

CHAPTER 165

AN ACT concerning the towing of certain motor vehicles and amending P.L.2007, c.193.

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

1. Section 2 of P.L.2007, c.193 (C.56:13-8) is amended to read as follows:

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

2. The Legislature finds and declares that:

- a. While the majority of towing companies in New Jersey are reputable service providers, some unscrupulous towing companies are engaged in predatory practices victimizing persons 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 operators, or overcharging persons for towing services provided under circumstances where the person has no meaningful opportunity to withhold consent;

- c. The legitimate business interests of towing companies and the needs of private property owners for relief from unauthorized parking must be balanced with the interest in providing appropriate protection to persons who own or operate vehicles;

- 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 towing companies.

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

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

3. 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, which are components of a routine tow.

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

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

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

"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. "Motor vehicle" includes commercial motor vehicles as defined in R.S.39:1-1.

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

"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 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 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.

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

C.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, unless the vehicle subject to non-consensual towing has been authorized to be towed by a law enforcement officer of this State, or any political subdivision of the State, while in the actual performance of the officer's duties and as deemed appropriate for public safety, 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 percent, 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 of business, unless such refusal is authorized in accordance with section 4 of P.L.2002, c.67 (C.56:13-4); 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.

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

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

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

C.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 person for any nonconsensual towing or related storage an amount determined by the director to be unreasonable to reimburse the person for the excess cost with interest.

5. This act shall take effect immediately.

Approved December 20, 2018.