

40:48-2.50

LEGISLATIVE HISTORY CHECKLIST

NJSA: 40:48-2.50 (Motor vehicle removed-- municipal storage fees)

CHAPTER 127

Laws Of: 1987

Bill No: S1724

Sponsor(s): Gormley

Date Introduced: February 24, 1986

Committee: **Assembly:** Law, Public Safety, Defense and Corrections Committee

Senate: Law, Public Safety and Defense Committee

Amended during passage: Yes Amendments during passage denoted by asterisks.

Date of Passage: **Assembly:** February 19, 1987

Senate: October 9, 1986

Date of Approval: May 26, 1987

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: **Assembly** Yes

Senate Yes

Fiscal Note: No

Veto Message: No

Message on Signing: No

Following were printed:

Reports: No

Hearings: No

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SENATE, No. 1724

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 24, 1986

By Senator GORMLEY

Referred to Committee on Law, Public Safety and Defense

AN ACT concerning operators engaged in the removal of motor vehicles***[.]*** **, amending P. L. 1964, c. 81** *and* amending *and supplementing* P. L. 1979, c. 101 ***[and supplementing P. L. 1964, c. 81 (C. 39:10A-1 et seq.)]***

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

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

2 a. Certain municipalities are faced with exorbitant storage fees
3 for storage following the removal of abandoned and unclaimed
4 motor vehicles.

5 b. Storage fees have been permitted to accumulate far in excess
6 of the value of any of these vehicles.

7 c. Certain contracts concerning storage of these abandoned motor
8 vehicles have been entered into by private persons and public
9 agencies which failed to provide for a limitation on the accumula-
10 tion of these storage fees.

11 d. It is imperative that a reasonable limitation be imposed on
12 these storage fees ****[currently due for payment]**** for the im-
13 portant public purpose of sustaining local fiscal soundness.

14 ****[e. It is manifestly unjust to permit an operator engaged in the**
15 **removal of motor vehicles to amass charges far in excess of the**
16 **reasonable expectations of the public agency which entered into**
17 **the contract thus enriching himself at public expense.]****

18 ****[f.]**** **e.** In view of the foregoing, it is reasonable and
19 necessary for the State to set limitations on these contracts for

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

Matter printed in italics thus is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

*—Senate committee amendments adopted September 8, 1986.

**—Assembly committee amendments adopted December 11, 1986.

20 storage fees ****[due for payment]**** now that this important public
 21 interest has come to light ***[and to establish a remedy for the**
 22 operator to sell these stored vehicles**]***.

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

3 1. ****[a.]**** Notwithstanding the provisions of section 1 of P. L.
 4 1973, c. 137 (C. 39:4-56.6) or any other law, **[nothing shall restrict**
 5 the authority of any] *a* municipality **[to] may** regulate, by ordi-
 6 nance, the removal of motor vehicles from private or public prop-
 7 erty by operators engaged in such practice, including, but not
 8 limited to, the *fees charged for storage following removal* ****in**
 9 *accordance with section 3 of P. L., c. (C.)*
 10 *(now pending before the Legislature as this bill)***, fees charged
 11 for such removal, notice requirements therefor, and the mercantile
 12 licensing of such operators.

13 ****[b. The]**** ****3. (New section) All**** fees to be paid to an
 14 operator by a municipality for the storage of removed motor
 14A vehicles ****[which may be regulated by municipal ordinance pur-**
 14B *suant to subsection a. of this section]*** shall not exceed the
 14C following:

15 (1) *A limit of \$3.00 per day for the first 30 days of storage per*
 16 *vehicle; and*

17 (2) *A limit of \$2.00 per day for the 31st day of storage and any*
 18 *day thereafter; and*

19 (3) ****[An absolute]**** ****A**** limit of \$400.00 per vehicle stored
 20 regardless of the duration of the storage******, except that a waiver
 21 may be granted for good cause upon the request of a municipality
 22 by the Division of Local Government Services in the Department of
 23 Community Affairs******.

1 ****[3. (New section)** Notwithstanding any other provision of law
 2 to the contrary or any provision of any contract entered into
 3 between a municipality and an operator engaged in the removal of
 4 motor vehicles during the five years preceding the effective date of
 5 this 1986 amendatory and supplementary act, the absolute limit of
 6 \$400.00 per vehicle for storage fees as set forth in section 1 of
 7 P. L. 1979, c. 101 (C. 40:48-2.49) shall be applicable to all storage
 8 fees currently accumulated and currently unpaid for storage of
 9 vehicles during the five years preceding the effective date of this
 10 act. ****]**

1 ***[4. (New section) a.** An authorized representative of an opera-
 2 tor engaged in the removal of motor vehicles may sell or cause to be
 3 sold any motor vehicle which, on the effective date of the 1986
 4 amendatory and supplementary act or thereafter, has been stored

5 on his premises for a period in excess of 60 days pursuant to a
6 contract entered into with a municipality for that purpose.

7 b. Prior to the sale of a motor vehicle pursuant to subsection a.
8 of this section, an authorized representative of an operator shall
9 comply with the notice provisions of section 4 of P. L. 1983, c. 455
10 (C. 39:10A-11) and shall give the municipality at least five days'
11 notice of the date, time, place and manner of the proposed sale.
12 This notice shall be in writing and sent by certified or registered
13 mail, return receipt requested. Newspaper publication shall not be
14 required.

15 c. An authorized representative of an operator may obtain a
16 junk title certificate if he determines that a motor vehicle subject
17 to the provisions of this act is incapable of being operated safely
18 or of being put in safe operational condition except at a cost in
19 excess of its value. This junk title certificate shall be issued in
20 conformity with section 5 of P. L. 1983, c. 455 (C. 39:10A-12) and,
21 if applicable, section 8 of that act (C. 39:10A-15).**】***

1 ***【5.** (New section) Upon the sale of a motor vehicle, or the issu-
2 ance of a junk title certificate pursuant to the provisions of this act,
3 all claims of interest in the motor vehicle of the former owner, any
4 other person formerly having legal right thereto and any holder
5 of a security interest shall be forever barred. Nothing in this sec-
6 tion shall prevent the operator of the storage facility from ob-
7 taining fees owed him from any municipality pursuant to a con-
8 tract in compliance with the provisions of section 1 of P. L. 1979,
9 c. 101 (C. 40:48-2.49).**】***

1 ***【6.】*** *4.* (New section) An operator engaged in the removal
2 of motor vehicles, or any employee, officer or agent thereof, who
3 engages in a pattern or practice of knowingly violating ****【any of**
4 **the provisions of this act or aids or advises in such a pattern or**
5 **practice is guilty of a crime of the third degree】**** ****the fee limits*
6 *set in section 3 of P. L., c. (C.)* (now
7 *pending before the Legislature as this bill*) may be liable to the
8 *municipality for a civil penalty of not less than \$25.00 or more than*
9 *\$50.00 for each motor vehicle stored with the operator**.*

1 **5. Section 1 of P. L. 1964, c. 81 (C. 39:10A-1) is amended to
2 read as follows:

3 1. a. When the State or any county, county park commission,
4 municipality or any authority created by any thereof, hereinafter
5 referred to as a "public agency," shall have taken possession of a
6 motor vehicle found abandoned, such taking of possession shall be
7 reported immediately to the Director of the Division of Motor
8 Vehicles on a form prescribed by him, for verification of ownership.

9 b. When such motor vehicle which has been ascertained not to be
 10 stolen and which can be certified for a junk title certificate under
 11 section 3 of P. L. 1964, c. 81 (C. 39:10A-3) shall have remained
 12 unclaimed by the owner or other person having a legal right
 13 thereto for a period of 15 business days, even if at that time the
 14 owner has not been identified as a result of efforts to make identifi-
 15 cation by the public agency or the Division of Motor Vehicles, the
 16 same may be sold at auction in a public place. If the certified
 17 motor vehicle is sold at auction prior to identification of the owner,
 18 the public agency shall document the condition of the motor vehicle
 19 in writing and with photographs prior to the sale; document the
 20 amount obtained from the sale of the motor vehicle; and notify the
 21 owner, if his name and address are identified after the sale, of the
 22 actions taken by the public agency to dispose of the motor vehicle.

23 c. When a motor vehicle which cannot be certified for a junk title
 24 certificate under section 3 of P. L. 1964, c. 81 (C. 39:10A-3) remains
 25 unclaimed by the owner or other person having a legal right thereto
 26 for a period of 20 business days, the motor vehicle may be sold at
 27 auction in a public place, *but shall be sold no later than 90 business*
 28 *days after the public agency takes possession of the vehicle, except*
 29 *that a waiver of the 90-day limit may be obtained for good cause*
 30 *from the Division of Local Government Services in the Department*
 31 *of Community Affairs.* d. The public agency shall give notice of a
 32 sale conducted pursuant to subsection b. or c. of this section, by
 33 certified mail, to the owner, if his name and address be known and
 34 to the holder of any security interest filed with the director, and by
 35 publication in a form to be prescribed by the director by one
 36 insertion, at least five days before the date of the sale, in one or
 37 more newspapers published in this State and circulating in the
 38 municipality in which such motor vehicle is held.**

1 ***[7.]*** ****[5.]**** **6.** This act shall take effect immediately
 2 ***but shall not affect any fees set by a contract between a munici-*
 3 *pality and an operator which is in existence on the effective date***.

MOTOR VEHICLES—GENERAL

Limits storage fees which may be charged a municipality for certain removed motor vehicles.

11 notice of the date, time, place and manner of the proposed sale.
 12 This notice shall be in writing and sent by certified or registered
 13 mail, return receipt requested. Newspaper publication shall not be
 14 required.

15 c. An authorized representative of an operator may obtain a
 16 junk title certificate if he determines that a motor vehicle subject
 17 to the provisions of this act is incapable of being operated safely
 18 or of being put in safe operational condition except at a cost in
 19 excess of its value. This junk title certificate shall be issued in
 20 conformity with section 5 of P. L. 1983, c. 455 (C. 39:10A-12) and,
 21 if applicable, section 8 of that act (C. 39:10A-15).

1 5. (New section) Upon the sale of a motor vehicle, or the issuance
 2 of a junk title certificate pursuant to the provisions of this act,
 3 all claims of interest in the motor vehicle of the former owner, any
 4 other person formerly having legal right thereto and any holder
 5 of a security interest shall be forever barred. Nothing in this sec-
 6 tion shall prevent the operator of the storage facility from ob-
 7 taining fees owed him from any municipality pursuant to a con-
 8 tract in compliance with the provisions of section 1 of P. L. 1979,
 9 c. 101 (C. 40:48-2.49).

1 6. (New section) An operator engaged in the removal of motor
 2 vehicles, or any employee, officer or agent thereof, who engages
 3 in a pattern or practice of knowingly violating any of the provi-
 4 sions of this act or aids or advises in such a pattern or practice is
 5 guilty of a crime of the third degree.

1 7. This act shall take effect immediately.

STATEMENT

This bill establishes limitations on the storage fees which may be charged a municipality by an operator who removes abandoned or unclaimed motor vehicles. Per diem storage fees are established per vehicle with an absolute ceiling of a storage fee per vehicle of \$400.00. This dollar amount represents approximately six months' of storage fees under the scheme presented. This ceiling per vehicle shall apply to storage fees not paid where contracts have been entered into in the previous five years. The bill also establishes the right of an operator to sell one of these stored motor vehicles following compliance with appropriate notice or junk title certificate requirements. That compliance relieves the operator of any future claims against him for that sale but does not affect his entitlement to storage fees properly accumulated owed him by the municipality.

51724 (1987)

MOTOR VEHICLES

Abandoned veh. Limits storage fees.

Limits the storage fees which may be charged a municipality for certain removed motor vehicles.

ASSEMBLY LAW, PUBLIC SAFETY, DEFENSE AND
CORRECTIONS COMMITTEE

STATEMENT TO

SENATE, No. 1724

[OFFICIAL COPY REPRINT]

with Assembly committee amendments

STATE OF NEW JERSEY

•DATED: DECEMBER 11, 1986

The Assembly Law, Public Safety, Defense and Corrections Committee favorably reports Senate Bill No. 1724 OCR with amendments.

As amended, Senate Bill No. 1724 sets a limit on the storage fees that may be charged to a municipality by a person in the business of removing motor vehicles from private or public property.

The bill authorizes a municipality to regulate, by ordinance, the fees charged for the storage of motor vehicles following their removal from private or public property. Also, the bill sets limits for any fee to be paid by a municipality for such motor vehicles whether a municipality has enacted an ordinance or not. The fees may not exceed \$3.00 per day per vehicle for the first 30 days of storage; \$2.00 per day for each day of storage thereafter; and a limit of \$400.00 per vehicle stored regardless of the duration of the storage. However, the \$400.00 limit may be waived for good cause by the Division of Local Government Services in the Department of Community Affairs.

The provisions of this bill would apply prospectively and would not change the fees set by any contract which is in effect on the date this bill is enacted into law.

A civil penalty is established for a violation of any of the bill's provisions.

The committee adopted amendments at the sponsor's request to eliminate the provisions which would have made the bill retroactive; eliminate the provisions which would have established criminal sanctions for a violation (a civil penalty for a violation has been established): clarify that the fees established in the bill apply for motor vehicles which have been towed either pursuant to a municipal ordinance or pursuant to a contract with a person in the business of removing motor vehicles; establish a waiver for the maximum \$400.00 storage fee which may be granted by the Division of Local Government Services in the Department of Community Affairs; and require a public

agency to sell stored motor vehicles which do not qualify for a junk title certificate within 90 business days subject to a waiver from the Division of Local Government Services.

As released by this committee, this bill is identical to Assembly Bill No. 2214 Aca.

SENATE LAW, PUBLIC SAFETY AND DEFENSE
COMMITTEE

STATEMENT TO

SENATE, No. 1724

with Senate committee amendments

STATE OF NEW JERSEY

DATED: AUGUST 13, 1986

The Senate Law, Public Safety and Defense Committee favorably reports Senate Bill No. 1724 with amendments.

As amended, this bill establishes a limit on the storage fees that a municipality can be charged by an operator engaged in the practice of removing motor vehicles from private or public property.

The bill authorizes a municipality to regulate, by ordinance, the fees charged for storage of motor vehicles following their removal. The bill also establishes that the fees paid by a municipality for the storage of removed motor vehicles may not exceed \$3.00 per day for the first 30 days of storage per vehicle; \$2.00 per day for each day of storage thereafter; and an absolute limit of \$400.00 per vehicle stored regardless of the duration of the storage. This absolute limit of \$400.00 per vehicle is retroactive to all fees currently unpaid for storage of vehicles during the five years preceding the effective date of the bill.

The bill establishes that it is a crime of the third degree to engage in a pattern or practice of knowingly violating any of the provisions of the bill or to aid or advise in such a pattern or practice. A crime of the third degree carries a term of imprisonment of three to five years, a fine of up to \$7,500.00, or both.

The committee adopted amendments at the sponsor's request to eliminate from the bill provisions authorizing an operator engaged in the removal of motor vehicles to sell a motor vehicle which has been stored on his premises for more than 60 days. The committee also adopted amendments to allocate all of the bill's sections within the same title of the Revised Statutes.