

[First Reprint]

ASSEMBLY, No. 5038

STATE OF NEW JERSEY
220th LEGISLATURE

INTRODUCED JANUARY 10, 2023

Sponsored by:

Assemblyman P. CHRISTOPHER TULLY

District 38 (Bergen and Passaic)

SYNOPSIS

Provides that operator, owner, lessor, and lienholder of vehicle may be responsible for certain towing and storage fees; applies retroactively.

CURRENT VERSION OF TEXT

As reported by the Assembly Oversight, Reform and Federal Relations Committee on June 22, 2023, with amendments.



1 AN ACT concerning fees charged for ¹**[non-consensual]** certain¹
2 towing ¹and storage¹ of motor vehicles and amending P.L.2007,
3 c.193 and N.J.S.2A:44-21¹.

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

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

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

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

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

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

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

22 e. To fail, when so requested by the owner or operator of a
23 vehicle subject to non-consensual towing, to release a vehicle to the
24 owner or operator that has been, or is about to be, hooked or lifted but
25 has not actually been moved or removed from the property when the
26 vehicle owner or operator returns to the vehicle, unless the vehicle
27 subject to non-consensual towing has been authorized to be towed by a
28 law enforcement officer of this State, or any political subdivision of
29 the State, while in the actual performance of the officer's duties and as
30 deemed appropriate for public safety, or to charge the owner or
31 operator requesting release of the vehicle an unreasonable or excessive
32 decoupling fee. Such a fee shall be presumptively unreasonable and
33 excessive if it exceeds by more than 25 percent, or a different
34 percentage established by the director by regulation, the usual and
35 customary decoupling fee charged by the towing company for a
36 vehicle subject to consensual towing, or if it exceeds by more than 50
37 percent, or a different percentage established by the director by
38 regulation, the usual and customary decoupling fee charged for
39 vehicles subject to non-consensual towing by other private property
40 towing companies operating in the municipality in which the vehicle
41 was subjected to non-consensual towing;

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

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 AOF committee amendments adopted June 22, 2023.

1 (2) To charge an unreasonable or excessive fee;

2 g. To refuse to accept for payment in lieu of cash or an insurance
3 company check for towing or storage services a debit card, charge card
4 or credit card if the operator ordinarily accepts such card at his place
5 of business, unless such refusal is authorized in accordance with
6 section 4 of P.L.2002, c.67 (C.56:13-4); or

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

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

27 A towing company ¹【may】 shall only¹ require that reasonable fees
28 ¹, charged in accordance with a duly authorized fee schedule
29 established by a municipality or other political subdivision of this
30 State, and¹ charged for ¹【such】¹ towing¹, authorized by a law
31 enforcement officer of this State or by a political subdivision of this
32 State,¹ or related storage services be paid by the operator, owner,
33 lessor, or lienholder of the vehicle prior to the towing company's
34 release of the vehicle. In the event the owner or operator of the vehicle
35 defaults on payments to the lessor or lienholder of the vehicle, the
36 lessor or lienholder shall be responsible for these reasonable towing
37 and related storage fees.

38 ¹Notwithstanding the provisions of P.L.1964, c.81 (C.39:10A-1 et
39 seq.), or any other law, rule, or regulation to the contrary, a towing
40 company shall notify the operator, owner, lessor, and lienholder of a
41 vehicle that has been subject to non-consensual towing, authorized by
42 a law enforcement officer of this State or a political subdivision of this
43 State, and related storage services within 30 days of the vehicle being
44 towed and arriving at the towing company lot. If a towing company
45 fails to notify the operator, owner, lessor, and lienholder of the vehicle
46 within 30 days, the towing company may charge a maximum storage

1 fee of \$750, and the towing company shall be responsible for all
2 additional towing or related storage services.

3 Notwithstanding any provision of this subsection to the contrary,
4 the maximum liability for storage fees for matters pending prior to the
5 date of enactment of P.L. , c. (pending before the Legislature as
6 this bill), shall not exceed \$5,000. Towing fees for matters pending
7 prior to the date of enactment of P.L. , c. (pending before the
8 Legislature as this bill) shall not be subject to any fee limitation,
9 provided that such fees remain reasonable and are charged in
10 accordance with a duly authorized fee schedule established by a
11 municipality or other political subdivision of this State.¹

12 For the purposes of this subsection, non-consensual towing shall be
13 considered to be authorized by a law enforcement officer of this State
14 or a political subdivision if the law enforcement officer or an agent or
15 employee of the political subdivision initiates, directs, orders, or
16 requests the non-consensual towing of the vehicle; and a municipal fee
17 schedule shall be considered duly authorized if it has been established
18 by municipal ordinance or resolution or by contract between the
19 municipality and the towing company which conforms to the
20 requirements of the "Local Public Contracts Law," P.L.1971, c.198
21 (C.40A:11-1 et seq.) and any related regulations.
22 (cf: P.L.2018, c.165, s.3)

23

24 ¹2. N.J.S.2A:44-21 is amended to read as follows:

25 2A:44-21. A garage keeper who shall tow, store, maintain, keep,
26 or repair a motor vehicle or furnish gasoline, accessories or other
27 supplies therefor, at the request or with the consent of the owner or
28 **[his]** the owner's representative, or at the request of a law
29 enforcement officer of this State or any political subdivision of this
30 State, shall have a lien upon the motor vehicle or any part thereof for
31 the sum due for such towing, storing, maintaining, keeping, or
32 repairing of such motor vehicle or for furnishing gasoline or other fuel,
33 accessories or other supplies therefor, and may, without process of
34 law, detain the same at any time it is lawfully in his possession until
35 the sum is paid. A motor vehicle is considered detained when the
36 owner or person entitled to possession of the motor vehicle is advised
37 by the garage keeper, by a writing sent by certified mail return receipt
38 requested to the address supplied by the owner or person entitled to
39 possession of the motor vehicle, that goods or services have been
40 supplied or performed, and that there is a sum due for those goods or
41 services.

42 The lien shall not be superior to, nor affect a lien, title or interest of
43 a person held by virtue of a prior conditional sale or a prior chattel
44 mortgage properly recorded or a prior security interest perfected in
45 accordance with chapter 9 of Title 12A of the New Jersey Statutes.

46 A garage keeper shall only require that reasonable fees, charged in
47 accordance with a duly authorized fee schedule established by a
48 municipality or other political subdivision of this State, and charged

1 for non-consensual towing authorized by a law enforcement officer of
2 this State or by a political subdivision of this State or for related
3 storage services be paid by the operator, owner, lessor, or lienholder of
4 the vehicle prior to the towing company's release of the vehicle. In the
5 event the owner or operator of the vehicle defaults on payments to the
6 lessor or lienholder of the vehicle, the lessor or lienholder shall be
7 responsible for these reasonable towing and related storage fees.¹

8 (cf: P.L.1998, c.122, s.1)

9

10 ¹**[2.]** 3.¹ This act shall take effect immediately but shall be
11 retroactive to October 18, 2008.