

56:13-8 & 56:13-9 et al.
LEGISLATIVE HISTORY CHECKLIST
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LAWS OF: 2018 **CHAPTER:** 165

NJSA: 56:13-8 & 56:13-9 et al. (Provides clarification on applicability of "Predatory Towing Prevention Act" to commercial motor vehicles and charging of reasonable fees for certain non-consensual towing.)

BILL NO: A4782 (Substituted for S3225)

SPONSOR(S) Gordon M. Johnson and others

DATE INTRODUCED: 12/6/2018

COMMITTEE: **ASSEMBLY:** Appropriations

SENATE: ---

AMENDED DURING PASSAGE: No

DATE OF PASSAGE: **ASSEMBLY:** 12/17/2018

SENATE: 12/17/2018

DATE OF APPROVAL: 12/20/2018

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (Introduced version of bill enacted) Yes

A4782

SPONSOR'S STATEMENT: (Begins on page 6 of introduced bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes

SENATE: No

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

S3225

SPONSOR'S STATEMENT: (Begins on page 6 of introduced bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: Yes

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

(continued)

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

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.

ASSEMBLY, No. 4782

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED DECEMBER 6, 2018

Sponsored by:

Assemblyman GORDON M. JOHNSON

District 37 (Bergen)

Assemblyman HAROLD "HAL" J. WIRTHS

District 24 (Morris, Sussex and Warren)

Assemblyman BENJIE E. WIMBERLY

District 35 (Bergen and Passaic)

Senator PAUL A. SARLO

District 36 (Bergen and Passaic)

SYNOPSIS

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

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/18/2018)

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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.

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

43 "Decoupling fee" means a charge by a towing company for
44 releasing a motor vehicle to its owner or operator when the vehicle

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 has been, or is about to be, hooked or lifted by a **【tower】 tow truck**,
2 but prior to the vehicle actually having been moved or removed
3 from the property.

4 **【"Division" means the Division of Consumer Affairs in the**
5 **Department of Law and Public Safety.】**

6 "Director" means the Director of the Division of Consumer
7 Affairs.

8 "Division" means the Division of Consumer Affairs in the
9 Department of Law and Public Safety.

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

15 "Non-consensual towing" means the towing of a motor vehicle
16 without the consent of the owner or operator of the vehicle,
17 regardless of the reason for the tow.

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

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

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

37 "Private property towing company" means a person offering or
38 performing private property towing services.

39 "Towing" means the moving or removing,
40 property or from a storage facility,
41 **【consumer's】** motor vehicle that is damaged as a result of an
42 accident or otherwise disabled, is recovered after being stolen, or is
43 parked illegally or otherwise without authorization, parked during a
44 time at which such parking is not permitted, or otherwise parked
45 without authorization, or the immobilization of or preparation for
46 moving or removing of such motor vehicle, for which a service
47 charge is made, either directly or indirectly. Dues or other charges

1 of clubs or associations which provide towing services to club or
2 association members shall not be considered a service charge for
3 purposes of this definition.

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

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

7

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

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

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

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

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

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

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, unless the
27 vehicle subject to non-consensual towing has been authorized to be
28 towed by a law enforcement officer of this State, or any political
29 subdivision of the State, while in the actual performance of the
30 officer's duties and as deemed appropriate for public safety, or to
31 charge the owner or operator requesting release of the vehicle an
32 unreasonable or excessive decoupling fee. Such a fee shall be
33 presumptively unreasonable and excessive if it exceeds by more
34 than 25 percent, or a different percentage established by the director
35 by regulation, the usual and customary decoupling fee charged by
36 the towing company for a vehicle subject to consensual towing, or
37 if it exceeds by more than 50 percent, or a different percentage
38 established by the director by regulation, the usual and customary
39 decoupling fee charged for vehicles subject to non-consensual
40 towing by other private property towing companies operating in the
41 municipality in which the vehicle was subjected to non-consensual
42 towing;

43 f. (1) To charge a fee for a private property or other non-
44 consensual towing or related storage service not listed on the
45 schedule of services for which a fee may be charged as established
46 by the director except as may be permitted by the director by
47 regulation; or

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

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

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

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

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

39
40 4. Section 15 of P.L.2007, c.193 (C.56:13-21) is amended to
41 read as follows:

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

44 b. In addition to any penalties or other remedies provided in
45 P.L.1960, c.39 (C.56:8-1 et seq.), the director may order a towing
46 company that has billed a **[consumer]** person for any
47 nonconsensual towing or related storage an amount determined by

1 the director to be unreasonable to reimburse the **【consumer】** person
2 for the excess cost with interest.
3 (cf: P.L.2009, c.39, s.10)

4

5 5. This act shall take effect immediately.

6

7

8

STATEMENT

9

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

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

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4782

STATE OF NEW JERSEY

DATED: DECEMBER 10, 2018

The Assembly Appropriations Committee reports favorably Assembly Bill No. 4782.

This bill clarifies that the “Predatory Towing Prevention Act” (“Act”) applies to commercial motor vehicles, and clarifies that reasonable fees may be charged for certain non-consensual towing and related storage services.

The New Jersey Administrative Code defines “towing,” in part, to mean “the moving or removing from public or private property or from a storage facility by a motor vehicle of a consumer’s *non-commercial* motor vehicle” (emphasis added) (N.J.A.C.13:45A-31.2). Because the code appears to limit the provisions of the Act to non-commercial motor vehicles, this bill clarifies that the Act applies to commercial motor vehicles as well as non-commercial motor vehicles.

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

Finally, the bill changes references to “consumer” throughout the Act to “person.”

FISCAL IMPACT:

This bill is not certified as requiring a fiscal note.

SENATE, No. 3225

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED NOVEMBER 26, 2018

Sponsored by:
Senator PAUL A. SARLO
District 36 (Bergen and Passaic)

SYNOPSIS

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

CURRENT VERSION OF TEXT

As introduced.



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.

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

43 "Decoupling fee" means a charge by a towing company for
44 releasing a motor vehicle to its owner or operator when the vehicle

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 has been, or is about to be, hooked or lifted by a **【tower】 tow truck**,
2 but prior to the vehicle actually having been moved or removed
3 from the property.

4 **【"Division" means the Division of Consumer Affairs in the**
5 **Department of Law and Public Safety.】**

6 "Director" means the Director of the Division of Consumer
7 Affairs.

8 "Division" means the Division of Consumer Affairs in the
9 Department of Law and Public Safety.

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

15 "Non-consensual towing" means the towing of a motor vehicle
16 without the consent of the owner or operator of the vehicle,
17 regardless of the reason for the tow.

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

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

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

37 "Private property towing company" means a person offering or
38 performing private property towing services.

39 "Towing" means the moving or removing, from public or private
40 property or from a storage facility, by a motor vehicle of a
41 **【consumer's】** motor vehicle that is damaged as a result of an
42 accident or otherwise disabled, is recovered after being stolen, or is
43 parked illegally or otherwise without authorization, parked during a
44 time at which such parking is not permitted, or otherwise parked
45 without authorization, or the immobilization of or preparation for
46 moving or removing of such motor vehicle, for which a service
47 charge is made, either directly or indirectly. Dues or other charges

1 of clubs or associations which provide towing services to club or
2 association members shall not be considered a service charge for
3 purposes of this definition.

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

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

7

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

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

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

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

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

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

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, unless the
27 vehicle subject to non-consensual towing has been authorized to be
28 towed by a law enforcement officer of this State, or any political
29 subdivision of the State, while in the actual performance of the
30 officer's duties and as deemed appropriate for public safety, or to
31 charge the owner or operator requesting release of the vehicle an
32 unreasonable or excessive decoupling fee. Such a fee shall be
33 presumptively unreasonable and excessive if it exceeds by more
34 than 25 percent, or a different percentage established by the director
35 by regulation, the usual and customary decoupling fee charged by
36 the towing company for a vehicle subject to consensual towing, or
37 if it exceeds by more than 50 percent, or a different percentage
38 established by the director by regulation, the usual and customary
39 decoupling fee charged for vehicles subject to non-consensual
40 towing by other private property towing companies operating in the
41 municipality in which the vehicle was subjected to non-consensual
42 towing;

43 f. (1) To charge a fee for a private property or other non-
44 consensual towing or related storage service not listed on the
45 schedule of services for which a fee may be charged as established
46 by the director except as may be permitted by the director by
47 regulation; or

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

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

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

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

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

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

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

44 b. In addition to any penalties or other remedies provided in
45 P.L.1960, c.39 (C.56:8-1 et seq.), the director may order a towing
46 company that has billed a **【consumer】** person for any
47 nonconsensual towing or related storage an amount determined by

1 the director to be unreasonable to reimburse the **【consumer】** person
2 for the excess cost with interest.
3 (cf: P.L.2009, c.39, s.10)

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5 5. This act shall take effect immediately.

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7

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STATEMENT

9

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

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

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 3225

STATE OF NEW JERSEY

DATED: DECEMBER 3, 2018

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 3225.

This bill clarifies that the “Predatory Towing Prevention Act” (“Act”) applies to commercial motor vehicles and that reasonable fees may be charged for certain non-consensual towing and related events.

The New Jersey Administrative Code (code) defines “towing,” in part, to mean “the moving or removing from public or private property or from a storage facility by a motor vehicle of a consumer’s *non-commercial* motor vehicle...” (emphasis added) (N.J.A.C.13:45A-31.2). Because the code appears to limit the provisions of the Act to non-commercial motor vehicles, this bill clarifies that the act applies to commercial motor vehicles as well as non-commercial motor vehicles.

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

Finally, the bill changes references to “consumer” throughout the Act to “person.”

FISCAL IMPACT:

This bill is not certified as requiring a fiscal note.



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Newark, N.J.

Governor Murphy Takes Action on Legislation

12/20/2018

TRENTON – Today, Governor Phil Murphy signed the following bills into law:

A4782 (Johnson, Wirths, Wimberly/Sarlo) – Provides clarification on applicability of “Predatory Towing Prevention Act” to commercial motor vehicles and charging of reasonable fees for certain non-consensual towing.

S866 w/GR (Sweeney, Vitale/Vainieri Huttle, Mukherji) – Extends eligibility for certain individuals for emergency assistance.

S2531 w/GR (Beach/Jones) – Allows county governing body in certain counties to abolish offices of superintendent and deputy superintendent of elections and transfer functions to county board of elections.

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