

## CHAPTER 39

AN ACT concerning towing and towing operators and amending and repealing various parts of statutory law.

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

1. 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.

"Consumer" means a natural person.

"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 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.

2. Section 6 of P.L.2007, c.193 (C.56:13-12) is amended to read as follows:

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

6. 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.

3. Section 7 of P.L.2007, c.193 (C.56:13-13) is amended to read as follows:

C.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;

(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.

4. Section 8 of P.L.2007, c.193 (C.56:13-14) is amended to read as follows:

C.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)

5. Section 9 of P.L.2007, c.193 (C.56:13-15) is amended to read as follows:

C.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
- (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.

6. 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, 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 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.

7. Section 11 of P.L.2007, c.193 (C.56:13-17) is amended to read as follows:

C.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.

8. Section 13 of P.L.2007, c.193 (C.56:13-19) is amended to read as follows:

C.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)

9. Section 14 of P.L.2007, c.193 (C.56:13-20) is amended to read as follows:

C.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 seq.) shall not preempt any political subdivision from requiring or issuing any registration or license of any towing company.

(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.

10. 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 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.

11. Section 2 of P.L.2002, c.77 (C.27:23-6.2) is amended to read as follows:

C.27:23-6.2 Registration of towing operators with New Jersey Turnpike Authority.

2. a. An operator awarded a contract for towing and storage services by the New Jersey Turnpike Authority shall register with the authority. Upon issuance of the registration, the authority shall provide the operator with two decals and accompanying notices for each tow truck owned or leased by that operator and to be used under the terms of the contract. The decals and the accompanying notices, which shall be of a distinctive design and color, shall be conspicuously displayed on the exterior of each such tow truck in a manner and location prescribed by the authority.

The decals shall set forth a specific registration number for each registered tow truck. The notices shall include a statement indicating substantially the following: "This tow truck is registered with the New Jersey Highway Authority. The driver is required to provide you with a written schedule of the fees charged for towing and storage services before providing that service to you, including those services for which there is no fee. If the fee charged is in excess of the fee listed on the schedule, please notify the authority or the New Jersey Division of Consumer Affairs." An operator shall file a copy of the schedule of fees with the authority. Upon request of the Division of Consumer Affairs in the Department of Law and Public Safety, the authority shall provide a list of the registered tow trucks to the division, in addition to a copy of the schedule of fees.

b. Prior to providing any towing services, a driver of a tow truck shall provide the person whose vehicle is to be towed a written schedule of fees and shall recite the information contained in the notice.

c. An operator who fails to display the decals and notices required by subsection a. of this section or the driver of a tow truck who fails to provide a person to be towed the written schedule of fees or recite the information contained in the notice prior to providing a towing service as required by subsection b. of this section shall be subject to a fine of \$300 for the first offense. For the second and any subsequent offense the operator or the driver, as the case may be, shall be subject to a fine of \$600.

d. It shall be an unlawful practice and a violation of P.L.1960, c.39 (C.56:8-1 et seq.) for any person to charge a fee in excess of the fee listed in the written schedule of fees provided pursuant to subsection a. of this section.

e. If an operator or the driver of an operator's tow truck is convicted a third time for violation of any provisions of this section, the authority may, in its discretion, terminate the operator's contract for towing and storage services with the authority.

12. Section 3 of P.L.2002, c.77 (C.27:25A-8.1) is amended to read as follows:

C.27:25A-8.1 Registration of towing operators with South Jersey Transportation Authority.

3. a. An operator awarded a contract for towing and storage services by the South Jersey Transportation Authority shall register with the authority. Upon issuance of the registration, the authority shall provide the operator with two decals and accompanying notices for each tow truck owned or leased by that operator and to be used under the terms of the contract. The decals and the accompanying notices, which shall be of a distinctive design and color, shall be conspicuously displayed on the exterior of each such tow truck in a manner and location prescribed by the authority.

The decals shall set forth a specific registration number for each registered tow truck. The notices shall include a statement indicating substantially the following: "This tow truck is registered with the New Jersey Highway Authority. The driver is required to provide you with a written schedule of the fees charged for towing and storage services before providing that service to you, including those services for which there is no fee. If the fee charged is in excess of the fee listed on the schedule, please notify the authority or the New Jersey Division of Consumer Affairs." An operator shall file a copy of the schedule of fees with the authority. Upon request of the Division of Consumer Affairs in the Department of Law and Public Safety, the authority shall provide a list of the registered tow trucks to the division, in addition to a copy of the schedule of fees.

b. Prior to providing any towing services, a driver of a tow truck shall provide the person whose vehicle is to be towed a written schedule of fees and shall recite the information contained in the notice.

c. An operator who fails to display the decals and notices required by subsection a. of this section or the driver of a tow truck who fails to provide a person to be towed the written schedule of fees or recite the information contained in the notice prior to providing a towing service as required by subsection b. of this section shall be subject to a fine of \$300 for the first offense. For the second and any subsequent offense the operator or the driver, as the case may be, shall be subject to a fine of \$600.

d. It shall be an unlawful practice and a violation of P.L.1960, c.39 (C.56:8-1 et seq.) for any person to charge a fee in excess of the fee listed in the written schedule of fees provided pursuant to subsection a. of this section.

e. If an operator or the driver of an operator's tow truck is found to have been convicted a third time for violation of any provisions of this section, the authority may, in its discretion, terminate the operator's contract for towing and storage services with the authority.

13. Section 3 of P.L.1999, c.396 (C.39:3-84.8) is amended to read as follows:

C.39:3-84.8 Information contained in application for tow truck registration.

3. a. An application for tow truck registration shall contain the following information:

- (1) The name and address of the towing company's principal owner or owners;
- (2) The address of the principal business office of the towing company;
- (3) The location of any garage, parking lot, or other storage area, where motor vehicles or other objects moved by the towing company may be stored or placed;
- (4) A valid certificate of insurance and a schedule of insured vehicles that are to be utilized by the towing company from an insurer authorized to do business in the State, including the amounts of the garage keeper's legal liability coverage and any "on hook" coverage as an endorsement or contained in a separate schedule, and liability insurance coverage, 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; and
- (5) Documentation of the manufacturer's gross vehicle weight rating for each tow truck.

Except as otherwise provided in this act, the registration for these vehicles shall be issued and renewed pursuant to the provisions of this Title.

Repealer.

14. The following sections are repealed:

Section 4 of P.L.2007, c.193 (C.56:13-10); and

Section 5 of P.L.2007, c.193 (C.56:13-11).

15. This act shall take effect immediately, except that section 4 shall remain inoperative for 90 days following the effective date, but the director may take such anticipatory action as may be necessary to effectuate those provisions of this act.

Approved April 15, 2009.