

Tow Truck Industry Review – Status Update and Considerations for Change

Date:	October 11, 2013
To:	Licensing and Standards Committee
From:	Executive Director, Municipal Licensing and Standards
Wards:	All
Reference Number:	P:\2013\Cluster B\MLS\LS13019

SUMMARY

This report provides an update on the Tow Truck Industry Review with a focus on providing direction on issues of tow truck rates, consumer awareness and protection, driver service, and related enforcement.

The issues outlined in this report will be used to guide further consultation with industry stakeholders and decision-making leading to the final report. The final report with recommendations for the tow truck industry is expected to be tabled at the March 18, 2014 meeting of the Licensing and Standards Committee.

RECOMMENDATIONS

The Executive Director, Municipal Licensing and Standards recommends that:

1. Licensing and Standards Committee receive this report for information.

Financial Impact

There is no financial impact expected from this report beyond what has already been approved in the current year's budget.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

November 14, 2011, Licensing and Standards Committee deferred the report "Review of Fees for Accident Tows and Tows from Private Property", to the March 29, 2012 meeting, and requested that the Executive Director, Municipal Licensing and Standards, report back with more information on (1) Canadian jurisdictions that regulate fees for "all other towing" with an all inclusive flat rate; (2) a clear delineation between accident and non-accident rates in these jurisdictions; (3) details on the legislation pertaining to service collision centres, any recommendations for improvement of their operation, and other models used by other municipalities; (4) a current assessment of a vehicle owner's rights following an accident; and (5) a current assessment of towing protocol from public and private property.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2011.LS10.2>

April 10 and 11, 2012, City Council referred the report "Review of Fees for Accident Tows and Tows from Private Property", to the Executive Director, Municipal Licensing and Standards for review and consultation with the tow truck industry, insurance companies and brokers, the Canadian Automobile Association (CAA) and other interested stakeholders. It additionally directed the Executive Director, Municipal Licensing and Standards, to report to the Licensing and Standards Committee, such report to include the review criteria for assessing and/or recommending any fee changes.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.LS12.2>

May 24, 2012, Licensing and Standards Committee referred the report, "Interim Review of Tow Rates", to the Executive Director, Municipal Licensing and Standards, for report back with the towing industry review as soon as possible, and include (1) a comprehensive review and recommendation in regards to tow rates; and (2) options to allow non-cash payment of tows (such as credit or debit).

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.LS13.1>

ISSUE BACKGROUND

The City of Toronto regulates the operation of tow truck owners and drivers to ensure consumer protection for motorists and accident victims, while enabling economic viability and sustainability of tow truck industry participants.

The last review of the tow truck industry, which focussed on a review of accident tow truck fees, was conducted in 2006 where the index from 2003 values was updated to 2005 values, resulting in a 10.5% increase in accident tow rates. The rate for city street accident tows was raised from \$150.00 to \$166.00, and the rate for highway accident tows was raised from \$170.00 to \$188.00. Since that time, a number of issues have been brought forward by the industry and public.

In May 2013, the Municipal Licensing and Standards (ML&S) Division initiated a comprehensive review of the tow truck industry, including Municipal Code Chapter 545, Licensing, Article VI - Owners and Drivers of Tow Trucks. Extensive research was

conducted in May and consultations with industry stakeholders held in June and July. Based on the findings, staff have identified key issues that provide an opportunity to improve Toronto's tow truck industry.

COMMENTS

Research

Staff examined existing by-laws governing the tow truck industry, enforcement procedures, data on tow truck and licensing complaints received by the City, as well as towing regulations and practices of peer jurisdictions within the Greater Toronto Area (GTA), major Canadian urban centres, United States, Australia, The United Kingdom, New Zealand and South Africa.

Research was also conducted into industry costs, collision rates, insurance claims, private parking tows, private property tows, tow truck driver (D09) licence applications and tow truck owner (V10) licence applications, to produce a preliminary economic analysis of the Toronto towing industry.

Consultation

Internal consultations were conducted with staff from ML&S' Licensing Enforcement unit, appropriate City divisions including Corporate Finance and Economic Development & Culture, as well as members of the Toronto Police Service (TPS) and the Ontario Provincial Police's (OPP) Toronto Detachment.

Multiple stakeholder and public consultations were conducted. One consultation was conducted for the insurance industry, three consultations for the towing industry, and four consultations for the general public. Staff have followed up with additional correspondence and meetings with insurance companies, brokers, tow companies, auto-clubs, Collision Reporting Centres (CRCs), and vehicle repair facilities.

To complement the public consultation meetings and to allow for alternative ways to participate, stakeholders also have the opportunity to provide feedback through the completion of an online survey available on the Tow Truck Industry Review website: <http://www.toronto.ca/licensing/towtruckreview/index.htm>. The Tow Truck Industry Review developed five surveys for members of the insurance industry, tow truck industry, vehicle repair industry, law enforcement and general public.

Issues

Issues Raised by the Tow Truck Industry during Consultations

- *Current rate caps*: towing fees are no longer in line with the increased cost of conducting business and are lower than those in neighbouring municipalities.
- *Inability to charge for extra services*: additional fees should be permissible for tows that require extra labour, time, and pose increased safety risks such as off-road recovery, on-road recovery, road-side cleanup, the use of a second tow truck as a crash truck, and the use of a fire extinguisher.
- *Collision Reporting Centre (CRC) business practices*: there are concerns related to the power delegated to CRCs, their ability to ban tow operators from CRC premises, steer customers into using other service providers, and charge storage for towed vehicles.

Issues Raised by Other Industry Stakeholders during Consultations

- *Lack of consumer awareness*: at accident scenes, consumers are often vulnerable and may not be clearly aware of their rights and responsibilities, what charges and practices are permissible in the current by-law, and do not seek direction from their insurance provider immediately after an accident.
- *Overcharging and charges for non-towing related services*: there are a number of loopholes in the current by-law which allow tow operators to perform unregulated tows and there are problems with some tow truck drivers who take their customers to body shops, rental companies, or medical rehab facilities prior to their arrival at a CRC and/or have customers sign bills and contracts for these non-towing related services.
- *Billing practices*: some customers are not presented with an itemized bill for services prior to towing services commencing, some bills for towing services are filed months after towing services have been provided and insurance companies are unable to determine how charges accumulated resulting in financial disputes.
- *Enforcement*: there is a lack of specific penalties attached to infringing the current by-law, which has allowed bad practices and problem drivers to continue to operate.

Considerations for Change for the Tow Truck Industry

The major issues arising from the consultations and through research have provided insight and identified opportunities for improvements to the tow truck industry.

Staff will conduct further consultation with industry stakeholders on the following suggestions for change.

Tow Truck Rates

- Eliminate the current distinction between accident tows from city streets and accident tows from major highways.
- Review and update the current rate caps for private property tows and accident tows by conducting a thorough fee analysis, and tie an automatic annual inflation adjustment consistent with Toronto's Consumer Price Index (CPI).
- Eliminate the current requirement that tow truck operators file a schedule of rates for non-regulated towing services with ML&S, and explicitly specify the permissible amounts that may be charged for services such as on-road recovery, off-road recovery, etc. in the by-law.

Consumer Awareness and Protection

- Introduce a 'motorist bill of rights' which clearly outlines the role, rights and responsibilities of the tow truck driver and the consumer.
- Prohibit tow operators from carrying other passengers other than the customer in the tow truck during towing service; an exception can be made to permit an employee-in-training to ride in the cab, provided they carry a valid D09 licence should they be subject to ML&S inspection.
- Introduce a 'consent to tow' form that incorporates the currently mandated bill of services listing charges associated with the tow, and require that the completed form be presented and signed off by the consumer prior to any towing services occurring.
- Require all drivers with legitimate partnerships with insurance companies, car dealerships, auto clubs, etc. to carry a letter of certification from those companies, and present the documentation upon inspection by ML&S Licensing Enforcement, TPS and OPP.

Driver Service, Charging and Billing Practices

- Require the use of camera for photographic evidence to justify the performance of additional towing services such as on-road recovery, off-road recovery, etc. and mandate that photographs be stored should it be required for ML&S inspection or court litigation.
- Clarify jurisdiction in the by-law to clearly state that all tows originating within the boundaries of the City of Toronto are subject to its by-laws regardless of the additional municipalities the tow truck passes through or the final destination of the tow.
- Provide explicit definitions in the by-law for towing services that are subject to regulated prices including the duration and final destination of tows from private property and tows from the scene of an accident.
- Review the vehicle weight requirement in the by-law to ensure that most consumer vehicles are covered, and define vehicle weight in the by-law to mean the manufacturers listed 'curb weight'.
- Require all tow truck drivers to inform the consumer's insurance company of the final location of a towed vehicle within 12 hours of it being deposited.

- Prohibit all other stops for towed vehicles that have been directed by police to attend a CRC, with a provision that vehicles delayed in excess of three hours will be subject to ML&S investigation.

Enforcement

- Require all tow truck drivers to display a ML&S tow truck driver ID card in their tow truck similar to the ones used in taxicabs that contain a photo of the driver, their licence number, and their towing company name and contact information.
- Standardize the location of all licensing information (ML&S tow truck driver licence, ML&S tow truck driver ID, ML&S number plate and painted sign with operator name and licence number).
- Revoke all number plates currently issued to holders of a tow truck owners V10 licence and re-issue new number plates that contain some form of differentiation from the former plates, and require a safety deposit which would be returned to the holder of the V10 licence upon the return of their issued number plate.
- Require tow truck operators to report to the nearest ML&S Licensing Enforcement Office when summoned for an investigation.
- Build-in specific penalties for infractions in the by-law.

Next Steps

ML&S will be undertaking further consultation with industry stakeholders to guide the formulation of final recommendations for the tow truck industry. The Tow Truck Industry Review has a number of stakeholders with competing interests and concerns, and engaging them on the proposed considerations is necessary for a participatory and transparent process. Moving forward with a positive change for the Toronto towing industry will involve staff consideration and analysis of all stakeholder input, and will require balancing the interests of these stakeholders when developing the final report.

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SIGNATURE

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