

Motion

Agenda Number: 20.2

Date: April 14, 2022

Moved by Councillor Parrish

Seconded by Councillor Carlson

That the following City of Mississauga resolution be supported by Regional Council;

“Whereas the **Towing and Storage Safety and Enforcement Act (TSSEA)** received Royal Assent on June 3, 2021 as part of the Moving Ontarians More Safely Act;

Whereas the TSSEA was the result of increased costs for customers, low industry standards and unqualified drivers over the GTA;

Whereas the Mississauga Model featured prominently in the Task Force Study leading up to the TSSEA as an excellent model for province-wide standards;

Whereas the TSSEA in fact incorporates many of the current by-laws in effect in Mississauga;

Whereas the regulations governing the application of the TSSEA are unknown at this time but a **Summary of Proposal** (attached) released on March 4, 2022 would indicate all regulations and administration will be taken over by the Province with no role for our local by-law staff;

Whereas municipalities were given until April 1, 2022 to make comments;

Whereas The Towing Industry Advisory Committee (TIAC) met March 21, 2022 and expressed concern at the lack of consultation with the industry as well as the short timelines for the committee to formulate comments for City Council to review and submit;

Whereas the timelines for Proposed Regulations coming into effect are well into the future, leaving a lengthy window of opportunity to comment well beyond April 1, 2022:

- January 1, 2023 Enhanced Commercial Vehicle Operator Record (VOR) requirement for tow trucks
- July 1, 2023 Registration of tow truck owners, tow truck drivers and vehicle storage operators
- January 1, 2024 Introduction of new standards of practice and customer protections

Whereas the Summary of Proposed **TSSEA Regulations** is causing concern amongst the TIAC members as well as City staff in regards to the Province completely taking over the supervision of a local industry that is functioning fairly, working competitively and serving the citizens of Mississauga well;

Therefore be it resolved:

1. That the Mayor, on behalf of the Council of the City of Mississauga, request an extension for comments to the Province to June 1, 2022.
2. That the Ontario Minister of Transportation, or a senior representative, appear before the next TIAC Committee to respond to questions from its members, including those on the 400 series highway pilot project.”

And further that the Regional Chair, on behalf of Regional Council, write a letter to the Ontario Minister of Transportation, in support of the City’s request for an extension for comments to the provincial government to June 1, 2022.

Towing and Storage Safety and Enforcement Act (TSSEA) Regulations

Regulation Number(s):

TBD

Instrument Type:

Information

Bill or Act:

Towing and Storage Safety and Enforcement Act; Highway Traffic Act

Summary of Proposal:

Tow operators provide an essential service on Ontario's roads. Each day, vehicles are towed for breakdowns, illegal parking, or motor vehicle collisions.

The Ministry is proposing regulations under the TSSEA and the Highway Traffic Act that outline requirements for industry to follow and how the TSSEA will be overseen. The proposed regulations apply to Ontario-based operators and drivers and will:

- Identify certificate requirements and the process to obtain and maintain certificates
- Set out customer protection standards, including procedures for consent forms, estimates, and invoices, and ensuring rates are charged in accordance with rate schedules
- Set out industry standards, including requirements for photographs and record keeping, restrictions at collision scenes, and notification procedures
- Remove most tow operator exemptions from existing CVOR requirements, e.g., daily inspection and annual vehicle inspections for smaller vehicles, record keeping, assuming responsibility for drivers
- Introduce minimum vehicle requirements for tow trucks
- Specify how the Ministry will oversee the TSSEA

The TSSEA is anticipated to replace the current oversight requirements under municipal regimes.

If approved, the proposed requirements would be rolled out in three phases to help transition the sector to the new oversight model:

Phase 1 - effective January 1, 2023: Application of CVOR requirements that apply to other commercial motor vehicles. There will be no change to the Hours of Service exemptions.

Phase 2 - effective July 1, 2023: registration will be required for tow operators, tow truck drivers, and vehicle storage operators to obtain a certificate required to operate in the sector. The Ministry will be authorized to revoke, suspend or cancel a certificate under the TSSEA for non-compliance. An application and renewal fee will be applied. Entities that provide more than one of the regulated services (tow operation, tow truck driving, vehicle storage) will be required to hold a separate certificate for each service. The ministry will consider options for reduced fees for multiple certificate holders.

Phase 3 - effective January 2024: modernized customer protection requirements and standards of practice for the sector.

On June 29, 2020, in response to growing violence, corruption and criminal activity in the towing industry, the province announced the establishment of a task force to develop a comprehensive provincial regulatory regime for Ontario's towing industry. The task force identified the following policy objectives for a new regulatory framework:

- 1.Promote road user and tow operator safety to prevent deaths and injuries on Ontario's roads
- 2.Improve customer protections to ensure drivers are treated fairly after they experience a collision or a breakdown
- 3.Create a level playing field with clear requirements that allow legitimate operators to prosper
- 4.Enhance intelligence gathering and enforcement and take action against unethical actors
- 5.Reduce crime and fraud throughout the towing cycle

Resulting from the towing task force's work, the government introduced the Towing and Storage Safety and Enforcement Act, 2021 (TSSEA), as part of the Moving Ontarians More Safely Act, 2021. The Act received Royal Assent on June 3, 2021.

Analysis of Regulatory Impact:

Ongoing issues plague the towing and storage sectors due to a subset of nefarious actors who might engage in insurance fraud, inflate invoices, or threaten and intimidate customers. There have been incidences of crime, including arson, assault, and homicide. Tow operators have been found stunt driving and driving on highway shoulders, posing significant road safety risks for Ontario road users. Combined, these issues have damaged the sector's reputation and undermined market competitiveness.

The Ministry has heard that, without intervention, these issues might lead to:

- Tow operators going out of business due to an uncompetitive market, difficulty attracting new talent, and potentially being bought by nefarious actors in the sector;
- Nefarious actors growing in number and expanding across the province;
- Escalation of violence; and
- Rising costs for insurers and customers.

To address these challenges, the Towing and Storage Safety and Enforcement Act (TSSEA) received Royal Assent on June 3, 2021. MTO is now proposing a series of regulations under the TSSEA and the Highway Traffic Act to:

- Identify certificate requirements and the process to obtain and maintain a certificate (e.g., requiring background checks, driver training);
- Set out industry and customer protection standards, including procedures for consent forms, estimates, notification, and invoices, ensuring rates are charged in accordance with rate schedules (TBD), and record keeping requirements; and
- Remove most tow operator exemptions from existing Commercial Vehicle Operator's Registration requirements.

Anticipated Costs

The existing municipal licencing system creates an annual average present value cost of \$1.5 million for the towing and storage industry. The proposed regulations under the TSSEA and the HTA are estimated to result in additional annual average present value compliance costs for the sector of up to \$5.0million, of which \$1.5 million are administrative costs. These costs result from certificate fees, training and education, vehicle inspections, and the time required to complete the application process, keep records, notify the Ministry, and cooperate with inspections. To minimize financial impacts to the industry, the Ministry is considering multiple certificate fee options which will be the subject of future consultation.

Anticipated Benefits

The proposed regulations are expected to significantly reduce fraud and overbilling in the sector, improve competition, improve road safety, increase customer confidence, reduce the potential for vehicles being held hostage, and reduce intimidation, violence, and crime, among other benefits. The annual average present value of these benefits is estimated at approximately \$12.0 million (pending further ministry analysis). The Ministry used all currently available data sources to estimate this value. The Ministry is continuing to engage stakeholders to help further identify the extent of cost savings and fraud reduction that could be achieved through the proposal.

All cost and benefit estimates are preliminary and subject to change as the Ministry refines its analysis and receives additional input.

Further Information:

 [APPENDIX 1 – Summary of Proposed Regulatory Requirements](#) (Download Adobe Reader)

Proposal Number:

22-MTO013

Posting Date:

March 2, 2022

Comments Due Date:

April 1, 2022

Contact Address:

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March 31, 2022

BY EMAIL towing@ontario.ca

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Re: Towing and Storage Safety and Enforcement Act (TSSEA) – Proposed Regulation

To Whom It May Concern,

At the March 30th meeting of General Committee, staff was directed to share the concerns expressed by the City's Towing Industry Advisory Committee ("TIAC") with the Ministry of Transportation regarding the proposed TSSEA Regulation. TIAC which is made up of members of Council, industry members and other stakeholders has been an advisory committee of Council since 2011. The role of TIAC is to make recommendations to Council on matters relating to the towing industry in the City of Mississauga. For over thirty years the City of Mississauga has regulated the local towing industry through extensive consultation with industry members, various stakeholders, members of the public and TIAC. This has resulted in a comprehensive set of regulations contained in the City's Tow Truck Licensing By-law 0521-2004 (the "Tow Truck By-law"). The Tow Truck By-law clearly defines expectations for the industry to operate in a manner consistent with the highest regard for public safety and consumer protection. In addition, the City of Mississauga has developed a highly competent and capable team of inspectors who enforce and ensure compliance with the Tow Truck By-law, investigate complaints arising from towing services and conduct ongoing proactive inspections of licensees operating in the City of Mississauga.

Given the City's extensive experience in regulating the towing industry, TIAC is surprised and disappointed that the proposed Regulation published on the Ontario's Regulatory Registry on March 2, 2022 would seemingly ignore so many of the lessons that were hard learned in the municipalities that have been regulating this sector for decades. This includes the strict regulation of drivers from both driving and criminal offence perspectives, permission to tow forms, collision scene management and vehicle pound facility regulation.

TIAC also finds it disappointing that so little time has been provided to fully examine the proposed Regulation. Less than thirty days to review and provide comment on a Regulation that at this point lack clarity but would, seemingly, affect almost every facet of the Towing Storage Industry appears rushed. That said, and in spite of the narrow time frame provided, TIAC would like to provide the following comments on the proposed Regulation.

1. Geographic Limitations on Towing Providers

The proposed Regulation provide no guidance or clarity as to how, or even if, the Regulation will limit operators from one municipality from moving into communities where they have no history of operation or connection to the local community. This lack of regard for municipal boundaries may ease the regulatory burden on operators who are currently licensed in multiple jurisdictions but it will also open up these municipalities to virtually any operator in the Province who desires to operate in an area where towing volumes are perceived to be higher. This will result in increased competition for accident tows and with it “chasing behaviour” that brings with it negative impacts on both public safety and consumer protection. **How will the proposed Regulation address and curtail the “chasing behaviour” that is prevalent in the industry?**

2. Centralized Enforcement Model for Local Issues

According to the Ministry’s Regulatory Registry, “The TSSEA is anticipated to replace the current oversight requirements under municipal regimes.”

TIAC agrees that regulations regarding technical specifications and equipment requirements for tow trucks along with harmonized licensing requirements for operators Province wide will be of some benefit. However, TIAC fails to understand the rationale for a centralized enforcement model. The proposed Regulation lacks clarity as to the service levels that will be provided to municipalities who have grown to expect a full investigation and prompt response to issues that they may experience with the towing industry. The proposed Regulation identifies that there will be a Director of Towing who will have broad authority but provides no insight as to the number and location of enforcement staff, and whether other Ministry Staff will be responsible. **Will staff be available to attend at accident scenes? What service levels will the public experience when requesting assistance after experiencing problems with industry members?**

3. Lack of Engagement with the Industry

TIAC understands that the proposed Regulation is a product of a significant period of consultation with representatives from various stakeholders in the towing industry and through consultation with some municipalities directly. However, TIAC is concerned that the proposed Regulation was not presented to the stakeholders most affected in a more comprehensive manner, whether that be through public engagement sessions or through direct contact and surveys with the affected industry members. The only avenue for response and input is through the Regulatory Registry, where there is no opportunity for stakeholders to obtain clarity regarding specific regulations prior to providing feedback. **Will the Ministry commit to a more comprehensive public engagement with respect to the proposed Regulation which includes industry members?**

4. Unclear Appeal Process

The proposed Regulation identifies that violations may result in the Director issuing administrative monetary penalties and that there will be an appeals process. However, it does not indicate what form these appeals will take and where they will be held. This may add a substantial burden to

industry members depending on the locations where hearings take place. The proposed Regulation also identifies that the Director will have the authority to suspend or revoke certificates based on a variety of criteria. The proposed Regulation does not identify whether there will be an appeal process for decisions of this type made by the Director. **Will the proposed Regulation be updated to clarify the appeal process?**

5. Tow Zone Pilot- 400 Series Highways

The proposed Regulation, which will almost certainly have a negative impact on Mississauga Tow Operators by increasing regulatory complexity and competition for business, have come close on the heels of the Tow Zone Pilot on the 400 series highways that transect the City. This Pilot project reduces the ability of licensed operators in the City to respond in a timely manner to incidents on these highways. TIAC has received considerable anecdotal evidence that the Pilot project is triggering increased costs to the traveling public and disruptions to the flow of traffic as those requiring towing services experience significant delays in receiving service as they are now required to wait for approved towing providers to attend at these scenes.

In light of TIAC's concerns as outlined in this letter, TIAC is requesting the following:

- Answers to the questions posed in this letter
- An extension of the period of time in which comment and input can be provided to the Ministry until June of 2022. This would allow for a more fulsome response and clarification of the intent behind particular regulations.
- That senior staff from the Ministry of Transportation (TIAC) provide a detailed presentation to Mississauga's Towing Industry Advisory Committee to clarify the intent of these regulations, identify rationale around a centralized certification process and to receive input from TIAC members for consideration.

Sincerely,

Michael Foley
Director, Enforcement (Acting) on behalf of the City's Towing Industry Advisory Committee