



Legislation Text

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AN ORDINANCE AMENDING TITLE 8, BUSINESSES AND OCCUPATIONS, CHAPTER 19, WRECKERS, SECTION 10, OF THE REVISED GENERAL ORDINANCES OF THE CITY OF NEWARK, NEW JERSEY, 2000, AS AMENDED AND SUPPLEMENTED, CREATING SECTION 8:19-10, PRIVATE PROPERTY BOOTING.

Sponsor(s): Council President, LaMonica R. McIver

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WHEREAS, 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, overcharging persons for towing services provided under circumstances where the person has no meaningful opportunity to withhold consent; and

WHEREAS, 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; and

WHEREAS, the Predatory Towing Prevention Act, which became effective on April 15, 2009, regulates towing from private property and towing initiated by law enforcement, that occur without the prior consent of the towed vehicle's owner or operator, pursuant to N.J.S.A 56:13-1, et. seq., and

WHEREAS, the Predatory Towing Prevention Act defines "towing" as "the moving or removing from public or private property...or the immobilization of...[a] motor vehicle, for which a service charge is made"; and

WHEREAS, the City of Newark (the "City") has adopted Rules and Regulations governing towing of motor vehicles in the City of Newark; and

WHEREAS, the City desires to add more regulations to address the concern of unlawful booting and excessive fees in connection with immobilizing vehicles on private property; and

WHEREAS, N.J.S.A. 40:48-2 authorizes a municipality to make, amend, repeal and enforce such other ordinances, regulations, rules and by-laws not contrary to the laws of this State or of the United States, as it may deem necessary and proper for the good government, order and protection of persons and property, and for the preservation of the public health, safety and welfare of the municipality and its inhabitants.

NOW, THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, NEW JERSEY, THAT:

SECTION 1. The foregoing whereas clause is incorporated herein by reference and made a part hereof.

SECTION 2. Title VIII, Business and Occupations, Chapter 19, Wreckers is amended to Section 8:19-1. Definitions to include:

"Booting" means the act of placing, on a parked motor vehicle, a mechanical device that is designed to immobilize and/ or prohibit its usual manner of movement.

"Immobilization" includes booting, installing a windshield obstruction device, or other means of impeding the usual manner of movement of a vehicle.

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

"Private property towing" means 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 N.J.S.A. 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 N.J.S.A. 39:4-56.6.

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

SECTION 3. Title VIII, Business and Occupations, Chapter 19, Wreckers is amended to add the following new Subsection 10 entitled Private Property Booting.

§ 8:19-10 PRIVATE PROPERTY BOOTING.

A. No person shall boot any motor vehicle parked for an unauthorized purpose from:

(1) any privately owned parking lot,

(2) from other private property,

(3) or from any common driveway without the consent of the motor vehicle owner or operator, unless the person is registered in compliance Section 2 of this Chapter with the City of Newark is authorized to perform act by the owner of the private property.

B. It shall be unlawful to boot a motor vehicle at any location unless:

(1) 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; and

(b)

That unauthorized parking is prohibited and unauthorized motor vehicles will be booted at the owner's expense; and

(c)

The name, address, and telephone number of the booting company that will perform the booting; and

(d)

The charges, which shall not exceed the fee specified in the ordinance on file with the Municipal Clerk for the booting of motor vehicles.

C.

A booting company shall not boot a motor vehicle on private property without the consent of the owner or operator of the vehicle, without first obtaining the written authorization from the property owner or lessee, or its employee or agent, who shall verify the alleged violation with the Department of Public Safety, Division of Police by way of notification herein below, if it occurs during normal business hours of any premises at the location operated by the property owner or lessee authorizing the removal of the vehicle, except that general authorization in writing shall be sufficient for the removal of a motor vehicle parked on private property, if the violation occurs at a time other than during normal business hours of the premises of the property owner or lessee authorizing the removal of the vehicle.

D.

Except as provided in this Section, the owner or person in lawful possession of private property may cause the booting of the motor vehicle parked on the property by a booting company registered and in compliance with this chapter, if signs are posted on the property as required in this section, or if the vehicle is parked on the property for longer than 48 hours without authorization.

E.

The provisions of 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 multiunit structure of not more than 6 units.

A booting company must release the vehicle to its owner who returns to the vehicle while the booting company is still present at the location of the immobilized vehicle. In such instances, the booting company shall only charge the minor boot removal fee, and not require payment of the full boot removal fee.

F. Any person found in violation of this section is subject to penalties as set forth in Section 9 of the Chapter.

Section 4. Severability.

If any provision of this Ordinance or any section, sentence, clause, phrase, or word or the application thereof, shall in any circumstance be held invalid, the validity of the remainder of this ordinance and the application of any such provision, section, sentence, clause, phrase, or word shall not be

affected.

Section 5.

This Ordinance shall take effect upon final passage and publication in accordance with the laws of the State of New Jersey.

STATEMENT

An Ordinance amending Title VIII, Businesses and Occupations, Chapter 19, Wreckers, by creating Section 10, Private Property Booting to limit the occurrence of predatory booting and regulating nonconsensual booting from private property without proper authorization.