

56:13-7

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2007 **CHAPTER:** 193

NJSA: 56:13-7 (Regulates certain tows and requires licensure of towing companies)

BILL NO: A4053 (Substituted for S2759)

SPONSOR(S) Gordon and others

DATE INTRODUCED: February 26, 2007

COMMITTEE: **ASSEMBLY:** Consumer Affairs

SENATE:

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** June 21, 2007

SENATE: June 21, 2007

DATE OF APPROVAL: October 24, 2007

FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) (Second reprint enacted)

A4053

[SPONSOR'S STATEMENT](#): (Begins on page 14 of original 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:](#) [Yes](#)

[LEGISLATIVE FISCAL ESTIMATE:](#) [Yes](#)

S2759

[SPONSOR'S STATEMENT](#): (Begins on page 15 of original bill) [Yes](#)

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: Yes [6-14-07 \(Trans\)](#)
[6-18-07 \(B & A\)](#)

FLOOR AMENDMENT STATEMENT: No

[LEGISLATIVE FISCAL ESTIMATE:](#) [Yes](#)

VETO MESSAGE: No

[GOVERNOR'S PRESS RELEASE ON SIGNING:](#) [Yes](#)

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: Yes

"New curbs on towing," The Record, 10-25-07, p.A01

"Governor signs measure to prevent towing rip offs," The Press of Atlantic City, 10-25-07, p.A12

IS 5/16/08

§§1-15,25,26 -
C.56:13-7 to
56:13-23
§§25,26 - Note to
§§16-24
§24 - Repealer

P.L. 2007, CHAPTER 193, *approved October 24, 2007*
Assembly, No. 4053 (*Second Reprint*)

1 AN ACT concerning towing and towing operators and
2 supplementing P.L.1960, c.39 (C.56:8-1 et seq.) and amending
3 various parts of statutory law.
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. (New section) This ²[law] act² shall be known and may be
9 cited as the “Predatory Towing Prevention Act .”
10

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

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

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

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

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

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

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

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

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly ACO committee amendments adopted May 17, 2007.

²Senate floor amendments adopted June 21, 2007.

1 “Consumer” means a natural person.¹

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

6 ¹“Decoupling fee” means a charge by a towing company for
7 releasing a motor vehicle to its owner or operator when the vehicle
8 has been, or is about to be, hooked or lifted by a tower, but prior to
9 the vehicle actually having been moved or removed from the
10 property.¹

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

13 “Director” means the Director of the Division of Consumer
14 Affairs.

15 “Motor vehicle” includes all vehicles propelled otherwise than
16 by muscular power, excepting such vehicles as run only upon rails
17 or tracks and motorized bicycles, motorized scooters, motorized
18 wheelchairs and motorized skateboards.

19 ¹“Non-consensual towing” means the towing of a motor vehicle
20 from private or public property without the consent of the owner or
21 operator of the vehicle.¹

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

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

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

39 “Towing company” means a person offering or performing
40 towing services.

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

43

44 4. (New section)

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

- 1 b. An application for registration shall be made annually, or at
2 such other interval as the director may determine, in writing to the
3 director in the form prescribed by the director and shall be
4 accompanied by a fee, set by the director in a reasonable amount
5 sufficient to defray the division's expenses incurred in
6 administering and enforcing P.L. , c. (C.) (pending before
7 the Legislature as this bill).
- 8 c. The applicant shall state the complete street address of the
9 location or locations from which the business of towing shall be
10 conducted, indicating which is the principal location.
- 11 d. The applicant shall state the complete street address of the
12 location of each of its storage facilities and whether each is secured
13 or unsecured.
- 14 e. The applicant shall enumerate the types of towing services
15 that the applicant intends to provide and a description of the
16 vehicles, including vehicle registration number, weight, number of
17 wheels and purpose, with which the applicant intends to provide the
18 services.
- 19 f. The application shall include a valid original certificate of
20 insurance from an insurer authorized to do business in the State and
21 a schedule of insured motor vehicles that are to be utilized by the
22 applicant, including the amounts of the garage keeper's legal
23 liability coverage and any "on hook" coverage as an endorsement or
24 contained in a separate schedule, and liability insurance coverage
25 which meets or exceeds the requirements set forth in section 6 of
26 P.L. , c. (C.) (pending before the Legislature as this bill).
- 27 g. The applicant shall include a tariff listing the services that the
28 applicant provides and the fee charged for each service, which
29 meets the requirements of section 8 of P.L. , c. (C.)
30 (pending before the Legislature as this bill).
- 31 h. The applicant shall disclose whether the applicant or a person
32 with a substantial interest in the applicant, or any towing company
33 in which such person was a person with a substantial interest and
34 serving in that capacity at the time the conduct or conviction
35 required to be disclosed pursuant to this subsection occurred, has
36 engaged in any of the conduct, or was convicted of a crime,
37 specified in subsection a. of section 5 of P.L. , c. (C.)
38 (pending before the Legislature as this bill).
- 39 i. The applicant shall furnish any additional information as may
40 be required by the director.
- 41 j. If any of the information required to be included in the
42 application changes, or if additional information should be added
43 after the filing of the application, the applicant shall provide that
44 information to the director, in writing, within 30 calendar days of
45 the change or addition.
- 46 k. Upon issuance of the registration, the division shall provide
47 the registrant with decals and accompanying notices to be affixed to

1 each motor vehicle identified in the application as owned or leased
2 by the registrant to be used to perform towing services.

3

4 5. (New section)

5 a. The director may refuse to issue or may suspend or revoke,
6 any registration issued by him upon proof that the applicant or
7 holder of the registration or, if the applicant is an entity, a person
8 with a substantial interest in the applicant or holder of a
9 registration, or any towing company in which such person was a
10 person with a substantial interest and was serving in such capacity
11 at the time the conduct or conviction required to be disclosed
12 pursuant to this subsection occurred:

13 (1) has obtained a registration through fraud, deception or
14 misrepresentation;

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

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

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

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

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

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

29 (8) has been convicted of:

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

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

34 (c) any other crime under Title 2C of the New Jersey Statutes
35 relating adversely to the performance of towing services or the
36 storage of motor vehicles as determined by the director by
37 regulation.

38 b. A final refusal to register, or the suspension or revocation of a
39 registration shall not be made except upon reasonable notice to the
40 applicant or registrant, and an opportunity for the applicant or
41 registrant to be heard.

42

43 6. (New section) a. A towing company shall maintain liability
44 insurance which meets or exceeds the requirements of this section,
45 'or such other amounts as the director may determine by
46 regulation,¹ including in the case of each light-medium duty tow
47 truck, motor vehicle liability insurance coverage for the death of, or
48 injury to, persons and damage to property for each accident or

1 occurrence in the amount of at least \$750,000 single limit, and in
2 the case of each heavy-duty tow truck, motor vehicle liability
3 insurance coverage for the death of or injury to persons and damage
4 to property for each accident or occurrence in the amount of at least
5 \$1,000,000 single limit.

6 b. The director shall be named as an additional insured under
7 each insurance policy required under subsection a. of this section
8 and each policy shall provide that the issuer give the director at
9 least 10 days written notice of its intention to cancel or not renew
10 the policy.

11 'c. Nothing in this section shall preclude a State agency or
12 political subdivision, or the independent authorities or
13 instrumentalities thereof, from requiring additional or higher
14 liability insurance coverages or amounts with respect to contracts
15 for towing and storage services awarded under the authority of such
16 agency, subdivision, authority or instrumentality.'
17

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

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

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

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

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

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

40 b. A towing company shall not remove a motor vehicle from
41 private property 'without the consent of the owner or operator of
42 the vehicle,' without first obtaining the written authorization from
43 the property owner or lessee, or its employee or agent, who shall be
44 present at the time of removal and verify the alleged violation 'if it
45 occurs during normal business hours of any premises at the location
46 operated by the property owner or lessee authorizing the removal of
47 the vehicle' , except that general authorization in writing shall be

1 sufficient for the removal of a motor vehicle parked on private
2 property within 15 feet of a fire hydrant, standpipe or other water
3 source for fighting fires; in a fire lane; ~~'[or]'~~ in a manner that
4 interferes with the entrance to or exit from the property ~~';~~ or if the
5 violation occurs at a time other than during normal business hours
6 of the premises of the property owner or lessee authorizing the
7 removal of the vehicle' .

8 c. Except as provided in subsection d. of this section, the owner
9 or person in lawful possession of private property may cause the
10 removal of the motor vehicle parked on the property to a storage
11 facility within a reasonable distance of the property if signs are
12 posted on the property as required under section a. of this section
13 and the towing company complies with the requirements of this act.

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

19
20 8. (New section) a. The director by regulation shall establish a
21 schedule of towing and storage services for which a towing
22 company may charge a service fee ~~'~~, and shall specify services that
23 are ancillary to and included as part of basic towing services for
24 which no fees in addition to the basic towing service fee may be
25 charged' .

26 b. All towing companies shall file with the division a tariff
27 which lists the services the towing company provides and the fee
28 that the towing company charges for each service, which fees shall
29 be reasonable and not excessive.

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

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

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

5 c. The division shall collect and maintain the tariffs filed
6 pursuant to subsection a. of this section in an electronic system, and
7 the director shall cause the tariff data to be organized and made
8 available to the public on an Internet website in a format that
9 enables consumers to review the fees for towing services charged
10 by each registered towing company in the State. The electronic
11 system shall calculate annually and make available on the website
12 the average cost, broken down by towing service and county, of the
13 ~~'[fee charged of] fees for'~~ each towing service ~~'[fee]'~~ charged by
14 the towing companies operating in each county in the State.

15 'd. Nothing in this section shall be deemed to limit the authority
16 of a State agency or political subdivision, or the independent
17 authorities or instrumentalities thereof, to establish contract rates
18 for towing and storage services in accordance with a contract
19 awarded under the authority of such agency, subdivision, authority,
20 or instrumentality.'
21

22 9. (New section)

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

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

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

31 b. A towing company shall provide reasonable accommodations
32 for after-hours release of stored motor vehicles and shall not charge
33 a release fee or other charge for releasing motor vehicles to their
34 owners after normal business hours or on weekends.

35
36 10. (New section) It shall be an unlawful practice for any towing
37 company:

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

40 "This tow truck is registered with the New Jersey Division of
41 Consumer Affairs. The driver is required to provide you with a
42 written schedule of the fees charged for towing and storage services
43 before providing that service to you, including those services for
44 which there is no fee. If the fee charged is in excess of the fee listed
45 on the schedule, please notify the Division of Consumer Affairs at
46 ###-###-####."

47 b. (1) Except as otherwise provided in paragraph (2) of this
48 subsection, to fail to provide the person whose motor vehicle is to

1 be towed, prior to providing any towing services, a written schedule
2 of fees, the information contained in the notice required under
3 subsection a. above, the following legend, and such other
4 information as determined by the director:

5 “The fees set forth in the schedule may not exceed the tariff filed
6 with the Division of Consumer Affairs. You may review the tariff
7 on the Division’s website at XXXXX@dca.lps.state.nj.us. The
8 filing of a tariff with the Division of Consumer Affairs does not
9 imply endorsement of the fees and charges set forth in the tariff.”

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

15 c. To make, give, or cause any undue or unreasonable preference
16 or advantage, or undue or unreasonable prejudice or disadvantage,
17 to any person in any particular locality, with respect to providing
18 towing services. ¹The provision of towing services by a club or
19 association to its members in exchange for the payment of dues or
20 similar membership charges, which club or association membership
21 is generally available to the public, shall not be deemed an undue or
22 unreasonable preference or advantage within the meaning of this
23 section.¹

24 d. To give any benefit or advantage, including a pecuniary
25 benefit, to any person for providing information about motor
26 vehicles parked for unauthorized purposes on privately owned
27 property or otherwise in connection with towing from privately
28 owned property motor vehicles parked without authorization.

29 e. ¹To fail, when so requested by the owner or operator of a
30 vehicle subject to non-consensual towing, to release a vehicle to the
31 owner or operator that has been, or is about to be, hooked or lifted
32 but has not actually been moved or removed from the property
33 when the vehicle owner or operator returns to the vehicle, or to
34 charge the owner or operator requesting release of the vehicle more
35 than the decoupling fee specified in the tariff.

36 f.¹ To charge any fee ¹[in excess of the lesser of] other than¹
37 any applicable contract rate or ¹[that] , in the absence of an
38 applicable contract rate, the ²lesser of the rate set forth in an
39 applicable schedule of fees or other charges established by
40 municipal ordinance adopted pursuant to section 1 of P.L. 1979,
41 c.101 (C. 40:48-2.49) or the² rate¹ specified in ²[its] the towing
42 company's² tariff on file with the director, or to charge a fee ¹in an
43 amount or for a service¹ not listed on the tariff on file with the
44 director at the time ¹except as may be permitted by the director by
45 regulation¹. ²Nothing in this section shall preclude a towing
46 company, acting on behalf of a club or association, from charging
47 members of the club or association a fee at a rate established by

1 contract between the towing company and the club or association
 2 which is lower than the rate specified in the towing company's tariff
 3 on file with the director, provided that membership in such club or
 4 association is generally available to the public and that such rates
 5 are filed with the director pursuant to section 8 of this act.²

6 ¹[f] g¹ . To refuse to accept for payment in lieu of cash or an
 7 insurance company check for towing or storage services a debit
 8 card, charge card or credit card if the operator ordinarily accepts
 9 such card at his place of business, unless such refusal is authorized
 10 in accordance with section 4 of P.L.2002, c.67, (C.56:13-4) as
 11 amended by P.L. , c. (C.) (pending before the Legislature
 12 as this bill).

13
 14 11. (New section)

15 Every towing company shall retain and make available for
 16 inspection by the division for a period of three years, invoices, job
 17 orders, logs, claims for reimbursement from insurance companies
 18 and other documentation relating to towing services performed and
 19 rates charged for the services.

20
 21 12. (New section)

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

31
 32 13. (New section) ²[Rules and regulations; contracting
 33 authority.]²

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

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

43
 44 14. (New section) a. The provisions of this act shall preempt
 45 any political subdivision from ²[regulating,]² requiring or issuing
 46 any registration or license of any towing company ²in addition to
 47 that which is required by section 4 of this act².

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

3 (1) license and collect a general and nondiscriminatory tax upon
4 all businesses; or

5 (2) impose any additional requirements or conditions as part of
6 any contract to perform towing and recovery services for that
7 jurisdiction.

8 **'b.** The provisions of this act shall not be deemed to limit the
9 authority of the **2[new]** New² Jersey Turnpike Authority or the
10 **2[south]** South² Jersey Transportation Authority to establish rules
11 and regulations governing the provision of towing and storage
12 services on the roadways and properties under each entity's
13 respective control.¹

14

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

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

23

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

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

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

1 or the New Jersey Division of Consumer Affairs.” An operator shall
2 file a copy of the schedule of fees with the authority. Upon request
3 of the Division of Consumer Affairs in the Department of Law and
4 Public Safety, the authority shall provide a list of the registered tow
5 trucks to the division, in addition to a copy of the schedule of fees.

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

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

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

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

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

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

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

45 The decals shall set forth a specific registration number for each
46 registered tow truck. The notices shall include a statement
47 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 truck
12 shall provide the person whose vehicle is to be towed a written
13 schedule of fees and shall recite the information contained in the
14 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 found
28 to have convicted a third time for violation of any provisions of this
29 section, the authority may, in its discretion, terminate the operator’s
30 contract for towing and storage services with the authority.
31 (cf: P.L.2002, c.77, s.3)

32

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

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

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

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

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

44 (4) A valid certificate of insurance and a schedule of insured
45 vehicles that are to be utilized by the towing company from an
46 insurer authorized to do business in the state, including the amounts
47 of the garage keeper’s legal liability coverage and any “on hook”
48 coverage as an endorsement or contained in a separate schedule,

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

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

11 ~~【If a system for the licensure of towing companies has been~~
12 ~~established pursuant to section 4 of P.L.1999, c.396 (C.39:3-84.9),~~
13 ~~the】~~ The towing company shall include in the application a copy of
14 the [license] registration issued to it pursuant to [that section]
15 section 2 of P.L. , c. (C.) (pending before the Legislature
16 as this bill).

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

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

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

24 1. As used in this act:

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

27 "Credit card" means any card, plate, coupon book, or other
28 single credit device that may be used from time to time to obtain
29 credit.

30 "Operator" means a person who engages in the business of
31 transporting ~~【inoperable】~~ motor vehicles that are inoperable or
32 parked illegally or otherwise without authorization from public or
33 private property to a site where repairs may be made or the vehicle
34 may be stored and who may also perform motor vehicle repairs.

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

36
37 20. Section 3 of P.L. 2002, c. 67 (C.56:13-3) is amended to read
38 as follows:

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

1 \$50, the motorist shall be given a written estimate of the repair
2 costs.

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

4

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

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

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

26 (cf. P.L.2002, c.67, s.4)

27

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

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

39 **【The】** Subject to the requirements of section 7 of P.L. _____,
40 c. (C.) (pending before the Legislature as this bill), the owner or
41 other person in control or possession of the property on which a
42 vehicle is parked or left unattended in violation of this section may
43 remove or hire another person to remove and store the vehicle. It
44 shall be the obligation of the owner of the vehicle to pay the
45 reasonable costs for the removal and for any storage which may
46 result from such removal before he shall be entitled to recover the
47 possession of the vehicle. If the owner of the vehicle refuses to pay
48 such costs or fails to make any claim for the return of the vehicle

1 within 90 days after such removal, the vehicle may be sold at public
2 auction in accordance with the provisions of N.J.S.2A:44-20
3 through N.J.S.2A:44-31.²
4 (cf. P.L. 1999, c.340, s.10.)
5

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

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

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

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

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

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

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

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

41 (cf: P.L.1997, c.387. s.1)
42

43 ²[22.] 24.² The following sections are repealed:

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

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

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

1 Sections 3 and] ² 4 of P.L. 1997, c. 387 ² [(C.40:48-2.54 and
2 2.55)] (C.40:48-2.55)²; and

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

4

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

15

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

21

22

23

24

25 Regulates certain tows and requires licensure of towing
26 companies.

ASSEMBLY, No. 4053

STATE OF NEW JERSEY

212th LEGISLATURE

INTRODUCED FEBRUARY 26, 2007

Sponsored by:

Assemblyman ROBERT M. GORDON

District 38 (Bergen)

Assemblywoman NILSA CRUZ-PEREZ

District 5 (Camden and Gloucester)

Assemblyman JOSEPH R. MALONE, III

District 30 (Burlington, Mercer, Monmouth and Ocean)

Assemblyman GORDON M. JOHNSON

District 37 (Bergen)

Assemblyman LOUIS M. MANZO

District 31 (Hudson)

Co-Sponsored by:

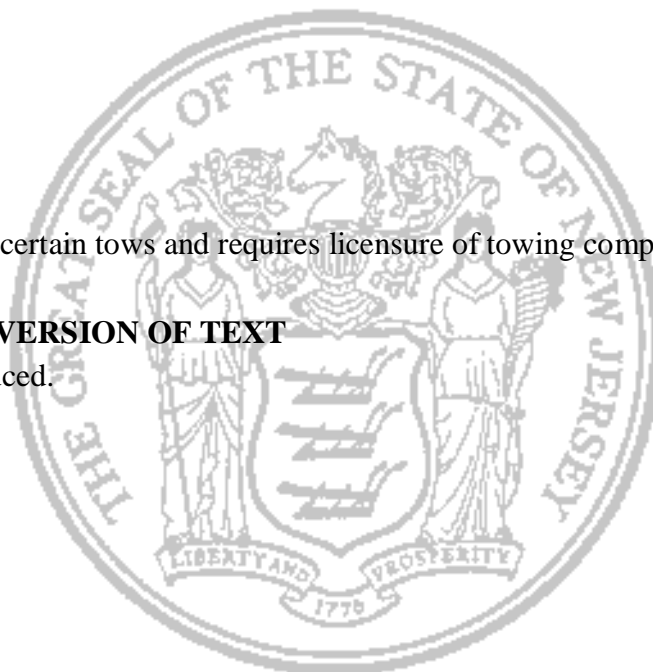
**Assemblymen Payne, Vas, Prieto, Assemblywoman Voss, Assemblymen
Rooney, Holzapfel, Assemblywoman Truitt, Assemblyman Baroni,
Assemblywoman Greenstein, Assemblymen Chatzidakis, Giblin,
Assemblywoman Vandervalk and Assemblyman Greenwald**

SYNOPSIS

Regulates certain tows and requires licensure of towing companies.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/15/2007)

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

4

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

7

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

10

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

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

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

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

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

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

33

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

35 “Contract rate” means fees for towing services established under
36 a contract between a towing company and a State agency or
37 political subdivision.

38 “Division” means the Division of Consumer Affairs in the
39 Department of Law and Public Safety.

40 “Director” means the Director of the Division of Consumer
41 Affairs.

42 “Motor vehicle” includes all vehicles propelled otherwise than
43 by muscular power, excepting such vehicles as run only upon rails
44 or tracks and motorized bicycles, motorized scooters, motorized
45 wheelchairs and motorized skateboards.

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

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

7 “Towing” means the moving or removing from public or private
8 property by a motor vehicle of another motor vehicle that is
9 damaged as a result of an accident or otherwise disabled, recovered
10 after being stolen, or is parked illegally or otherwise without
11 authorization, or the immobilization of or preparation for moving or
12 removing of such motor vehicle, for which a service charge is
13 made, either directly or indirectly, including any dues or other
14 charges of clubs or associations which provide towing services.

15 “Towing company” means a person offering or performing
16 towing services.

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

19

20 4. (New section)

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

23 b. An application for registration shall be made annually, or at
24 such other interval as the director may determine, in writing to the
25 director in the form prescribed by the director and shall be
26 accompanied by a fee, set by the director in a reasonable amount
27 sufficient to defray the division’s expenses incurred in
28 administering and enforcing P.L. , c. (C.) (pending before
29 the Legislature as this bill).

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

33 d. The applicant shall state the complete street address of the
34 location of each of its storage facilities and whether each is secured
35 or unsecured.

36 e. The applicant shall enumerate the types of towing services
37 that the applicant intends to provide and a description of the
38 vehicles, including vehicle registration number, weight, number of
39 wheels and purpose, with which the applicant intends to provide the
40 services.

41 f. The application shall include a valid original certificate of
42 insurance from an insurer authorized to do business in the State and
43 a schedule of insured motor vehicles that are to be utilized by the
44 applicant, including the amounts of the garage keeper’s legal
45 liability coverage and any “on hook” coverage as an endorsement or
46 contained in a separate schedule, and liability insurance coverage
47 which meets or exceeds the requirements set forth in section 6 of
48 P.L. , c. (C.) (pending before the Legislature as this bill).

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

5 h. The applicant shall disclose whether the applicant or a person
6 with a substantial interest in the applicant, or any towing company
7 in which such person was a person with a substantial interest and
8 serving in that capacity at the time the conduct or conviction
9 required to be disclosed pursuant to this subsection occurred, has
10 engaged in any of the conduct, or was convicted of a crime,
11 specified in subsection a. of section 5 of P.L. , c. (C.)
12 (pending before the Legislature as this bill).

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

15 j. If any of the information required to be included in the
16 application changes, or if additional information should be added
17 after the filing of the application, the applicant shall provide that
18 information to the director, in writing, within 30 calendar days of
19 the change or addition.

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

24

25 5. (New section)

26 a. The director may refuse to issue or may suspend or revoke,
27 any registration issued by him upon proof that the applicant or
28 holder of the registration or, if the applicant is an entity, a person
29 with a substantial interest in the applicant or holder of a
30 registration, or any towing company in which such person was a
31 person with a substantial interest and was serving in such capacity
32 at the time the conduct or conviction required to be disclosed
33 pursuant to this subsection occurred:

34 (1) has obtained a registration through fraud, deception or
35 misrepresentation;

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

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

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

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

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

45 (7) has violated or failed to comply on more than three occasions
46 with the provisions of section 8 of P.L. , c. (C.) (pending
47 before the Legislature as this bill) or violated or failed to comply

1 with the provisions of any other act or regulation administered by
2 the director; or

3 (8) has been convicted of:

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

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

8 (c) any other crime under Title 2C of the New Jersey Statutes
9 relating adversely to the performance of towing services or the
10 storage of motor vehicles as determined by the director by
11 regulation.

12 b. A final refusal to register, or the suspension or revocation of a
13 registration shall not be made except upon reasonable notice to the
14 applicant or registrant, and an opportunity for the applicant or
15 registrant to be heard.

16

17 6. (New section)

18 a. A towing company shall maintain liability insurance which
19 meets or exceeds the requirements of this section, including in the
20 case of each light-medium duty tow truck, motor vehicle liability
21 insurance coverage for the death of, or injury to, persons and
22 damage to property for each accident or occurrence in the amount
23 of at least \$750,000 single limit, and in the case of each heavy-duty
24 tow truck, motor vehicle liability insurance coverage for the death
25 of or injury to persons and damage to property for each accident or
26 occurrence in the amount of at least \$1,000,000 single limit.

27 b. The director shall be named as an additional insured under
28 each insurance policy required under subsection a. of this section
29 and each policy shall provide that the issuer give the director at
30 least 10 days written notice of its intention to cancel or not renew
31 the policy.

32

33 7. (New section)

34 a. No person shall tow any motor vehicle parked for an
35 unauthorized purpose from any privately owned parking lot, from
36 other private property or from any common driveway without the
37 consent of the motor vehicle owner or operator, unless the person is
38 registered with the division and the parking lot or private property
39 has posted in a conspicuous place at all entrances to the property
40 which can be easily be seen by the public, a sign no smaller than 36
41 inches high and 36 inches wide stating:

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

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

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

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

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

7 b. A towing company shall not remove a motor vehicle from
8 private property without first obtaining the written authorization
9 from the property owner or lessee, or its employee or agent, who
10 shall be present at the time of removal and verify the alleged
11 violation, 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; or in a manner that interferes
15 with the entrance to or exit from the property.

16 c. Except as provided in subsection d. of this section, the owner
17 or person in lawful possession of private property may cause the
18 removal of the motor vehicle parked on the property to a storage
19 facility within a reasonable distance of the property if signs are
20 posted on the property as required under section a. of this section
21 and the towing company complies with the requirements of this act.

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

27

28 8. (New section)

29 a. The director by regulation shall establish a schedule of towing
30 and storage services for which a towing company may charge a
31 service fee.

32 b. All towing companies shall file with the division a tariff
33 which lists the services the towing company provides and the fee
34 that the towing company charges for each service, which fees shall
35 be reasonable and not excessive.

36 (1) A towing company shall file its tariffs at least annually, in the
37 manner prescribed by the director, and may amend the services it
38 provides or the fees it charges for services provided by filing an
39 amended tariff with the division, provided however that a towing
40 company may not charge amended fees set forth in an amended
41 tariff until the division provides confirmation of receipt of the
42 amended tariff. A towing company may not modify its tariff more
43 than once during any three month period, except to add or delete a
44 service, reduce a fee or conform to the requirements of this section.

45 (2) A towing company's fee for a towing service shall be
46 presumed unreasonable and excessive if the fee exceeds 150%, or a
47 different percentage established by the director by regulation, of
48 the average fee for such service charged in the county of the towing

1 company's principal location, which figure shall be calculated
2 based upon the fees charged for such service as reported in the
3 tariffs filed by all towing companies with principal locations in the
4 same county and shall be published on an Internet website in
5 accordance with this subsection c. of this section.

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

10 c. The division shall collect and maintain the tariffs filed
11 pursuant to subsection a. of this section in an electronic system, and
12 the director shall cause the tariff data to be organized and made
13 available to the public on an Internet website in a format that
14 enables consumers to review the fees for towing services charged
15 by each registered towing company in the State. The electronic
16 system shall calculate annually and make available on the website
17 the average cost, broken down by towing service and county, of the
18 fee charged of each towing service fee charged by the towing
19 companies operating in each county in the State.

20

21 9. (New section)

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

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

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

30 b. A towing company shall provide reasonable accommodations
31 for after-hours release of stored motor vehicles and shall not charge
32 a release fee or other charge for releasing motor vehicles to their
33 owners after normal business hours or on weekends.

34

35 10. (New section)

36 It shall be an unlawful practice for any towing company:

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

39 "This tow truck is registered with the New Jersey Division of
40 Consumer Affairs. The driver is required to provide you with a
41 written schedule of the fees charged for towing and storage services
42 before providing that service to you, including those services for
43 which there is no fee. If the fee charged is in excess of the fee listed
44 on the schedule, please notify the Division of Consumer Affairs at
45 ###-###-####."

46 b. (1) Except as otherwise provided in paragraph (2) of this
47 subsection, to fail to provide the person whose motor vehicle is to
48 be towed, prior to providing any towing services, a written schedule

1 of fees, the information contained in the notice required under
2 subsection a. above, the following legend, and such other
3 information as determined by the director:

4 “The fees set forth in the schedule may not exceed the tariff filed
5 with the Division of Consumer Affairs. You may review the tariff
6 on the Division’s website at XXXXXX@dca.lps.state.nj.us. The
7 filing of a tariff with the Division of Consumer Affairs does not
8 imply endorsement of the fees and charges set forth in the tariff.”

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

14 c. To make, give, or cause any undue or unreasonable preference
15 or advantage, or undue or unreasonable prejudice or disadvantage,
16 to any person in any particular locality, with respect to providing
17 towing services.

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

23 e. To charge any fee in excess of the lesser of any applicable
24 contract rate or that specified in its tariff on file with the director, or
25 to charge a fee not listed on the tariff on file with the director at the
26 time.

27 f. To refuse to accept for payment in lieu of cash or an insurance
28 company check for towing or storage services a debit card, charge
29 card or credit card if the operator ordinarily accepts such card at his
30 place of business, unless such refusal is authorized in accordance
31 with section 4 of P.L.2002, c.67, (C.56:13-4) as amended by
32 P.L. , c. (C.) (pending before the Legislature as this bill).

33

34 11. (New section)

35 Every towing company shall retain and make available for
36 inspection by the division for a period of three years, invoices, job
37 orders, logs, claims for reimbursement from insurance companies
38 and other documentation relating to towing services performed and
39 rates charged for the services.

40

41 12. (New section)

42 There is created in the Department of the Treasury a special
43 dedicated, non-lapsing fund to be known as the “Towing and
44 Storage Administration and Enforcement Fund.” The fund shall be
45 the depository for fees, cost recoveries and penalties collected under
46 P.L. , c. (C.) (pending before the Legislature as this bill).
47 Monies deposited in the fund and the interest earned thereon shall
48 be used for the administration of this act. The Legislature shall

1 annually appropriate from the fund monies to the division for the
2 administration of this act.

3

4 13. (New section) Rules and regulations; contracting authority.

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

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

14

15 14. (New section)

16 a. The provisions of this act shall preempt any political
17 subdivision from regulating, requiring or issuing any registration or
18 license of any towing company.

19 b. This section shall not limit the existing authority of a political
20 subdivision to:

21 (1) license and collect a general and nondiscriminatory tax upon
22 all businesses; or

23 (2) impose any additional requirements or conditions as part of
24 any contract to perform towing and recovery services for that
25 jurisdiction.

26

27 15. (New section)

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

30 (b) In addition to any penalties or other remedies provided in
31 P.L.1960, c.39 (C.56:8-1 et seq.), the director may order a towing
32 company that has billed a consumer or insurer an amount in excess
33 of the fee specified in its filed tariff for the service provided to
34 reimburse the consumer or insurer for the excess cost with interest.

35

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

38 2. a. An operator awarded a contract for towing and storage
39 services by the New Jersey Turnpike Authority shall register with
40 the authority. The authority shall register any towing company
41 registered with the Division of Consumer Affairs in the Department
42 of Law and Public Safety. Upon issuance of the registration, the
43 authority shall provide the operator with two decals and
44 accompanying notices for each tow truck owned or leased by that
45 operator and to be used under the terms of the contract. The decals
46 and the accompanying notices, which shall be of a distinctive
47 design and color, shall be conspicuously displayed on the exterior

1 of each such tow truck in a manner and location prescribed by the
2 authority.

3 The decals shall set forth a specific registration number for each
4 registered tow truck. The notices shall include a statement
5 indicating substantially the following: "This tow truck is registered
6 with the New Jersey Highway Authority. The driver is required to
7 provide you with a written schedule of the fees charged for towing
8 and storage services before providing that service to you, including
9 those services for which there is no fee. If the fee charged is in
10 excess of the fee listed on the schedule, please notify the authority
11 or the New Jersey Division of Consumer Affairs." An operator shall
12 file a copy of the schedule of fees with the authority. Upon request
13 of the Division of Consumer Affairs in the Department of Law and
14 Public Safety, the authority shall provide a list of the registered tow
15 trucks to the division, in addition to a copy of the schedule of fees.

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

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

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

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

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

37

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

40 3. a. An operator awarded a contract for towing and storage
41 services by the South Jersey Transportation Authority shall register
42 with the authority. The authority shall register any towing company
43 registered with the Division of Consumer Affairs in the Department
44 of Law and Public Safety. Upon issuance of the registration, the
45 authority shall provide the operator with two decals and
46 accompanying notices for each tow truck owned or leased by that
47 operator and to be used under the terms of the contract. The decals
48 and the accompanying notices, which shall be of a distinctive

1 design and color, shall be conspicuously displayed on the exterior
2 of each such tow truck in a manner and location prescribed by the
3 authority.

4 The decals shall set forth a specific registration number for each
5 registered tow truck. The notices shall include a statement
6 indicating substantially the following: "This tow truck is registered
7 with the New Jersey Highway Authority. The driver is required to
8 provide you with a written schedule of the fees charged for towing
9 and storage services before providing that service to you, including
10 those services for which there is no fee. If the fee charged is in
11 excess of the fee listed on the schedule, please notify the authority
12 or the New Jersey Division of Consumer Affairs." An operator shall
13 file a copy of the schedule of fees with the authority. Upon request
14 of the Division of Consumer Affairs in the Department of Law and
15 Public Safety, the authority shall provide a list of the registered tow
16 trucks to the division, in addition to a copy of the schedule of fees.

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

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

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

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

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

38

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

41 3. a. An application for tow truck registration shall contain the
42 following information:

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

45 (2) The address of the principal business office of the towing
46 company;

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

4 (4) A valid certificate of insurance and a schedule of insured
5 vehicles that are to be utilized by the towing company from an
6 insurer authorized to do business in the state, including the amounts
7 of the garage keeper's legal liability coverage and any "on hook"
8 coverage as an endorsement or contained in a separate schedule,
9 and liability insurance coverage, including in the case of each light-
10 medium duty tow truck, motor vehicle liability insurance coverage
11 for the death of, or injury to, persons and damage to property for
12 each accident or occurrence in the amount of at least \$750,000
13 single limit, and in the case of each heavy-duty tow truck, motor
14 vehicle liability insurance coverage for the death of, or injury to,
15 persons and damage to property for each accident or occurrence in
16 the amount of at least \$1,000,000 single limit; and

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

19 **【If a system for the licensure of towing companies has been**
20 **established pursuant to section 4 of P.L.1999, c.396 (C.39:3-84.9),**
21 **the】** The towing company shall include in the application a copy of
22 the [license] registration issued to it pursuant to [that section]
23 section 2 of P.L. , c. (C.) (pending before the Legislature
24 as this bill).

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

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

29

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

32 1. As used in this act:

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

35 "Credit card" means any card, plate, coupon book, or other
36 single credit device that may be used from time to time to obtain
37 credit.

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

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

44

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

47 3. If the operator cannot repair the inoperable vehicle to the
48 satisfaction of the motorist he shall, with the motorist's consent,

1 subject to the provisions of P.L. , c. (C.) (pending before
2 the Legislature as this bill), transport the vehicle to the operator's
3 place of business or to another mutually agreed upon location. The
4 vehicle, once repaired, may be retained in the possession of the
5 operator or other repairer, as the case may be, pending payment,
6 pursuant to N.J.S.2A:44-20 et seq. The operator, if other than the
7 repairer, shall be eligible for reimbursement for transporting the
8 vehicle to the repair site. If the estimated cost of repairs exceeds
9 \$50, the motorist shall be given a written estimate of the repair
10 costs.

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

12

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

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

20 b. **【**If after examining the card, the operator is unable to
21 determine to his satisfaction the credit worthiness or financial
22 responsibility of the motorist, **the】** The operator may request
23 additional identification, as determined by the Director of the
24 Division of Consumer Affairs, before proceeding with repairs or
25 towing. Unless the motorist is unable to produce such identification,
26 or the operator has a bona fide reason to believe the card or other
27 identification is fictitious, altered, stolen, expired or revoked or not
28 valid for any other cause or is clearly offered with intent to defraud
29 the issuer, the debit card, charge card or credit card shall be deemed
30 an acceptable form of payment in lieu of cash if the operator
31 ordinarily accepts the card at his place of business. Nothing in this
32 act shall preclude payment by a motorist in the form of check or
33 money order, if this form of payment is acceptable to the operator.

34 (cf. P.L.2002, c.67, s.4)

35

36 22. The following sections are repealed:

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

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

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

40 Sections 3 and 4 of P.L. 1997, c. 387 (C.40:48-2.54 and 2.55);

41 and

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

43

44 23. If any section, subsection, clause or provision of this act
45 shall be adjudged unconstitutional or to be ineffective in whole or
46 in part, to the extent that it is not adjudged unconstitutional or is not
47 ineffective it shall be valid and effective and no other section,
48 subsection clause or provision of this act shall on account thereof be

1 deemed invalid or ineffective, and the applicability or invalidity of
2 any section, subsection, clause or provision of this act in any one or
3 more instances or under any one or more circumstances shall not be
4 taken to affect or prejudice in any way its applicability or validity in
5 any other instance or under any other circumstances.
6

7 24. This act shall take effect on the 360th day following
8 enactment, except that section 4 shall remain inoperative for 180
9 days following enactment, but the director may take such
10 anticipatory action as may be necessary to effectuate that provision
11 of this act.
12

13
14 STATEMENT
15

16 This bill known as “The Predatory Prevention Act” would
17 regulate the removal of vehicles that are on private property
18 without proper authorization. This bill is intended to stop the
19 practice of predatory towing, where vehicles are removed without
20 the owners notice or consent and the owner is charged exorbitant
21 for the vehicle’s return.

22 Under the provisions of this bill:

23 1) All tow truck operators must be registered with the Division
24 of Consumer Affairs in the Department of Law and Public Safety;

25 2) The director may refuse to register or revoke the registration
26 of any person who has committed acts of fraud, gross negligence,
27 professional misconduct, certain crimes, or violations of this act;

28 3) No vehicle (except for a vehicle on private residential
29 property) could be towed unless the area from which it is being
30 towed is marked with a sign indicating:

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

33 (b) that unauthorized parking is prohibited and unauthorized
34 motor vehicles will be towed at the owner’s expense;

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

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

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

43 4) Towing companies must provide the Director of the Division
44 of Consumer Affairs with a tariff which lists all of the fees for
45 services which the company performs;

46 5) The Director of the Division of Consumer Affairs is to
47 establish a fee schedule based upon the average rates filed by all
48 towing companies with principal locations in the same county;

- 1 6) Prevent a towing company from charging greater than 150%
- 2 of the average fee for towing charged in a particular county;
- 3 7) Require that vehicles be towed to a storage facility which
- 4 meets certain criteria such as hours of operation and proper
- 5 security;
- 6 8) Require vehicles to display decals indicating that they are
- 7 properly registered with the Division of Consumer Affairs; and
- 8 9) Prevent towing companies from offering “kick backs” to any
- 9 person who provides information about an illegally parked vehicle.

ASSEMBLY CONSUMER AFFAIRS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4053

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 17, 2007

The Assembly Consumer Affairs Committee reports favorably and with committee amendments Assembly Bill No. 4053.

As amended, Assembly Bill No. 4053, known as "The Predatory Prevention Act," regulates the removal of vehicles that are on private property without proper authorization. This bill is intended to stop the practice of predatory towing, where a vehicle is removed without the owner's notice or consent and the owner is charged an exorbitant fee for the vehicle's return.

Under the provisions of this bill:

1) All tow truck operators must be registered with the Division of Consumer Affairs in the Department of Law and Public Safety;

2) The director may refuse to register or revoke the registration of any person who has committed acts of fraud, gross negligence, professional misconduct, certain crimes, or violations of this act;

3) No vehicle (except for a vehicle on private residential property) could be towed unless the area from which it is being towed is marked with a sign indicating:

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

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

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

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

(e) the street address of the storage facility where the towed vehicles can be redeemed after payment of the posted charges and the times during which the vehicle may be redeemed;

4) Towing companies must provide the Director of the Division of Consumer Affairs with a tariff which lists all of the fees for services which the company performs;

5) The Director of the Division of Consumer Affairs is to establish a fee schedule based upon the average rates filed by all towing companies with principal locations in the same county;

6) Towing companies are prevented from charging greater than 150% of the average fee for towing charged in a particular county;

7) Vehicles must be towed to a storage facility which meets certain criteria such as hours of operation and proper security;

8) Tow trucks must display decals indicating that they are properly registered with the Division of Consumer Affairs; and

9) Towing companies are prevented from offering “kick backs” to any person who provides information about an illegally parked vehicle.

COMMITTEE AMENDMENTS

At the sponsor's request, the committee amended the bill to:

- Clarify and add certain definitions;
- Clarify that certain provisions of the bill do not apply to State agencies, political subdivisions, or their independent authorities or instrumentalities;
- Limit the requirement that the property owner or lessee authorizing the removal of a vehicle be present at the time of removal to the premises' normal business hours;
- Require the Director of Consumer Affairs to specify services that are ancillary to and included in basic towing services, for which no additional fees may be charged;
- Exclude towing services provided by a club or association to its members, in exchange for the payment of dues or similar membership charges;
- Require towing companies to release a vehicle subject to non-consensual towing to its owner if it has not been moved when the owner returns, and to prohibit the charging of any more than the decoupling fee specified in the tariff for such release;
- Clarify when a towing company may charge the contract rate as opposed to the rate specified in the tariff; and
- Make technical corrections and clarifications.

STATEMENT TO
[First Reprint]
ASSEMBLY, No. 4053

with Senate Floor Amendments
(Proposed By Senator CONIGLIO)

ADOPTED: JUNE 21, 2007

These floor amendments amend the bill to permit a towing company to charge the lesser of the rate set forth by municipal ordinance or the rate specified in the towing company's tariff. The amendments also provide that a municipality may not establish charges for towing services that are not included in the schedule of towing services for which a towing company may charge a towing fee established by the Director of the Division of Consumer Affairs. The amendments delete repealers relating to abandonment of vehicles on private property and the municipal regulation of towing services, as well as make technical corrections to the bill. Finally, the amendments delay the operative date of section 4 of the bill to 180 days after the effective date of the bill.

With these amendments, this bill is identical to S2759 (1R).

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 4053

STATE OF NEW JERSEY 212th LEGISLATURE

DATED: JUNE 20, 2007

SUMMARY

Synopsis: Regulates certain tows and requires licensure of towing companies.

Type of Impact: Indeterminate minimal expenditure estimated to be offset by fees.

Agencies Affected: Department of Law and Public Safety; Division of Consumer Affairs

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	Indeterminate - See Comments Below		
State Revenue	Indeterminate - See Comments Below		

- The Office of Legislative Services determines that this bill has an indeterminate minimal fiscal impact to the State, however notes that the bill establishes that the Director of the Division of Consumer Affairs may charge registrants a fee to offset the administrative costs associated with this bill.
- Regulates certain tows and requires licensure of towing companies through “The Predatory Prevention Act.”
- Requires tow truck operators to register with the Director of the Division of Consumer Affairs and pay a fee as prescribed by the director to offset administration costs.
- Establishes the “Towing and Storage Administration Fund” and instructs the Legislature to annually appropriate money from the fund to pay for the administration of this act.
- Establishes penalties for violating this act.

BILL DESCRIPTION

Assembly Bill No. 4053 (1R) of 2007 or the “The Predatory Prevention Act,” regulates the removal of vehicles that are on private property without proper authorization. This bill is intended to stop the practice of predatory towing, where a vehicle is removed without the owner’s notice or consent and the owner is charged an exorbitant fee for the vehicle’s return.

This bill requires that all tow truck operators be registered with the Division of Consumer Affairs in the Department of Law and Public Safety. They must also provide the Director of the Division of Consumer Affairs with a tariff which lists all of the fees for services which the company performs.

This bill also established a set of guidelines that tow truck operators are to abide by as a licensed State tow operator. The bill also requires the Director of the Division of Consumer Affairs to establish a fee schedule based upon the average rates filed by all towing companies with principal locations in the same county.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services determines this bill has an indeterminate minimal fiscal impact to the State. The bill establishes that the Director of the Division of Consumer Affairs may charge registrants a fee to offset the administrative costs associated with this bill.

Section: Law and Public Safety

*Analyst: Kristin A. Brunner
Associate Fiscal Analyst*

*Approved: David J. Rosen
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L. 1980, c.67.

SENATE, No. 2759

STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED MAY 24, 2007

Sponsored by:

Senator JOSEPH CONIGLIO

District 38 (Bergen)

Senator BARBARA BUONO

District 18 (Middlesex)

Co-Sponsored by:

Senator Weinberg

SYNOPSIS

Regulates certain tows and requires licensure of towing companies.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/8/2007)

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

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

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

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

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

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

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

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

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

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

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

38 “Consumer” means a natural person.

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

43 “Decoupling fee” means a charge by a towing company for
44 releasing a motor vehicle to its owner or operator when the vehicle
45 has been, or is about to be, hooked or lifted by a tower, but prior to

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 the vehicle actually having been moved or removed from the
2 property.

3 “Division” means the Division of Consumer Affairs in the
4 Department of Law and Public Safety.

5 “Director” means the Director of the Division of Consumer
6 Affairs.

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

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

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

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

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

30 “Towing company” means a person offering or performing
31 towing services.

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

34

35 4. (New section) a. No person shall offer to perform, or engage,
36 or attempt to engage in the business of towing unless registered
37 with the division.

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

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

- 1 d. The applicant shall state the complete street address of the
2 location of each of its storage facilities and whether each is secured
3 or unsecured.
- 4 e. The applicant shall enumerate the types of towing services
5 that the applicant intends to provide and a description of the
6 vehicles, including vehicle registration number, weight, number of
7 wheels and purpose, with which the applicant intends to provide the
8 services.
- 9 f. The application shall include a valid original certificate of
10 insurance from an insurer authorized to do business in the State and
11 a schedule of insured motor vehicles that are to be utilized by the
12 applicant, including the amounts of the garage keeper's legal
13 liability coverage and any "on hook" coverage as an endorsement or
14 contained in a separate schedule, and liability insurance coverage
15 which meets or exceeds the requirements set forth in section 6 of
16 P.L. , c. (C.) (pending before the Legislature as this bill).
- 17 g. The applicant shall include a tariff listing the services that
18 the applicant provides and the fee charged for each service, which
19 meets the requirements of section 8 of P.L. , c. (C.) (pending
20 before the Legislature as this bill).
- 21 h. The applicant shall disclose whether the applicant or a
22 person with a substantial interest in the applicant, or any towing
23 company in which such person was a person with a substantial
24 interest and serving in that capacity at the time the conduct or
25 conviction required to be disclosed pursuant to this subsection
26 occurred, has engaged in any of the conduct, or was convicted of a
27 crime, specified in subsection a. of section 5 of P.L. , c. (C.)
28 (pending before the Legislature as this bill).
- 29 i. The applicant shall furnish any additional information as
30 may be required by the director.
- 31 j. If any of the information required to be included in the
32 application changes, or if additional information should be added
33 after the filing of the application, the applicant shall provide that
34 information to the director, in writing, within 30 calendar days of
35 the change or addition.
- 36 k. Upon issuance of the registration, the division shall provide
37 the registrant with decals and accompanying notices to be affixed to
38 each motor vehicle identified in the application as owned or leased
39 by the registrant to be used to perform towing services.
- 40
- 41 5. (New section) a. The director may refuse to issue or may
42 suspend or revoke, any registration issued by him upon proof that
43 the applicant or holder of the registration or, if the applicant is an
44 entity, a person with a substantial interest in the applicant or holder
45 of a registration, or any towing company in which such person was
46 a person with a substantial interest and was serving in such capacity
47 at the time the conduct or conviction required to be disclosed
48 pursuant to this subsection occurred:

- 1 (1) has obtained a registration through fraud, deception or
2 misrepresentation;
- 3 (2) has engaged in the use or employment of dishonesty, fraud,
4 deception, misrepresentation, false promise or false pretense;
- 5 (3) has engaged in gross negligence or gross incompetence;
- 6 (4) has engaged in repeated acts of negligence or incompetence;
- 7 (5) has engaged in professional or occupational misconduct as
8 may be determined by the director;
- 9 (6) has had his authority to engage in the activity regulated by
10 the director revoked or suspended by any other state, agency or
11 authority for reasons consistent with this section;
- 12 (7) has violated or failed to comply on more than three
13 occasions with the provisions of section 8 of P.L. , c. (C.)
14 (pending before the Legislature as this bill) or violated or failed to
15 comply with the provisions of any other act or regulation
16 administered by the director; or
- 17 (8) has been convicted of:
- 18 (a) a crime under Chapter 11, 12, 13 14 or 15 under Title 2C of
19 the New Jersey Statutes;
- 20 (b) motor vehicle theft or any crime involving a motor vehicle
21 under Chapter 20 of Title 2C of the New Jersey Statutes; or
- 22 (c) any other crime under Title 2C of the New Jersey Statutes
23 relating adversely to the performance of towing services or the
24 storage of motor vehicles as determined by the director by
25 regulation.
- 26 b. A final refusal to register, or the suspension or revocation of
27 a registration shall not be made except upon reasonable notice to
28 the applicant or registrant, and an opportunity for the applicant or
29 registrant to be heard.
- 30
- 31 6. (New section) a. A towing company shall maintain liability
32 insurance which meets or exceeds the requirements of this section,
33 or such other amounts as the director may determine by regulation,
34 including in the case of each light-medium duty tow truck, motor
35 vehicle liability insurance coverage for the death of, or injury to,
36 persons and damage to property for each accident or occurrence in
37 the amount of at least \$750,000 single limit, and in the case of each
38 heavy-duty tow truck, motor vehicle liability insurance coverage for
39 the death of or injury to persons and damage to property for each
40 accident or occurrence in the amount of at least \$1,000,000 single
41 limit.
- 42 b. The director shall be named as an additional insured under
43 each insurance policy required under subsection a. of this section
44 and each policy shall provide that the issuer give the director at
45 least 10 days written notice of its intention to cancel or not renew
46 the policy.
- 47 c. Nothing in this section shall preclude a State agency or
48 political subdivision, or the independent authorities or

1 instrumentalities thereof, from requiring additional or higher
2 liability insurance coverages or amounts with respect to contracts
3 for towing and storage services awarded under the authority of such
4 agency, subdivision, authority or instrumentality.

5

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

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

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

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

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

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

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

43 c. Except as provided in subsection d. of this section, the
44 owner or person in lawful possession of private property may cause
45 the removal of the motor vehicle parked on the property to a storage
46 facility within a reasonable distance of the property if signs are
47 posted on the property as required under section a. of this section
48 and the towing company complies with the requirements of this act.

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

6
7 8. (New section) a. The director by regulation shall establish a
8 schedule of towing and storage services for which a towing
9 company may charge a service fee , and shall specify services that
10 are ancillary to and included as part of basic towing services for
11 which no fees in addition to the basic towing service fee may be
12 charged.

13 b. All towing companies shall file with the division a tariff
14 which lists the services the towing company provides and the fee
15 that the towing company charges for each service, which fees shall
16 be reasonable and not excessive.

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

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

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

39 c. The division shall collect and maintain the tariffs filed
40 pursuant to subsection a. of this section in an electronic system, and
41 the director shall cause the tariff data to be organized and made
42 available to the public on an Internet website in a format that
43 enables consumers to review the fees for towing services charged
44 by each registered towing company in the State. The electronic
45 system shall calculate annually and make available on the website
46 the average cost, broken down by towing service and county, of the
47 fees for each towing service charged by the towing companies
48 operating in each county in the State.

1 d. Nothing in this section shall be deemed to limit the authority
2 of a State agency or political subdivision, or the independent
3 authorities or instrumentalities thereof, to establish contract rates
4 for towing and storage services in accordance with a contract
5 awarded under the authority of such agency, subdivision, authority,
6 or instrumentality.

7
8 9. (New section) a. No person shall tow a motor vehicle
9 pursuant to section 7 of P.L. , c. (C.) (pending before the
10 Legislature as this bill) to a storage facility or store such vehicle at
11 a storage facility unless the storage facility:

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

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

16 b. A towing company shall provide reasonable
17 accommodations for after-hours release of stored motor vehicles
18 and shall not charge a release fee or other charge for releasing
19 motor vehicles to their owners after normal business hours or on
20 weekends.

21
22 10. (New section) It shall be an unlawful practice for any towing
23 company:

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

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

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

39 "The fees set forth in the schedule may not exceed the tariff filed
40 with the Division of Consumer Affairs. You may review the tariff
41 on the Division's website at XXXXX@dca.lps.state.nj.us. The
42 filing of a tariff with the Division of Consumer Affairs does not
43 imply endorsement of the fees and charges set forth in the tariff."

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

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

10 d. To give any benefit or advantage, including a pecuniary
11 benefit, to any person for providing information about motor
12 vehicles parked for unauthorized purposes on privately owned
13 property or otherwise in connection with towing from privately
14 owned property motor vehicles parked without authorization.

15 e. To fail, when so requested by the owner or operator of a
16 vehicle subject to non-consensual towing, to release a vehicle to the
17 owner or operator that has been, or is about to be, hooked or lifted
18 but has not actually been moved or removed from the property
19 when the vehicle owner or operator returns to the vehicle, or to
20 charge the owner or operator requesting release of the vehicle more
21 than the decoupling fee specified in the tariff.

22 f. To charge any fee other than any applicable contract rate or,
23 in the absence of an applicable contract rate, the rate specified in its
24 tariff on file with the director, or to charge a fee in an amount or for
25 a service not listed on the tariff on file with the director at the time
26 except as may be permitted by the director by regulation.

27 g. To refuse to accept for payment in lieu of cash or an
28 insurance company check for towing or storage services a debit
29 card, charge card or credit card if the operator ordinarily accepts
30 such card at his place of business, unless such refusal is authorized
31 in accordance with section 4 of P.L.2002, c.67, (C.56:13-4) as
32 amended by P.L. , c. (C.) (pending before the Legislature as
33 this bill).

34
35 11. (New section) Every towing company shall retain and make
36 available for inspection by the division for a period of three years,
37 invoices, job orders, logs, claims for reimbursement from insurance
38 companies and other documentation relating to towing services
39 performed and rates charged for the services.

40
41 12. (New section) There is created in the Department of the
42 Treasury a special dedicated, non-lapsing fund to be known as the
43 "Towing and Storage Administration and Enforcement Fund." The
44 fund shall be the depository for fees, cost recoveries and penalties
45 collected under P.L. , c. (C.) (pending before the Legislature
46 as this bill). Monies deposited in the fund and the interest earned
47 thereon shall be used for the administration of this act. The

1 Legislature shall annually appropriate from the fund monies to the
2 division for the administration of this act.

3

4 13. (New section) Rules and regulations; contracting authority.

5 a. The director, pursuant to the provisions of the
6 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
7 seq.), may promulgate rules and regulations to effectuate the
8 purposes of this act.

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

14

15 14. (New section) a. The provisions of this act shall preempt
16 any political subdivision from regulating, requiring or issuing any
17 registration or license of any towing company.

18 This section shall not limit the existing authority of a political
19 subdivision to:

20 (1) license and collect a general and nondiscriminatory tax upon
21 all businesses; or

22 (2) impose any additional requirements or conditions as part of
23 any contract to perform towing and recovery services for that
24 jurisdiction.

25 b. The provisions of this act shall not be deemed to limit the
26 authority of the new Jersey Turnpike Authority or the south Jersey
27 Transportation Authority to establish rules and regulations
28 governing the provision of towing and storage services on the
29 roadways and properties under each entity’s respective control.

30

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

33 b. In addition to any penalties or other remedies provided in
34 P.L.1960, c.39 (C.56:8-1 et seq.), the director may order a towing
35 company that has billed a consumer or insurer an amount in excess
36 of the fee specified in its filed tariff for the service provided to
37 reimburse the consumer or insurer for the excess cost with interest.

38

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

41 2. a. An operator awarded a contract for towing and storage
42 services by the New Jersey Turnpike Authority shall register with
43 the authority. In order to be eligible to bid for the award of such a
44 contract, an operator shall have registered with the Division of
45 Consumer Affairs in the Department of Law and Public Safety
46 pursuant to section 4 of P.L. , c. (C.) (pending before the
47 Legislature as this bill). Upon issuance of the registration, the
48 authority shall provide the operator with two decals and

1 accompanying notices for each tow truck owned or leased by that
2 operator and to be used under the terms of the contract. The decals
3 and the accompanying notices, which shall be of a distinctive
4 design and color, shall be conspicuously displayed on the exterior
5 of each such tow truck in a manner and location prescribed by the
6 authority.

7 The decals shall set forth a specific registration number for each
8 registered tow truck. The notices shall include a statement
9 indicating substantially the following: "This tow truck is registered
10 with the New Jersey Highway Authority. The driver is required to
11 provide you with a written schedule of the fees charged for towing
12 and storage services before providing that service to you, including
13 those services for which there is no fee. If the fee charged is in
14 excess of the fee listed on the schedule, please notify the authority
15 or the New Jersey Division of Consumer Affairs." An operator shall
16 file a copy of the schedule of fees with the authority. Upon request
17 of the Division of Consumer Affairs in the Department of Law and
18 Public Safety, the authority shall provide a list of the registered tow
19 trucks to the division, in addition to a copy of the schedule of fees.

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

24 c. An operator who fails to display the decals and notices
25 required by subsection a. of this section or the driver of a tow truck
26 who fails to provide a person to be towed the written schedule of
27 fees or recite the information contained in the notice prior to
28 providing a towing service as required by subsection b. of this
29 section shall be subject to a fine of \$300 for the first offense. For
30 the second and any subsequent offense the operator or the driver, as
31 the case may be, shall be subject to a fine of \$600.

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

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

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

41

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

44 3. a. An operator awarded a contract for towing and storage
45 services by the South Jersey Transportation Authority shall register
46 with the authority. In order to be eligible to bid for the award of
47 such a contract, an operator shall have registered with the Division
48 of Consumer Affairs in the Department of Law and Public Safety

1 pursuant to section 4 of P.L. , c. (C.) (pending before the
2 Legislature as this bill). Upon issuance of the registration, the
3 authority shall provide the operator with two decals and
4 accompanying notices for each tow truck owned or leased by that
5 operator and to be used under the terms of the contract. The decals
6 and the accompanying notices, which shall be of a distinctive
7 design and color, shall be conspicuously displayed on the exterior
8 of each such tow truck in a manner and location prescribed by the
9 authority.

10 The decals shall set forth a specific registration number for each
11 registered tow truck. The notices shall include a statement
12 indicating substantially the following: "This tow truck is registered
13 with the New Jersey Highway Authority. The driver is required to
14 provide you with a written schedule of the fees charged for towing
15 and storage services before providing that service to you, including
16 those services for which there is no fee. If the fee charged is in
17 excess of the fee listed on the schedule, please notify the authority
18 or the New Jersey Division of Consumer Affairs." An operator shall
19 file a copy of the schedule of fees with the authority. Upon request
20 of the Division of Consumer Affairs in the Department of Law and
21 Public Safety, the authority shall provide a list of the registered tow
22 trucks to the division, in addition to a copy of the schedule of fees.

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

27 c. An operator who fails to display the decals and notices
28 required by subsection a. of this section or the driver of a tow truck
29 who fails to provide a person to be towed the written schedule of
30 fees or recite the information contained in the notice prior to
31 providing a towing service as required by subsection b. of this
32 section shall be subject to a fine of \$300 for the first offense. For
33 the second and any subsequent offense the operator or the driver, as
34 the case may be, shall be subject to a fine of \$600.

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

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

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

45

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

1 3. a. An application for tow truck registration shall contain the
2 following information:

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

5 (2) The address of the principal business office of the towing
6 company;

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

10 (4) A valid certificate of insurance and a schedule of insured
11 vehicles that are to be utilized by the towing company from an
12 insurer authorized to do business in the state, including the amounts
13 of the garage keeper's legal liability coverage and any "on hook"
14 coverage as an endorsement or contained in a separate schedule,
15 and liability insurance coverage, including in the case of each light-
16 medium duty tow truck, motor vehicle liability insurance coverage
17 for the death of, or injury to. persons and damage to property for
18 each accident or occurrence in the amount of at least \$750,000
19 single limit, and in the case of each heavy-duty tow truck, motor
20 vehicle liability insurance coverage for the death of, or injury to,
21 persons and damage to property for each accident or occurrence in
22 the amount of at least \$1,000,000 single limit; and

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

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

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

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

35

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

38 1. As used in this act:

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

41 "Credit card" means any card, plate, coupon book, or other
42 single credit device that may be used from time to time to obtain
43 credit.

44 "Operator" means a person who engages in the business of
45 transporting 【inoperable】 motor vehicles that are inoperable or
46 parked illegally or otherwise without authorization from public or
47 private property to a site where repairs may be made or the vehicle

1 may be stored and who may also perform motor vehicle repairs.
2 (cf. P.L.2002, c.67, s.1)

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

6 3. If the operator cannot repair the inoperable vehicle to the
7 satisfaction of the motorist he shall, with the motorist's consent,
8 subject to the provisions of P.L. , c. (C.) (pending before the
9 Legislature as this bill), transport the vehicle to the operator's place
10 of business or to another mutually agreed upon location. The
11 vehicle, once repaired, may be retained in the possession of the
12 operator or other repairer, as the case may be, pending payment,
13 pursuant to N.J.S.2A:44-20 et seq. The operator, if other than the
14 repairer, shall be eligible for reimbursement for transporting the
15 vehicle to the repair site. If the estimated cost of repairs exceeds
16 \$50, the motorist shall be given a written estimate of the repair
17 costs.

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

19

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

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

27 b. **[If after examining the card, the operator is unable to**
28 **determine to his satisfaction the credit worthiness or financial**
29 **responsibility of the motorist, the]** The operator may request
30 additional identification, as determined by the Director of the
31 Division of Consumer Affairs, before proceeding with repairs or
32 towing. Unless the motorist is unable to produce such identification,
33 or the operator has a bona fide reason to believe the card or other
34 identification is fictitious, altered, stolen, expired or revoked or not
35 valid for any other cause or is clearly offered with intent to defraud
36 the issuer, the debit card, charge card or credit card shall be deemed
37 an acceptable form of payment in lieu of cash if the operator
38 ordinarily accepts the card at his place of business. Nothing in this
39 act shall preclude payment by a motorist in the form of check or
40 money order, if this form of payment is acceptable to the operator.

41 (cf. P.L.2002, c.67, s.4)

42

43 22. The following sections are repealed:

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

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

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

1 Sections 3 and 4 of P.L. 1997, c. 387 (C.40:48-2.54 and 2.55);
2 and

3 Section 5 of P.L. 1997, c.387 (C.56:8-2.26)
4

5 23. If any section, subsection, clause or provision of this act
6 shall be adjudged unconstitutional or to be ineffective in whole or
7 in part, to the extent that it is not adjudged unconstitutional or is not
8 ineffective it shall be valid and effective and no other section,
9 subsection clause or provision of this act shall on account thereof be
10 deemed invalid or ineffective, and the applicability or invalidity of
11 any section, subsection, clause or provision of this act in any one or
12 more instances or under any one or more circumstances shall not be
13 taken to affect or prejudice in any way its applicability or validity in
14 any other instance or under any other circumstances.
15

16 24. This act shall take effect on the 360th day following
17 enactment, except that section 4 shall remain inoperative for 180
18 days following enactment, but the director may take such
19 anticipatory action as may be necessary to effectuate that provision
20 of this act.
21

22
23 STATEMENT
24

25 This bill, known as “The Predatory Prevention Act,” regulates
26 the removal of vehicles that are on private property without proper
27 authorization. This bill is intended to stop the practice of predatory
28 towing, where a vehicle is removed without the owner’s notice or
29 consent and the owner is charged an exorbitant fee for the vehicle’s
30 return.

31 Under the provisions of this bill:

32 1) All tow truck operators must be registered with the Division
33 of Consumer Affairs in the Department of Law and Public Safety;

34 2) The director may refuse to register or revoke the registration
35 of any person who has committed acts of fraud, gross negligence,
36 professional misconduct, certain crimes, or violations of this act;

37 3) No vehicle (except for a vehicle on private residential
38 property) could be towed unless the area from which it is being
39 towed is marked with a sign indicating:

40 (a) the purpose or purposes for which parking is authorized and
41 the times during which such parking is permitted;

42 (b) that unauthorized parking is prohibited and unauthorized
43 motor vehicles will be towed at the owner’s expense;

44 (c) the name, address, and telephone number of the towing
45 company that will perform the towing;

46 (d) the charges, which shall not exceed the fee specified in the
47 tariff on file with the director, for the towing and storage of towed
48 motor vehicles; and

- 1 (e) the street address of the storage facility where the towed
2 vehicles can be redeemed after payment of the posted charges and
3 the times during which the vehicle may be redeemed;
- 4 4) Towing companies must provide the Director of the Division
5 of Consumer Affairs with a tariff which lists all of the fees for
6 services which the company performs;
- 7 5) The Director of the Division of Consumer Affairs is to
8 establish a fee schedule based upon the average rates filed by all
9 towing companies with principal locations in the same county;
- 10 6) Towing companies are prevented from charging greater than
11 150% of the average fee for towing charged in a particular county;
- 12 7) Vehicles must be towed to a storage facility which meets
13 certain criteria such as hours of operation and proper security;
- 14 8) Tow trucks must display decals indicating that they are
15 properly registered with the Division of Consumer Affairs; and
- 16 9) Towing companies are prevented from offering "kick backs"
17 to any person who provides information about an illegally parked
18 vehicle.

SENATE TRANSPORTATION COMMITTEE

STATEMENT TO

SENATE, No. 2759

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 14, 2007

The Senate Transportation Committee reports favorably Senate Bill No. 2759 with committee amendments.

This bill, known as “The Predatory Towing Prevention Act,” regulates the removal of vehicles that are on private property without proper authorization. This bill is intended to stop the practice of predatory towing, where a vehicle is removed without the owner’s notice or consent and the owner is charged an exorbitant fee for the vehicle’s return.

Under the provisions of this bill:

1) All tow truck operators must be registered with the Division of Consumer Affairs in the Department of Law and Public Safety;

2) The Director of the Division of Consumer Affairs (“the director”) may refuse to register or revoke the registration of any person who has committed acts of fraud, gross negligence, professional misconduct, certain crimes, or violations of this act;

3) No vehicle (except for a vehicle on private residential property) could be towed unless the area from which it is being towed is marked with a sign indicating:

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

(b) that unauthorized parking is prohibited and unauthorized motor vehicles will be towed at the owner’s expense;

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

(d) the charges, which shall not exceed the lesser of the fee specified in the tariff on file with the director for the towing and storage of towed motor vehicles or the rate set forth by municipal ordinance; and

(e) the street address of the storage facility where the towed vehicles can be redeemed after payment of the posted charges and the times during which the vehicle may be redeemed;

4) Towing companies must provide the director with a tariff which lists all of the fees for services which the company performs;

5) The director is to establish a fee schedule based upon the average rates filed by all towing companies with principal locations in the same county;

6) Towing companies are prevented from charging greater than 150% of the average fee for towing charged in a particular county or a percentage set by the director by regulation;

7) Vehicles must be towed to a storage facility which meets certain criteria, such as hours of operation and proper security;

8) Tow trucks must display decals indicating that they are properly registered with the Division of Consumer Affairs; and

9) Towing companies are prevented from offering “kick backs” to any person who provides information about an illegally parked vehicle.

Nothing in the bill shall be construed to authorize a municipality to establish charges for towing services that are not included in the schedule of towing services for which a towing company may charge a service fee established by the director.

The bill repeals laws dealing with the licensing of towing companies under Title 39, the model schedule of fees and the charging of discriminatory fees.

The committee amended the bill to permit a towing company to charge the lesser of the rate set forth by municipal ordinance or the rate specified in the towing company’s tariff. The committee also amended the bill to provide that a municipality may not establish charges for towing services that are not included in the schedule of towing services for which a towing company may charge a towing fee established by the director. The committee amendments also deleted repealers relating to abandonment of vehicles on private property, the municipal regulation of towing services and made technical corrections to the bill. The amendments also delay the operative date of section 4 of the bill to 180 days after the effective date of the bill.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 2759

STATE OF NEW JERSEY

DATED: JUNE 18, 2007

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 2759 (1R).

This bill, known as “The Predatory Prevention Act,” regulates the removal of vehicles that are on private property without proper authorization. This bill is intended to stop the practice of predatory towing, where a vehicle is removed without the owner’s notice or consent and the owner is charged an exorbitant fee for the vehicle’s return.

Under the provisions of this bill:

- 1) All tow truck operators must be registered with the Division of Consumer Affairs in the Department of Law and Public Safety;
- 2) The director may refuse to register or revoke the registration of any person who has committed acts of fraud, gross negligence, professional misconduct, certain crimes, or violations of this act;
- 3) No vehicle (except for a vehicle on private residential property) could be towed unless the area from which it is being towed is marked with a sign indicating:
 - (a) the purpose or purposes for which parking is authorized and the times during which such parking is permitted;
 - (b) that unauthorized parking is prohibited and unauthorized motor vehicles will be towed at the owner’s expense;
 - (c) the name, address, and telephone number of the towing company that will perform the towing;
 - (d) the charges, which shall not exceed the fee specified in the tariff on file with the director, for the towing and storage of towed motor vehicles; and
 - (e) the street address of the storage facility where the towed vehicles can be redeemed after payment of the posted charges and the times during which the vehicle may be redeemed;
- 4) Towing companies must provide the Director of the Division of Consumer Affairs with a tariff which lists all of the fees for services which the company performs;
- 5) The Director of the Division of Consumer Affairs is to establish a fee schedule based upon the average rates filed by all towing companies with principal locations in the same county;

6) Towing companies are prevented from charging greater than 150% of the average fee for towing charged in a particular county;

7) Vehicles must be towed to a storage facility which meets certain criteria such as hours of operation and proper security;

8) Tow trucks must display decals indicating that they are properly registered with the Division of Consumer Affairs; and

9) Towing companies are prevented from offering “kick backs” to any person who provides information about an illegally parked vehicle.

FISCAL IMPACT:

There are no available data by which to estimate the revenue and expenditures impacts of this bill.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 2759

STATE OF NEW JERSEY 212th LEGISLATURE

DATED: JULY 11, 2007

SUMMARY

- Synopsis:** Regulates certain tows and requires licensure of towing companies.
- Type of Impact:** Indeterminate minimal expenditure estimated to be offset by fees.
- Agencies Affected:** Department of Law and Public Safety; Division of Consumer Affairs

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	Indeterminate - See Comments Below		
State Revenue	Indeterminate - See Comments Below		

- The Office of Legislative Services determines that this bill has an indeterminate minimal fiscal impact to the State as the bill establishes that the Director of the Division of Consumer Affairs may charge registrants a fee to offset the administrative costs associated with this bill.
- Regulates certain tows and requires licensure of towing companies through “The Predatory Prevention Act.”
- Requires tow truck operators to register with the Director of the Division of Consumer Affairs and pay a fee as prescribed by the director to offset administration costs.
- Establishes the “Towing and Storage Administration Fund” and instructs the Legislature to annually appropriate money from the fund to pay for the administration of this act.
- Establishes penalties for violating this act.

BILL DESCRIPTION

Senate Bill No. 2759 (1R) of 2007 or the “The Predatory Prevention Act,” regulates the removal of vehicles that are on private property without proper authorization. This bill is intended to stop the practice of predatory towing, where a vehicle is removed without the owner’s notice or consent and the owner is charged an exorbitant fee for the vehicle’s return.

This bill requires that all tow truck operators be registered with the Division of Consumer Affairs in the Department of Law and Public Safety. They must also provide the Director of the Division of Consumer Affairs with a tariff which lists all of the fees for services which the company performs.

This bill also established a set of guidelines that tow truck operators are to abide by as a licensed State tow operator. The bill also requires the Director of the Division of Consumer Affairs to establish a fee schedule based upon the average rates filed by all towing companies with principal locations in the same county.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services determines this bill has an indeterminate minimal fiscal impact to the State. The bill establishes that the Director of the Division of Consumer Affairs may charge registrants a fee to offset the administrative costs associated with this bill.

Section: Law and Public Safety

Analyst: Kristin A. Brunner
Associate Fiscal Analyst

Approved: David J. Rosen
Legislative Budget and Finance Officer

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

Title

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Oct-24-07 Governor Signs Predatory Towing Prevention Act

NEWS RELEASE

Governor Jon S. Corzine
October 24, 2007

FOR MORE INFORMATION:

Press Office
609-777-2600

GOVERNOR SIGNS PREDATORY TOWING PREVENTION ACT

FAIRLAWN - In order to create a coordinated and comprehensive framework to establish minimum standards for tow truck operators, Governor Jon S. Corzine today signed the Predatory Towing Prevention Act.

"This legislation will prevent rogue tow truck operators from taking advantage of vulnerable citizens and holding their vehicles hostage for exorbitant fees," Governor Corzine said. "In addition, legitimate tow truck operators can be confident that their profession will not be sullied by the unscrupulous actions of those who would take advantage of the very clients that they are trying to assist."

Under the new legislation, if a motor vehicle is to be towed from private property without the vehicle owner's consent, there must be conspicuous warning signs posted detailing parking rules and towing conditions. Vehicles parked in front of single-family homes or owner occupied multi-unit structures containing six units or less or blocking access to a driveway will be exempt from the bill's signage requirement. Property owners or their representative will be required to be present and give written authorization as well as confirmation of the violation if the non-consensual towing occurs during normal business hours.

Furthermore, vehicle storage facilities must be secure, well lit from dusk until dawn and open at least five days per week between 8 am and 6 pm. They must also provide reasonable accommodations for after-hours release of stored vehicles and are prohibited from charging an additional fee for releasing a vehicle after normal business hours.

"Some tow-truck operators had taken a Wild West mentality toward their work, engaging in overly aggressive practices

that venture into the realm of price gouging and extortion," said Assemblyman Robert Gordon (D-Bergen). "More and more, motorists were finding their cars being held hostage, with ransoms totaling hundreds of dollars or more."

"It's time rogue towers were held to a uniform, higher level of accountability," said Assemblywoman Nilsa Cruz-Perez (D-Camden), chairwoman of the Assembly Consumer Affairs Committee. "New Jersey needs tough rules in place so unscrupulous tow truck operators won't continue to ply their trade as they see fit, to the detriment of motorists everywhere."

Towing companies will be required to submit an annual application for registration with the Division of Consumer Affairs, listing the address of the towing company's principal location and the address of any of its storage facilities as well as a list of the type of towing services the company will provide, insurance information, and any information related to the criminal history of individuals owning a substantial interest in the company. In addition, each company will be required to submit a list of prices and fees to the Division of Consumer Affairs and will be prohibited from charging fees in excess of 150 percent of the average towing fee in the county of the company's principal location.

Each tow truck must affix a decal stating that the truck is registered with the Division of Consumer Affairs, that the customer is entitled to a written schedule of the fees charged for towing and storage services before they are provided and a telephone number for the Division of Consumer Affairs that the customer could use to report an attempt to charge fees in excess of the schedule.

Finally, the bill will make it unlawful to give an advantage or preference to any person who provides information about vehicles parked for unauthorized purposes on privately owned property. The bill will require operators to release a vehicle subject to non-consensual towing if the vehicle had not yet been removed from the property. If this occurs, the towing company must charge no more than a "decoupling" fee. The bill also prohibits refusal to accept payment for towing services by debit or credit card, if the towing company regularly accepts these forms of payment.

The legislation (A-4053/S-2759) was sponsored in the Assembly by Assemblypersons Robert M. Gordon (D-Bergen), Nilsa Cruz-Perez (D-Camden/ Gloucester), Joseph R. Malone (R-Burlington/Mercer/Monmouth/Ocean), Gordon M. Johnson (D-Bergen), and Louis M. Manzo (D-Hudson). It was sponsored in the Senate by Senators Joseph Coniglio (D-Bergen) and Barbara Buono (D-Middlesex).

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Photos and audio and video clips from Governor Corzine's public events are available in the Governor's Newsroom section on the State of New Jersey web page, <http://www.nj.gov/governor/news/>



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