

# STATE OF NEW YORK

5430

2023-2024 Regular Sessions

## IN SENATE

March 3, 2023

Introduced by Sen. MATTERA -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

AN ACT to amend the general business law, in relation to requiring towers to clean up any debris in the surrounding area resulting from the vehicles they are towing

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Legislative intent. The legislature finds and determines  
2 that often the delay caused by investigation and removal process of  
3 damaged and disabled motor vehicles from vehicle accident crash scenes  
4 results in congestion of traffic and can cause additional accidents.

5 The legislature further finds and determines that it is of vital  
6 importance to remove damaged and disabled vehicles from the roads as  
7 promptly as possible.

8 The legislature also finds and determines that motor vehicle accident  
9 and disablement sites, are often left in an unsafe and unclean condition  
10 after tow truck operators and emergency personnel leave the scene.

11 The legislature determines that clean up standards and enforcement are  
12 needed to ensure public/vehicle safety is maintained and to ensure that  
13 accident and disablement scenes are left free of debris and are safe  
14 thoroughfares.

15 Therefore, the purpose of this law is to ensure that following motor  
16 vehicle accidents and disablements, and as part of the towing services  
17 involved, that the surrounding area/scene will be swept and left clean  
18 and free from debris so as to protect the public and future vehicles  
19 traveling in the area.

20 § 2. The general business law is amended by adding a new section 399-  
21 xxx to read as follows:

22 § 399-xxx. Towing vehicles from an accident or disablement scene. 1.  
23 Definitions. As used in this section, the following terms shall have the  
24 following meanings:

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 (a) "Accident" shall mean any incident or occurrence in which one or  
2 more motor vehicles come in contact with each other or another object,  
3 thereby causing damage to a motor vehicle;

4 (b) "Debris" shall mean substances, materials, and objects that are  
5 foreign to the normal roadway or thoroughfare environment area, includ-  
6 ing traffic control debris. Debris may be produced by vehicular or non-  
7 vehicular sources;

8 (c) "Disablement" shall mean motor vehicles not involved in accidents  
9 but which are disabled and which must be removed from the road via  
10 services of a tow truck operator;

11 (d) "Tower" shall mean a person owning or leasing or controlling one  
12 or more tow trucks and driving or operating or causing any such vehicle  
13 to be operated upon the public highways for hire; and

14 (e) "Tow truck" shall mean a motor vehicle which is designed or  
15 equipped for carrying, lifting or moving another motor vehicle.

16 2. Clean up of debris and surrounding area. (a) All towers called to  
17 the scene of an accident or disablement shall clean up any debris in the  
18 surrounding area resulting from the vehicles they are towing to the  
19 satisfaction of the police officer or authorized representative on the  
20 scene.

21 (b) All tow trucks operating in the state shall be equipped for debris  
22 clean up including, but not limited to, a shovel, broom and a container  
23 to collect debris.

24 (c) Towers shall further clean up any oil, coolant, or gas that the  
25 vehicles involved spilled on the road and shall carry a liquid absorbing  
26 substance approved by the department of environmental conservation and  
27 the department of transportation they can apply and sweep off of the  
28 road so that it is clean and dry.

29 (d) The clean up services required by this section shall be included  
30 in the towing fee. No additional charge shall be made for this service.

31 (e) Should there be an excess amount of oil or toxic chemicals on the  
32 road, the tower may enlist the help of the local fire department or  
33 hazmat team, depending on the nature of the spill.

34 (f) Nothing in this section shall be construed to prohibit a police  
35 officer in charge at the scene of any accident or disablement to request  
36 and obtain such emergency aid and equipment as, in such officer's opin-  
37 ion, may be required as an emergency measure to clear the highway,  
38 protect persons and/or property, or carry out the duties of such officer  
39 with regard to the seizure of property and/or the preservation of  
40 evidence.

41 (g) Notwithstanding the foregoing, the removal of any damaged municip-  
42 al property, including but not limited to, municipal vehicles, roadway  
43 signs, bus shelters, fencing or guardrails shall be the responsibility  
44 of the applicable municipality. Such municipality shall ensure that the  
45 damaged municipal property is removed as soon as practicable and in  
46 accordance with any collective bargaining agreements.

47 (h) Whenever a municipal tow truck is used to tow vehicles, the munic-  
48 ipal employee operating the tow truck shall be required to clean up any  
49 debris in the surrounding area resulting from the vehicles they are  
50 towing, including safety materials, such as flares, used to control the  
51 site.

52 3. Penalties. (a) Whenever there shall be a violation of this section,  
53 an application may be made by the attorney general in the name of the  
54 people of the state of New York to a court or justice having jurisdic-  
55 tion to issue an injunction, and upon notice to the defendant of not  
56 less than five days, to enjoin and restrain the continuance of such

1 violation; and if it shall appear to the satisfaction of the court or  
2 justice that the defendant has, in fact, violated this section, an  
3 injunction may be issued by such court or justice, enjoining and  
4 restraining any further violation, without requiring proof that any  
5 person has, in fact, been injured or damaged thereby. Whenever the court  
6 shall determine that a violation of this section has occurred, the court  
7 may impose a civil penalty of not less than one hundred dollars and not  
8 more than five hundred dollars for each such violation. In connection  
9 with any such proposed application, the attorney general is authorized  
10 to take proof and make a determination of the relevant facts and to  
11 issue subpoenas in accordance with the civil practice law and rules.

12 (b) The provisions of this section may be enforced concurrently by the  
13 town attorney, city corporation counsel, or other lawful designee of a  
14 municipality or local government, and all moneys collected thereunder  
15 shall be retained by such municipality or local government.

16 § 3. This act shall take effect on the thirtieth day after it shall  
17 have become a law.