

**TRANSPORT — TOW TRUCK INDUSTRY**

*Grievance*

**MR R.S. LOVE (Moore — Leader of the Opposition)** [9.34 am]: I grieve to the Minister assisting the Minister for Transport concerning the long promised and greatly anticipated reforms to the tow truck industry. In bringing this grievance, I make no assertions about the heavy tow truck industry that retrieves trucks and buses and is a specialised and highly skilled group of professionals with a good reputation and safety record.

I today detail a case study involving a constituent who lives approximately two hours from Perth. I will refer to them as DM. On 17 May 2023, DM was travelling on the freeway in the CBD in peak hour when another vehicle ran into the back of their car. A tow truck driver with a tilt tray appeared on the scene very quickly and was insistent that DM's vehicle was not driveable, that it was illegal to move it from the scene of an accident and that the insurance would be void if the vehicle was moved. With traffic building up around them, they agreed to have the vehicle towed to the towing company's yard in a suburb some 22 kilometres from the scene of the accident. The authority to tow listed the maximum tow fee as \$3 000 within the Perth metro area, with a salvage fee of \$1 500 and daily storage fee of \$88 excluding GST.

Stranded in Perth without a vehicle, the towing company assisted DM to hire a car for a week at exorbitant rates that the insurance company may well not cover. DM tried repeatedly to contact the tow truck company by phone and email. When the tow truck company did respond two days after the accident, they claimed to have no record of the damaged vehicle in their system. DM's attempts to call and email the tow truck company continued to no avail. Five days later, on 22 May, the tow truck firm still claimed to not recognise the number plate of the damaged vehicle, until DM emailed the towing contract to them. DM's insurance company advised this tow truck firm was known to be difficult to deal with, like others in the industry. Its refusal to answer the phone or emails was common practice in a bid to bolster storage fees. DM had arranged for their vehicle to be transported to a regional panelbeater on 23 May. The tow company advised that all costs, which amounted to \$3 913, must be paid in full. The tow truck firm wanted DM to sign a waiver stating they would not disclose details of the invoice to third parties, including the media. The terms of the waiver were said to be binding and enforceable. DM did not consent.

At this time, DM became unwell and was hospitalised and the family notified the tow truck firm. Many more unsuccessful attempts to contact the tow truck firm were made until finally DM's insurance company received an invoice dated 29 May for the tow to the regional repairer and 29 days' storage to 14 June, at a cost of \$5 972. It was 29 days after the accident and when the tow truck firm was in receipt of \$10 442 that DM's vehicle was delivered to their preferred local panelbeater.

I reference a separate case to further illustrate the rot that continues in the tow truck industry. A Perth resident came to my office after a vehicle accident on 1 May. Their vehicle was held in storage for 23 days following a dispute between the tow truck firm and the insurance company over the \$3 500 bill for towing and storage. Meanwhile, repairs to their vehicle were delayed.

We have heard much fanfare from this government around tow truck reform, but we have seen little action. The *Towing industry consultation report: Outcomes of consultation about options for reforming Western Australia's towing industry* of August 2020 found towing fees charged in Western Australia are often two to three times higher than those of equivalent tows in other jurisdictions. Of course, this translates to higher insurance premiums when consumers already face large cost-of-living pressures. I refer to the government's announcement on 22 March 2022, "McGowan Government to reform WA tow truck industry." In that media release, the Minister for Transport stated that the Western Australian and Tasmanian tow truck industries were the least regulated, and that regulation in Western Australia was long overdue and essential to ensure consumers were properly protected. The then Minister for Commerce, now the Premier, said —

... tactics of some unscrupulous drivers who threaten, mislead and harass people to get business ... needs to be stamped out.

However, 18 months later, these practices continue, with vulnerable victims of traffic accidents caught in the crossfire. We were told the Department of Transport would present reform options to the state government by mid-2022 that might involve legislative change and amendments to the Road Traffic (Vehicles) Regulations 2014. We saw more attention-grabbing headlines on 7 November 2022 when the new regulations took effect to require tow truck operators to disclose maximum fees charged for towing and storage from the scene of an accident.

The two vehicle accidents outlined above both occurred in May 2023. Clearly, the November 2022 regulations have had no impact. Tow truck operators continue to gouge. During budget estimates in May 2022, the Minister for Transport said —

... we are drafting legislation to include maximum charges for towing services ...

...

We will try to get it drafted as soon as we can.

In budget estimates this year, 12 months on, the minister again advised that drafting of legislation was underway and, at that time, *The West Australian* reported drafting of new laws was progressing “as quickly as possible”. DM’s complaint of 22 June 2023 has bounced between numerous ministerial offices—initially the Minister for Commerce, then the Parliamentary Secretary to the Minister for Commerce. It now seems to have been transferred from the Minister for Transport to the Minister assisting the Minister for Transport. I thank the minister for his work on this and other matters.

Gary Adshead’s WAtoday article on 28 August 2023 headed “Tow trucks and death threats: The Perth industry that spun out of control” laid bare the depth and breadth of rot in the industry. Minister, the government has promised to fix the industry. It is clear, as demonstrated by these two recent cases, that despite regulatory changes, shonky practices continue. When will we see promised legislative change? When will we see the government undertake meaningful action and enforcement on this very concerning issue?

**MR D.R. MICHAEL (Balcatta — Minister assisting the Minister for Transport)** [9.40 am]: I thank the Leader of the Opposition for raising this issue. He is quite right that the unscrupulous and downright corrupt behaviour of certain tow truck drivers and companies in the industry is extremely concerning. I think that I speak for most members of this place in saying that we all get the odd email that comes into our electorate offices with stories that are not exactly the same, but somewhat similar to the one that the member just read out on behalf of his constituent. We know that some operators deliberately target people who are vulnerable to exploitation, which is understandable when someone is in shock after a crash and wants to get out of that situation. Thankfully, these are in the minority and I concur with the Leader of the Opposition’s comments regarding the heavy tow truck industry, which does an excellent job removing buses and other heavy vehicles from our roads. There are also many aboveboard towing companies that tend to be small family businesses making a legitimate living. Unfortunately, they, too, can be threatened, intimidated and, in some cases, allegedly bribed when trying to get work out on the roads. In a new and alarming development, which the member mentioned, some of these unscrupulous tow truck firms are now asking people to sign non-disclosure agreements to try to prevent them from being able to complain publicly, post on social media or reveal the details of the exorbitant charges they are being forced to pay. These unscrupulous activities must and will be stopped.

The member for Moore asked when we will see meaningful action and the answer is that work is underway right now at a grassroots level, with legislation to follow. Community consultation carried out in 2020 by the Department of Mines, Industry Regulation and Safety found strong support for the regulation of the towing industry in WA. Support came from the community and the towing industry—those hardworking small businesses. On 21 February 2022, cabinet endorsed the *Towing industry consultation report* and authorised its release. Of the five options presented, the report recommended option 4 to reform the towing industry, and cabinet has approved drafting of legislation for towing industry reform. The proposed legislation will include maximum charges for the towing and storage of crashed vehicles in Perth and Peel; the authorisation of tow truck drivers, towing assistance, towing service providers and storage yard providers who are involved in crash towing, including fit and proper character provisions across the state; the prohibition of crash spotting fees and other incentives; and I have also asked the department to look at claims harvesting, something new that has come up, with legal firms; safety improvements for the crash towing industry; and enhanced enforcement powers for the government. We expect this important legislation to be debated next year, but in the meantime we are also tackling the problem at ground level.

We are investigating complaints. The Department of Transport provides an avenue for a customer to lodge a complaint when they believe the maximum fees listed on a tow truck driver’s statement have been exceeded by the towing company. An investigation request form can be submitted to the Department of Transport in the following cases: failing to declare the maximum value for the tow, salvage or storage of the vehicle; altering the price of the statement after it has been completed and signed by both parties; and overcharging, when the amount charged exceeds what has been authorised by the vehicle owner prior to authorising the tow. We are also engaging with the insurance industry. Last week I met with the Insurance Council of Australia about improvements that will bring WA into line with other states that will facilitate an honest, fair and safe towing industry and still support those small businesses. I have also met with the RAC a number of times to discuss the issue. It advises their members that they are not obliged to engage the first tow truck driver on the scene and to always give RAC a call, because it can normally send out a tow truck that is very much within its insurance policy.

We are also communicating with people who will need to make decisions if they are unfortunate enough to be involved in a car crash. Consumer information is available through the “Be in the know before you need a tow” campaign on the DMIRS and Department of Transport’s website. Any organisation can spread this important message through an email campaign, social media messaging or company newsletter that advises people of their rights. The Department of Transport is assisting stakeholders with correct information. If they need help locating

it, they can contact the Department of Transport. This also goes for any complaints by sending an email to [towingreforms@transport.wa.gov.au](mailto:towingreforms@transport.wa.gov.au). Main Roads is also supporting the “Be in the know before you need a tow” message on its overhead digital signs on the freeway, making drivers aware that in the event of an accident they have the right to decide who tows their car and where it gets towed to. Main Roads will, in many cases, remove the vehicle to a safer location at no cost, if it is obstructing traffic on a major road in the metropolitan area. Unscrupulous tow truck drivers can also now be prosecuted.

Since November last year, tow truck drivers have had to declare the maximum fees that will be charged for the towing, salvage and storage of a vehicle before a vehicle is towed from the scene of an accident. Tow truck drivers are committing an offence if they charge a fee exceeding the maximum fee set out in the tow truck driver’s statement. In November last year, the WA government introduced regulatory changes to update how tow truck technical standards apply. These technical standards will be enforced through annual inspections from 7 November this year. This will ensure that currently licensed tow trucks can be assessed as being able to meet the new standards of vehicle safety and road worthiness, and are equipped with the appropriate emergency tools when attending road incidents. It is also proposed that a crash towing authorisation process will include a medical assessment of fitness to drive, a fit and proper person assessment and importantly a review of a national police clearance.

The Cook government is the first WA government to tackle the crucial issue of reforming the towing industry. Given the alleged involvement of organised crime in the towing industry and the reported history of intimidation and physical altercations, some complex issues have arisen. For that reason, it requires a thorough approach and careful consideration is required. I thank the Leader of the Opposition for his grievance, and I am aware of these issues. I am looking forward to working with the opposition and this place on the bill when it is presented to Parliament relatively soon. In the meantime, people have a right to decide who tows their vehicles. They should contact their insurer or Main Roads in the first instance and make sure that if they believe they are being overcharged or unscrupulous behaviour is happening to contact the Department of Transport for investigation, because they will, and we can, hold some of these towing companies to account.