

Predatory Towing Prevention Act

NJSA 56:13-7 thru 56:13-23

56:13-7 Short title.

This act shall be known and may be cited as the "Predatory Towing Prevention Act."

L.2007, c.193, s.1.

56:13-8 Findings, declarations relative to towing, towing operators.

The Legislature finds and declares that:

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

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

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

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

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

L.2007, c.193, s.2.

56:13-9 Definitions relative to towing, towing operators.

As used in this act:

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

"Consumer" means a natural person.

"Decoupling fee" means a charge by a towing company for releasing a motor vehicle to its owner or

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operator when the vehicle has been, or is about to be, hooked or lifted by a tower, but prior to the vehicle actually having been moved or removed from the property.

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

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

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

"Non-consensual towing" means the towing of a motor vehicle without the consent of the owner or operator of the vehicle.

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

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

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

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

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

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

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L.2007, c.193, s.3; amended 2009, c.39, s.1.

56:13-12 Maintenance of liability insurance by towing company.

a. A towing company shall maintain liability insurance which meets or exceeds the requirements of this section, or such other amounts as the director may determine by regulation, including in the case of each light-medium duty tow truck, motor vehicle liability insurance coverage for the death of, or injury to, persons and damage to property for each accident or occurrence in the amount of at least \$750,000 single limit, and in the case of each heavy-duty tow truck, motor vehicle liability insurance coverage for the death of or injury to persons and damage to property for each accident or occurrence in the amount of at least \$1,000,000 single limit.

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

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

L.2007, c.193, s.6; amended 2009, c.39, s.2.

56:13-13 Consent required for towing from privately owned property.

7. a. No person shall tow any motor vehicle parked for an unauthorized purpose or during a time at which such parking is not permitted from any privately owned parking lot, from other private property or from any common driveway without the consent of the motor vehicle owner or operator, unless:

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

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

(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 for the towing and storage of towed motor vehicles;

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(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; and

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

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

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

b. No private property owner shall authorize the towing of any motor vehicle parked for an unauthorized purpose or during a time at which such parking is not permitted from the private property owner's property without the consent of the motor vehicle owner or operator, unless:

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

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

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

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

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

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

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

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

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

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L.2007, c.193, s.7; amended 2009, c.39, s.3.

56:13-14 Schedule of services eligible for charging a fee; reasonable fees.

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

b. All fees charged for private property or other non-consensual towing services and related storage services shall be reasonable and not excessive. Such fees shall be presumptively unreasonable and excessive if they exceed by more than 25 percent, or a different percentage established by the director by regulation, the usual and customary fee charged by the towing company or storage facility for such services when provided with the consent of the owner or operator of the vehicle, or if they exceed by more than 50 percent, or a different percentage established by the director by regulation, the usual and customary fee charged for such nonconsensual towing or related storage service by other towing companies or storage facilities operating in the municipality from which the vehicle was towed. Notwithstanding the foregoing, such fees may not exceed the maximum amounts that may be charged for such services in accordance with any applicable schedule of fees by municipal ordinance adopted pursuant to section 1 of P.L.1979, c.101 (C.40:48-2.49).

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

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

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

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

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

L.2007, c.193, s.8; amended 2009, c.39, s.4.

56:13-15 Requirements for storage facility used by towing company.

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

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

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

b. A towing company shall provide reasonable accommodations for after-hours release of stored motor vehicles.

L.2007, c.193, s.9; amended 2009, c.39, s.5.

56:13-16 Unlawful practices for towing company.

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

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

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

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

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

e. To fail, when so requested by the owner or operator of a vehicle subject to non-consensual towing, to release a vehicle to the owner or operator that has been, or is about to be, hooked or lifted but has not actually been moved or removed from the property when the vehicle owner or operator returns to the vehicle, or to charge the owner or operator requesting release of the vehicle an unreasonable or excessive decoupling fee. Such a fee shall be presumptively unreasonable and excessive if it exceeds by more than 25 percent, or a different percentage established by the director by regulation, the usual and customary decoupling fee charged by the towing company for a vehicle subject to consensual towing, or if it exceeds by more than 50%, or a different percentage established by the director by regulation, the usual and customary decoupling fee charged for vehicles subject to non-consensual towing by other private property towing companies operating in the municipality in which the vehicle was subjected to non-consensual towing;

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

(2) To charge an unreasonable or excessive fee;

g. To refuse to accept for payment in lieu of cash or an insurance company check for towing or storage services a debit card, charge card or credit card if the operator ordinarily accepts such card at his place

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of business, unless such refusal is authorized in accordance with section 4 of P.L.2002, c.67 (C.56:13-4) as amended by section 21 of P.L.2007, c.193; or

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

L.2007, c.193, s.10; amended 2009, c.39, s.6.

56:13-17 Availability of records.

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

L.2007, c.193, s.11; amended 2009, c.39, s.7.

56:13-18 "Towing and Storage Administration and Enforcement Fund."

12. There is created in the Department of the Treasury a special dedicated, non-lapsing fund to be known as the "Towing and Storage Administration and Enforcement Fund." The fund shall be the depository for fees, cost recoveries and penalties collected under P.L.2007, c.193 (C.56:13-7 et al.). Monies deposited in the fund and the interest earned thereon shall be used for the administration of this act. The Legislature shall annually appropriate from the fund monies to the division for the administration of this act.

L.2007, c.193, s.12.

56:13-19 Rules, regulations.

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

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

L.2007, c.193, s.13; amended 2009, c.39, s.8.

56:13-20 Effect of act on local government, toll road authority powers.

14. a. The provisions of P.L.2007, c.193 (C.56:13-7 et al.) shall not preempt any political subdivision from requiring or issuing any registration or license of any towing company.

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

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

b. The provisions of this act shall not be deemed to limit the authority of the New Jersey Turnpike Authority or the South Jersey Transportation Authority to establish rules and regulations governing the provision of towing and storage services on the roadways and properties under each entity's respective control.

L.2007, c.193, s.14; amended 2009, c.39, s.9.

56:13-21 Unlawful practice, violation.

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

b. In addition to any penalties or other remedies provided in P.L.1960, c.39 (C.56:8-1 et seq.), the director may order a towing company that has billed a consumer for any nonconsensual towing or related storage an amount determined by the director to be unreasonable to reimburse the consumer for the excess cost with interest.

L.2007, c.193, s.15; amended 2009, c.39, s.10.

56:13-22 Severability.

25. If any section, subsection, clause or provision of this act shall be adjudged unconstitutional or to be ineffective in whole or in part, to the extent that it is not adjudged unconstitutional or is not ineffective it shall be valid and effective and no other section, subsection, clause or provision of this act shall on account thereof be deemed invalid or ineffective, and the applicability or invalidity of any section, subsection, clause or provision of this act in any one or more instances or under any one or more circumstances shall not be taken to affect or prejudice in any way its applicability or validity in any other instance or under any other circumstances.

L.2007, c.193, s.25.

56:13-23 Effective date.

26. This act shall take effect on the 360th day following enactment, except that section 4 shall remain inoperative for 180 days following the effective date, but the director may take such anticipatory action as may be necessary to effectuate those provisions of this act.

L.2007, c.193, s.25.