




Speech By
Robert Skelton

MEMBER FOR NICKLIN

Record of Proceedings, 26 October 2023

TOW TRUCK BILL

 **Mr SKELTON** (Nicklin—ALP) (11.44 am): I rise to speak in support of the Palaszczuk government's Tow Truck Bill 2023. First and foremost, this bill maintains substantive portions of the framework under the existing Tow Truck Act 1973. The Tow Truck Act currently provides for the towing, in regulated Queensland areas, of vehicles damaged in accidents, seized by police or towed from private property in certain circumstances. It also provides a framework for the subsequent handling and storage of those vehicles, the handling of confidential information and offence, enforcement, administrative and review provisions. It will also maintain the accreditation requirements for people who operate a tow truck or tow truck business and the obligation of people with an accreditation to comply with duties, obligations, standards of conduct and other requirements. The bill will also modernise the existing legislation by introducing new structure and terminology, which will improve consistency across accreditations administered by the Department of Transport and Main Roads. It will also enhance the accreditation process—including eligibility requirements—and will ensure that penalties and offences are targeted and appropriate.

The 1973 act was revised in 1997 to incorporate police seizure towing and again in 2018 to include private property towing as a result of the independent investigation into the towing industry. The independent investigation made 22 recommendations focused on including private property towing in the regulatory framework. All 22 recommendations were endorsed by the Palaszczuk government. In 2018, legislative amendments to the 1973 Act and the Tow Truck Regulation 2009 were made to support implementation of these recommendations. All other forms of towing, including breakdown towing, trade towing and compliance towing, are not covered by the legislative framework.

As of April this year, there are approximately 98 tow truck licence holders, 1,173 tow truck drivers and 72 tow truck assistants approved to operate within Queensland's regulated tow truck scheme. This bill gives effect to the remaining recommendations made by the independent investigation by delivering a modernised tow truck scheme in Queensland that is designed to improve road safety and deliver improved outcomes and protections for motorists, property owners and industry professionals.

The policy objective is to modernise the existing legislation by introducing a new structure and terminology. The bill clearly states the main purposes of the act, clarifies what is considered regulated towing, clarifies the distinction between operating a tow truck and operating a tow truck business, unifies industry members under the new designation of accreditation to replace the terms 'licence' and 'certificate', provides appropriate regulation-making powers to ensure the legislation is flexible and remains contemporary, removes unnecessary provisions and updates penalties for particular offences.

The main objectives are: facilitating best practice in the tow truck industry by providing a balanced framework for regulating the operation of tow trucks to carry out regulated towing; protecting the public by ensuring tow trucks carrying out regulated towing are operated in a safe, competent and professional manner and at a reasonable cost to consumers; and protecting public safety and the safety of the road network including through ensuring the safe removal of motor vehicles from the scene of an incident, from a place of seizure or from private property.

The bill restructures provisions from the 1973 act to aid readability. Specifically, fundamental concepts used within the legislation are clearly explained and located together at the start of the bill. These include explaining references to towing and defining the terms 'tow truck', 'regulated towing', 'private property towing', 'tow truck business', 'towing authority' and 'private property towing consent'.

The bill clarifies that regulated towing is: the towing of a motor vehicle that is damaged in an incident in a regulated area from the scene of the incident; or the towing of a motor vehicle that is seized in a regulated area from the place of seizure; or private property towing, which is the towing of a motor vehicle parked on private property in a regulated area from the property if the owner of the vehicle has not expressly requested or directed the towing of the vehicle from the property.

The bill maintains the same regulated areas as those prescribed by the 1973 act. Consistent with the 1973 act, the bill provides that it is an offence to conduct a tow truck business unless the person is the holder of an operator accreditation for the business. Further, it is an offence to operate a tow truck to carry out regulated towing unless the person is the holder of a driver accreditation or to assist in the operation of a tow truck unless the person holds a driver or assistant accreditation.

The distinction between a tow truck and tow truck business is that currently activities associated with a tow truck are referred to as operating a tow truck. The context of the provision then determines whether the operation refers to operating a business involving the use of tow trucks or operating the tow truck itself, such as driving the tow truck or loading a vehicle onto the tow truck. The bill introduces the concept of a tow truck business as a business or trade that involves the operation of one or more tow trucks to carry out regulated towing.

The bill also defines the term 'operate' in relation to a tow truck to mean driving or otherwise operating a tow truck for consideration or in the course of a business or trade and also includes offering to do those things. This will assist in distinguishing provisions dealing with the carrying on of a tow truck business from those dealing with the operation of the tow truck itself.

Currently, under the 1973 act a tow truck is licensed and the person is the holder of the licence. This then results in a licensed tow truck. A person who wishes to operate a tow truck, including driving it, must have a driver's certificate, and a person who wishes to be employed on, or connected with, the use of a tow truck must have a driver's certificate or an assistant's certificate.

The bill proposes to unify industry members under the new designation of accreditation, which will include an operator accreditation, a driver accreditation and an assistant accreditation. An operator accreditation authorises the holder to conduct a tow truck business—that is, a business or trade that involves the operation of one or more tow trucks to carry out regulated towing. A driver accreditation authorises the holder to operate or assist with the operation of a tow truck to carry out regulated towing. An assistant accreditation authorises the holder to operate or assist with the operation of a tow truck to carry out regulated towing. The bill clarifies, however, that an assistant accreditation does not authorise the holder to drive a tow truck.

To provide for operational details and ensure the legislation remains flexible and contemporary, the bill contains various regulation-making powers. The more significant of these include the power to make regulations for: the making of applications for accreditation; the giving, renewal, amendment and replacement of accreditation documents; the obligations, duties and standards of conduct of persons who hold an accreditation; the auditing by the chief executive of accreditation holders for compliance with this act; obtaining and dealing with towing authorities; obtaining or attempting to obtain a person's authority to repair a motor vehicle damaged in an incident in a regulated area; requirements in relation to the storage and release of motor vehicles, including requirements in relation to holding yards; certain maximum and minimum amounts able to be charged; and the specifications and requirements for tow trucks.

The bill ensures that any unnecessary provisions previously contained in the 1973 act are removed; for example, the maximum permissible driving hours are not included, as these are already contained in the Heavy Vehicle National Law. A review of existing offences and penalties was undertaken to ensure penalties appropriately reflect the seriousness of the offence with reference to other offences within the tow truck legislation compared to similar offences within transport legislation.

The maximum penalty for a number of offences will be increased, including: an accredited driver who tows a vehicle from the scene of an incident or a place of seizure without obtaining the necessary towing authority, increased from 20 to 60 penalty units; carrying out private property towing without a private property towing consent, increased from 50 to 60 penalty units; a person obtaining or attempting to obtain private property towing consents when not the holder of operator accreditation, increased from 50 to 60 penalty units; an accredited driver towing a vehicle if a person is inside the vehicle, increased from 50 to 60 penalty units; giving false or misleading information as well as dishonesty and coercion, increased from 40 to 60 penalty units; obstructing or threatening authorised officers, increased from 40

to 80 penalty units; disclosing sensitive information, increased from 50 to 100 penalty units; and an operator who fails to comply with alternative requirements while an exemption is in effect, increased from 20 to 80 penalty units.

In summary, this bill modernises Queensland's tow truck scheme and makes it fit for purpose. It also gives effect to the remaining recommendations made by the independent investigation into the towing industry and the findings of the 2019 review conducted by TMR. I commend this bill to the House.