SYNOPSIS
Revises penalties for certain violations of law by public movers and warehousemen.

CURRENT VERSION OF TEXT
As amended by the General Assembly on May 23, 2019.
AN ACT concerning public movers and warehousemen, and
amending 2 and supplementing 2 P.L.1981, c.311.

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

1. Section 6 of P.L.1981, c.311 (C.45:14D-6) is amended to
read as follows:

6. The director shall, in addition to such other powers and
duties as the director may possess by law:

a. Administer and enforce the provisions of [this act]
P.L.1981, c.311 (C.45:14D-1 et seq.);

b. Adopt and promulgate rules and regulations, pursuant to the
c.311 (C.45:14D-1 et seq.);

c. Examine and pass on the qualifications of all applicants for
license under [this act] P.L.1981, c.311 (C.45:14D-1 et seq.), and
issue a license to each qualified applicant;

d. Establish professional standards for persons licensed under
[this act] P.L.1981, c.311 (C.45:14D-1 et seq.);

e. Conduct hearings pursuant to the "Administrative Procedure
Act," P.L.1968, c.410 (C.52:14B-1 et seq.); except that the director
shall have the right to administer oaths to witnesses, and shall have
the power to issue subpoenas for the compulsory attendance of
witnesses and the production of pertinent books, papers, or records;

f. Conduct proceedings before any board, agency or court of
competent jurisdiction for the enforcement of the provisions of
[this act] P.L.1981, c.311 (C.45:14D-1 et seq.);

g. Annually publish a list of the names, addresses and tariffs of
all persons who are licensed under [this act] P.L.1981,
c.311 (C.45:14D-1 et seq.);

h. Establish reasonable requirements with respect to proper and
adequate movers' and warehousemen's services and the furnishing
of estimates, and prescribe a uniform system of accounts, records
and reports;

i. Adopt and promulgate rules and regulations to protect the
interests of the consumer, including, but not limited to, regulations
concerning the contents of information brochures which a mover or
warehouseman shall give to a customer in either a written or
digital format, prior to the signing of a contract for moving or
storage services; and

i. [Promulgate rules and regulations authorizing]

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 floor amendments adopted June 7, 2018.
2Assembly ARP committee amendments adopted January 24, 2019.
3Assembly AAP committee amendments adopted March 18, 2019.
4Assembly floor amendments adopted May 23, 2019.
impound a motor vehicle for a violation of P.L.1981, c.311
(C.45:14D-1 et seq.). A summons and impoundment shall be issued
in accordance with subsections b., c., and d. of section 16 of
efforts with State and local law enforcement agencies as may be
appropriate, including but not limited to, exercising authority to
impound a motor vehicle for a violation of P.L.1981, c.311
(C.45:14D-1 et seq.).

2. Section 16 of P.L.1981, c.311 (C.45:14D-16) is amended to
read as follows:

16. a. Any person [willfully] violating any provision of
P.L.1981, c.311 (C.45:14D-1 et seq.) shall, in addition to any other
sanctions provided herein, be liable to a civil penalty of not more
than $2,500.00 $5,000 for the first offense and not more than
$5,000.00 $20,000 for the second and each subsequent offense , a
portion of which shall be dedicated to cover the administrative costs
of the municipality and Division of Consumer Affairs in the
Department of Law and Public Safety, as determined by the
director. Any person engaging in the unlicensed practice of
activities regulated by P.L.1981, c.311 (C.45:14D-1 et seq.) who
violates a provision of P.L.1981, c.311 (C.45:14D-1 et seq.) shall be
ordered, after a first offense, to delete or block access to any
Internet website maintained by the person that advertises the
person’s unlicensed practice of activities regulated by P.L.1981,
c.311 (C.45:14D-1 et seq.). The person shall be liable for an
additional penalty of up to $1,000 each day that the website remains
viewable to the public. For the purpose of this section, each
transaction or violation shall constitute a separate offense; except a
second or subsequent offense shall not be deemed to exist unless an
administrative or court order has been entered in a prior, separate
and independent proceeding. In lieu of an administrative proceeding
or an action in the Superior Court, the Attorney General may bring
an action in the name of the director for the collection or
enforcement civil penalties for the violation of any provision of that
act. The action may be brought in a summary manner pursuant to
10 et seq.), and the rules of court governing actions for the
collection of civil penalties in the municipal or Special Civil Part of
the Law Division of the Superior Court where the offense occurred.
Process in the action may be by summons or warrant and if the
defendant in the action fails to answer the action, the court shall,
upon finding an unlawful act or practice to have been committed by
the defendant, issue a warrant for the defendant’s arrest in order to
bring the person before the court to satisfy the civil penalties
imposed. In an action commenced pursuant to this section, the
court may order restored to any person in interest any moneys or
property acquired by means of an unlawful act or practice. Any action alleging the unlicensed practice of the activities regulated by P.L.1981, c.311 (C.45:14D-1 et seq.) shall be brought pursuant to this section or, where injunctive relief is sought, by an action commenced in the Superior Court. In an action brought pursuant to that act, the director or the court may order the payment of costs for the use of the State.

b. Any person who willfully violating any provision of advertising or engaging in the business of public moving or storage without a license issued pursuant to P.L.1981, c.311 (C.45:14D-1 et seq.) shall be guilty of a disorderly persons offense and shall, upon conviction, be punished by a fine of up to $5,000 $1,000, or by imprisonment for up to six months, or by both fine and imprisonment found to have engaged in the unlicensed practice of activities regulated by P.L.1981, c.311 (C.45:14D-1 et seq.) shall be ordered, after a first violation, to remove or cause to be removed from public view on any Internet website maintained by or on behalf of the person any information that a reasonable person would construe as an offer to perform in this State activities or services subject to regulation under P.L.1981, c.311 (C.45:14D-1 et seq.) and any advertising that suggests that the person is licensed to perform such activities or services in this State. In addition to any other penalties, a person who violates an order entered in accordance with this subsection shall be liable for an additional penalty of up to $1,000 each day that information on the website is viewable to the public.

Nothing in this section shall be construed to impose liability on news media that accept, publish, or accept and publish advertising provided by or on behalf of a third party unrelated to the news media entity that may fall within the scope of P.L.1981, c.311 (C.45:14D-1 et seq.) or publish advertising that may fall within the scope of P.L.1981, c.311 (C.45:14D-1 et seq.), or both.

c. Any person engaging in the business of public moving without a license issued pursuant to P.L.1981, c.311 (C.45:14D-1 et seq.) may be subject to a suspension, for a period of no more than three months, of a driver’s license issued pursuant to R.S.39:3-10 or commercial driver license issued pursuant to P.L.1990, c.103 (C.39:3-10.9 et seq.), and the impoundment of the motor vehicle used to engage in the unlicensed practice of public moving.

d. In addition to any penalty provided for in this section or the penalty established pursuant to subsection d. of section 6 of P.L.1998, c.60 (C.45:14D-29), a public mover, warehouseman, or any other person who engages in the business of public moving or storage and who knows, or reasonably should have known, that payment for the lawfully agreed charges for the mover’s services,
storage services, or other person’s services has been [tendered] paid in full by a consumer, shall release the consumer’s property to the consumer. If the mover, warehouseman, or other person fails to release the consumer’s property to the consumer, then the mover, warehouseman, or other person shall be guilty of a crime of the fourth degree and shall, upon conviction, be punished by a fine of up to $10,000, or by imprisonment for up to 18 months, or by both fine and imprisonment. If the mover, warehouseman, or other person fails to release the consumer’s property to the consumer, any regular police officer may take custody of the consumer’s property and release the property to the consumer.

3. (New section) It shall be an unlawful practice for a person who does not hold a license to engage in the business of public moving or storage issued pursuant to section 9 of P.L.1981, c.311 (C.45:14D-9) to offer to perform activities or services subject to regulation under P.L.1981, c.311 (C.4514D-1 et seq.) or advertise or cause to be advertised, via an Internet website or by any other means, that the person may perform such activities or services in this State. Nothing in this section shall be construed to impose liability on any news media for accepting or publishing advertising that may fall within the scope of P.L.1981, c.311 (C.45:14D-1 et seq.) if that advertising is provided by or on behalf of a third party unrelated to the news media entity.

4. (New section) It shall be an unlawful practice for a public mover, warehouseman, or any other person, whether or not holding a license issued pursuant to section 9 of P.L.1981, c.311 (C.45:14D-9), who engages in the business of public moving or storage who knows, or reasonably should know, that the lawfully agreed charges for the moving or storage services have been paid in full by a consumer, to withhold or fail to timely release the consumer’s property to the consumer, or to threaten to withhold or fail to timely release the consumer’s property to the consumer, or to demand payment beyond or in addition to the lawfully agreed charges for the moving or storage services. Nothing in this section shall be construed to preclude or limit the prosecution or conviction of any person for theft by failure to make required disposition of property in violation of N.J.S.2C:20-9, or any other applicable criminal offense enumerated in chapter 20 of Title 2C.

5. (New section) a. A person owning or operating a motor vehicle who shall use or direct another person to use his motor vehicle for engaging in the business of public moving without having a license as provided for in section 9 of P.L.1981, c.311 (C.45:14D-9), commits a disorderly persons offense. The first offense is punishable by a fine
of $500, and the motor vehicle so used may be impounded; the second
or any subsequent offense is punishable by a fine of $1,000, and the
motor vehicle so used may be impounded. In the event of such an
impoundment, the person owning or operating the motor vehicle shall
notify any consumer whose property is contained in the motor vehicle
and shall arrange for the expeditious return of the property to the
consumer at the expense of the person owning or operating the motor
vehicle.

b. Any law enforcement officer is authorized to remove any
motor vehicle used to engage in the business of public moving without
having a license as provided for in section 9 of P.L.1981, c.311
(C.45:14D-9) from the public highway to a storage space or garage,
and the expense involved in such removal and storing of the vehicle
shall be borne by the owner of the vehicle, except that the expense
shall be borne by the lessee of a leased vehicle. 4

6. (New section) Any person who does not hold a license to
engage in the business of public moving or storage issued pursuant to
section 9 of P.L.1981, c.311 (C.45:14D-9), who holds himself out as a
public mover or warehouseman or as providing mover’s services or
storage services as defined in section 2 of P.L.1981, c.11 (C.45:12D-2)
and engages in the business of public moving or storage shall be guilty
of a disorderly persons offense and shall, upon conviction, be punished
by a fine of up to $1,000, or by imprisonment for up to six months, or
by both fine and imprisonment. A motor vehicle used to commit a
violation of P.L.1981, c.311 (C.45:14D-1 et seq.) may be impounded,
and may be held as collateral to secure payment of any fines or towing
and storage costs related to the violation and impoundment. 4

7. (New section) The Division of Consumer Affairs
shall annually submit a report to the Legislature, pursuant to section
2 of P.L.1991, c.164 (C.52:14-19.1), which provides information on
the enforcement and violations of P.L.1981, c.311 (C.45:14D-1 et
seq.). The report shall include a description of all enforcement
proceedings undertaken at the State and local levels and violations
of P.L.1981, c.311 (C.45:14D-1 et seq.) in the preceding year and
may include recommendations to improve enforcement of P.L.1981,
c.311 (C.45:14D-1 et seq.). 2

This act shall take effect immediately on
the first day of the fourth month next following enactment, except
that the director may take any anticipatory administrative action in
advance as shall be necessary for the implementation of this act 4.