

56:13-9

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2009 **CHAPTER:** 39

NJSA: 56:13-9 (Modifies "Predatory Towing Prevention Act")

BILL NO: A3812 (Substituted for S2567)

SPONSOR(S) Cruz-Perez and others

DATE INTRODUCED: March 5, 2009

COMMITTEE: **ASSEMBLY:** ---
 SENATE: ---

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** March 16, 2009
 SENATE: March 16, 2008

DATE OF APPROVAL: April 15, 2009

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (First reprint enacted)

A3812

SPONSOR'S STATEMENT: (Begins on page 13 of original bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** No
 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: Yes

LEGISLATIVE FISCAL ESTIMATE: No

S2567

SPONSOR'S STATEMENT: (Begins on page 13 of original bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** No
 SENATE: Yes

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

(continued)

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

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LAW

[First Reprint]

ASSEMBLY, No. 3812

STATE OF NEW JERSEY

213th LEGISLATURE

INTRODUCED MARCH 5, 2009

Sponsored by:

Assemblywoman NILSA CRUZ-PEREZ

District 5 (Camden and Gloucester)

Assemblywoman CONNIE WAGNER

District 38 (Bergen)

Assemblyman GORDON M. JOHNSON

District 37 (Bergen)

Co-Sponsored by:

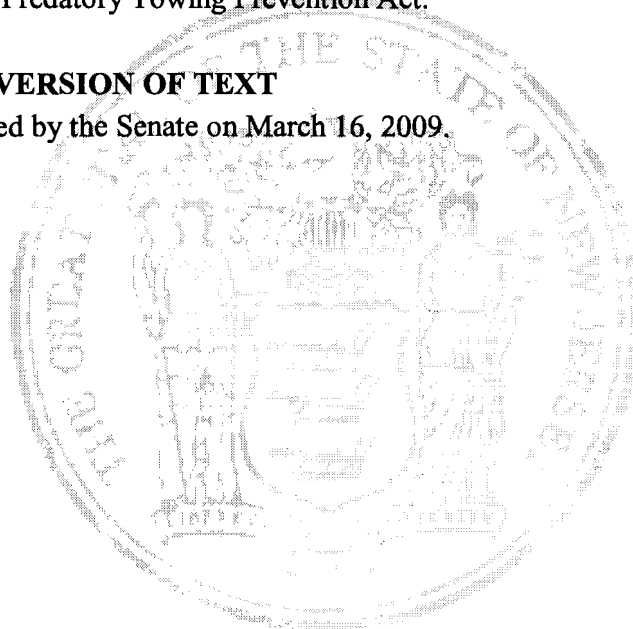
Assemblyman Chivukula and Senator Gordon

SYNOPSIS

Modifies "Predatory Towing Prevention Act."

CURRENT VERSION OF TEXT

As amended by the Senate on March 16, 2009.



(Sponsorship Updated As Of: 3/17/2009)

A3812 [1R] CRUZ-PEREZ, WAGNER

2

1 AN ACT concerning towing and towing operators and amending and
2 repealing various parts of statutory law.

3

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

6

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

9 3. As used in this act:

10 "Basic towing service" means towing as defined in this section
11 and other ancillary services as may be specified by the director by
12 regulation.

13 "Consumer" means a natural person.

14 ["Contract rate" means fees for towing services established
15 under a contract between a towing company and a State agency or
16 political subdivision, including, but not limited to, independent
17 authorities and instrumentalities thereof.]

18 "Decoupling fee" means a charge by a towing company for
19 releasing a motor vehicle to its owner or operator when the vehicle
20 has been, or is about to be, hooked or lifted by a tower, but prior to
21 the vehicle actually having been moved or removed from the
22 property.

23 "Division" means the Division of Consumer Affairs in the
24 Department of Law and Public Safety.

25 "Director" means the Director of the Division of Consumer
26 Affairs.

27 "Motor vehicle" includes all vehicles propelled otherwise than by
28 muscular power, excepting such vehicles as run only upon rails or
29 tracks and motorized bicycles, motorized scooters, motorized
30 wheelchairs and motorized skateboards.

31 "Non-consensual towing" means the towing of a motor vehicle
32 [from private or public property] without the consent of the owner
33 or operator of the vehicle.

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

36 ["Person with a substantial interest" means a director, officer or
37 partner of, or any other person having an economic interest of 10
38 percent or more in, an applicant for, or holder of, a registration as a
39 towing company, or any parent or subsidiary thereof.]

40 "Private property owner" means the owner or lessee of private
41 property, or an agent of such owner or lessee, but shall not include a
42 private property towing company acting as an agent of such owner
43 or lessee.

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:

¹Senate floor amendments adopted March 16, 2009.

1 **"[Towing] Private property towing "** means the **[moving or**
2 **removing] non-consensual towing** from **[public or] private**
3 **property or from a storage facility by a motor vehicle of a**
4 **consumer's motor vehicle that is [damaged as a result of an accident**
5 **or otherwise disabled, recovered after being stolen, or is] parked**
6 **illegally , parked during a time at which such parking is not**
7 **permitted, or otherwise parked** without authorization, or the
8 immobilization of or preparation for moving or removing of such
9 motor vehicle, for which a service charge is made, either directly or
10 indirectly. **[Dues or other charges of clubs or associations which**
11 **provide towing services to club or association members shall not be**
12 **considered a service charge for purposes of this definition.]** ¹**This**
13 **term shall not include the towing of a motor vehicle that has been**
14 **abandoned on private property in violation of section 1 of P.L.1967,**
15 **c.305 (C.39:4-56.5), provided that the abandoned vehicle is**
16 **reported to the appropriate law enforcement agency prior to**
17 **removal and the vehicle is removed in accordance with section 1 of**
18 **P.L.1973, c.137 (C.39:4-56.6).¹**

19 **"[Towing] Private property towing company"** means a person
20 offering or performing private property towing services.

21 ¹**"Towing" means the moving or removing from public or private**
22 **property or from a storage facility by a motor vehicle of a**
23 **consumer's motor vehicle that is damaged as a result of an accident**
24 **or otherwise disabled, is recovered after being stolen, or is parked**
25 **illegally or otherwise without authorization, parked during a time at**
26 **which such parking is not permitted, or otherwise parked without**
27 **authorization, or the immobilization of or preparation for moving or**
28 **removing of such motor vehicle, for which a service charge is**
29 **made, either directly or indirectly. Dues or other charges of clubs**
30 **or associations which provide towing services to club or association**
31 **members shall not be considered a service charge for purposes of**
32 **this definition.¹**

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

35 (cf: P.L.2007, c.193, s.3)

36

37 ¹2. Section 6 of P.L.2007, c.193 (C.56:13-12) is amended to
38 read as follows:

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

1 accident or occurrence in the amount of at least \$1,000,000 single
2 limit.

3 b. **[The director shall be named as an additional insured under**
4 **each insurance policy required under subsection a. of this section**
5 **and each policy shall provide that the issuer give the director at**
6 **least 10 days' written notice of its intention to cancel or not renew**
7 **the policy.] (Deleted by amendment, P.L. , c.)(pending before**
8 **the Legislature as this bill)**

9 c. Nothing in this section shall preclude a State agency or
10 political subdivision, or the independent authorities or
11 instrumentalities thereof, from requiring additional or higher
12 liability insurance coverage or amounts with respect to contracts for
13 towing and storage services awarded under the authority of such
14 agency, subdivision, authority or instrumentality.¹

15 (cf: P.L.2007, c.193, s.6)

16

17 **'[2.] 3.'** Section 7 of P.L.2007, c.193 (C.56:13-13) is
18 amended to read as follows:

19 7. a. No person shall tow any motor vehicle parked for an
20 unauthorized purpose or during a time at which such parking is not
21 permitted from any privately owned parking lot, from other private
22 property or from any common driveway without the consent of the
23 motor vehicle owner or operator, unless **[the person is registered**
24 **with the division pursuant to section 4 of P.L.2007, c.193 (C.56:13-**
25 **10) and] :**

26 **(1) the person shall have entered into a contract for private**
27 **property towing with the owner of the property;**

28 **(2) there is posted in a conspicuous place at all vehicular**
29 **entrances to the property which can easily be seen by the public, a**
30 **sign no smaller than 36 inches high and 36 inches wide stating:**

31 **[(1)] (a) the purpose or purposes for which parking is authorized**
32 **and the times during which such parking is permitted;**

33 **[(2)] (b) that unauthorized parking is prohibited and**
34 **unauthorized motor vehicles will be towed at the owner's expense;**

35 **[(3)] (c) the name, address, and telephone number of the towing**
36 **company that will perform the towing;**

37 **[(4)] (d) the charges [, which shall not exceed the fee specified**
38 **in the tariff on file with the director,] for the towing and storage of**
39 **towed motor vehicles; [and]**

40 **[(5)] (e) the street address of the storage facility where the**
41 **towed vehicles can be redeemed after payment of the posted**
42 **charges and the times during which the vehicle may be redeemed;**
43 **and**

44 **(f) such contact information for the Division of Consumer**
45 **Affairs as may be required by regulation;**

46 **(3) the property owner has authorized the person to remove the**
47 **particular motor vehicle; and**

1 (4) the person tows the motor vehicle to a secure storage facility
2 that is located within a reasonable distance of the property from
3 which the vehicle was towed.

4 b. [A towing company shall not remove a motor vehicle from
5 private property without the consent of the owner or operator of the
6 vehicle, without first obtaining the written authorization from the
7 property owner or lessee, or its employee or agent, who shall be
8 present at the time of removal and verify the alleged violation if it
9 occurs during normal business hours of any premises at the location
10 operated by the property owner or lessee authorizing the removal of
11 the vehicle, except that general authorization in writing shall be
12 sufficient for the removal of a motor vehicle parked on private
13 property within 15 feet of a fire hydrant, standpipe or other water
14 source for fighting fires; in a fire lane; in a manner that interferes
15 with the entrance to or exit from the property; or if the violation
16 occurs at a time other than during normal business hours of the
17 premises of the property owner or lessee authorizing the removal of
18 the vehicle] No private property owner shall authorize the towing
19 of any motor vehicle parked for an unauthorized purpose or during
20 a time at which such parking is not permitted from the private
21 property owner's property without the consent of the motor vehicle
22 owner or operator, unless:

23 (1) the private property owner has contracted with a private
24 property towing company for removal of vehicles parked on the
25 property without authorization; and

26 (2) a sign that conforms that the requirements of paragraph (2)
27 of subsection a. of this section is posted on the property .

28 c. [Except as provided in subsection d. of this section, the
29 owner or person in lawful possession of private property may cause
30 the removal of the motor vehicle parked on the property to a storage
31 facility within a reasonable distance of the property if signs are
32 posted on the property as required under section a. of this section
33 and the towing company complies with the requirements of this
34 act.] (Deleted by amendment, P.L. , c.) (pending before the
35 Legislature as this bill)

36 d. [The provisions of subsection a.] This section shall not
37 apply to a motor vehicle parked on a lot or parcel on which is
38 situated a single-family unit or an owner occupied multi-unit
39 structure of not more than six units or in front of any driveway or
40 garage entrance where the motor vehicle is blocking access to that
41 driveway or garage entrance.

42 e. The requirements of paragraph (2) of subsection a. of this
43 section shall not apply to a residential community in which parking
44 spaces are specifically assigned to community residents, provided
45 that:

46 (1) the assigned spaces are clearly marked as such;

1 (2) there is specific documented approval by the property owner
2 authorizing the removal of the particular vehicle; and

3 (3) a sign, which can easily be seen by the public, is posted in a
4 conspicuous place at all vehicular entrances to the residential
5 community property, stating that unauthorized parking in an
6 assigned space is prohibited and unauthorized motor vehicles will
7 be towed at the owner's expense, and providing information or a
8 telephone number enabling the vehicle owner or operator to
9 immediately obtain information as to the location of the towed
10 vehicle.

11 The exemption in this subsection shall not apply to any private
12 parking lot or parcel owned or assigned to a commercial or other
13 nonresidential entity located in such residential communities.

14 (cf: P.L.2007, c.193, s.7)

15
16 '[3.] 4.' Section 8 of P.L.2007, c.193 (C.56:13-14) is
17 amended to read as follows:

18 8. a. The director by regulation shall establish a schedule of
19 private property 'and other non-consensual' towing and related
20 storage services for which a '[private property]' towing company
21 may charge a service fee, and shall specify services that are
22 ancillary to and included as part of basic private property 'or other
23 non-consensual' towing services for which no fees in addition to
24 the basic towing service fee may be charged.

25 b. [All towing companies shall file with the division a tariff
26 which lists the services the towing company provides and the fee
27 that the towing company charges for each service, which fees shall
28 be reasonable and not excessive.] All fees charged for 'private
29 property or other' non-consensual towing services and related
30 storage services shall be reasonable and not excessive. Such fees
31 shall be presumptively unreasonable and excessive if they exceed
32 by more than 25 percent, or a different percentage established by
33 the director by regulation, the usual and customary fee charged by
34 the towing company or storage facility for such services when
35 provided with the consent of the owner or operator of the vehicle,
36 or if they exceed by more than 50 percent, or a different percentage
37 established by the director by regulation, the usual and customary
38 fee charged for such nonconsensual towing or related storage
39 service by other towing companies or storage facilities operating in
40 the municipality from which the vehicle was towed.
41 Notwithstanding the foregoing, such fees may not exceed the
42 maximum amounts that may be charged for such services in
43 accordance with any applicable schedule of fees by municipal
44 ordinance adopted pursuant to section 1 of P.L.1979, c.101
45 (C.40:48-2.49).

46 (1) [A towing company shall file its tariffs at least annually, in
47 the manner prescribed by the director, and may amend the services

1 it provides or the fees it charges for services provided by filing an
2 amended tariff with the division, provided however that a towing
3 company may not charge amended fees set forth in an amended
4 tariff until the division provides confirmation of receipt of the
5 amended tariff. A towing company may not modify its tariff more
6 than once during any three-month period, except to add or delete a
7 service, reduce a fee or conform to the requirements of this
8 section.】 (Deleted by amendment, P.L. , c.) (pending before
9 the Legislature as this bill)

10 (2) 【A towing company's fee for a towing service shall be
11 presumed unreasonable and excessive if the fee exceeds 150%, or a
12 different percentage established by the director by regulation, of the
13 average fee for such service charged in the county of the towing
14 company's principal location, which figure shall be calculated based
15 upon the fees charged for such service as reported in the tariffs filed
16 by all towing companies with principal locations in the same county
17 and shall be published on an Internet website in accordance with
18 subsection c. of this section.】 (Deleted by amendment, P.L. , c.)
19 (pending before the Legislature as this bill)

20 (3) 【The presumption set forth in paragraph (2) of this
21 subsection shall not apply until the first day of the third month after
22 the Internet website authorized by subsection c. of this section
23 becomes operative.】 (Deleted by amendment, P.L. , c.) (pending
24 before the Legislature as this bill)

25 c. 【The division shall collect and maintain the tariffs filed
26 pursuant to subsection a. of this section in an electronic system, and
27 the director shall cause the tariff data to be organized and made
28 available to the public on an Internet website in a format that
29 enables consumers to review the fees for towing services charged
30 by each registered towing company in the State. The electronic
31 system shall calculate annually and make available on the website
32 the average cost, broken down by towing service and county, of the
33 fees for each towing service charged by the towing companies
34 operating in each county in the State.】 (Deleted by amendment,
35 P.L. , c.) (pending before the Legislature as this bill)

36 d. 【Nothing in this section shall be deemed to limit the
37 authority of a State agency or political subdivision, or the
38 independent authorities or instrumentalities thereof, to establish
39 contract rates for towing and storage services in accordance with a
40 contract awarded under the authority of such agency, subdivision,
41 authority, or instrumentality.】 (Deleted by amendment, P.L. , c.)
42 (pending before the Legislature as this bill)

43 (cf: P.L.2007, c.193, s.8)

44
45 ¹【4.】¹ Section 9 of P.L.2007, c.193 (C.56:13-15) is
46 amended to read as follows:

1 9. a. No person shall tow a motor vehicle pursuant to section 7
2 of P.L.2007, c.193 (C.56:13-13) to a storage facility or store such
3 vehicle at a storage facility unless the storage facility:

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

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

8 b. A towing company shall provide reasonable
9 accommodations for after-hours release of stored motor vehicles
10 [and shall not charge a release fee or other charge for releasing
11 motor vehicles to their owners after normal business hours or on
12 weekends].

13 (cf: P.L.2007, c.193, s.9)

14
15 ¹[5. Section 10 of P.L.2007, c.193 (C.56:13-16) is amended to
16 read as follows:

17 10. It shall be an unlawful practice for any private property
18 towing company:

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

21 "This tow truck is registered with the New Jersey Division of
22 Consumer Affairs. The driver is required to provide you with a
23 written schedule of the fees charged for towing and storage services
24 before providing that service to you, including those services for
25 which there is no fee. If the fee charged is in excess of the fee listed
26 on the schedule, please notify the Division of Consumer Affairs at
27 800-242-5846."

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

34 "The fees set forth in the schedule may not exceed the tariff filed
35 with the Division of Consumer Affairs. You may review the tariff
36 on the Division's website at www.State.nj.us/lps/ca/home. The
37 filing of a tariff with the Division of Consumer Affairs does not
38 imply endorsement of the fees and charges set forth in the tariff."

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

44 c. To make, give, or cause any undue or unreasonable
45 preference or advantage, or undue or unreasonable prejudice or
46 disadvantage, to any person in any particular locality, with respect
47 to providing towing services. The provision of towing services by a
48 club or association to its members in exchange for the payment of

1 dues or similar membership charges, which club or association
2 membership is generally available to the public, shall not be
3 deemed an undue or unreasonable preference or advantage within
4 the meaning of this section.

5 **d.]** To give any benefit or advantage, including a pecuniary
6 benefit, to any person for providing information about motor
7 vehicles parked for unauthorized purposes on privately owned
8 property or otherwise in connection with private property towing
9 **[from privately owned property.]** of motor vehicles parked without
10 authorization or during a time at which such parking is not
11 permitted;

12 **[e] b.** To fail, when so requested by the owner or operator of a
13 vehicle subject to non-consensual towing, to release a vehicle to the
14 owner or operator that has been, or is about to be, hooked or lifted
15 but has not actually been moved or removed from the property
16 when the vehicle owner or operator returns to the vehicle, or to
17 charge the owner or operator requesting release of the vehicle
18 **[more than the decoupling fee specified in the tariff.]** an
19 unreasonable or excessive decoupling fee which exceeds by more
20 than 25 percent, or a different percentage established by the director
21 by regulation, the usual and customary decoupling fee charged by
22 the towing company or storage facility for such services;

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

40 d. To charge an unreasonable or excessive fee;

41 e. To monitor, patrol, or otherwise surveil a private property
42 for the purposes of identifying vehicles parked for unauthorized
43 purposes and towing a motor vehicle parked for an unauthorized
44 purpose from such private property without having been specifically
45 requested to tow such vehicle by the owner of the property; or

46 **[g] f.** 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 section 21 of P.L.2007, c.193.
5 (cf: P.L.2007, c.193, s.10)]¹

6
7 ¹6. Section 10 of P.L.2007, c.193 (C.56:13-16) is amended to
8 read as follows:

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

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

14 "This tow truck is registered with the New Jersey Division of
15 Consumer Affairs. The driver is required to provide you with a
16 written schedule of the fees charged for towing and storage services
17 before providing that service to you, including those services for
18 which there is no fee. If the fee charged is in excess of the fee listed
19 on the schedule, please notify the Division of Consumer Affairs at
20 800-242-5846."] (Deleted by amendment, P.L. , c.) (pending
21 before the Legislature as this bill)

22 b. [(1) Except as otherwise provided in paragraph (2) of this
23 subsection, to fail to provide the person whose motor vehicle is to
24 be towed, prior to providing any towing services, a written schedule
25 of fees, the information contained in the notice required under
26 subsection a. above, the following legend, and such other
27 information as determined by the director:

28 "The fees set forth in the schedule may not exceed the tariff filed
29 with the Division of Consumer Affairs. You may review the tariff
30 on the Division's website at www.State.nj.us/lps/ca/home. The
31 filing of a tariff with the Division of Consumer Affairs does not
32 imply endorsement of the fees and charges set forth in the tariff."

33 (2) To fail to provide the schedule and information required
34 under paragraph (1) of this subsection immediately upon being
35 contacted by the person whose motor vehicle was towed, if that
36 person was not present at the time the towing services were
37 provided.] (Deleted by amendment, P.L. , c.) (pending before
38 the Legislature as this bill)

39 c. [To make, give, or cause any undue or unreasonable
40 preference or advantage, or undue or unreasonable prejudice or
41 disadvantage, to any person in any particular locality, with respect
42 to providing towing services. The provision of towing services by a
43 club or association to its members in exchange for the payment of
44 dues or similar membership charges, which club or association
45 membership is generally available to the public, shall not be
46 deemed an undue or unreasonable preference or advantage within

1 the meaning of this section.] (Deleted by amendment, P.L. , c.)
2 (pending before the Legislature as this bill)

3 d. To give any benefit or advantage, including a pecuniary
4 benefit, to any person for providing information about motor
5 vehicles parked for unauthorized purposes on privately owned
6 property or otherwise in connection with private property towing
7 [from privately owned property] of motor vehicles parked without
8 authorization [.] or during a time at which such parking is not
9 permitted;

10 e. To fail, when so requested by the owner or operator of a
11 vehicle subject to non-consensual towing, to release a vehicle to the
12 owner or operator that has been, or is about to be, hooked or lifted
13 but has not actually been moved or removed from the property
14 when the vehicle owner or operator returns to the vehicle, or to
15 charge the owner or operator requesting release of the vehicle
16 [more than the decoupling fee specified in the tariff.] an
17 unreasonable or excessive decoupling fee. Such a fee shall be
18 presumptively unreasonable and excessive if it exceeds by more
19 than 25 percent, or a different percentage established by the director
20 by regulation, the usual and customary decoupling fee charged by
21 the towing company for a vehicle subject to consensual towing, or
22 if it exceeds by more than 50%, or a different percentage
23 established by the director by regulation, the usual and customary
24 decoupling fee charged for vehicles subject to non-consensual
25 towing by other private property towing companies operating in the
26 municipality in which the vehicle was subjected to non-consensual
27 towing;

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

47 (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.¹

12 (cf: P.L.2007, c.193, s.10)

13
14 ¹7. Section 11 of P.L.2007, c.193 (C.56:13-17) is amended to
15 read as follows:

16 11. Every towing company that performs private property or
17 other non-consensual towing shall retain and make available for
18 inspection by the division for a period of three years, invoices, job
19 orders, logs, claims for reimbursement from insurance companies
20 and other documentation relating to all consensual and non-
21 consensual towing services performed and rates charged for the
22 services.¹

23 (cf: P.L.2007, c.193, s.11)

24
25 ¹[6.] 8.¹ Section 13 of P.L.2007, c.193 (C.56:13-19) is
26 amended to read as follows:

27 13. 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**
32 **for 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.2007, c.193 (C.56:13-14).]** (Deleted by
35 amendment, P.L. , c.) (pending before the Legislature as this
36 bill)

37 (cf: P.L.2007, c.193, s.13)

38
39 ¹[7.] 9.¹ Section 14 of P.L.2007, c.193 (C.56:13-20) is
40 amended to read as follows:

41 14. a. The provisions of **[this act]** P.L.2007, c.193 ¹**[,]**¹
42 (C.56:13-7 et seq.) ¹**[, as amended and supplemented,]**¹ shall not
43 preempt any political subdivision from requiring or issuing any
44 registration or license of any towing company **[in addition to that**
45 **which is required by section 4 of this act.**

46 This section shall not limit the existing authority of a political
47 subdivision to] ¹**[:]** .¹

1 (1) [license and collect a general and nondiscriminatory tax
2 upon all businesses; or] (Deleted by amendment, P.L. , c.)
3 (pending before the Legislature as this bill)

4 (2) [impose any additional requirements or conditions as part of
5 any contract to perform towing and recovery services for that
6 jurisdiction.] (Deleted by amendment, P.L. , c.) (pending before
7 the Legislature as this bill)

8 b. The provisions of this act shall not be deemed to limit the
9 authority of the New Jersey Turnpike Authority or the South Jersey
10 Transportation Authority to establish rules and regulations
11 governing the provision of towing and storage services on the
12 roadways and properties under each entity's respective control.
13 (cf: P.L.2007, c.193, s.14)

14
15 '[8.] 10.' Section 15 of P.L.2007, c.193 (C.56:13-21) is
16 amended to read as follows:

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

19 b. In addition to any penalties or other remedies provided in
20 P.L.1960, c.39 (C.56:8-1 et seq.), the director may order a towing
21 company that has billed a consumer [or insurer] for any
22 nonconsensual towing or related storage an amount [in excess of
23 the fee specified in its filed tariff for the service provided]
24 determined by the director to be unreasonable to reimburse the
25 consumer [or insurer] for the excess cost with interest.
26 (cf: P.L.2007, c.193, s.15)

27
28 '[9.] 11.' Section 2 of P.L.2002, c.77 (C.27:23-6.2) is amended
29 to read as follows:

30 2. a. An operator awarded a contract for towing and storage
31 services by the New Jersey Turnpike Authority shall register with
32 the authority. [In order to be eligible to bid for the award of such a
33 contract, an operator shall have registered with the Division of
34 Consumer Affairs in the Department of Law and Public Safety
35 pursuant to section 4 of P.L.2007, c.193 (C.56:13-10).] Upon
36 issuance of the registration, the authority shall provide the operator
37 with two decals and accompanying notices for each tow truck
38 owned or leased by that operator and to be used under the terms of
39 the contract. The decals and the accompanying notices, which shall
40 be of a distinctive design and color, shall be conspicuously
41 displayed on the exterior of each such tow truck in a manner and
42 location prescribed by the authority.

43 The decals shall set forth a specific registration number for each
44 registered tow truck. The notices shall include a statement
45 indicating substantially the following: "This tow truck is registered
46 with the New Jersey Highway Authority. The driver is required to
47 provide you with a written schedule of the fees charged for towing

1 and storage services before providing that service to you, including
2 those services for which there is no fee. If the fee charged is in
3 excess of the fee listed on the schedule, please notify the authority
4 or the New Jersey Division of Consumer Affairs." An operator shall
5 file a copy of the schedule of fees with the authority. Upon request
6 of the Division of Consumer Affairs in the Department of Law and
7 Public Safety, the authority shall provide a list of the registered tow
8 trucks to the division, in addition to a copy of the schedule of fees.

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

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

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

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

29 (cf: P.L.2007, c.193, s.16)

30
31 ¹[10.] 12.¹ Section 3 of P.L.2002, c.77 (C.27:25A-8.1) is
32 amended to read as follows:

33 3. a. An operator awarded a contract for towing and storage
34 services by the South Jersey Transportation Authority shall register
35 with the authority. [In order to be eligible to bid for the award of
36 such a contract, an operator shall have registered with the Division
37 of Consumer Affairs in the Department of Law and Public Safety
38 pursuant to section 4 of P.L.2007, c.193 (C.56:13-10).] Upon
39 issuance of the registration, the authority shall provide the operator
40 with two decals and accompanying notices for each tow truck
41 owned or leased by that operator and to be used under the terms of
42 the contract. The decals and the accompanying notices, which shall
43 be of a distinctive design and color, shall be conspicuously
44 displayed on the exterior of each such tow truck in a manner and
45 location prescribed by the authority.

46 The decals shall set forth a specific registration number for each
47 registered tow truck. The notices shall include a statement
48 indicating substantially the following: "This tow truck is registered

1 with the New Jersey Highway Authority. The driver is required to
2 provide you with a written schedule of the fees charged for towing
3 and storage services before providing that service to you, including
4 those services for which there is no fee. If the fee charged is in
5 excess of the fee listed on the schedule, please notify the authority
6 or the New Jersey Division of Consumer Affairs." An operator shall
7 file a copy of the schedule of fees with the authority. Upon request
8 of the Division of Consumer Affairs in the Department of Law and
9 Public Safety, the authority shall provide a list of the registered tow
10 trucks to the division, in addition to a copy of the schedule of fees.

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

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

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

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

32 (cf: P.L.2007, c.193, s.17)

33

34 ¹[11.] 13.¹ Section 3 of P.L.1999, c.396 (C. 39:3-84.8) is
35 amended to read as follows:

36 3. a. An application for tow truck registration shall contain the
37 following information:

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

40 (2) The address of the principal business office of the towing
41 company;

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

45 (4) A valid certificate of insurance and a schedule of insured
46 vehicles that are to be utilized by the towing company from an
47 insurer authorized to do business in the State, including the amounts
48 of the garage keeper's legal liability coverage and any "on hook"

1 coverage as an endorsement or contained in a separate schedule,
2 and liability insurance coverage, including in the case of each light-
3 medium duty tow truck, motor vehicle liability insurance coverage
4 for the death of, or injury to. persons and damage to property for
5 each accident or occurrence in the amount of at least \$750,000
6 single limit, and in the case of each heavy-duty tow truck, motor
7 vehicle liability insurance coverage for the death of, or injury to,
8 persons and damage to property for each accident or occurrence in
9 the amount of at least \$1,000,000 single limit; and

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

12 **【The towing company shall include in the application a copy of
13 the registration issued to it pursuant to section 4 of P.L.2007, c.193
14 (C.56:13-10).】**

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

18 (cf: P.L.2007, c.193, s.18)

19
20 **'【12.】 14.'** The following sections are repealed:

21 Section 4 of P.L.2007, c.193 (C.56:13-10); and

22 Section 5 of P.L.2007, c.193 (C.56:13-11).

23
24 **'【13.】 15.'** This act shall take effect immediately, except that
25 section **'【3】 4'** shall remain inoperative for 90 days following the
26 effective date, but the director may take such anticipatory action as
27 may be necessary to effectuate those provisions of this act.

STATEMENT TO

ASSEMBLY, No. 3812

with Senate Floor Amendments
(Proposed by Senator GORDON)

ADOPTED: MARCH 16, 2009

These amendments make this bill identical to S2567(1R).

The amendments remove certain types of towing from the definition of private property towing, provide a new definition of towing, apply the bill to private property or other non-consensual towing, and establish unlawful practices for any towing company that provides other non-consensual services than private property towing. The amendments establish standards for presumptively unreasonable and excessive decoupling fees and revise the existing requirement that towing companies retain invoices and other service records for three years by (1) limiting application of the rule (in accordance with the bill's broader purpose) to companies engaged in non-consensual towing, and (2) clarifying that for these companies, the rule continues to apply to records of consensual, as well as non-consensual, towing services. Finally, the amendments remove the requirement that the Director of the Division of Consumer Affairs be named as an additional insured on towing company liability policies.

1 12. The following sections are repealed:
2 Section 4 of P.L.2007, c.193 (C.56:13-10); and
3 Section 5 of P.L.2007, c.193 (C.56:13-11).

4
5 13. This act shall take effect immediately, except that section 3
6 shall remain inoperative for 90 days following the effective date,
7 but the director may take such anticipatory action as may be
8 necessary to effectuate those provisions of this act.

9

10

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SPONSOR'S STATEMENT

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13

This bill revises P.L. 2007, c.193 (C.56:13-7 et seq.) known as
14 the "Predatory Towing Prevention Act."

15

The major provisions of this bill would:

16

- Limit the law to only apply to "private property towing,"
17 which is defined as "the non-consensual towing from private
18 property or from a storage facility by a motor vehicle of a
19 consumer's motor vehicle that is parked illegally, parked
20 during a time at which such parking is not permitted, or
21 otherwise parked without authorization, or the
22 immobilization of or preparation for moving or removing of
23 such motor vehicle, for which a service charge is made,
24 either directly or indirectly;"

25

- Lift the requirement for private property towers to register
26 with the Division of Consumer Affairs;

27

- Eliminate the requirement for towing companies to file a
28 tariff listing their charges for various services with the
29 Division of Consumer Affairs and for the division establish a
30 cap on allowable fees for towing and storage services;

31

- Require all fees for non-consensual towing and related
32 storage services to be "reasonable and not excessive." The
33 bill specifies that fees shall be presumptively unreasonable
34 and excessive if:

35

- they exceed by more than 25 percent, or a different
36 percentage established by the director by regulation,
37 the usual and customary fee charged for such
38 services when provided with the consent of the
39 owner or operator of the vehicle; or

40

- they exceed by more than 50 percent, or a different
41 percentage established by the director by regulation,
42 the usual and customary fee charged by other towing
43 companies or storage facilities operating in the
44 municipality from which the vehicle was towed;

45

- Prohibit fees for non-consensual towing and related storage
46 services from exceeding the maximum amounts allowed by
47 any applicable municipal ordinance;

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14

- 1 • Specify that the provisions of the Predatory Towing
2 Prevention Act do not preempt any political subdivision
3 from registering or licensing towing companies; and
- 4 • Prohibit private property towing companies from
5 monitoring, patrolling, or otherwise surveilling private
6 property, for the purposes of identifying and towing motor
7 vehicles parked for unauthorized purposes.

SENATE TRANSPORTATION COMMITTEE

STATEMENT TO

SENATE, No. 2567

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 9, 2009

The Senate Transportation Committee reports favorably Senate Bill No. 2567 with committee amendments.

This amended bill revises P.L. 2007, c.193 (C.56:13-7 et seq.), known as the "Predatory Towing Prevention Act."

The major provisions of this bill would:

- Restrict application of the law to private property and other non-consensual towing. Private property towing" is defined as "the non-consensual towing from private property or from a storage facility by a motor vehicle of a consumer's motor vehicle that is parked illegally, parked during a time at which such parking is not permitted, or otherwise parked without authorization, or the immobilization of or preparation for moving or removing of such motor vehicle, for which a service charge is made, either directly or indirectly." The term shall not include the towing of a motor vehicle on private property in violation of N.J.S.A.39:4-56.5, provided that the abandoned vehicle is reported to the appropriate law enforcement agency prior to removal and the vehicle is removed in accordance with N.J.S.A.39:4-56.6. "Non-consensual towing" means the "towing of a motor vehicle without the consent of the owner or operator of the vehicle";
- Provide a new definition of the term "towing" which includes the essential elements in the definition of "private property towing" above and also provides: "Dues or other charges of clubs or associations which provide towing services to club or association members shall not be considered a service charge for purposes of this definition";
- Remove the requirement for towers to register with the Division of Consumer Affairs;
- Eliminate the requirement for towing companies to file a tariff listing their charges for various services with the Division of Consumer Affairs and for the division to establish a cap on allowable fees for towing and storage services;

- Require all fees for private property or other non-consensual towing and related storage services to be “reasonable and not excessive.” The bill specifies that fees shall be presumptively unreasonable and excessive if:
 - they exceed by more than 25 percent, or a different percentage established by the director by regulation, the usual and customary fee charged for such services when provided with the consent of the owner or operator of the vehicle; or
 - they exceed by more than 50 percent, or a different percentage established by the director by regulation, the usual and customary fee charged for non-consensual towing or related storage service by other towing companies or storage facilities operating in the municipality from which the vehicle was towed;
- Prohibit fees for non-consensual towing and related storage services from exceeding the maximum amounts allowed by any applicable municipal ordinance;
- Specify that the provisions of the Predatory Towing Prevention Act do not preempt any political subdivision from registering or licensing towing companies; and
- Prohibit private property towing companies or any towing companies providing other non-consensual services from monitoring, patrolling, or otherwise surveilling private property, for the purposes of identifying and towing motor vehicles parked for unauthorized purposes.

The bill also provides that such companies shall not have an unreasonable or excessive decoupling fee. A decoupling fee shall be presumptively unreasonable and excessive if it exceeds by more than 25 percent, or a different percentage established by the director by regulation, the usual and customary decoupling fee charged by the towing company for a vehicles subject to consensual towing, or if it exceeds by more than 50 percent, or a different percentage established by the director by regulation, the usual and customary fee charged for vehicles subject to non-consensual towing by other private property towing companies operating in the municipality in which the vehicle was subjected to non-consensual towing.

The bill deletes the requirement that the Director of the Division of Consumer Affairs would be named as an additional insured on the liability policies that towing companies are required to maintain under the law.

Finally, the bill revises the existing requirement that towing companies retain invoices and other service records for three years by (1) limiting application of the rule (in accordance with the bill’s broader purpose) to companies engaged in non-consensual towing, and (2) clarifying that for these companies, the rule nonetheless continues

to apply to records of consensual, as well as non-consensual, towing services.

The committee amended the bill to remove certain types of towing from the definition of private property towing, provide a new definition of towing, apply the bill to private property or other non-consensual towing, and establish unlawful practices for any towing company that provides other non-consensual services than private property towing. The amendments establish standards for presumptively unreasonable and excessive decoupling fees and incorporate the revision of the three-year retention rule. Finally, the amendments remove the requirement that the Director of the Division of Consumer Affairs be named as an additional insured on towing company liability policies.

1 12. The following sections are repealed:
2 Section 4 of P.L.2007, c.193 (C.56:13-10); and
3 Section 5 of P.L.2007, c.193 (C.56:13-11).
4

5 13. This act shall take effect immediately, except that section 3
6 shall remain inoperative for 90 days following the effective date,
7 but the director may take such anticipatory action as may be
8 necessary to effectuate those provisions of this act.
9

10
11 SPONSOR'S STATEMENT
12

13 This bill revises P.L. 2007, c.193 (C.56:13-7 et seq.) known as
14 the "Predatory Towing Prevention Act."

15 The major provisions of this bill would:

- 16 • Limit the law to only apply to "private property towing,"
17 which is defined as "the non-consensual towing from private
18 property or from a storage facility by a motor vehicle of a
19 consumer's motor vehicle that is parked illegally, parked
20 during a time at which such parking is not permitted, or
21 otherwise parked without authorization, or the
22 immobilization of or preparation for moving or removing of
23 such motor vehicle, for which a service charge is made,
24 either directly or indirectly;"
- 25 • Lift the requirement for private property towers to register
26 with the Division of Consumer Affairs;
- 27 • Eliminate the requirement for towing companies to file a
28 tariff listing their charges for various services with the
29 Division of Consumer Affairs and for the division establish a
30 cap on allowable fees for towing and storage services;
- 31 • Require all fees for non-consensual towing and related
32 storage services to be "reasonable and not excessive." The
33 bill specifies that fees shall be presumptively unreasonable
34 and excessive if:
- 35 ○ they exceed by more than 25 percent, or a different
36 percentage established by the director by regulation,
37 the usual and customary fee charged for such
38 services when provided with the consent of the
39 owner or operator of the vehicle; or
- 40 ○ they exceed by more than 50 percent, or a different
41 percentage established by the director by regulation,
42 the usual and customary fee charged by other towing
43 companies or storage facilities operating in the
44 municipality from which the vehicle was towed;
- 45 • Prohibit fees for non-consensual towing and related storage
46 services from exceeding the maximum amounts allowed by
47 any applicable municipal ordinance;

S2567 GORDON

14

- 1 • Specify that the provisions of the Predatory Towing
2 Prevention Act do not preempt any political subdivision
3 from registering or licensing towing companies; and
- 4 • Prohibit private property towing companies from
5 monitoring, patrolling, or otherwise surveilling private
6 property, for the purposes of identifying and towing motor
7 vehicles parked for unauthorized purposes.