

APPENDIX A

May 18, 2023

Ministry of Transportation
Transportation Policy Branch
777 Bay Street, 30th Floor
Toronto ON M7A 2J8

RE: Regulatory Posting-Towing and Storage Safety and Enforcement Act (TSSEA)
Regulations (23-MTO008)

The Town of Oakville is pleased to provide feedback on proposal number 23-MTO008 – TSSEA Regulations, and generally supports the proposed regulations. However, the Town has the following questions and comments after reviewing the information provided on the Regulatory Registry:

General Comments

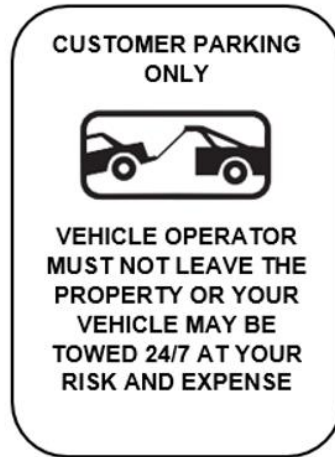
1. Subsection 64(u) of the TSSEA provides that the Lieutenant Governor in Council may make regulations that provide for exemptions from the Act, or any of its provisions. When MTO first solicited feedback in 2021, possible exemptions to part or all of the regulations under consideration were:
 - Vehicles are stored or towed at no cost to a vehicle owner or insurance provider,
 - Vehicles are not retrieved from the roadside, or
 - Stored vehicles that are not returned to a customer.

The current request for feedback does not identify these possible exemptions, but states, “To implement TSSEA, the Ministry of Transportation (MTO) is ... proposing consequential amendments to the Municipal Act ... to remove municipal authority to licence the sector”.

The Town’s Tow Truck Licensing By-law regulates, among other things, the towing of vehicles from private parking lots without the consent of the owner/driver. This is a major issue for Oakville’s Town Council.

TSSEA’s regulations need to clearly state whether municipalities can license tow operators who tow from private parking lots (or other private property). If

municipalities are not able to license in this instance, the regulations must provide for such things as parking lot signage, including the size and location of the sign, and possibly fees that may be charged for towing. A sample of such signage from Oakville's tow truck by-law is included below for information.



2. The Registry states that certificate fees may be fully refunded or fully credited towards a subsequent fee payable by the person if the person applied for an incorrect certificate type or under the incorrect legal name.
 - Are there any other instances where a refund is possible? For example, could a person get a refund before a certificate is issued if they apply for a certificate, then decide they no longer need it?

Comments - Tow Operator

Recordkeeping

- The regulation should state how long records must be kept.
- A schedule of rates is to be kept by the operator.
 - Can this schedule of rates be amended? If so, when and how. Will operators be provided with a template for documenting their rates? Note that subsection 28(3) of Bill 91 requires that amounts to be charged for towing services be submitted to the Director.
- The operator should have to keep the ownership for each tow truck in their fleet.

Vehicle Requirements

- The regulation should specify the size of the company name and TSSEA number that is to be displayed on the tow truck, as well as specify that the information must be in a contrasting colour.
- Subsection 54(2) of the TSSEA states that an inspector may examine a tow truck without a warrant.
 - Are these mandatory or random inspections?
 - How is the operator given notice of an inspection?

- Are there fees contemplated for failure to attend an inspection or a re-inspection fee if a tow truck is removed from service if it fails an inspection?

Industry Standards

- The feedback table states that “an employee is not permitted to operate a tow truck when not legally permitted”.
 - Only those employees included on the list of drivers should be permitted to drive a tow truck.
- The feedback table states that payment for services may be made by cash, debit/credit, etc.
 - The regulation should specifically state that the operator must have a *functioning device to take payment by debit/credit*.

Customer Protection

- The feedback table states that consent can be given by the vehicle owner, a representative of the vehicle owner, driver, insurance representative, or *owner of private property*.
 - Does this mean that the owner of a parking lot, for example, can have a vehicle towed to a storage facility under their consent?
 - If so, the regulations should provide for how this will occur. See general comments on page 1 regarding towing from private parking lots.
- The regulation should provide for how consent is given if the driver is incapacitated or has already been removed from the scene of an accident.
- The certificate number should be included on the consent.
- The operator should not be able to charge for time lost through defects or inefficiency of the tow truck or the incompetence of the tow truck operator or driver.

Comments - Tow Truck Driver

Certification

- Applicants should be required to submit a driver’s abstract, and there should be precluding offences under the Highway Traffic Act.

Customer Protection

- Subsection 20(3) of the TSSEA requires that tow truck drivers document a consent and provide a signed copy of the documentation to the consenting person.
 - “Document a consent” is awkward language. Note that Bill 91 proposes to strike out the word “signed” in subsection 20(3).
- A tow truck driver should have to comply with reasonable requests from a hirer.
- Subsection 24(1) of the TSSEA states that a tow truck driver shall, before towing the vehicle or at such other time as may be prescribed, permit the person who consented to the towing services to have access to the vehicle at no charge in

order to retrieve personal property. Bill 91 is proposing to repeal subsection 24(1) and substitute the following: “A tow truck driver shall at such times as may be prescribed permit the owner of a motor vehicle and any other prescribed person to have reasonable access to the motor vehicle”.

- Bill 91 provides that the access has to be reasonable, and is no longer “at no charge”. A person should not have pay to access their vehicle.

Comments – Storage Operator

Recordkeeping

- The Town of Oakville has received multiple complaints regarding the fees charged by storage yards.
 - The regulation should require that all ancillary charges/administration charges be described/included on the schedule of rates.
- Subsection 28(3) of Bill 91 requires that the amount to be charged for vehicle storage services be submitted to the Director.
 - Can the schedule of rates be amended?
 - If so, when and how. Will operators be provided with a template for documenting their rates?
 - The schedule should also specify when call-in fees will be charged.
- The regulation should state how long records must be kept.

Industry Standards

- The feedback table states that payment for services may be made by cash, debit/credit, etc.
 - The regulation should specifically state that the operator must have a functioning device to take payment by debit/credit.
- The regulation should specify that signage with the hours of operation, business name, etc. be visible at the entrance to the facility and should comply with the municipality’s sign by-law.
- Will the regulations expand on the requirements for a storage yard’s “state of good repair” and the security features required to protect vehicles that are stored on the site?
 - Oakville’s storage yard regulations include requirements for lighting, fencing, parking surface, etc.

Consumer Protection

- The feedback table states “must initiate steps to notify the vehicle owner within 24 hours of receiving a vehicle for storage. Only one day of storage fees may accrue before the steps to identify a vehicle owner are initiated.” The entire process of picking-up a vehicle from a storage yard has been a contentious issue in Oakville.
 - The regulation should be more specific on what “initiate steps” means or there will be many complaints of over-charging and of storage yard operators not properly providing notice.

- The feedback table under consumer protection for tow truck drivers requires that the driver provide the storage operator with the vehicle owner’s contact information.
 - The operator should, in most cases, know who the vehicle owner is, so the operator will not have to “take steps to identify a vehicle owner”. Anyway, the regulation should clearly define this process to avoid future problems.
- Subsection 24(2) of the TSSEA states that a storage yard certificate holder shall permit the vehicle owner or other prescribed person to have reasonable access to the vehicle at no charge during regular business hours or at a time the premises is open for business, in order to retrieve personal property. Bill 91 is proposing to repeal subsection 24(2) and substitute the following: “A tow truck driver shall at such times as may be prescribed permit the owner of a motor vehicle and any other prescribed person to have reasonable access to the motor vehicle”. Bill 91 removes the requirement that access be “at no charge”.
 - A vehicle owner should not have pay to access their vehicle.
- The feedback table provides that fees must not be charged for the movement of a vehicle around/within a storage yard, once delivered.
 - Fees should not be charged to move a vehicle within the storage yard at any time, to drive the vehicle to the front gate, etc. The Town of Oakville has received multiple complaints about these types of “administration fees” being charged by storage yards.
- Subsection 23(4) of the TSSEA requires that the vehicle storage certificate holder document a consent and provide a signed copy of the documentation to the consenting person.
 - “Document a consent” is awkward language. Note that Bill 91 proposes to strike out the word “signed” in subsection 20(4).

Comments - Ministry Powers

Recordkeeping

- Documents provided in relation to a customer complaint should be stored in accordance with FIPPA.

Publishing of Information

- The feedback table provides that the Director may publish the schedule of rates. However, the schedule of rates is to be kept by the tow operator/storage yard operator, and not submitted for certification.
 - If the rates are not submitted, but only kept by the operator, the Director will not have the schedule of rates to publish. Bill 91 proposes to amend subsection 28(3) to require that rates be submitted to the Director and new subsection 28(6) specifies that the Director shall publish the rates on the government’s website.

Other

- Can the Director consult with police when reviewing an application?
- Can operators be held responsible for damage to a vehicle that is being towed?

Thank you for allowing the Town of Oakville to provide comments on the proposed regulations and for the Ministry's consultation and collaboration in developing regulations under the TSSEA for the towing and vehicle storage sectors.