




Speech By
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MEMBER FOR CHATSWORTH

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TOW TRUCK BILL

 **Mr MINNIKIN** (Chatsworth—LNP) (3.43 pm): A lot of the things that we debate and agree to pass here have a profound impact on Queenslanders and our history. While this bill may not quite fit that category, nonetheless, as the shadow minister I rise to make a contribution on the Tow Truck Bill 2023. Firstly, I would like to thank the first responders. When we think of first responders we naturally think of police, ambulance and fire officers. I think we need to also show gratitude to the tow truck industry because tow truck operators play a role. I acknowledge them up-front. I also knowledge the work of the committee that prepared the report on this bill.

By way of background, the government states that the bill will implement the remaining recommendations from the 2018 report titled *Independent investigation into the towing industry: removal of vehicles from private property* and a comprehensive review of Queensland's tow truck scheme and governing legislation undertaken by TMR in 2019. The bill aims to deliver a more modern 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.

Furthermore, the bill should be considered with recent media interest in fake fines issued by parking enforcement companies to manage noncompliance with parking restrictions on private property. This issue received prominent media coverage in the early part of this year. The minister made responses to that in, I believe, about February of this year. Those fines are being used instead of property owners engaging towing companies to remove noncomplying vehicles. Should the government restrict parking enforcement companies from accessing vehicle ownership details, it is likely that more property owners will be forced to tow vehicles from their property. The government may have introduced the bill to get in front of future community backlash from an increase in vehicles being towed. We shall see.

For the objective of modernising the existing legislation by introducing a new structure and terminology, the bill sets out to achieve a range of things. First of all, it clearly states the main purpose 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; and, lastly, removes superfluous provisions.

For the objective of enhancing the accreditation process, including accreditation eligibility requirements, the bill clarifies matters related to accreditations including grounds for refusing to grant or renew an accreditation and the process for amending, suspending, cancelling or surrendering an accreditation. For the objective of ensuring penalties and defences are appropriate, the bill updates penalties for particular offences and introduces a number of new offences to address identified issues. For the objective of modernising enforcement powers, the bill introduces a consolidated scheme of authorised officers' powers while providing certain protections in relation to self-incrimination and safeguards for seized things.

In terms of timeliness, as outlined above, the bill implements measures that have supposedly been raised in reviews undertaken in 2018 and 2019, yet it is obvious that there is a sense that this legislation is being rushed. Within the industry there is a concern that the accompanying proposed regulations are yet to be shared. In fact, the government has not provided any justification as to why this legislation is needed and why, after sitting on those reports for years, all of a sudden these changes are needed now. It seems to be a recurring theme with bills brought before the House.

I will turn to the appropriate persons provisions. Operators have raised concerns about inconsistencies in the way that the department currently determines if a tow truck operator is an appropriate person. The lack of clearly defined criteria is indeed a barrier for entry in the industry at a time when there are workforce shortages. Concerns have also been raised about a lack of procedural fairness when suspending or cancelling a person's licence, with the potential for increasing bad behaviour in the industry. Many operators believe that the new legislation lacks provisions to deal with operator behaviour that is actually addressed in the current legislation. This includes spotters' fees, selling personal injury claims at scenes of accidents, selling personal information obtained at accident scenes and potentially bribery.

There is a particular part of the bill that I will focus on in my contribution. It relates to the area in the bill that deals with the penalties for damage to vehicles. The government is wanting to impose penalties for damage to vehicles being towed, which is of concern to operators who believe that civil liability is preferable. I will quote from one of the submissions that was received by the committee. I think the minister said that 17 different companies and representatives made submissions to the committee. One of them was Barnes Auto Co. at Coopers Plains. They wrote a very comprehensive letter that outlines their concerns with the bill. This is in relation to clauses 69, 70 and 57. The submission states—

Following on from our Witness Statement, we would like to emphasise the complexities surrounding the provision requiring towing operators to ensure all reasonable precautions to prevent damage to vehicles during towing operations. As a reputable towing company entrenched in the industry, we fully comprehend the gravity of our role, investing upwards of \$200,000 per annum in insurance alone to safeguard our clients' interests.

However, the practicalities of towing operations are far more intricate and dynamic than can be covered by a broad legislative statement. These operations frequently take place in high-stress environments, under poor lighting, adverse weather conditions, and often, at the scene of accidents with inherent risks of incidental damage.

Furthermore, we find ourselves—

Barnes Auto—

tasked with the responsibility of swiftly clearing roadways to prevent further accidents or traffic congestion, a factor that contributes to Queensland public's broader welfare. The cessation of traffic flow on major highways not only increases travel times and disrupts transportation of goods but could also lead to secondary accidents. The significant financial burden of highway closures to the government and public is another crucial aspect that should be considered while examining these clauses. ... This enormous cost is due to factors such as lost productivity, delayed deliveries, wasted fuel, environmental damage, and the cumulative impact of traffic congestion in adjacent areas.

In relation to clauses 69, 70 and 57, the points raised by Barnes Auto in their letter speak to the long title of this bill when we consider that congestion is already a problem for the people of Queensland, no matter where they live. In fact, an article in the *Sunday Mail* of Sunday, 17 September with the headline 'Special congestion report: it's a road to ruin' states—

The congestion chokehold on South East Queensland roads is causing more crashes and delays than ever as industry chiefs warn upgrades are critical before the 2032 Olympics.

This is the reason for Barnes Auto's statements. There are a couple of other articles: 'Locked in a battle of the bottleneck' and 'SEQ in traffic chaos, and we have til 2032 to kick out the jams'. There were also reports in the *Courier-Mail* in April this year talking about the fact that we in this state already have traffic congestion which is pretty much at critical levels.

Mr KELLY: Mr Deputy Speaker, I rise to a point of order on relevance.

Mr DEPUTY SPEAKER (Mr Martin): Member for Chatsworth, I was listening closely. I have given you a bit of latitude, but I ask that you come back to the long title of the bill.

Mr MINNIKIN: The reality is that concerns were raised by Barnes Auto in its submission in relation to operators being too risk averse, which will actually lead to tow truck companies taking longer than they would like to clear the scenes of accidents. That was covered very comprehensively in the Barnes Auto submission, which speaks directly to the long title of this bill.

Another thing picked up in the submission of the RACQ related to a lack of detailed consultation. There were concerns that this legislation was introduced without proper consultation with the tow truck industry itself, particularly the smaller tow truck operators. It should also be noted that RACQ was the only insurance provider to make a submission. The RACQ stated that they 'understand other insurers

were unaware of the inquiry or provided with sufficient time to make submissions'. There are also concerns that the associated regulations, which take over some of the functionality of the existing legislation, have not been circulated widely for consultation.

The committee recommended that the legislation be passed but did make recommendations regarding certain parts of the bill, including the establishment of a working group with operators; the reversal of the onus of proof in certain clauses; and Human Rights Act conflicts arising from the power to remove a person's accreditation based on untested charges rather than convictions. Submissions were largely from tow truck operators, with feedback along the lines of the issues I have outlined already. Some submitters highlighted the limited time for submissions which prevented them from making a fully considered contribution. This seems to be a recurring theme with a lot of bills that have been brought to this House in the last few months—in particular, that complete lack of industry stakeholder consultation. With the Tow Truck Bill 2023, yet again the feedback is coming directly from key stakeholders' submissions, which are all part of tabled documents as part of the committee report.

We will not be opposing the passing of the bill, but I want to use my time as the shadow minister to highlight some of these concerns. It begs some questions. Why is the government making these changes right now? The review on which these changes are based was undertaken roughly five years ago. Why has the Minister for Transport and Main Roads been simply sitting on this, or is there something the minister is not telling us? What is going on? The minister has made it very clear in relation to towing, parking and people being on private property. Six months later this legislation has been brought to the House, yet for five years it simply did not have the interest of the minister. It really does raise a lot of concerns. I have said already that the lack of consultation is concerning. Many submissions to the committee noted the short amount of time given to make a submission and to have proper, meaningful dialogue and consultation with key industry groups.

The industry opposed penalties being imposed for damage to vehicles, as insurance can be used to protect consumers. This was a particular issue of the RACQ. This may increase accident clearing times as operators take extra care when moving damaged vehicles. This is incredulous—operators taking due care to clear from the scene of accidents vehicles that have been materially wrecked already, conscious of being accused of causing additional damage. If it currently takes a quarter of an hour to clear an accident, given the onerousness of these particular clauses—we can assume that tow truck operators will have to use kid gloves to remove vehicles from the scene of accidents—it is pretty obvious that in the future it will take longer. That was the very point raised in Barnes Auto's submission. That was the very point of the articles in the media to which I already have referred. We already have a huge issue with congestion. I believe that if this goes through the reality will be that congestion potentially lasts longer where, sadly, there are large traffic accidents to be cleared.

At the end of the day, I thank the committee for its work. I thank the 17 submitters. I echo their concerns that, yet again, this seems to have been done without a great deal of consultation with the industry. There is one issue that has come out of this which surprised me. As shadow minister for transport and main roads, like the minister, I tend to receive contact from a lot of peak representative lobby groups, whether it be for trucks or taxis—you name it. It was surprising that, when the committee and other people came to this result, there never seemed to be a peak tow truck industry group or body. I would hope that that is something positive that comes out of the process of this bill becoming an act. I think that would hold the industry in good stead.

I end on the most important note. That is, we have a huge issue with congestion right now. I just hope that the passage of this bill does not add to it. To be quite frank, the people of not just South-East Queensland but also throughout the state have had enough of it.