

# DEPARTMENT OF ROADS AND TRANSPORT



**roads and transport**  
Department: Roads and Transport  
GAUTENG PROVINCE

## DRAFT TOW TRUCK POLICY

(Green Paper)

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**PREPARED BY : DIRECTORATE: POLICY, LEGISLATION, RESEARCH  
AND KNOWLEDGE MANAGEMENT**

## Foreword by the MEC

The Tow Truck Policy has a major role to play in meeting the current needs of the tow truck industry and the people of Gauteng. Our country is continuously undergoing a process of socio-economic transformation to correct negative impact caused by the previous systems of government. There is a wide array of social, economic, legal, and environmental ills whose legacy needs to be corrected as soon as possible.

There has been continuing high levels of complaints about the conduct of certain elements within the tow truck industry. Reviews from submissions and feedback received from stakeholders indicated that the reported issues facing the industry have increased in recent times. Although there is no statistical data to support this, informal reports are that the practice of accident chasing is widespread in the province with tow truck operators vying for chance to be the first on the scene of accident.

Additionally tow truck operators raised concern about competitive unfairness and bullying tactics displayed by larger tow truck operators. The majority of tow truck operators were concerned that in the absence of a regulatory scheme, if trends continue, they would potentially lose their livelihood to larger tow truck operators or those who are not concerned with the general safety of accident victims. Review of the submission from majority of stakeholders received revealed that an overwhelming number of tow truck operators are in favour of some sort of regulation of the tow truck industry.

One needs to take into cognizance that the tow truck industry provides an essential service and that there are true professionals within the industry capable of providing good service. Tow truck operators are usually the first to respond to vehicle accidents before emergency services and police get there.

The complaints includes, amongst others:

- unprofessional conduct and dishonesty
- charging excessive fees

- referral fees between tow truck operators and law enforcement officials
- lack of transparency
- vehicles being towed without consent

As a result of the level of concern about the practices of some tow truck operators the Gauteng government in consultation with stakeholders look at options for improving the tow truck industry with a policy framework whose main objects are to promote and encourage fair, courteous and ethical business practices, develop and maintain minimum standards of business skills, maintain discipline, and promote uniformity in usage custom and trade conditions. There was almost universal support for tow truck safety standards and restrictions on the conduct of tow truck drivers and operators.

The purpose of this Green Paper is to provide a basis for formulating a tow truck industry policy for Gauteng. The Department is committed to listening to the voices and views of the people of Gauteng and to include them in the decision making process. Effective and meaningful public participation is essential to enable the Department to fulfill its mandate, deliver programs, launch new initiatives and build public trust.

By providing opportunities for the people of Gauteng, our stakeholders and the tow truck industry to get involved, we can gain new perspectives and identify the public's concerns and values. This leads to more creative solutions, more effective policies and better decision making. We therefore request you to assist us by studying this document and make inputs for effective formulation of the tow truck industry policy and implementation.

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MEC: Roads and Transport

## Acronyms

<b>AARTO</b>	- Administrative Adjudication of Road Traffic Offences Act
<b>BBBEE</b>	- Broad-Based Black Economic Empowerment
<b>CPA</b>	- Consumer Protection Act
<b>DLTC</b>	- Driver Licensing and Testing Centres
<b>DRT</b>	- Department of Roads and Transport
<b>EXCO</b>	- Executive Council
<b>GDRT</b>	- Gauteng Department of Roads and Transport
<b>GPG</b>	- Gauteng Province Government
<b>HOD</b>	- Head of Department
<b>MEC</b>	- Member of Executive Committee
<b>NRTA</b>	- National Road Traffic Act
<b>RTMC</b>	- Road Traffic Management Corporation
<b>SABS</b>	- South African Bureau of Standards
<b>SAPS</b>	- South African Police Service
<b>WRDM</b>	- West Rand District Municipality

## Terminology

1. **Driver:** A person that drives a tow truck to accident scenes and performs an accident tow.
2. **Insurance Association:** Represents the short-term insurance industry in South Africa at all levels and with all stakeholders to ensure a sustainable and dynamic short-term insurance industry for the benefit of all involved.
3. **Operator:** Any person operating a Tow Truck, regardless of whether the person owns the vehicle.
4. **Tow Truck Industry:** This industry comprises establishments primarily engaged in towing light or heavy motor vehicles over short and long distances. Establishments may provide incidental services, such as storage and emergency road repair services.
5. **Tow truck operator:** Defined as a person who conducts a business involving the operation of any tow truck for the purposes of towing motor vehicle.
6. **Zones:** A right provided to a licensed tow truck operators through the accident allocation scheme to provide accident towing services at a particular scene within the controlled area.

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## **1. Introduction**

The towing services and storage services are not regulated in Gauteng, which leads to the victimization of vulnerable motorists during accident occurrence. This clearly demonstrate the dire need for a regulatory tool to be introduced by the Department in order to mitigate all the bad and unbecoming behavior of tow truck operators and by extension their drivers that has nearly reached crisis propositions.

Consequently, the Provincial government mandated the Department as a sector department to devise some intervention strategies to mitigate the aforementioned challenges in the Tow truck industry. The department then embarked on a research study, which seeks to identify the root causes of the concerns aired by the motoring public, and gain an in-depth understanding of the Tow Truck Industry. On basis of the findings, the department took a policy decision to introduce a regulatory tool to regulate the industry and keep it orderly.

## **2. Purpose**

Accident towing management policy is essential to developing effective and uniform procedures. That being the case, the purpose of this policy is to:

- Promote the safe, efficient and timely provision of accident towing services to motorists in distress.
- Ensure that the people in the industry are technically competent to provide accident towing services.
- Transform the industry to enable emerging tow truck operators to enter the market.

### **3. Contextual background**

The necessity for a well regulated Tow truck industry is premised on the following:-

“A viable, autonomous, self reliant, self sustaining and well managed tow truck industry can play a pivotal role as a catalyst in the radical transformation of the economic, social and cultural and/or political dynamics in the Republic of South Africa and the Province of Gauteng in particular, through effective and efficient services provided by tow operators to the insurance industry and the general public as a whole”.

Tow truck operators provide an essential service to motorists in distress and also assist in clearing accident scene(s) to avoid secondary accidents from occurring and this phenomenon has been accepted world-wide without any hesitation. The towing industry is continuously challenged by enormous problems that will relentlessly persist because this industry remains unregulated. The self regulation by the industry has not assisted much. It has instead been a source of conflict and other anti-social behaviours from the operators and drivers alike.

The fierce battles and contestations that are witnessed in this industry will continue to rage on if the playing fields are not leveled. This state of affairs has a detrimental effect on the consumers or clients and can only be addresses if government intervenes. This will ensure that the rights and obligations of the public are protected.

### **4. Statement of Intent**

The intention of the policy is not to stifle the development of the tow truck industry but rather to ensure that the benefits of an effective, efficient and professional towing services are enjoyed by all. This policy intends to achieve greater effectiveness in addressing the regulatory problems within the Towing Industry. In particular, the policy is expected to achieve the following objectives:

- Facilitate the safe and efficient operation of towing;

- Improve the motorists' confidence in the towing industry;
- Improve accident scene clearance;
- Exclusion of inappropriate persons from the industry; and
- Facilitate the transformation of the industry in order to assist tow operators, particularly operators coming from historically disadvantaged communities.

## 5. Scope of application

This Policy shall be applicable within the borders of the Province and shall regulate the conduct of all tow truck operators.

## 6. Policy and legislative framework

The policy and legislative framework provided of Laws and Policies mentioned hereunder is by no means exhaustive but just a synopsis of what legal instruments are currently available and used by the Department of Roads and Transport in Gauteng, National Department of Transport and other Provincial Departments of Transport and Municipalities as authority in an attempt to regulate this industry and keep it orderly. The Gauteng Department of Roads and Transport also relies on these prescripts as source documents in its quest to produce a piece of legislation that will speak directly to the towing business in the Province of Gauteng.

### 6.1 Constitution of the Republic of South Africa, 1996

The lynchpin for sustainable development and growth of an industry is highlighted in ***Section 22 of the Constitution of the Republic of South Africa***, which confers the right of everyone *“to choose their trade, occupation or profession freely”*.

In addition, Schedules 4 and 5 of the Constitution which demarcates the Constitutional and Legislative competencies of different spheres of Government in each functional area. ***Schedule 4 Part A*** of the Constitution lists ***Road Traffic Regulation*** as one of the functional areas of Concurrent National and Provincial Legislative competence. ***Schedule 5 Part A*** of the Constitution lists ***Provincial***

**Roads and Traffic** as a functional area of exclusive Provincial Legislative Competence. The regulation of towing services is a road traffic matter and it falls within the constitutional ambit of the provincial sphere of government.

## **6.2 National Road Traffic Act, Act No.93 of 1996**

The objects of the National Road Traffic Act is to provide for road traffic matters which apply uniformly throughout South Africa and also to give guidance on the regulation of road traffic matters generally. There are specific sections of the Act that are “interventionist” in nature in so far as protecting the interests of all road users and warrant some mentioning here. **Section 60 of the NRTA** the so-called “exemption clause” list certain categories of vehicles that may be exempted from the general speed limit on the road.

These vehicles include, a fire-fighting vehicle, rescue vehicles or an ambulance, a traffic officer driving the vehicle in the carrying out of his/her official duties or any person driving a vehicle while engaged in civil protection as contemplated in any ordinance made in terms of **Section 3 of the Civil Protection Act, 1977 (Act 67 of 1977)**, may exceed the applicable general speed limit: Provided that-

*(a) He/she shall drive the vehicle concerned with due regard to the safety of other road users (traffic).*

The above mentions nothing with regards to towing of vehicles. However, it can be inferred that there is an express intention from the law-giver not to exclude towing vehicles and there are (towing vehicles) expected to adhere to the prescribed speed limit at all times.

**Section 63 of the NRTA** is also worth mentioning because it has some considerable implications on how vehicles including towing vehicles should be driven on the roads. **Section 63(1)** “no person shall drive a vehicle on a public road recklessly or negligently, (2) without restricting the ordinary meaning of the word “recklessly” any person who drives a vehicle in a willful or wanton disregard for the safety of person or property shall be deemed to drive that vehicle recklessly, (3) in considering

*whether **subsection (1)** has been contravened, the court shall have regard to all the circumstances of the case, including, but without derogating from the generality of **subsection (1) or (2)**, the nature, condition and use of the public road upon which the contravention is alleged to have been committed, the amount of traffic which at the relevant time was or which could reasonably have been expected to be upon that road, and the speed at and manner in which the vehicle was driven.*

The above provision is clearly restrictive and sets very stringent conditions to all motorists other than those who fall in the exempted categories as mentioned earlier on. Linked directly to **Section 63 of the NRTA is Section 64 of the same Act which states that**, “no person shall drive a vehicle on a public road without reasonable consideration for any other person using the road”.

The provision further emphasises the point made earlier in that all road users without exception should act with restraint and respect for road rules. **Section 75(1) (i) of the NRTA** provides for the Minister in consultation with the MEC to make regulations “**on the towing, pushing or drawing of any vehicle by another vehicle on a public road**”. The making of these regulations by the Minister will further enhance the Provincial regulatory framework in this regard.

### **6.3 Road Traffic Management Corporation Act, Act No.20 of 1999**

The objects of the Road Traffic Management Corporation Act, 1999 are to “provide, in the best interest, for the co-operative and co-ordinate strategic planning, regulation, facilitation and law enforcement in respect of road traffic matters by the national, provincial and local spheres of government”.

The Preamble to the RTMC Act states as follows: - “there is a need to enhance the overall quality of road traffic and, in particular, to promote safety, security, order, discipline and mobility on the roads, and to protect road infrastructure and the environment through the adoption of innovative road traffic practices and technology;

*And also, there is a need to define and strengthen co-operation and co-ordination between the national, provincial and local spheres of government in support of their*

*respective road traffic strategic planning, regulation, facilitation and enforcement; and*

*There is a need to regulate and maximize the constructive role of provincial authorities and local government bodies in support of enhanced road traffic service provision and in particular, road traffic law enforcement”*

In order to realize all of the above, it was necessary to centralize the road traffic management, regulation and law enforcement functions under the same umbrella in South Africa. This centralization will inevitably assist in streamlining road traffic management, set similar and uniform standards of operation and law enforcement and breakdown silos for maximum output. To this end, **Section 32(1) of RTMC provides for the development of the national road traffic law enforcement code.**

This national road traffic law enforcement code will set uniform standards of performance by all traffic law enforcement agencies, put in place monitoring and evaluation mechanisms provide strategic direction and put in place operating principles to be applied. The traffic law enforcement code will become a blueprint for performance levels expected of each role-player when it comes to traffic law enforcement.

#### **6.4 Administrative Adjudication of Road Traffic Offences Act, Act No.46 of 1998**

The objects of this Act are to encourage compliance with the national and provincial laws and municipal by-laws relating to road traffic and to promote road traffic safety. The Act establishes a procedure for effective and expeditious adjudication of infringements in order to alleviate the burden of the courts trying offenders for infringements, (particularly minor road traffic infringements).

The most important innovation of this law is that, a provision is made for penalising drivers and operators who are guilty of infringements or offences through the imposition of demerit points which can ultimately lead to the suspension and cancellation of driving licenses, professional driving permits and operator cards. The Act also seeks to reward law-abiding behavior by reducing demerit points where

these have been incurred if infringements or offences are not committed over specific periods.

### **6.5 Consumer Protection Act, Act No.68 of 2008**

The objects of the Consumer Protection Act are among others, to promote a fair, accessible and sustainable marketplace for consumer products and services and for that purpose establish national norms and standards relating to consumer protection, to provide for improved standards of consumer information, to prohibit certain unfair marketing and business practices, to promote responsible consumer behavior and, to promote a consistent legislative and enforcement framework relating to consumer transactions and agreements.

The underlying principles and express intentions of the Consumer Protection Act resonate with the need to introduce explicit regulatory measures that will protect motorists in distress (as clients/consumers) against unscrupulous tow truck operators and drivers. It is envisaged that some of the concerns raised through various platforms by members of the motorists in particular and public in general will be addressed.

Few provisions of the Consumer Protection Act which could eliminate all unfair business practices particularly as practiced in the towing business are cited below:-

**Section 13 of the CPA: (consumer` right to select suppliers) states as follows:-**

**13(1) a supplier must not require, as a condition of offering to supply or supplying any goods or services, or as a condition of entering into an agreement or transaction, that the consumer must-**

**(a) Purchase any other goods or services from that supplier;**

**(b) Enter into an agreement or transaction with the same supplier or a designated third party; or**

**(c) Agree to purchase any particular goods or services from a designated third party,**

**Unless the supplier-**

- (i) Can show that the convenience to the consumer in having those goods or services bundled outweighs the limitation of the consumer's right to choice*
- (ii) Can show that the bundling of those goods or services results in economic benefits for consumers; or*
- (iii) Offers bundled goods or services separately and at individual prices*

The point to be made in this provision is that, consumers have the right to choose and select their own suppliers without any undue pressure from any supplier of goods or services. In the context of towing services, the most prominent concern is that motorists in distress are often coerced by tow truck operators to enter into other binding agreements other than just towing their vehicles. This practice is now deemed to be illegal and consumers have all legal remedies to follow.

#### **6.6 By-laws by Municipalities**

Municipalities also have the Constitutional right or obligation to enact laws where applicable, taking into account the limitations as set out in Schedule 4 and 5 of the Constitution. In enacting such by-laws care should be taken of existing statute so as to avoid unnecessary contradictions that may lead to contestations by different spheres of Government. In Gauteng only one Municipality has so far enacted its own municipal by-law regulating towing services.

The West Rand District Municipality has in terms of **Section 13 of the Local Government Municipal System Act, 2000 (Act No. 32 of 2000)** enacted and published what is known as the **"Street and Miscellaneous By-laws"** through a **Provincial Gazette dated 14 November 2008, Gazette No.309.**

**Section 39(1) of the said by-law states "no person shall operate a breakdown or towing vehicle of any description or shall conduct a vehicle recovery, salvaging or towing business in the area of jurisdiction of the West Rand District Municipality without such vehicle and such business being duly registered with the West Rand Towing and Recovery Association or any other organization duly established for the purposes of regulating and organizing**

***the rendering of breakdown or towing services in the area of jurisdiction of the West Rand District Municipality, within six months following the promulgation of this by-law”.***

This provision is an express prohibition of anybody to operate a breakdown or towing vehicle in the course of providing a vehicle recovery, salvaging and towing service without being registered first with the relevant towing association operating in the West Rand District Municipality. This is a typical case of self regulation by the industry to minimize conflicts by among other things,

- compiling a register of members and keeping a database of such members,
- putting operational systems in place to streamline work,
- regulating the conduct of its members through a code of conduct,
- keeping away people who do not belong to this industry, and
- setting standards of performance

With the above in mind, less stringent regulatory interventions could be needed if the industry takes the necessary steps towards regulating the conduct of its members.

### ***6.7 Policy documents used by Municipalities***

As mentioned earlier, not every municipality has enacted its By-laws on this matter. However, several municipalities in Gauteng have opted to put policies in place that will assist those municipalities in their endeavors to regulate the conduct of tow truck operators and drivers. The policies referred are similar in content and the intentions are also similar so it would not assist to mention them here.

## **7. Key Principles**

The key principles that must be observed and complied with when tow operators provide towing services to their clients or customers need to be clearly defined and also need to resonate with established business principles that promote high standards of customer care. The coming into operation of the Consumer Protection Act also added the much needed impetus in raising the level of customer care

consciousness on the part of service providers when doing business with their clients.

The following guiding principles must be observed at all times by tow truck operators and drivers when doing business with their clients; namely:-

- To comply with all relevant and applicable laws of the Republic of South Africa;
- To uphold high standards of customer care and/or service;
- To act with integrity at all times;
- To be courteous to clients at all times;
- To honour any commitments made in the course of doing business with clients;
- To use adequately equipped and safe vehicles at all times; and
- To be polite and show respect to other tow operators who arrived first in the scene of an accident.

## **8. Key Policy Provisions**

It is imperative for tow operators authorized to perform towing services to understand that the safety of the motoring public is a priority. Expedious clearing of accident vehicles from the roadway and other safety sensitive areas is critical to maintaining a safe road network system. Accordingly, the following policy positions are made:

### **8.1 Tow Truck Requirement Specifications**

The Tow Truck Requirement Specification will be as contemplated in the National Road Traffic Act of 1996 (NRTA), National Road Traffic Regulation of 2000 (NRTR) and the South African Bureau Standards (SABS). The specifications will be but not limited to the following:

- Tow trucks utilized when providing the towing services should meet the Tow Truck Requirement Specifications as prescribed by the NRTA and SABS, failing which they should be disqualified from operating;
- It is the responsibility of the Tow Truck Operator to ensure that its trucks are in sound mechanical condition, safe, properly equipped and suitable for their intended use; and
- The tow trucks shall have proper branding, which bares the Tow Operator's business name and address and a service decal of a particular area under which it operates.

## **8.2 Operation of Tow Truck within specified or controlled areas**

- Towing zones should be established in order for towers to operate within certain jurisdiction;
- Zones should be established in order to ensure that towers can respond within a reasonable timeframe, given the time of the day and traffic conditions;
- The establishment of such zones should be based on known factors such as crash frequency, location of most operators that would respond, traffic congestion levels, as well as travel times during peak and off-peak times within specific zones; and
- There must be two rotation lists per zone to cater for heavy and light duty towing.

## **8.3 Tow Dispatch / Allocation Scheme**

- Each towing company should subscribe to a tow dispatcher centre within a jurisdiction under which it operates;
- All dispatcher centres must be linked to an emergency notification system for response to emergency incidents, as contemplated in the Draft National Incident Management Policy Framework;
- Dispatchers must be equipped with a vehicle class description sheet to use as an aid in calling for appropriate tow truck;

- All towing companies must use the same radio frequency in order to facilitate quick communication with the responding officer who must provide guidance on the towing;
- Frequency must be as approved and allocated by the Independent Communications Authority of South Africa (ICASA);
- Dispatchers should maintain a record of all calls dispatched, and this record should be made available to participants, upon request; and
- No favouritism should be tolerated in selecting towing companies by either dispatchers or law enforcement agencies.

#### **8.4 Response to Accident Scenes**

The envisaged Act must also address itself to the issues of response to accident scenes. The response should be determined by time taken to get to the accident scene and clearing of wreckage.

- Improvements must be made towards the development of methods to get tow trucks to the scene of accident faster, thereby improving clearance time.
- Tow truck operators will be expected to flash a warning light on arrival at an accident scene as a warning to other road users.

#### **8.5 Offences at road accident scene**

The envisage Tow Truck Act must also provide for offences and penalties particularly on the behavior of operators in and around road accident scene. For an example, the following:

- Obstructing traffic flow when attending to an accident site;
- removing vehicles involved in a serious accident without being authorised to do so; and
- Use siren when responding to accident occurrence.

## **8.6 Authority to tow**

It is envisaged that the Act will address issues of authorization, for example:

- No towing should be performed without a pre-authorization or consent of the vehicle owner or his/her insurer or Law enforcement officer;
- A motorist should be awarded an opportunity to call his/her own towing company, if the conditions warrant providing such courtesy;
- Tow truck operators are not allowed to move accident vehicles where there are fatal injuries or crashes;
- Tow truck operators should know that fatal crashes require extended investigation and can have significant legal issues associated with the investigation's outcome;
- No tow truck operator should move vehicles involved in an accident due to drunken driving as such conduct will temper with the crucial evidence required for investigation; and
- Only authorized to tow the vehicle without Law Enforcement Agency when there are no serious injuries at the accident scene.

## **8.7 Determination of towing rates and storage fees**

The Tow Truck Act must also address issues of towing rates and storage fees, because:

- Government has an obligation to consumers to ensure that the rates that towers charge are fair and reasonable.
- Rates structures should be determined in consultation with all the relevant stakeholders.
- Government agencies authorized to determine rates should ensure that the rate ceiling is compensatory and reasonable.
- Rates should be reviewed periodically to ensure that they remain fair.

- Towers should charge fair and reasonable rates failing which they should be disqualified for charging excessive rates and not abiding by the prescribed rates.

### **8.8 Abandoned vehicle towing**

The Bill envisages that abandoned vehicles should be towed as contemplated in the National Road Traffic Act:

- The towing of abandoned vehicles, which is provided as per Law Enforcement agency's instruction should be at an owner's cost and not incurred by the municipal council.
- The abandoned vehicle owner should be located following the legal processes in place.
- Tow companies have the right to locate the last registered owner, contact them, make the necessary arrangements for payment and release of the vehicle.

### **8.9 Transformation of the tow truck industry**

The envisaged Bill must also address issues of transformation of the tow truck industry, by among other things such as prescribing mechanism to capacitate small and medium enterprises.

## **9. Institutional Arrangement**

Currently, the Tow Truck industry is partially regulated through a plethora of legislation with the bulk of regulatory function left entirely to the Tow Truck Associations to self-regulate. However, this has not assisted as envisaged. For example, not all tow truck operators are affiliated to associations and this makes self-regulatory difficult to force. To mitigate all the aforementioned challenges, the envisaged Bill will provide for the establishment of a regulator.

## **9.1 Functions of the Regulator**

The functions of the regulator will be, but not limited to the following:

- Regulate the tow truck industry through granting, amending, suspending or revoking licenses issued to tow truck operators;
- Set standards of operator performance.
- Enforce compliance with the set operator standards;
- Advise the MEC on policy formulation issues as well as the reviewing of the existing policy;
- Make reports and recommendations to the MEC with respect to licensing and certification of drivers;
- Formally recognize the associations representing the operators; and
- Collection and dissemination of information relating to tow truck operations.

The regulator in the performance of its function will liaise with the following role players such as:

- MEC and Provincial Department of Roads and Transport
- Metros and District Municipalities
- Tow Truck Associations
- Insurers; and
- Other relevant bodies or institutions.

## **9.2 Roles and responsibilities of other Role-players**

The roles and responsibilities of each role-player in the towing business must be clearly defined and understood so as to avoid role confusion that may lead to unnecessary conflicts and contestations with disastrous consequences.

### **9.2.1 Provincial Department of Roads and Transport**

The towing of vehicles on the road is a road traffic matter and therefore the Department of Roads and Transport as a responsible sector Department in terms of the Constitution, must play a regulatory role and keep this industry orderly. It is the responsibility of the Department to introduce regulatory tools such as a Policy and/or Legislation that will regulate the conduct of drivers and prescribe minimum requirements that tow operators should adhere to.

Some of the areas that need regulation includes *inter alia*:

- Soliciting for a tow and harassing vehicle owners involved in accidents;
- Off-the-hook-selling” offering rewards or benefits in expectation of obtaining the work of repairing a damaged vehicle; and
- Authority to tow, the tow truck driver must have acquired an authority to tow with respect to the crashed vehicle from an authorized person.

### **9.2.2 Metropolitan and District Municipalities**

Municipalities also have a role to play in assisting to keep this industry orderly. **Schedule 5 Part B** of the Constitution lists *Traffic and Parking* as matters of exclusive municipal competence; therefore, municipalities have a responsibility to regulate on traffic matters (tow truck) and keep this industry orderly. Municipalities can use various legal remedies at their disposal such as By-laws or Policies to regulate the conduct of tow truck drivers and operators alike.

### **9.2.3 Tow truck Associations**

Tow truck associations have a responsibility to control the conduct of their members through the development of a Code of Conduct and also to educate their members on the prevailing laws that are applicable to their business. Tow truck associations also have a responsibility to set standards of performance for their members to ensure that the service provided to members of the public motorists in particular, is of the highest standard. Associations must participate and represent their members

in all forums created by the Government for purposes of consultation and making inputs in the Policy development processes.

It is also the responsibility of association to guard against the development in the towing industry, of unfair business practices that may harm and bring irreparable damage to the reputation of this business. The development of Cartels and monopolies in the towing business has become problematic it is therefore the responsibility of associations to find ways to remedy this situation working harmoniously with all affected parties including government in all spheres.

They are entrusted with a responsibility to provide input on equipment and training requirements to government regulators and policy makers in order to have uniform standards.

#### **9.2.4 Insurers**

The insurance industry is a significant part of the towing business in this country. The crucial role that the insurance industry ought to play cannot be over emphasised given that a significant amount of cars on our roads are insured by various insures. The most contentious matter that the insurance industry must assist to resolve in a manner that will benefit all stake holders is the issue of tariff determination for both towing and storage.

There have been instances in the recent past of tow operators charging exorbitant tariffs on towing and storage. This practice will continue unless, insurers in consultation with all stake holders can assist in the tariff determination exercise that will be to the benefit of all. Insures also have a role in assisting government in its endeavors to accredit operators by keeping a record of operators who constantly violate their contract conditions when providing a service to motorists in distress. All habitual offenders must be “black listed” and be barred from accreditation.

The insurance industry endorsement of accident clearance policy is essential to the process. Insurance companies need to ensure that their agencies or contact centres understand the benefits of quick clearance especially when it is just a minor secondary fender-bender type crash occurrence. The companies should allow

drivers, in the event of a fender-bender, to move their vehicles out of travel lanes, without penalty, to exchange information in order to allow traffic flow whilst awaiting traffic officer.

## **10. Process and Procedures**

### **10.1 Application for operator accreditation:**

Tow truck operators and their storage facilities or premises (where applicable), must be accredited before they are allowed to provide a towing service. The MEC must accredit tow truck operators and their storage facilities on application by them if satisfied that they-

- Are fit and proper persons or entities to provide towing services in a manner that is safe, reliable and efficient;
- Meet the technical requirements as set by the Department in consultation with the South African Bureau of Standards (SABS), experts in the towing industry and any other relevant body or institution;
- Have access to acceptable towing vehicles and maintenance facilities that meet the specifications as prescribed by the SABS;
- Storage facilities will be accredited based on the safety analysis done by the South African Police Services (SAPS) or any other relevant body; and
- Accredited operators must renew their accreditation every three years in the manner that the MEC would have prescribed.

The accreditation so desired may specify classes or maximum number of vehicles that may be operated by the particular tow truck operator. The MEC may require and obtain recommendations from towing associations before such accreditation is granted. Accreditation of facilities or premises will be informed by among other things, that:-

- The premises or facilities are deemed to be adequate to prevent the entry of unauthorised persons;
- The premises prevent the unauthorized removal of vehicles or goods; and

- On the premises there is enough storage for vehicles, which can be easily accessed during business hours by the vehicle owners.

Tow truck operators who wish to be accredited may apply to the Department for accreditation in the following manner; by:-

- Completing an application form as issued by the Department;
- Paying the stated fee as stipulated by the Department; and
- Submitting the application form together with the required application fee and all other documents that the Department may require such as, a roadworthy certificate of the vehicle(s), certificate of fitness of the vehicle(s), registration certificate of the vehicle(s) at first registration or subsequent registrations of such vehicle with proof of change of ownership.

### **11.2 Driver certification:**

The envisaged Bill must provide for Driver certification. Tow truck drivers must be certificated before they are allowed to provide a towing service. The certification of drivers is another mechanism which would assist in promoting and maintaining the standards of behavior in the towing industry as it requires, among other things, for the driver to be a “fit and proper” person. The certification of drivers will be preceded by testing the driver’s technical skills in handling the tow truck and also his driving skills and aptitudes. The testing so envisaged will be done at Driver Licensing and Testing Centres (DLTC) by authorized officers. It is our considered view as the Department that the driving and operation of a tow truck requires more than just the normal average driving aptitudes, therefore, it is in the public interest that tow truck drivers undergo further training and testing.

The training and testing of drivers will be applicable only to new and aspirant entrants into the towing business. Drivers that are already in the service can be tested if they so wish but it is not compulsory in their case to be tested; certification of such drivers will be in the discretion of the MEC. The holding of a certificate by a tow truck driver ensures that he/she is fully vetted as a “fit and proper person”. The Department holds the view that the requirement to hold a certificate is significant

both for the industry and the general public because it conveys a message that tow truck drivers are proficient professionals in their chosen trade.

Granting of the certificates would be dependent on the applicants satisfying the following criteria, but not limited to;

- Be at least 18 years old;
- Be a resident of South Africa;
- Holder of an appropriate driver`s license;
- Satisfy the MEC that they are a fit and proper person(s) no criminal records involving car theft or hijacking, assault of a person etc;
- Be proficient in driving and operating a tow truck; and
- Have adequate knowledge of the provisions of the legislation relating to driving and operating a tow truck on the road (NRTA).
- It is compulsory for all towers to attend Traffic Incident Management Training courses.
- All towers should to undergo training on proven responder operations, towing equipment, safety for towing responders, utilization of towers in the incident management process, emergency response training as well as First Aid training.

## **12. Policy review**

This policy will be subjected to annual review or whenever it is necessary to ensure that it is aligned to prevailing resolutions, regulations and market conditions. The review process will be inclusive in a sense that all affected role-players and Stakeholders are consulted timeously and constantly.

### **13. Policy approval by the MEC**

This policy was approved by the MEC DEPARTMENT OF ROADS AND TRANSPORT on \_\_\_\_\_ (day) of \_\_\_\_\_ (month) \_\_\_\_\_ (year), at \_\_\_\_\_ (place), and will be of effect from \_\_\_\_\_ (date).

\_\_\_\_\_  
MEC: Department of Roads and Transport

### **14. Policy Implementation:**

The Policy will be implemented as soon as the Provincial EXCO approves it.