truck operators are already responsible for ensuring towed motor vehicles are not unnecessarily damaged. This requirement is not intended to be onerous for the industry. It is acknowledged that sometimes a vehicle will sustain unavoidable damage due to the nature or complexity of the tow. Importantly though, this obligation protects drivers from unwarranted damage to their vehicles at a time when they are already dealing with very challenging circumstances. Removing this obligation would leave drivers with the sole recourse and burden of having to engage lawyers to take civil action.

The obligation to avoid unnecessary vehicle damage is also relevant to the points raised by the members for Gregory and Toowoomba North about towing electric vehicles. They are correct in saying that towing electric vehicles improperly can cause damage and may also pose a safety risk to tow truck operators. This is an emerging field and first responders, including tow truck operators, are learning how to manage the future which will see more and more of these vehicles on the road. The Palaszczuk government will continue to pursue the adoption of electric vehicles and support our industries to do the same as part of our Energy and Jobs Plan and commitment to a clean energy transition.

I also want to thank the member for Southern Downs, who happens to be in the chair right now, for raising questions regarding how the bill will operate within his electorate given that it sits outside the proposed regulated area. Consistent with the current Tow Truck Act 1973, this bill will not regulate towing in the more rural and remote areas of Queensland. Given the much lower number of tows in these areas, the regulation of towing with the associated costs to the industry is not justified. In rural and remote areas, including cross-border towns, tow trucks from New South Wales can enter Queensland to complete a tow. This can be a positive for residents in those areas as it increases the number of trucks available and provides consumers with a choice of providers.

New South Wales regulates tow trucks across the entire state for all towing types. Queensland has instead sought to strike a balance and not overregulate the industry. It is acknowledged that a Queensland tow truck operator will have to comply with the New South Wales requirement should they wish to operate over the border. This is, however, also the case with New South Wales operators and, as such, there is no comparative disadvantage when crossing the border. This government does not propose to regulate towing in Queensland unnecessarily which would ultimately impact all regional and rural tow truck operators.

This bill strikes a clear balance between regulating towing services in certain towing scenarios while also recognising that not all towing services require regulatory oversight. The bill's focus continues to ensure safety, fairness and appropriate standards are met in situations where they are deemed necessary. For this reason, the new legislation will continue to regulate the towing of motor vehicles from crashes, police seizures from off-street regulated parking areas and vehicles towed from private property. Additionally, this regulatory oversight will continue to be limited to defined geographic areas within Queensland. These areas are essentially located in more urbanised locations such as South-East Queensland and our larger regional cities along the east coast. This approach recognises that a robust regulatory framework is required in busier urban locations where towing activities have the potential to adversely impact public safety and the efficient flow of traffic.

The legislation will benefit motorists in these areas who need to use a towing service following a traumatic or stressful event such as after a vehicle crash or where a motorist may be left stranded after-hours if their vehicle is towed from private property. This will be achieved by ensuring tow trucks undertaking regulated towing are operated by appropriate persons who not only provide a safe, competent and professional service but do so economically for motorists. My transport and main roads department has also made certain that the legislation is futureproofed by ensuring flexibility is maintained through appropriate regulation-making powers. The bill includes the ability for a regulation to provide for operational matters around the setting of fees and charges, accreditation processes, obligation of accreditation holders and requirements relating to storage and release of towed vehicles. The bill also removes red tape for industry by providing for temporary holding yard exemptions to be provided to accommodate emerging and unforeseen events such as flooding.

Unfortunately at times, as noted by the member for Surfers Paradise, the tow truck industry has been known to have undesirable elements which has been a concern voiced both from the community and from within the industry itself. Because of this, appropriate offences and penalties are vital to address any noncompliant behaviour. As I have mentioned before, the transport and main roads department conducted a comprehensive review of tow truck scheme offences and their penalties. They were examined to ensure their continued relevance and suitability. As a result, the new legislation will provide for a fair and consistent penalty framework that aligns more broadly with offences across transport legislation.

As I am sure we would all agree, penalties are necessary as an effective deterrent against noncompliance. They provide appropriate consequences for those who engage in unlawful or unsafe practices that are detrimental to the wider community. It is therefore essential that the penalties accurately match the severity of the offence to effectively discourage noncompliance and ultimately reduce these rogue elements that adversely affect the reputation of the industry. The new legislation will include offences that address dishonest and predatory behaviours within the regulated tow truck industry. It will also require towed vehicles to be stored in authorised holding yards. Failure to ensure secure and authorised holding yards approved by the transport and main roads department are used for storing vehicles will be an offence. Inclusion of this requirement in the bill provides for the safety and

protection of both the vehicle and the personal belongings it contains inevitably after a crash. It provides reassurance to motorists that they can readily locate their vehicle and that their vehicle is adequately protected from the risk of theft, damage or unauthorised access.

Another key inclusion in the bill is the offence that will apply to anyone who obtains a towing authority to tow a vehicle when they are not accredited to undertake regulated towing services. This aims to protect the public and the industry by ensuring that only accredited individuals whose suitability has been assessed are involved in regulated towing activities. This protection from potential exploitation or unethical practices is particularly beneficial when motorists may be experiencing high levels of stress following a vehicle crash or when in a vulnerable state at the side of the road or deserted parking area. The new legislation will also introduce a requirement that only the tow trucks used for regulated towing services are those approved by the department. Approved tow trucks are subjected to appropriate compliance inspections to ensure they can safely tow vehicles and carry approved passengers. This results in vehicle standards being adequately maintained.

As I mentioned earlier, this bill aims to deter tow truck business owners from instructing their employees to act in a way that is contrary to their obligations under the act. This new offence attracts a high penalty as it targets business owners who abuse their power and undermine the integrity of the tow truck industry. This may occur, for instance, if a tow truck business owner knowingly directs an unaccredited driver to tow a vehicle, transport passengers or operate without the required written authority being in place. This offence aims to promote responsibility amongst tow truck business owners, guaranteeing they do not exercise undue power over their employees.

The bill also targets a number of dishonest behaviours. Specifically, new offences have been included for forging documents such as an accreditation document, towing authority or towing consent, as well as knowingly using or directing another person to fraudulently use an accreditation document. Activities such as these that are clearly about deceiving others have no place in our tow truck industry. These new offences demonstrate the government's zero tolerance for fraudulent practices that can harm consumers and undermine the integrity of the tow truck scheme.

The legislation will also include the new concept of notifiable offences. Business operators will now be obliged to inform not only the department but their fellow business partners or executive officers if they are charged with or convicted of any notifiable offence. Notifiable offences are those that potentially make someone unsuitable to operate a tow truck business where they are required to regularly deal with vulnerable consumers, their vehicles and possessions. Significant offences—for example, serious and violent assaults, arson or stealing—will be reportable. Offences of less significance to the tow truck scheme do not fall within the list of notifiable offences.

Industry privacy has been a fundamental consideration in the development of this provision. As a result, where offences are not relevant to their suitability or ability to perform their towing role they are not required to be reported to the department or their fellow business operators. New stronger grounds will also be introduced to enable the department to take appropriate action against a driver or operator's accreditation. This will include the ability to take action when it is in the public interest. Equally, industry will have access to both internal and external appeal processes. Alongside these new provisions, this means that anyone impacted by a decision on their suitability will still be afforded the principles of procedural fairness and natural justice.

The offence provisions that I have touched on today clearly aim to protect Queenslanders. Importantly, however, they will not place additional burden on those in the towing industry who are already providing high-quality and professional services. Offence provisions are only directed at those who show contempt for the law by engaging in misconduct or fraudulent activity. As I mentioned previously, a new regulation is currently being drafted to support the operation of the new act. Together, the new legislative framework for the tow truck industry will ensure safe and efficient removal of motor vehicles from our roads while protecting the community and supporting the adoption of best practice in the industry.

In closing today I wish to thank everybody who has contributed to the debate. I thank the Transport and Resources Committee. I acknowledge its chair, the member for Kurwongbah, for all his hard work and leadership—one of the best chairs here in the parliament. I also wish to again thank the industry members who provided valuable feedback through submissions to the committee, as well as their engagement throughout the legislative review process. I thank all the committee members from all sides of the chamber for their contributions through the process. Finally, I thank the ministerial and departmental officers who have been working so hard on this bill for all of their fine work. I commend the bill to the House.