§ 399-v. Parking facilities; towing of vehicles, posting of notices. 1. For purposes of this section, the following terms shall have the following meanings:

(a) "commercial tower" shall mean any person, firm, partnership, corporation or association that engages in commercial towing, as defined in section one hundred seven-b of the vehicle and traffic law, whether by contract or other agreement;

(b) "owner" shall mean the owner or lessee of a parking facility or an agent of such owner or lessee, provided that such term shall not include a commercial tower acting as an agent of such owner or lessee; and

(c) "parking facility" shall mean parking facilities having a parking capacity of five or more motor vehicles not owned or operated by the state, a municipality or public authority.

2. Every parking facility shall display prominently a conspicuous notice stating the name, address and telephone number of the operator of the parking facility together with the name, address and telephone number of any individual or entity authorized to tow from such parking facility any motor vehicle or the name, address and telephone number of any individual or entity authorized to place a device designed to immobilize any motor vehicle in such parking facility. Such notice shall also state that unauthorized vehicles will be towed at the vehicle owner's expense.

3. No owner or operator of a parking facility shall tow or authorize the towing of any motor vehicle or immobilize or authorize the immobilization of any motor vehicle in such parking facility unless such owner or operator displays a notice pursuant to subdivision two of this section.

4. No owner or operator of a parking facility shall solicit, receive, accept or agree to receive or accept any payment, commission or other consideration from a commercial tower for the towing and storing of vehicles removed from such owner's or operator's parking facility.

4-a. (a) Whenever there shall be a violation of this section, an application may be made by the attorney general in the name of the

people of the state of New York to a court or justice having jurisdiction to issue an injunction, and upon notice to the defendant of not less than five days, to enjoin and restrain the continuance of such violations; and if it shall appear to the satisfaction of the court or justice that the defendant has, in fact, violated this section, an injunction may be issued by such court or justice, enjoining and restraining any further violation, without requiring proof that any person has, in fact, been injured or damaged thereby. In any such proceeding the court may make allowances to the attorney general as provided in paragraph six of subdivision (a) of section eighty-three hundred three of the civil practice law and rules, and direct restitution. Whenever the court shall determine that a violation of this section has occurred, the court may impose a civil penalty of not less than fifty dollars and not more than one thousand dollars for each such violation. In connection with any such proposed application, the attorney general is authorized to take proof and make a determination of the relevant facts and to issue subpoenas in accordance with the civil practice law and rules.

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

5. The provisions of this section shall not apply to cities having a population of one million or more.

6. Any person who has been injured by reason of any violation of this section may bring an action in his or her own name to enjoin such unlawful act or practice, an action to recover his or her actual damages or one hundred fifty dollars, whichever is greater, or both such actions. The court may, in its discretion, increase the award of damages to an amount not to exceed three times the actual damages up to one thousand dollars, if the court finds the defendant willfully or knowingly violated this section. The court may award reasonable attorney's fees to a prevailing plaintiff.

7. This section shall not annul, alter, affect or exempt any owner or

operator subject to the provisions of this section from complying with the laws, ordinances, rules or regulations of any locality relating to the posting of parking facility notices and/or the towing of motor vehicles from parking facilities, except to the extent that these laws, ordinances, rules or regulations are inconsistent with any provision of this section, but no such local law, ordinance, rule or regulation shall be considered inconsistent if it affords greater protection to the consumer including but not limited to local laws, rules or regulations that:

(i) regulate the reasonable amount that a commercial tower may charge for the towing and storage of a vehicle removed from a parking facility;

(ii) require written contracts between an owner and a commercial tower, which contracts may also be required to be filed with the political subdivision;

(iii) require the owner to be physically present when a vehicle is towed from a parking facility; or

(iv) regulate the hours when a commercial tower must be available to release a vehicle that is towed from a parking facility.