

P.L. 2018, CHAPTER 165, *approved December 20, 2018*

Assembly, No. 4782

1 AN ACT concerning the towing of certain motor vehicles and  
2 amending P.L.2007, c.193.

3  
4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6  
7 1. Section 2 of P.L.2007, c.193 (C.56:13-8) is amended to read  
8 as follows:

9 2. The Legislature finds and declares that:

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

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

22 c. The legitimate business interests of **【tow truck operators】**  
23 towing companies and the needs of private property owners for  
24 relief from unauthorized parking must be balanced with the interest  
25 in providing appropriate protection to **【consumers】** persons who  
26 own or operate vehicles;

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

31 e. Therefore, it is in the public interest to create a coordinated,  
32 comprehensive framework to establish and enforce minimum  
33 standards for **【tow truck operators】** towing companies.

34 (cf: P.L.2007, c.193, s.2)

35

36 2. Section 3 of P.L.2007, c.193 (C.56:13-9) is amended to read  
37 as follows:

38 3. As used in this act:

39 "Basic towing service" means towing as defined in this section  
40 and other ancillary services as may be specified by the director by  
41 regulation, which are components of a routine tow.

**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.

1       **["Consumer" means a natural person.]**

2       "Decoupling fee" means a charge by a towing company for  
3 releasing a motor vehicle to its owner or operator when the vehicle  
4 has been, or is about to be, hooked or lifted by a **[tower]** tow truck,  
5 but prior to the vehicle actually having been moved or removed  
6 from the property.

7       **["Division" means the Division of Consumer Affairs in the**  
8 **Department of Law and Public Safety.]**

9       "Director" means the Director of the Division of Consumer  
10 Affairs.

11       "Division" means the Division of Consumer Affairs in the  
12 Department of Law and Public Safety.

13       "Motor vehicle" includes all vehicles propelled otherwise than by  
14 muscular power, excepting such vehicles as run only upon rails or  
15 tracks and motorized bicycles, motorized scooters, motorized  
16 wheelchairs and motorized skateboards. "Motor vehicle" includes  
17 commercial motor vehicles as defined in R.S.39:1-1.

18       "Non-consensual towing" means the towing of a motor vehicle  
19 without the consent of the owner or operator of the vehicle,  
20 regardless of the reason for the tow.

21       "Person" means an individual, a sole proprietorship, partnership,  
22 corporation, limited liability company or any other business entity.

23       "Private property owner" means the owner or lessee of private  
24 property, or an agent of such owner or lessee, but shall not include a  
25 private property towing company acting as an agent of such owner  
26 or lessee.

27       "Private property towing" means the non-consensual towing  
28 from private property or from a storage facility by a motor vehicle  
29 of a **[consumer's]** motor vehicle that is parked illegally, parked  
30 during a time at which such parking is not permitted, or otherwise  
31 parked without authorization, or the immobilization of or  
32 preparation for moving or removing of such motor vehicle, for  
33 which a service charge is made, either directly or indirectly. This  
34 term shall not include the towing of a motor vehicle that has been  
35 abandoned on private property in violation of section 1 of P.L.1967,  
36 c.305 (C.39:4-56.5), provided that the abandoned vehicle is  
37 reported to the appropriate law enforcement agency prior to  
38 removal and the vehicle is removed in accordance with section 1 of  
39 P.L.1973, c.137 (C.39:4-56.6).

40       "Private property towing company" means a person offering or  
41 performing private property towing services.

42       "Towing" means the moving or removing, from public or private  
43 property or from a storage facility, by a motor vehicle of a  
44 **[consumer's]** motor vehicle that is damaged as a result of an  
45 accident or otherwise disabled, is recovered after being stolen, or is  
46 parked illegally or otherwise without authorization, parked during a  
47 time at which such parking is not permitted, or otherwise parked

1 without authorization, or the immobilization of or preparation for  
2 moving or removing of such motor vehicle, for which a service  
3 charge is made, either directly or indirectly. Dues or other charges  
4 of clubs or associations which provide towing services to club or  
5 association members shall not be considered a service charge for  
6 purposes of this definition.

7 "Vehicle" means any device in, upon, or by which a person or  
8 property is or may be transported upon a highway.

9 (cf: P.L.2009, c.39, s.1)

10

11 3. Section 10 of P.L.2007, c.193 (C.56:13-16) is amended to  
12 read as follows:

13 10. It shall be an unlawful practice for any private property  
14 towing company or for any other towing company that provides  
15 non-consensual towing services:

16 a. (Deleted by amendment, P.L.2009, c.39)

17 b. (Deleted by amendment, P.L.2009, c.39)

18 c. (Deleted by amendment, P.L.2009, c.39)

19 d. To give any benefit or advantage, including a pecuniary  
20 benefit, to any person for providing information about motor  
21 vehicles parked for unauthorized purposes on privately owned  
22 property or otherwise in connection with private property towing of  
23 motor vehicles parked without authorization or during a time at  
24 which such parking is not permitted;

25 e. To fail, when so requested by the owner or operator of a  
26 vehicle subject to non-consensual towing, to release a vehicle to the  
27 owner or operator that has been, or is about to be, hooked or lifted  
28 but has not actually been moved or removed from the property  
29 when the vehicle owner or operator returns to the vehicle, unless the  
30 vehicle subject to non-consensual towing has been authorized to be  
31 towed by a law enforcement officer of this State, or any political  
32 subdivision of the State, while in the actual performance of the  
33 officer's duties and as deemed appropriate for public safety, or to  
34 charge the owner or operator requesting release of the vehicle an  
35 unreasonable or excessive decoupling fee. Such a fee shall be  
36 presumptively unreasonable and excessive if it exceeds by more  
37 than 25 percent, or a different percentage established by the director  
38 by regulation, the usual and customary decoupling fee charged by  
39 the towing company for a vehicle subject to consensual towing, or  
40 if it exceeds by more than 50 percent, or a different percentage  
41 established by the director by regulation, the usual and customary  
42 decoupling fee charged for vehicles subject to non-consensual  
43 towing by other private property towing companies operating in the  
44 municipality in which the vehicle was subjected to non-consensual  
45 towing;

46 f. (1) To charge a fee for a private property or other non-  
47 consensual towing or related storage service not listed on the  
48 schedule of services for which a fee may be charged as established

1 by the director except as may be permitted by the director by  
2 regulation; or

3 (2) To charge an unreasonable or excessive fee;

4 g. To refuse to accept for payment in lieu of cash or an  
5 insurance company check for towing or storage services a debit  
6 card, charge card or credit card if the operator ordinarily accepts  
7 such card at his place of business, unless such refusal is authorized  
8 in accordance with section 4 of P.L.2002, c.67 (C.56:13-4) [as  
9 amended by section 21 of P.L.2007, c.193]; or

10 h. To monitor, patrol, or otherwise surveil a private property  
11 for the purposes of identifying vehicles parked for unauthorized  
12 purposes and towing a motor vehicle parked for an unauthorized  
13 purpose from such private property without having been specifically  
14 requested to tow such vehicle by the owner of the property.

15 i. Nothing contained in any provision of the “Predatory  
16 Towing Prevention Act,” P.L.2007, c.193 (C.56:13-7 et seq.) shall  
17 be construed to prevent a towing company from charging a  
18 reasonable fee for storage of a vehicle that has been subject to non-  
19 consensual towing authorized by a law enforcement officer of this  
20 State or by any political subdivision of this State. Nothing  
21 contained in any provision of the “Predatory Towing Prevention  
22 Act,” P.L.2007, c.193 (C.56:13-7 et seq.) shall be construed to  
23 prevent a towing company from charging fees for non-consensual  
24 towing or related storage services in accordance with a duly-  
25 authorized fee schedule established by a municipality or other  
26 political subdivision of this State with respect to a vehicle that has  
27 been subject to non-consensual towing authorized by a law  
28 enforcement officer of this State or the political subdivision, and  
29 there shall be a rebuttable presumption that fees charged in  
30 accordance with a fee schedule are not unreasonable or excessive.

31 For the purposes of this subsection, non-consensual towing shall  
32 be considered to be authorized by a law enforcement officer of this  
33 State or a political subdivision if the law enforcement officer or an  
34 agent or employee of the political subdivision initiates, directs,  
35 orders, or requests the non-consensual towing of the vehicle; and a  
36 municipal fee schedule shall be considered duly authorized if it has  
37 been established by municipal ordinance or resolution or by  
38 contract between the municipality and the towing company which  
39 conforms to the requirements of the “Local Public Contracts Law,”  
40 P.L.1971, c.198 (C.40A:11-1 et seq.) and any related regulations.  
41 (cf: P.L.2017, c.321, s.2)

42  
43 4. Section 15 of P.L.2007, c.193 (C.56:13-21) is amended to  
44 read as follows:

45 15. a. It is an unlawful practice and a violation of P.L.1960,  
46 c.39 (C.56:8-1 et seq.) to violate any provision of this act.

47 b. In addition to any penalties or other remedies provided in  
48 P.L.1960, c.39 (C.56:8-1 et seq.), the director may order a towing

1 company that has billed a **【consumer】** person for any  
2 nonconsensual towing or related storage an amount determined by  
3 the director to be unreasonable to reimburse the **【consumer】** person  
4 for the excess cost with interest.  
5 (cf: P.L.2009, c.39, s.10)

6  
7 5. This act shall take effect immediately.  
8  
9

#### 10 STATEMENT

11  
12 This bill clarifies that the “Predatory Towing Prevention Act”  
13 (“Act”) applies to commercial motor vehicles and changes  
14 references to “consumer” throughout the Act to “person.” The New  
15 Jersey Administrative Code (code) defines “towing,” in part, to  
16 mean “the moving or removing from public or private property or  
17 from a storage facility by a motor vehicle of a consumer’s *non-*  
18 *commercial* motor vehicle...” (emphasis added) (N.J.A.C.13:45A-  
19 31.2). Because the code appears to limit the provisions of the Act  
20 to non-commercial motor vehicles, this bill clarifies that the act  
21 applies to commercial motor vehicles as well as non-commercial  
22 motor vehicles.

23 The bill also clarifies that the Act does not prevent towing  
24 companies from charging a reasonable fee for storage of a vehicle  
25 that has been subject to non-consensual towing authorized by a law  
26 enforcement officer of this State or by a political subdivision if the  
27 law enforcement officer or an agent or employee of the political  
28 subdivision initiates, directs, orders, or requests the non-consensual  
29 towing of the vehicle. The bill further clarifies that the Act does  
30 not prevent towing companies from charging fees set forth in a  
31 duly-authorized fee schedule established by a municipality or other  
32 political subdivision of the State for non-consensual towing of a  
33 vehicle or related storage fees when such service is authorized by a  
34 law enforcement officer or a political subdivision. The bill  
35 establishes a rebuttable presumption that fees charged in accordance  
36 with such a fee schedule are not unreasonable or excessive.  
37  
38  
39

40  
41 \_\_\_\_\_  
42 Provides clarification on applicability of “Predatory Towing  
43 Prevention Act” to commercial motor vehicles and charging of  
reasonable fees for certain non-consensual towing.