

## Purpose of the Code of Practice

The purpose of the tow truck industry Code of Practice is to influence professional, safe, equitable and ethical behaviour within the tow truck industry.

The Code reinforces the standards and community expectations required to work within the industry as a tow truck driver and to hold a tow truck operators licence. It provides commonly agreed business responsibilities to encourage:

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|--|--------------------------------|
| a) Safety in towing operations;            | g) Acceptable behaviour;       |
| b) Ethical and equitable behaviour;        | h) Competent performance;      |
| c) Customer service and responsiveness;    | i) Transparency of dealings;   |
| d) Personal, customer and onlooker safety; | j) Innovative practices;       |
| e) Recognition of client rights;           | k) Industry excellence, and    |
| f) Service standards;                      | l) Responsibility for actions. |

## Objectives

An effective code of practice for the New South Wales tow truck industry will:

- i. Increase community awareness and confidence in the industry;
- ii. Ensure a commitment to safety, quality and consistency in the industry;
- iii. Influence better outcomes for customers, and
- iv. Increase business efficiency and effectiveness.

## Application of the Code of Practice

This Code of Practice applies to all tow truck operator licence holders, certified tow truck drivers, and other employees of tow truck operators. It is an agreed standard of conduct between the NSW Government, through NSW Fair Trading and the tow truck industry.

### 1. Responsibilities

Licence holders, drivers and other employees have a responsibility;

- a) To act professionally, safely, equitably and ethically at all times during:
  - i. The establishment of the business;
  - ii. The preparation and performance of towing operations;
  - iii. The security, access and the release of towed motor vehicles.
- b) To act in the best interest of their customers, adhere to the Code of Practice as well as all applicable legislation.
- c) To carry out work that meets the agreed requirements of the customer. If requirements are unlikely to be achieved, every effort will be made to contact the customer to discuss the issue.
- d) To secure work ethically and not offer an inducement to a third party to obtain towing work.

- e) To protect and not disclose confidential information gained in the course of their work, or use confidential information for personal gain, unless they have prior written approval from the customer.
- f) To record and maintain accurate and timely records in accordance with legislation which are not false or misleading.

## **2. Safety**

A licence holder must;

- a) Take all reasonable measures to ensure that the workplace and the means of access to, and egress from the workplace are safe and without risks to health and safety. This includes business premises, holding yards and vehicles used in the course of the business.
- b) Adhere to all relevant laws, regulations or by-laws that apply to their business including Work Health and Safety (WHS) and environmental legislation.
- c) Ensure that all tow truck drivers performing duties under the authority of a licence comply with the Tow Truck Industry Protective Clothing Policy.
- d) Ensure all staff are trained and competent to undertake the tasks they are assigned.
- e) Encourage safety first as a priority during towing operations for all persons present.
- f) Ensure that all equipment used in the course of the business is well maintained and complies with any applicable legislation and/or published standards.

Tow truck drivers and other employees when responding to a towing incident must;

- g) Warn other road users of the incident by using flashing lights and warning devices.
- h) Ensure customers and onlookers move to and remain in a safe position at a towing scene.
- i) Make every effort to ensure the safety of themselves, their customers and any other person while conducting towing work.

## **3. Customer service**

Licence holders and their staff must at all times;

- a) Observe proper standards of conduct for the provision of towing services and not mislead the customer about the type of service that will be provided.
- b) Ensure that all reasonable care is taken to ensure the vehicle is delivered in the same condition as it was received. If it is obvious that further damage may occur in salvaging or towing a vehicle, every effort must be made to inform the customer prior to that work being performed.
- c) When a customer requests a specific destination for a vehicle, and that location can be reasonably identified by the attending tow truck driver, the vehicle must be towed to the specified location immediately.  
Notwithstanding the above, if it is not possible to tow the vehicle to the requested location, as the premises is likely to be closed upon arrival, every effort must be made to complete the delivery of the vehicle at the earliest opportunity following agreed costs for the second tow with the customer.
- d) Inform customers of expected delivery times, and all estimates must be realistic and achievable.
- e) Not frustrate the release of a towed vehicle or the return of personal possessions from a vehicle in storage.
- f) Exercise reasonable care in securing and protecting a customer's equipment and possessions while they are in the care of the licence holder.
- g) Ensure all required insurance policies to cover risk and legal liability for customer vehicles while the vehicles are in tow or storage are current.
- h) Ensure that all tow trucks clearly identify the name of the licensee and the licence number, and that any advertisements, signs, documents and invoices relating to the business contain the operators licence number.

- i) Avoid engaging in misleading advertising. Any advertisement intended to deceive will be deemed to have breached this code.
- j) Conduct themselves and their business in a manner that preserves professionalism, integrity and honesty and promotes confidence in the tow truck industry including that timely and appropriate information, advice and support services are provided to assist customers in achieving their requirements.

#### **4. Complaint handling**

- a) Licence holders or a driver must not reject a complaint immediately; they must discuss the matter with the customer and gather all relevant information, then question staff and any other party involved.
- b) Always find out what action the customer wants taken before deciding on a course of action. Any action should be taken without delay.
- c) If it is not possible to achieve a resolution through discussion and negotiation, the licence holder or a driver must inform the customer that they can refer the complaint to NSW Fair Trading for further investigation.
- d) A licence holder or driver whilst taking precautions to do no further damage to a vehicle in tow will make every effort to right any avoidable damage that occurred while towing a customer's vehicle.

#### **5. Behaviour at accident scenes**

- a) If a driver of a particular tow truck attempts to obtain or obtains authorisation for accident towing work, that tow truck must be capable of towing the signed vehicle.
- b) Every effort will be given to clearing the roadway at an accident scene as quickly as possible, taking into account the damage that may be caused to the vehicle and its load. This may require consultation with relevant emergency services personnel or Authorised Officers on site.
- c) At an accident scene, a tow truck driver must:
  - i. Act in a courteous, equitable and professional manner towards Authorised Officers, emergency services personnel, other towing operators and the public;
  - ii. Not under any circumstances harass or coerce affected parties to obtain a towing authorisation;
  - iii. Comply with lawful instructions given to him or her by Police or an Authorised Officer;
  - iv. Render any assistance requested, and
  - v. Act in accordance with customer instructions.
- d) At an accident scene the tow truck driver will introduce the organisation he or she represents to the driver or person in charge of the damaged vehicle. No offers other than the supply of a towing service can be made to that person.
- e) Tow truck drivers must explain and provide the owner/driver with the rights and responsibilities contained in the towing authorisation form and provide them with the completed quotation of all fees and charges.
- f) A tow truck driver must immediately leave an accident scene once all authorisations have been obtained by other tow truck drivers for vehicles requiring towing.
- g) A tow truck driver must not attempt to obtain authorisation to tow a damaged vehicle that has already been authorised to another tow truck driver.
- h) The tow truck driver who obtains the authorisation to tow a damaged vehicle must tow the damaged vehicle to the destination recorded in the towing authorisation specified by the owner/driver.
- i) At an accident scene, tow trucks must be parked in a way that does not cause unnecessary inconvenience or obstruction to traffic flow and the management of the accident scene.
- j) A tow truck driver must comply with all road rules while driving a tow truck, especially when traveling to an accident scene.
- k) A licence holder, tow truck driver or any person acting under the authority of a licence holder must not behave aggressively towards, or attempt to intimidate, any person at an accident scene or in its vicinity.

## **6. Untenable practices**

It is a requirement that all licence holders and their staff must comply with all relevant legislation. In particular the *Tow Truck Industry Act 1998* and the *Tow Truck Industry Regulation 2020* prohibit:

- a) Touting, soliciting, harassing;
- b) Payment of drop fees;
- c) Payment of spotter fees;
- d) Failure or unreasonable delay to deliver a vehicle to a prescribed destination;
- e) Failure or unreasonable delay to release a towed or stored vehicle.

These practices are untenable to a professional tow truck industry

## **7. Compliance and enforcement**

### ***Licence holders accountable***

A licence holder is responsible for ensuring that drivers and other staff are familiar with the Code of Practice and current legislation and may be held accountable in instances where a driver's conduct is determined to have breached this Code of Practice.

### ***Consequences of breaching the Code of Practice***

A licence holder or driver found to have breached the Code of Practice may be subject to penalties or their suitability to remain in the industry may be reviewed.

Penalties may include a caution or reprimand, or the suspension or disqualification of a driver certificate. For a licence holder, the tow truck operator licence may be suspended or disqualified.

### ***Enforcement of the Code of Practice and sanctions***

Responsibility for the enforcement of this code, subsequent investigations, conduct of disciplinary hearings and enforcement of sanctions such as suspension, disqualification or revocation of a tow truck operator licence or a driver certificate rests with NSW Fair Trading.

### ***Appeal provisions***

Where disciplinary action is taken by NSW Fair Trading against the holder of a tow truck driver certificate or a tow truck operator licence, appeals may be made to the NSW Civil and Administrative Tribunal (NCAT).