

[Second Reprint]

SENATE, No. 3374

STATE OF NEW JERSEY
220th LEGISLATURE

INTRODUCED DECEMBER 5, 2022

Sponsored by:

Senator JOSEPH A. LAGANA

District 38 (Bergen and Passaic)

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 amended by the Senate on June 26, 2023.



(Sponsorship Updated As Of: 6/30/2023)

1 AN ACT concerning fees charged for ¹**[non-consensual]** certain¹
2 towing ¹and storage¹ of motor vehicles and amending ¹**[P.L.2007,**
3 **c.193]** ¹ ²**[various parts of the statutory law¹]** P.L.2007, c.193 and
4 N.J.S.2A:44-21².

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

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

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

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

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

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

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

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

43 f. (1) To charge a fee for a private property or other non-
44 consensual towing or related storage service not listed on the schedule

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:

¹Senate SBA committee amendments adopted June 20, 2023.

²Senate floor amendments adopted June 26, 2023.

1 of services for which a fee may be charged as established by the
2 director except as may be permitted by the director by regulation; or

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

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

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

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

29 A towing company ²[may] shall only² require that reasonable fees
30 ¹, charged in accordance with a duly authorized fee schedule
31 established by a municipality or other political subdivision of this
32 State, and¹ charged for ¹[such]¹ towing¹, authorized by a law
33 enforcement officer of this State or by a political subdivision of this
34 State,¹ or related storage services be paid by the operator, owner,
35 lessor, or lienholder of the vehicle prior to the towing company's
36 release of the vehicle. In the event the owner or operator of the vehicle
37 defaults on payments to the lessor or lienholder of the vehicle, the
38 lessor or lienholder shall be responsible for these reasonable towing
39 and related storage fees.

40 ¹Notwithstanding the provisions of P.L.1964, c.81 (C.39:10A-1 et
41 seq.), or any other law, rule, or regulation to the contrary, a towing
42 company shall notify the operator, owner, lessor, ²[or] and²
43 lienholder of a vehicle that has been subject to non-consensual towing,
44 authorized by a law enforcement officer of this State or a political
45 subdivision of this State, and related storage services within 30 days of
46 the vehicle being towed and arriving at the towing company lot. If a
47 towing company fails to notify the operator, owner, lessor, ²[or] and²

1 lienholder of the vehicle within 30 days, the towing company may
2 charge a maximum storage fee of \$750, and the towing company shall
3 be responsible for all additional towing or related storage services.

4 Notwithstanding any provision of this subsection to the contrary,
5 the maximum liability for storage fees for matters pending prior to the
6 date of enactment of P.L. , c. ²[(C.)]² (pending before the
7 Legislature as this bill), shall not exceed \$5,000. Towing fees for
8 matters pending prior to the date of enactment of P.L. , c.
9 ²[(C.)]² (pending before the Legislature as this bill) shall not be
10 subject to any fee limitation, provided that such fees remain reasonable
11 and are charged in accordance with a duly authorized fee schedule
12 established by a municipality or other political subdivision of this
13 State.¹

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

25

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

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

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

1 A garage keeper ²[may] shall only² require that reasonable fees,
2 charged in accordance with a duly authorized fee schedule established
3 by a municipality or other political subdivision of this State, and
4 charged for non-consensual towing authorized by a law enforcement
5 officer of this State or by a political subdivision of this State or for
6 related storage services be paid by the operator, owner, lessor, or
7 lienholder of the vehicle prior to the towing company's release of the
8 vehicle. In the event the owner or operator of the vehicle defaults on
9 payments to the lessor or lienholder of the vehicle, the lessor or
10 lienholder shall be responsible for these reasonable towing and related
11 storage fees.¹

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

13

14 ²[¹3. Section 79 of P.L.2003, c.89 (C.39:3-29.1a) is amended to
15 read as follows:

16 79. a. Upon the issuance of a summons for failing to possess or
17 exhibit an insurance identification card in violation of R.S.39:3-29, the
18 violator or registrant shall have 24 hours from the time of the citation
19 to provide the issuing law enforcement agency with the insurance
20 identification card, or other satisfactory proof of insurance. Failure to
21 provide the insurance identification card or other satisfactory proof of
22 insurance within the 24-hour time frame shall result in the issuance of
23 a warrant for the immediate impoundment of the vehicle that was
24 being operated when the summons was issued. A motor vehicle
25 impounded pursuant to the provisions of this subsection shall be
26 removed to a storage space or garage. The registrant shall be
27 responsible for the cost of the removal and storage of the impounded
28 motor vehicle.

29 b. (1) If the registrant fails to claim a motor vehicle impounded
30 pursuant to subsection a. of this section and pay the reasonable costs of
31 removal and storage by midnight of the 30th day following
32 impoundment, along with a fine of \$100 to cover the administrative
33 costs of the municipality wherein the violation occurred, and after a
34 hearing, the municipality may sell the motor vehicle at public auction.
35 The municipality shall give notice of the sale by certified mail to the
36 registrant of the motor vehicle and to the holder of any security interest
37 filed with the New Jersey Motor Vehicle Commission, and by
38 publication in a form to be prescribed by the ¹[**director**] chief
39 administrator¹ by one insertion, at least five days before the date of the
40 sale, in one or more newspapers published in this State and circulating
41 in the municipality in which the motor vehicle has been impounded.

42 (2) At any time prior to the sale, the registrant or other person
43 entitled to the motor vehicle, including the lessor or the lienholder of
44 the motor vehicle, may reclaim possession of it upon providing
45 satisfactory proof of motor vehicle liability insurance coverage and
46 payment of the reasonable costs of removal and storage of the motor
47 vehicle and any outstanding fines or penalties **;** provided, however, if

1 the other person entitled to the motor vehicle is a lessor or the holder
2 of a lien on the motor vehicle, he may reclaim the motor vehicle
3 without payment. In such cases, the registrant] . The registrant or
4 other person entitled to the motor vehicle, including the lessor or the
5 lienholder of the motor vehicle, shall be liable for all outstanding
6 costs, fines and penalties, and the municipality shall have a lien against
7 the property and [income of that registrant] the income of the
8 registrant or other person entitled to the motor vehicle, including the
9 lessor or the lienholder of the motor vehicle, for the total amount of
10 those outstanding costs, fines and penalties.

11 (3) Any proceeds obtained from the sale of a motor vehicle at
12 public auction pursuant to paragraph (1) of this subsection in excess of
13 the amount owed to the municipality for the reasonable costs of
14 removal and storage of the motor vehicle and any outstanding fines or
15 penalties shall be returned to the registrant of the vehicle, or other
16 person entitled to the motor vehicle, including the lessor or lienholder
17 of the motor vehicle.¹

18 (cf: P.L.2003, c.89, s.79)]²

19

20 ²[¹4. Section 4 of P.L.1995, c.286 (C.39:3-40.3) is amended to
21 read as follows:

22 4. a. A motor vehicle subject to the provisions of [this act]
23 P.L.1995, c.286 (C.39:3-40.1 et seq.) may be impounded by any law
24 enforcement officer if the registrant:

25 (1) knowingly permits an unlicensed driver to operate that motor
26 vehicle;

27 (2) operates or permits the operation of that motor vehicle without
28 a valid temporary registration or valid temporary registration plates as
29 authorized under section 3 of P.L.1995, c.286 (C.39:3-40.2); or

30 (3) fails to surrender a registration certificate and registration
31 plates in accordance with the provisions of subsection b. or c. of
32 section 2 of P.L.1995, c.286 (C.39:3-40.1).

33 A motor vehicle impounded under the provisions of this subsection
34 shall be removed to storage space or garage and its registration
35 certificate and registration plates seized. The registrant shall be
36 responsible for the cost of the removal and storage of the impounded
37 motor vehicle.

38 b. (1) If the registrant fails to claim the motor vehicle and pay the
39 reasonable costs of removal and storage by midnight of the 30th day
40 following impoundment, along with a fine of \$50 to cover the
41 administrative costs of the municipality wherein the violation
42 occurred, the municipality may sell the motor vehicle at public
43 auction. The municipality shall give notice of the sale by certified
44 mail to the registrant of the motor vehicle and to the holder of any
45 security interest filed with the [director] New Jersey Motor Vehicle
46 Commission, and by publication in a form to be prescribed by the
47 ¹[director] chief administrator¹by one insertion, at least five days

1 before the date of the sale, in one or more newspapers published in this
2 State and circulating in the municipality in which the motor vehicle
3 has been impounded.

4 (2) At any time prior to the sale, the registrant or other person
5 entitled to the motor vehicle , including the lessor or the lienholder of
6 the motor vehicle, may reclaim possession of it upon payment of the
7 reasonable costs of removal and storage of the motor vehicle and any
8 outstanding fines or penalties **】**; provided, however, if the other person
9 entitled to the motor vehicle is a lessor or the holder of a lien on the
10 motor vehicle, he may reclaim the motor vehicle without payment. In
11 such cases, the violator **】** . The registrant or other person entitled to the
12 motor vehicle, including the lessor or lienholder of the motor vehicle,
13 shall be liable for all outstanding costs, fines and penalties, and the
14 municipality shall have a lien against the property and **【**income of that
15 violator **】** the income of the registrant or other person entitled to the
16 motor vehicle, including the lessor or lienholder of the motor vehicle,
17 for the total amount of those outstanding costs, fines and penalties.

18 (3) Any proceeds obtained from the sale of a motor vehicle at
19 public auction pursuant to paragraph (1) of this subsection in excess of
20 the amount owed to the municipality for the reasonable costs of
21 removal and storage of the motor vehicle and any outstanding fines or
22 penalties shall be returned to the registrant of the vehicle, or the other
23 person entitled to the motor vehicle, including the lessor or lienholder
24 of the motor vehicle.¹

25 (cf: P.L.1995, c.286, s.4)**】**²

26

27 ¹**【2.】** ²**【5.1】** 3.² This act shall take effect immediately but shall
28 be retroactive to October 18, 2008.