

[Second Reprint]

ASSEMBLY, No. 4053

STATE OF NEW JERSEY

212th LEGISLATURE

INTRODUCED FEBRUARY 26, 2007

Sponsored by:

Assemblyman ROBERT M. GORDON

District 38 (Bergen)

Assemblywoman NILSA CRUZ-PEREZ

District 5 (Camden and Gloucester)

Assemblyman JOSEPH R. MALONE, III

District 30 (Burlington, Mercer, Monmouth and Ocean)

Assemblyman GORDON M. JOHNSON

District 37 (Bergen)

Assemblyman LOUIS M. MANZO

District 31 (Hudson)

Co-Sponsored by:

**Assemblymen Payne, Vas, Prieto, Assemblywoman Voss, Assemblymen
Rooney, Holzapfel, Assemblywoman Truitt, Assemblyman Baroni,
Assemblywoman Greenstein, Assemblymen Chatzidakis, Giblin,
Assemblywoman Vandervalk, Assemblymen Greenwald, Moriarty,
Senators Coniglio, Buono, Weinberg and Scutari**

SYNOPSIS

Regulates certain tows and requires licensure of towing companies.

CURRENT VERSION OF TEXT

As amended by the Senate on June 21, 2007.

(Sponsorship Updated As Of: 6/22/2007)

1 AN ACT concerning towing and towing operators and
 2 supplementing P.L.1960, c.39 (C.56:8-1 et seq.) and amending
 3 various parts of statutory law.

4
 5 **BE IT ENACTED** by the Senate and General Assembly of the State
 6 of New Jersey:

7
 8 1. (New section) This ²[law] act² shall be known and may be
 9 cited as the “Predatory Towing Prevention Act .”

10
 11 2. (New section) The Legislature finds and declares that:

12 a. While the majority of tow truck operators in New Jersey are
 13 reputable service providers, some unscrupulous towers are engaged
 14 in predatory practices victimizing consumers whose vehicles are
 15 parked on public streets and private property;

16 b. Predatory towing practices include charging unwarranted or
 17 excessive fees, particularly in connection with towing vehicles from
 18 private parking lots which do not display any warnings to the
 19 vehicle owners, or overcharging consumers for towing services
 20 provided under circumstances where the consumer ²[either]² has
 21 no meaningful opportunity to withhold consent;

22 c. The legitimate business interests of tow truck operators and
 23 the needs of private property owners for relief from unauthorized
 24 parking must be balanced with the interest in providing appropriate
 25 protection to consumers;

26 d. Whatever authority exists in the law to regulate towing and
 27 towing companies is fragmented among various State agencies and
 28 local governments, so that inconsistent or inadequate regulation
 29 often results, with insufficient recourse provided under the law; and

30 e. Therefore, it is in the public interest to create a coordinated,
 31 comprehensive framework to establish and enforce minimum
 32 standards for tow truck operators.

33
 34 3. (New section) As used in this act:

35 ¹“Basic towing service” means towing as defined in this section
 36 and other ancillary services as may be specified by the director by
 37 regulation.

38 ¹“Consumer” means a natural person.

39 ¹“Contract rate” means fees for towing services established under
 40 a contract between a towing company and a State agency or
 41 political subdivision ¹, including, but not limited to, independent
 42 authorities and instrumentalities thereof¹.

43 ¹“Decoupling fee” means a charge by a towing company for

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is
 not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly ACO committee amendments adopted May 17, 2007.

²Senate floor amendments adopted June 21, 2007.

1 releasing a motor vehicle to its owner or operator when the vehicle
2 has been, or is about to be, hooked or lifted by a tower, but prior to
3 the vehicle actually having been moved or removed from the
4 property.¹

5 “Division” means the Division of Consumer Affairs in the
6 Department of Law and Public Safety.

7 “Director” means the Director of the Division of Consumer
8 Affairs.

9 “Motor vehicle” includes all vehicles propelled otherwise than
10 by muscular power, excepting such vehicles as run only upon rails
11 or tracks and motorized bicycles, motorized scooters, motorized
12 wheelchairs and motorized skateboards.

13 ¹“Non-consensual towing” means the towing of a motor vehicle
14 from private or public property without the consent of the owner or
15 operator of the vehicle.¹

16 “Person” means an individual, a sole proprietorship, partnership,
17 corporation, limited liability company or any other business entity.

18 “Person with a substantial interest” means a director, officer or
19 partner of, or any other person having an economic interest of 10
20 percent or more in, an applicant for, or holder of, a registration as a
21 towing company, or any parent or subsidiary thereof.

22 “Towing” means the moving or removing from public or private
23 property ¹or from a storage facility¹ by a motor vehicle of
24 ¹[another] a consumer’s¹ motor vehicle that is damaged as a result
25 of an accident or otherwise disabled, recovered after being stolen,
26 or is parked illegally or otherwise without authorization, or the
27 immobilization of or preparation for moving or removing of such
28 motor vehicle, for which a service charge is made, either directly or
29 indirectly ¹[, including any dues] . Dues¹ or other charges of clubs
30 or associations which provide towing services ¹to club or
31 association members shall not be considered a service charge for
32 purposes of this definition¹ .

33 “Towing company” means a person offering or performing
34 towing services.

35 “Vehicle” means any device in, upon or by which a person or
36 property is or may be transported upon a highway.

37
38 4. (New section)

39 a. No person shall offer to perform, or engage, or attempt to
40 engage in the business of towing unless registered with the division.

41 b. An application for registration shall be made annually, or at
42 such other interval as the director may determine, in writing to the
43 director in the form prescribed by the director and shall be
44 accompanied by a fee, set by the director in a reasonable amount
45 sufficient to defray the division’s expenses incurred in
46 administering and enforcing P.L. , c. (C.) (pending before
47 the Legislature as this bill).

1 c. The applicant shall state the complete street address of the
2 location or locations from which the business of towing shall be
3 conducted, indicating which is the principal location.

4 d. The applicant shall state the complete street address of the
5 location of each of its storage facilities and whether each is secured
6 or unsecured.

7 e. The applicant shall enumerate the types of towing services
8 that the applicant intends to provide and a description of the
9 vehicles, including vehicle registration number, weight, number of
10 wheels and purpose, with which the applicant intends to provide the
11 services.

12 f. The application shall include a valid original certificate of
13 insurance from an insurer authorized to do business in the State and
14 a schedule of insured motor vehicles that are to be utilized by the
15 applicant, including the amounts of the garage keeper's legal
16 liability coverage and any "on hook" coverage as an endorsement or
17 contained in a separate schedule, and liability insurance coverage
18 which meets or exceeds the requirements set forth in section 6 of
19 P.L. , c. (C.) (pending before the Legislature as this bill).

20 g. The applicant shall include a tariff listing the services that the
21 applicant provides and the fee charged for each service, which
22 meets the requirements of section 8 of P.L. , c. (C.)
23 (pending before the Legislature as this bill).

24 h. The applicant shall disclose whether the applicant or a person
25 with a substantial interest in the applicant, or any towing company
26 in which such person was a person with a substantial interest and
27 serving in that capacity at the time the conduct or conviction
28 required to be disclosed pursuant to this subsection occurred, has
29 engaged in any of the conduct, or was convicted of a crime,
30 specified in subsection a. of section 5 of P.L. , c. (C.)
31 (pending before the Legislature as this bill).

32 i. The applicant shall furnish any additional information as may
33 be required by the director.

34 j. If any of the information required to be included in the
35 application changes, or if additional information should be added
36 after the filing of the application, the applicant shall provide that
37 information to the director, in writing, within 30 calendar days of
38 the change or addition.

39 k. Upon issuance of the registration, the division shall provide
40 the registrant with decals and accompanying notices to be affixed to
41 each motor vehicle identified in the application as owned or leased
42 by the registrant to be used to perform towing services.

43
44 5. (New section)

45 a. The director may refuse to issue or may suspend or revoke,
46 any registration issued by him upon proof that the applicant or
47 holder of the registration or, if the applicant is an entity, a person
48 with a substantial interest in the applicant or holder of a

1 registration, or any towing company in which such person was a
2 person with a substantial interest and was serving in such capacity
3 at the time the conduct or conviction required to be disclosed
4 pursuant to this subsection occurred:

5 (1) has obtained a registration through fraud, deception or
6 misrepresentation;

7 (2) has engaged in the use or employment of dishonesty, fraud,
8 deception, misrepresentation, false promise or false pretense;

9 (3) has engaged in gross negligence or gross incompetence;

10 (4) has engaged in repeated acts of negligence or incompetence;

11 (5) has engaged in professional or occupational misconduct as
12 may be determined by the director;

13 (6) has had his authority to engage in the activity regulated by
14 the director revoked or suspended by any other state, agency or
15 authority for reasons consistent with this section;

16 (7) has violated or failed to comply on more than three occasions
17 with the provisions of section 8 of P.L. , c. (C.) (pending
18 before the Legislature as this bill) or violated or failed to comply
19 with the provisions of any other act or regulation administered by
20 the director; or

21 (8) has been convicted of:

22 (a) a crime under Chapter 11, 12, 13 14 or 15 under Title 2C of
23 the New Jersey Statutes;

24 (b) motor vehicle theft or any crime involving a motor vehicle
25 under Chapter 20 of Title 2C of the New Jersey Statutes; or

26 (c) any other crime under Title 2C of the New Jersey Statutes
27 relating adversely to the performance of towing services or the
28 storage of motor vehicles as determined by the director by
29 regulation.

30 b. A final refusal to register, or the suspension or revocation of a
31 registration shall not be made except upon reasonable notice to the
32 applicant or registrant, and an opportunity for the applicant or
33 registrant to be heard.

34

35 6. (New section) a. A towing company shall maintain liability
36 insurance which meets or exceeds the requirements of this section,
37 'or such other amounts as the director may determine by
38 regulation.'¹ including in the case of each light-medium duty tow
39 truck, motor vehicle liability insurance coverage for the death of, or
40 injury to, persons and damage to property for each accident or
41 occurrence in the amount of at least \$750,000 single limit, and in
42 the case of each heavy-duty tow truck, motor vehicle liability
43 insurance coverage for the death of or injury to persons and damage
44 to property for each accident or occurrence in the amount of at least
45 \$1,000,000 single limit.

46 b. The director shall be named as an additional insured under
47 each insurance policy required under subsection a. of this section
48 and each policy shall provide that the issuer give the director at

1 least 10 days written notice of its intention to cancel or not renew
2 the policy.

3 'c. Nothing in this section shall preclude a State agency or
4 political subdivision, or the independent authorities or
5 instrumentalities thereof, from requiring additional or higher
6 liability insurance coverages or amounts with respect to contracts
7 for towing and storage services awarded under the authority of such
8 agency, subdivision, authority or instrumentality.'
9

10 7. (New section) a. No person shall tow any motor vehicle
11 parked for an unauthorized purpose from any privately owned
12 parking lot, from other private property or from any common
13 driveway without the consent of the motor vehicle owner or
14 operator, unless the person is registered with the division 'pursuant
15 to section 4 of P.L. , c. (C.) (pending before the
16 Legislature as this bill)' and '[the parking lot or private property
17 has] there is' posted in a conspicuous place at all 'vehicular'
18 entrances to the property which can be easily be seen by the public,
19 a sign no smaller than 36 inches high and 36 inches wide stating:

20 (1) the purpose or purposes for which parking is authorized and
21 the times during which such parking is permitted;

22 (2) that unauthorized parking is prohibited and unauthorized
23 motor vehicles will be towed at the owner's expense;

24 (3) the name, address, and telephone number of the towing
25 company that will perform the towing;

26 (4) the charges, which shall not exceed the fee specified in the
27 tariff on file with the director, for the towing and storage of towed
28 motor vehicles; and

29 (5) the street address of the storage facility where the towed
30 vehicles can be redeemed after payment of the posted charges and
31 the times during which the vehicle may be redeemed.

32 b. A towing company shall not remove a motor vehicle from
33 private property 'without the consent of the owner or operator of
34 the vehicle,' without first obtaining the written authorization from
35 the property owner or lessee, or its employee or agent, who shall be
36 present at the time of removal and verify the alleged violation 'if it
37 occurs during normal business hours of any premises at the location
38 operated by the property owner or lessee authorizing the removal of
39 the vehicle' , except that general authorization in writing shall be
40 sufficient for the removal of a motor vehicle parked on private
41 property within 15 feet of a fire hydrant, standpipe or other water
42 source for fighting fires; in a fire lane; '[or]' in a manner that
43 interferes with the entrance to or exit from the property '; or if the
44 violation occurs at a time other than during normal business hours
45 of the premises of the property owner or lessee authorizing the
46 removal of the vehicle' .

1 c. Except as provided in subsection d. of this section, the owner
2 or person in lawful possession of private property may cause the
3 removal of the motor vehicle parked on the property to a storage
4 facility within a reasonable distance of the property if signs are
5 posted on the property as required under section a. of this section
6 and the towing company complies with the requirements of this act.

7 d. The provisions of subsection a. shall not apply to a motor
8 vehicle parked on a lot or parcel on which is situated a single-
9 family unit or an owner occupied multi-unit structure of not more
10 than six units or in front of any driveway where the motor vehicle is
11 blocking access to that driveway.

12
13 8. (New section) a. The director by regulation shall establish a
14 schedule of towing and storage services for which a towing
15 company may charge a service fee ¹, and shall specify services that
16 are ancillary to and included as part of basic towing services for
17 which no fees in addition to the basic towing service fee may be
18 charged¹ .

19 b. All towing companies shall file with the division a tariff
20 which lists the services the towing company provides and the fee
21 that the towing company charges for each service, which fees shall
22 be reasonable and not excessive.

23 (1) A towing company shall file its tariffs at least annually, in the
24 manner prescribed by the director, and may amend the services it
25 provides or the fees it charges for services provided by filing an
26 amended tariff with the division, provided however that a towing
27 company may not charge amended fees set forth in an amended
28 tariff until the division provides confirmation of receipt of the
29 amended tariff. A towing company may not modify its tariff more
30 than once during any three month period, except to add or delete a
31 service, reduce a fee or conform to the requirements of this section.

32 (2) A towing company's fee for a towing service shall be
33 presumed unreasonable and excessive if the fee exceeds 150%, or a
34 different percentage established by the director by regulation, of
35 the average fee for such service charged in the county of the towing
36 company's principal location, which figure shall be calculated
37 based upon the fees charged for such service as reported in the
38 tariffs filed by all towing companies with principal locations in the
39 same county and shall be published on an Internet website in
40 accordance with this subsection c. of this section.

41 (3) The presumption set forth in paragraph (2) of this subsection
42 shall not apply until the first day of the third month after the
43 Internet website authorized by subsection c. of this section becomes
44 operative.

45 c. The division shall collect and maintain the tariffs filed
46 pursuant to subsection a. of this section in an electronic system, and
47 the director shall cause the tariff data to be organized and made
48 available to the public on an Internet website in a format that

1 enables consumers to review the fees for towing services charged
2 by each registered towing company in the State. The electronic
3 system shall calculate annually and make available on the website
4 the average cost, broken down by towing service and county, of the
5 '[fee charged of] fees for' each towing service '[fee]' charged by
6 the towing companies operating in each county in the State.

7 'd. Nothing in this section shall be deemed to limit the authority
8 of a State agency or political subdivision, or the independent
9 authorities or instrumentalities thereof, to establish contract rates
10 for towing and storage services in accordance with a contract
11 awarded under the authority of such agency, subdivision, authority,
12 or instrumentality.'
13

14 9. (New section)

15 a. No person shall tow a motor vehicle pursuant to section 7 of
16 P.L. , c. (C.) (pending before the Legislature as this bill)
17 to a storage facility or store such vehicle at a storage facility unless
18 the storage facility:

19 (1) has a business office open to the public between 8 a.m. and 6
20 p.m. at least five (5) days a week, excluding holidays; and

21 (2) is secured and, if it is an outdoor storage facility, lighted
22 from dusk to dawn.

23 b. A towing company shall provide reasonable accommodations
24 for after-hours release of stored motor vehicles and shall not charge
25 a release fee or other charge for releasing motor vehicles to their
26 owners after normal business hours or on weekends.
27

28 10. (New section) It shall be an unlawful practice for any towing
29 company:

30 a. To fail to affix on a motor vehicle used to provide towing
31 services the proper decal issued by the division and a notice stating:

32 "This tow truck is registered with the New Jersey Division of
33 Consumer Affairs. The driver is required to provide you with a
34 written schedule of the fees charged for towing and storage services
35 before providing that service to you, including those services for
36 which there is no fee. If the fee charged is in excess of the fee listed
37 on the schedule, please notify the Division of Consumer Affairs at
38 ###-###-####."

39 b. (1) Except as otherwise provided in paragraph (2) of this
40 subsection, to fail to provide the person whose motor vehicle is to
41 be towed, prior to providing any towing services, a written schedule
42 of fees, the information contained in the notice required under
43 subsection a. above, the following legend, and such other
44 information as determined by the director:

45 "The fees set forth in the schedule may not exceed the tariff filed
46 with the Division of Consumer Affairs. You may review the tariff
47 on the Division's website at XXXXX@dca.lps.state.nj.us. The

1 filing of a tariff with the Division of Consumer Affairs does not
2 imply endorsement of the fees and charges set forth in the tariff.”

3 (2) To fail to provide the schedule and information required
4 under paragraph (1) of this subsection immediately upon being
5 contacted by the person whose motor vehicle was towed, if that
6 person was not present at the time the towing services were
7 provided.

8 c. To make, give, or cause any undue or unreasonable preference
9 or advantage, or undue or unreasonable prejudice or disadvantage,
10 to any person in any particular locality, with respect to providing
11 towing services. ‘The provision of towing services by a club or
12 association to its members in exchange for the payment of dues or
13 similar membership charges, which club or association membership
14 is generally available to the public, shall not be deemed an undue or
15 unreasonable preference or advantage within the meaning of this
16 section.¹

17 d. To give any benefit or advantage, including a pecuniary
18 benefit, to any person for providing information about motor
19 vehicles parked for unauthorized purposes on privately owned
20 property or otherwise in connection with towing from privately
21 owned property motor vehicles parked without authorization.

22 e. ‘To fail, when so requested by the owner or operator of a
23 vehicle subject to non-consensual towing, to release a vehicle to the
24 owner or operator that has been, or is about to be, hooked or lifted
25 but has not actually been moved or removed from the property
26 when the vehicle owner or operator returns to the vehicle, or to
27 charge the owner or operator requesting release of the vehicle more
28 than the decoupling fee specified in the tariff.

29 f.¹ To charge any fee ‘[in excess of the lesser of] other than¹
30 any applicable contract rate or ‘[that] , in the absence of an
31 applicable contract rate, the ²lesser of the rate set forth in an
32 applicable schedule of fees or other charges established by
33 municipal ordinance adopted pursuant to section 1 of P.L. 1979,
34 c.101 (C. 40:48-2.49) or the² rate¹ specified in ²[its] the towing
35 company's² tariff on file with the director, or to charge a fee ‘in an
36 amount or for a service¹ not listed on the tariff on file with the
37 director at the time ‘except as may be permitted by the director by
38 regulation¹. ²Nothing in this section shall preclude a towing
39 company, acting on behalf of a club or association, from charging
40 members of the club or association a fee at a rate established by
41 contract between the towing company and the club or association
42 which is lower than the rate specified in the towing company's tariff
43 on file with the director, provided that membership in such club or
44 association is generally available to the public and that such rates
45 are filed with the director pursuant to section 8 of this act.²

46 ‘[f] g¹ . To refuse to accept for payment in lieu of cash or an
47 insurance company check for towing or storage services a debit

1 card, charge card or credit card if the operator ordinarily accepts
2 such card at his place of business, unless such refusal is authorized
3 in accordance with section 4 of P.L.2002, c.67, (C.56:13-4) as
4 amended by P.L. , c. (C.) (pending before the Legislature
5 as this bill).

6
7 11. (New section)

8 Every towing company shall retain and make available for
9 inspection by the division for a period of three years, invoices, job
10 orders, logs, claims for reimbursement from insurance companies
11 and other documentation relating to towing services performed and
12 rates charged for the services.

13
14 12. (New section)

15 There is created in the Department of the Treasury a special
16 dedicated, non-lapsing fund to be known as the "Towing and
17 Storage Administration and Enforcement Fund." The fund shall be
18 the depository for fees, cost recoveries and penalties collected under
19 P.L. , c. (C.) (pending before the Legislature as this bill).
20 Monies deposited in the fund and the interest earned thereon shall
21 be used for the administration of this act. The Legislature shall
22 annually appropriate from the fund monies to the division for the
23 administration of this act.

24
25 13. (New section) ²**[Rules and regulations; contracting**
26 **authority.]²**

27 a. The director, pursuant to the provisions of the
28 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
29 seq.), may promulgate rules and regulations to effectuate the
30 purposes of this act.

31 b. The division may contract with a public or private entity for
32 the purpose of developing, administering and maintaining the
33 registration process and the electronic data base for tariffs provided
34 for in section 8 of P.L. , c. (C.) (pending before the
35 Legislature as this bill).

36
37 14. (New section) a. The provisions of this act shall preempt
38 any political subdivision from ²**[regulating,]²** requiring or issuing
39 any registration or license of any towing company ²**in addition to**
40 **that which is required by section 4 of this act**².

41 ¹**[b.]¹** This section shall not limit the existing authority of a
42 political subdivision to:

43 (1) license and collect a general and nondiscriminatory tax upon
44 all businesses; or

45 (2) impose any additional requirements or conditions as part of
46 any contract to perform towing and recovery services for that
47 jurisdiction.

1 **'b. The provisions of this act shall not be deemed to limit the**
2 **authority of the** ²**['new] New**² **Jersey Turnpike Authority or the**
3 ²**['south] South**² **Jersey Transportation Authority to establish rules**
4 **and regulations governing the provision of towing and storage**
5 **services on the roadways and properties under each entity's**
6 **respective control.** ¹

7
8 15. (New section) ¹**['(a)] a.** ¹ It is an unlawful practice and a
9 violation of P.L.1960, c.39 (C.56:8-1 et seq.) to violate any
10 provision of this act.

11 ¹**['(b)] b.** ¹ In addition to any penalties or other remedies provided
12 in P.L.1960, c.39 (C.56:8-1 et seq.), the director may order a towing
13 company that has billed a consumer or insurer an amount in excess
14 of the fee specified in its filed tariff for the service provided to
15 reimburse the consumer or insurer for the excess cost with interest.

16
17 16. Section 2 of P.L. 2002, c. 77 (C.27:23-6.2) is amended to
18 read as follows:

19 2. a. An operator awarded a contract for towing and storage
20 services by the New Jersey Turnpike Authority shall register with
21 the authority. ¹**['The authority shall register any towing company]**
22 **In order to be eligible to bid for the award of such a contract, an**
23 **operator shall have** ¹ **registered with the Division of Consumer**
24 **Affairs in the Department of Law and Public Safety** ¹**pursuant to**
25 **section 4 of P.L. , c. (C.) (pending before the Legislature**
26 **as this bill)** ¹ . Upon issuance of the registration, the authority shall
27 provide the operator with two decals and accompanying notices for
28 each tow truck owned or leased by that operator and to be used
29 under the terms of the contract. The decals and the accompanying
30 notices, which shall be of a distinctive design and color, shall be
31 conspicuously displayed on the exterior of each such tow truck in a
32 manner and location prescribed by the authority.

33 The decals shall set forth a specific registration number for each
34 registered tow truck. The notices shall include a statement
35 indicating substantially the following: "This tow truck is registered
36 with the New Jersey Highway Authority. The driver is required to
37 provide you with a written schedule of the fees charged for towing
38 and storage services before providing that service to you, including
39 those services for which there is no fee. If the fee charged is in
40 excess of the fee listed on the schedule, please notify the authority
41 or the New Jersey Division of Consumer Affairs." An operator shall
42 file a copy of the schedule of fees with the authority. Upon request
43 of the Division of Consumer Affairs in the Department of Law and
44 Public Safety, the authority shall provide a list of the registered tow
45 trucks to the division, in addition to a copy of the schedule of fees.

46 b. Prior to providing any towing services, a driver of a tow truck
47 shall provide the person whose vehicle is to be towed a written

1 schedule of fees and shall recite the information contained in the
2 notice.

3 c. An operator who fails to display the decals and notices
4 required by subsection a. of this section or the driver of a tow truck
5 who fails to provide a person to be towed the written schedule of
6 fees or recite the information contained in the notice prior to
7 providing a towing service as required by subsection b. of this
8 section shall be subject to a fine of \$300 for the first offense. For
9 the second and any subsequent offense the operator or the driver, as
10 the case may be, shall be subject to a fine of \$600.

11 d. It shall be an unlawful practice and a violation of P.L.1960,
12 c.39 (C.56:8-1 et seq.) for any person to charge a fee in excess of
13 the fee listed in the written schedule of fees provided pursuant to
14 subsection a. of this section.

15 e. If an operator or the driver of an operator's tow truck is
16 convicted a third time for violation of any provisions of this section,
17 the authority may, in its discretion, terminate the operator's contract
18 for towing and storage services with the authority.

19 (cf: P.L.2002, c.77, s.2)

20

21 17. Section 3 of P.L. 2002, c. 77 (C.27:25A-8.1) is amended to
22 read as follows:

23 3. a. An operator awarded a contract for towing and storage
24 services by the South Jersey Transportation Authority shall register
25 with the authority. '[The authority shall register any towing
26 company] In order to be eligible to bid for the award of such a
27 contract, an operator shall have¹ registered with the Division of
28 Consumer Affairs in the Department of Law and Public Safety
29 ¹pursuant to section 4 of P.L. , c. (C.) (pending before the
30 Legislature as this bill)¹ . Upon issuance of the registration, the
31 authority shall provide the operator with two decals and
32 accompanying notices for each tow truck owned or leased by that
33 operator and to be used under the terms of the contract. The decals
34 and the accompanying notices, which shall be of a distinctive
35 design and color, shall be conspicuously displayed on the exterior
36 of each such tow truck in a manner and location prescribed by the
37 authority.

38 The decals shall set forth a specific registration number for each
39 registered tow truck. The notices shall include a statement
40 indicating substantially the following: "This tow truck is registered
41 with the New Jersey Highway Authority. The driver is required to
42 provide you with a written schedule of the fees charged for towing
43 and storage services before providing that service to you, including
44 those services for which there is no fee. If the fee charged is in
45 excess of the fee listed on the schedule, please notify the authority
46 or the New Jersey Division of Consumer Affairs." An operator shall
47 file a copy of the schedule of fees with the authority. Upon request

1 of the Division of Consumer Affairs in the Department of Law and
2 Public Safety, the authority shall provide a list of the registered tow
3 trucks to the division, in addition to a copy of the schedule of fees.

4 b. Prior to providing any towing services, a driver of a tow truck
5 shall provide the person whose vehicle is to be towed a written
6 schedule of fees and shall recite the information contained in the
7 notice.

8 c. An operator who fails to display the decals and notices
9 required by subsection a. of this section or the driver of a tow truck
10 who fails to provide a person to be towed the written schedule of
11 fees or recite the information contained in the notice prior to
12 providing a towing service as required by subsection b. of this
13 section shall be subject to a fine of \$300 for the first offense. For
14 the second and any subsequent offense the operator or the driver, as
15 the case may be, shall be subject to a fine of \$600.

16 d. It shall be an unlawful practice and a violation of P.L.1960,
17 c.39 (C.56:8-1 et seq.) for any person to charge a fee in excess of
18 the fee listed in the written schedule of fees provided pursuant to
19 subsection a. of this section.

20 e. If an operator or the driver of an operator's tow truck is found
21 to have convicted a third time for violation of any provisions of this
22 section, the authority may, in its discretion, terminate the operator's
23 contract for towing and storage services with the authority.

24 (cf: P.L.2002, c.77, s.3)

25

26 18. Section 3 of P.L.1999, c. 396 (C.39:3-84.8) is amended to
27 read as follows:

28 3. a. An application for tow truck registration shall contain the
29 following information:

30 (1) The name and address of the towing company's principal
31 owner or owners;

32 (2) The address of the principal business office of the towing
33 company;

34 (3) The location of any garage, parking lot, or other storage area,
35 where motor vehicles or other objects moved by the towing
36 company may be stored or placed;

37 (4) A valid certificate of insurance and a schedule of insured
38 vehicles that are to be utilized by the towing company from an
39 insurer authorized to do business in the state, including the amounts
40 of the garage keeper's legal liability coverage and any "on hook"
41 coverage as an endorsement or contained in a separate schedule,
42 and liability insurance coverage, including in the case of each light-
43 medium duty tow truck, motor vehicle liability insurance coverage
44 for the death of, or injury to. persons and damage to property for
45 each accident or occurrence in the amount of at least \$750,000
46 single limit, and in the case of each heavy-duty tow truck, motor
47 vehicle liability insurance coverage for the death of, or injury to,

1 persons and damage to property for each accident or occurrence in
2 the amount of at least \$1,000,000 single limit; and

3 (5) Documentation of the manufacturer's gross vehicle weight
4 rating for each tow truck.

5 **【If a system for the licensure of towing companies has been**
6 **established pursuant to section 4 of P.L.1999, c.396 (C.39:3-84.9),**
7 **the】** The towing company shall include in the application a copy of
8 the 【license】 registration issued to it pursuant to 【that section】
9 section 2 of P.L. , c. (C.) (pending before the Legislature
10 as this bill).

11 Except as otherwise provided in this act, the registration for
12 these vehicles shall be issued and renewed pursuant to the
13 provisions of this Title.

14 (cf. P.L.1999, c.396, s.3)

15
16 19. Section 1 of P.L.2002, c.67 (C.56:13-1) is amended to read
17 as follows:

18 1. As used in this act:

19 "Charge card" means a credit card on an account for which no
20 periodic rate is used to compute a finance charge.

21 "Credit card" means any card, plate, coupon book, or other
22 single credit device that may be used from time to time to obtain
23 credit.

24 "Operator" means a person who engages in the business of
25 transporting **【inoperable】** motor vehicles that are inoperable or
26 parked illegally or otherwise without authorization from public or
27 private property to a site where repairs may be made or the vehicle
28 may be stored and who may also perform motor vehicle repairs.

29 (cf. P.L.2002, c.67, s.1)

30
31 20. Section 3 of P.L. 2002, c. 67 (C.56:13-3) is amended to read
32 as follows:

33 3. If the operator cannot repair the inoperable vehicle to the
34 satisfaction of the motorist he shall, with the motorist's consent,
35 subject to the provisions of P.L. , c. (C.) (pending before
36 the Legislature as this bill), transport the vehicle to the operator's
37 place of business or to another mutually agreed upon location. The
38 vehicle, once repaired, may be retained in the possession of the
39 operator or other repairer, as the case may be, pending payment,
40 pursuant to N.J.S.2A:44-20 et seq. The operator, if other than the
41 repairer, shall be eligible for reimbursement for transporting the
42 vehicle to the repair site. If the estimated cost of repairs exceeds
43 \$50, the motorist shall be given a written estimate of the repair
44 costs.

45 (cf. P.L.2002, c.67, s.3)

1 21. Section 4 of P.L. 2002, c. 67 (C.56:13-4) is amended to read
2 as follows:

3 For services rendered, or to redeem a motor vehicle from storage,
4 the operator shall accept in payment either cash, a check issued by
5 an insurance company, a valid debit card, or a valid major credit
6 card or charge card subject to the provisions of subsection b. of this
7 section.

8 b. **【If after examining the card, the operator is unable to**
9 **determine to his satisfaction the credit worthiness or financial**
10 **responsibility of the motorist, the】** The operator may request
11 additional identification, as determined by the Director of the
12 Division of Consumer Affairs, before proceeding with repairs or
13 towing. Unless the motorist is unable to produce such identification,
14 or the operator has a bona fide reason to believe the card or other
15 identification is fictitious, altered, stolen, expired or revoked or not
16 valid for any other cause or is clearly offered with intent to defraud
17 the issuer, the debit card, charge card or credit card shall be deemed
18 an acceptable form of payment in lieu of cash if the operator
19 ordinarily accepts the card at his place of business. Nothing in this
20 act shall preclude payment by a motorist in the form of check or
21 money order, if this form of payment is acceptable to the operator.
22 (cf. P.L.2002, c.67, s.4)

23

24 ²22. Section 1 of P.L.1973, c.137 (C.39:4-56.6) is amended to
25 read as follows:

26 1. No person shall park or leave unattended a vehicle on private
27 property without the consent of the owner or other person in control
28 or possession of the property or for a period in excess of that for
29 which consent was given, except in the case of emergency or
30 disablement of the vehicle in which case the owner or operator
31 thereof shall arrange for the expeditious removal of the vehicle.
32 This section shall not apply to manufactured or mobile homes left
33 unattended and for which there exists or existed a rental agreement
34 to occupy a space on the property.

35 **【The】** Subject to the requirements of section 7 of P.L. ,
36 c. (C.) (pending before the Legislature as this bill), the owner or
37 other person in control or possession of the property on which a
38 vehicle is parked or left unattended in violation of this section may
39 remove or hire another person to remove and store the vehicle. It
40 shall be the obligation of the owner of the vehicle to pay the
41 reasonable costs for the removal and for any storage which may
42 result from such removal before he shall be entitled to recover the
43 possession of the vehicle. If the owner of the vehicle refuses to pay
44 such costs or fails to make any claim for the return of the vehicle
45 within 90 days after such removal, the vehicle may be sold at public
46 auction in accordance with the provisions of N.J.S.2A:44-20

1 through N.J.S.2A:44-31.²

2 (cf. P.L. 1999, c.340, s.10.)

3
4 ²23. Section 1 of P.L.1979, c.101 (C.40:48-2.49) is amended to
5 read as follows:

6 1. Notwithstanding the provisions of section 1 of P.L.1973,
7 c.137 (C.39:4-56.6) or any other law, a municipality may regulate,
8 by ordinance, the removal of motor vehicles from private or public
9 property by operators engaged in such practice, including, but not
10 limited to, the fees charged for storage following removal in
11 accordance with section 3 of P.L.1987, c.127 (C.40:48-2.50), fees
12 charged for such removal, notice requirements therefore, and the
13 mercantile licensing of such operators.

14 The ordinance shall set forth non-discriminatory and non-
15 exclusionary regulations governing operators engaged in the
16 business of removing and storing motor vehicles. The regulations
17 shall include, but not be limited to:

18 a. A schedule of fees or other charges which an operator may
19 charge vehicle owners for towing services, storage services or both;

20 b. Minimum standards of operator performance, including but
21 not limited to standards concerning the adequacy of equipment and
22 facilities, availability and response time, and the security of
23 vehicles towed or stored;

24 c. The designation of a municipal officer or agency to enforce
25 the provisions of the ordinance in accordance with due process of
26 law;

27 d. The requirement that such regulations and fee schedules of
28 individual towers shall be made available to the public during
29 normal business hours of the municipality.

30 Nothing in this section shall be construed to authorize a
31 municipality to establish charges for services that are not included
32 in the schedule of towing and storage services for which a towing
33 company may charge a service fee established by the Director of
34 Consumer Affairs pursuant to section 8 of P.L. , c. (C.)
35 (pending before the Legislature as this bill). Nothing in this section
36 shall be construed to exempt an operator from complying with the
37 requirements of P.L. , c. (C.) (pending before the Legislature
38 as this bill).²

39 (cf: P.L.1997, c.387. s.1)

40
41 ²[22.] 24.² The following sections are repealed:

42 Section 4 of P.L.1999, c.396 (C. 39:3-84.9);

43 Section ²[1 of P.L. 1973, c. 137 (C.39:4-56.6);

44 Section 1 of P.L. 1979, c.101 (C.40:48-2.49);

45 Sections 3 and ²4 of P.L. 1997, c. 387 ²[(C.40:48-2.54 and
46 2.55)] (C.40:48-2.55)²; and

47 Section 5 of P.L. 1997, c.387 (C.56:8-2.26)

1 ²[23.] 25.² If any section, subsection, clause or provision of this
2 act shall be adjudged unconstitutional or to be ineffective in whole
3 or in part, to the extent that it is not adjudged unconstitutional or is
4 not ineffective it shall be valid and effective and no other section,
5 subsection clause or provision of this act shall on account thereof be
6 deemed invalid or ineffective, and the applicability or invalidity of
7 any section, subsection, clause or provision of this act in any one or
8 more instances or under any one or more circumstances shall not be
9 taken to affect or prejudice in any way its applicability or validity in
10 any other instance or under any other circumstances.

11
12 ²[24.] 26.² This act shall take effect on the 360th day following
13 enactment, except that section 4 shall remain inoperative for 180
14 days following ²[enactment] the effective date², but the director
15 may take such anticipatory action as may be necessary to effectuate
16 that provision of this act.