

ASSEMBLY, No. 2281

STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 16, 1996

By Assemblymen MORAN and IMPREVEDUTO

1 AN ACT concerning the licensing of public movers and warehousemen,
2 amending P.L.1971, c.60 and P.L.1984, c.140, amending and
3 supplementing P.L.1981, c.311, and repealing sections 4 and 14 of
4 P.L.1981, c.311.

5

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

8

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

11 2. As used in this act:

12 a. "Accessorial service" means the preparation of articles for
13 shipment, including, but not limited to, the packing, crating, boxing
14 and servicing of appliances, the furnishing of containers, unpacking,
15 uncrating and reassembling of articles, placing them at final destination
16 and the moving or shifting of articles from one location to another
17 within a building, or at a single address;

18 b. ["Board" means the State Board of Public Movers and
19 Warehousemen established under this act;] (Deleted by amendment,
20 P.L. ., c. .)

21 c. (Deleted by amendment, P.L.1993, c.365).

22 d. "Department" means the Department of Law and Public Safety;

23 e. "Household goods" means personal effects, fixtures, equipment,
24 stock and supplies or other property usually used in or as part of the
25 stock of a dwelling, when it is put into storage or when it is
26 transported by virtue of its removal, in whole or in part, by a
27 householder from one dwelling to another, or from the dwelling of a
28 householder to the dwelling of another householder, or between the
29 dwelling of a householder and a repair or storage facility, or from the
30 dwelling to an auction house or other place of sale. The term
31 "household goods" shall not apply to property moving from a factory
32 or store, except property which the householder has purchased and
33 which is transported at his request as part of the movement by the
34 householder from one dwelling to another;

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

- 1 f. "Intrastate commerce" means commerce moving wholly between
2 points within the State over all public highways, or at a single location;
- 3 g. "License" means a license issued by the [board] director;
- 4 h. "Motor vehicle" means any vehicle, machine, tractor, truck or
5 semitrailer, or any combination thereof, propelled, driven or drawn by
6 mechanical power, and used upon the public highways in the
7 transportation of household goods, office goods and special
8 commodities in intrastate commerce;
- 9 i. "Mover's services" means all of the services rendered by a public
10 mover;
- 11 j. "Storage services" means all of the services rendered by a
12 warehouseman;
- 13 k. "Office goods" means personal effects, fixtures, furniture,
14 equipment, stock and supplies or other property usually used in or as
15 part of the stock of any office, or commercial, institutional,
16 professional or other type of establishment, when it is put into storage
17 or when the property is transported by virtue of its removal, in whole
18 or in part, from one location to another, but does not mean or include
19 stock and supplies or other property usually used in or as part of the
20 stock of any office, or commercial, institutional, professional or other
21 type of establishment, when put into storage;
- 22 l. "Person" means any individual, copartnership, association,
23 company, or corporation, and includes any trustee, receiver, assignee,
24 lessee, or personal representative of any person herein defined;
- 25 m. "Place of business" means a business office located in New
26 Jersey from which the mover or warehouseman conducts his daily
27 business and where records are kept;
- 28 n. "Property" means all of the articles in the definition of household
29 goods, office goods or special commodities;
- 30 o. "Public highway" or "highway" means any public street, road,
31 thoroughfare, bridge and way in this State open to the use of the
32 public as a matter of right for purposes of motor vehicular travel,
33 including those that impose toll charges;
- 34 p. "Public mover" or "mover" means any person who engages in
35 the transportation of household goods, office goods or special
36 commodities by motor vehicle for compensation in intrastate
37 commerce between points in this State, including the moving of
38 household goods, office goods or special commodities from one
39 location to another at a single address, and any person who engages
40 in the performance of accessorial services; except that the term "public
41 mover" or "mover" shall not apply to any person who engages in, or
42 holds himself out to the general public as engaging in, the
43 transportation of special commodities when such commodities are not
44 transported by virtue of a removal, in whole or in part, and who does
45 not engage, nor hold himself out to the general public as engaging in,
46 the transportation of household or office goods;

1 q. "Special commodities" means uncrated or unboxed works of art,
2 fixtures, appliances, business machines, electronic equipment, displays,
3 exhibits, home, office, store, theatrical or show equipment, musical
4 instruments, or other articles being put into storage or being moved,
5 and which require the use of equipment and personnel usually
6 furnished or employed by warehousemen or public movers, except that
7 the provisions of P.L.1981, c.311 (C.45:14D-1 et seq.) shall not apply
8 to any person engaged in the transportation or storage of special
9 commodities when these commodities are not transported by virtue of
10 a removal, in whole or in part;

11 r. "Storage" means the safekeeping of property in a depository for
12 compensation;

13 s. ["Tariff" means a schedule of rates and charges for the storage
14 or transportation of property in intrastate commerce on file with the
15 board, which shall be used in computing all charges on the storage or
16 transportation of property as of the date of the time in storage or
17 transportation;] (Deleted by amendment, P.L. , c. .)

18 t. "Warehouseman" means a person engaged in the business of
19 storage;

20 u. "Removal" means the physical relocation, in whole or in part, of
21 either household goods, office goods or special commodities from one
22 location to another location, including internal relocations within the
23 same room or facility, for compensation;

24 v. "Director" means the Director of the Division of Consumer
25 Affairs in the Department of Law and Public Safety.

26 (cf: P.L.1993, c.365, s.1)

27

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

30 6. The [board] director shall, in addition to such other powers and
31 duties as [it] he may possess by law:

32 a. Administer and enforce the provisions of this act;

33 b. Adopt and promulgate rules and regulations, pursuant to the
34 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
35 seq.), to effectuate the purposes of this act;

36 c. Examine and pass on the qualifications of all applicants for
37 license under this act, and issue a license to each qualified applicant;

38 d. Establish professional standards for persons licensed under this
39 act;

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

45 f. Conduct proceedings before any board, agency or court of

1 competent jurisdiction for the enforcement of the provisions of this
2 act;

3 g. Annually publish a list of the names[,] and addresses [and
4 tariffs] of all persons who are licensed under this act;

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

9 i. Adopt and promulgate rules and regulations to protect the
10 interests of the consumer, including, but not limited to, regulations
11 concerning the contents of information brochures which a mover or
12 warehouseman shall give to a customer prior to the signing of a
13 contract for moving or storage services.

14 (cf: P.L.1993, c.365, s.3)

15

16 3. Section 7 of P.L.1981, c.311 (C.45:14D-7) is amended to read
17 as follows:

18 7. The [board] director may, after notice and opportunity for a
19 hearing, revoke, suspend or refuse to renew or issue any license issued
20 pursuant to this act upon a finding that the applicant or holder of a
21 license:

22 a. Has obtained a license by means of fraud, misrepresentation or
23 concealment of material facts;

24 b. Has engaged in the use or employment of dishonesty, fraud,
25 deception, misrepresentation, false promise or false pretense;

26 c. Has engaged in gross negligence or gross incompetence;

27 d. Has engaged in repeated acts of negligence or incompetence;

28 e. Has repeatedly failed to discharge contractual obligations to any
29 person contracting for moving or storage services;

30 f. Has engaged in occupational misconduct;

31 g. Has been convicted of any crime involving moral turpitude or
32 any crime relating adversely to the activities regulated by P.L.1981,
33 c.311 (C.45:14D-1 et seq.). For the purpose of this subsection, a plea
34 of guilty, non vult, nolo contendere or any other similar disposition of
35 alleged criminal activity shall be deemed a conviction;

36 h. Has had his authority to engage in the activities regulated by
37 P.L.1981, c.311 (C.45:14D-1 et seq.) revoked or suspended by any
38 other state, agency or authority for reasons consistent with that act; or

39 i. Has violated or failed to comply with the provisions of P.L.1981,
40 c.311 (C.45:14D-1 et seq.) or any regulation adopted thereunder.

41 The licensee or applicant shall be furnished with an official
42 statement of the reasons for the [board's] director's proposed action
43 and shall be afforded an opportunity for a hearing.

44 (cf: P.L.1993, c.365, s.4)

1 4. Section 8 of P.L.1981, c.311 (C.45:14D-8) is amended to read
2 as follows:

3 8. The [board] director may, after one year from the date of the
4 revocation of any license, restore the license.

5 (cf: P.L.1993, c.365, s.5)

6

7 5. Section 9 of P.L.1981, c.311 (C.45:14D-9) is amended to read
8 as follows:

9 9. a. It shall be unlawful for any person to engage in the business
10 of public moving or storage unless he shall have obtained from the
11 [board] director a license to engage in the business and shall have a
12 permanent place of business in this State;

13 b. Application for a license shall be made in writing to the [board]
14 director, be verified under oath by the agent in charge and shall
15 contain the following information: (1) the name and location of the
16 applicant; (2) description of the applicant's moving vehicles and
17 storage facilities; (3) identification of the issuer and amount of any
18 insurance or surety bonds maintained by the applicant. A license shall
19 be issued to a qualified applicant if it is found that the applicant is fit,
20 willing and able to perform the service of a mover or warehouseman,
21 and to conform to the provisions of this act;

22 c. Every person advertising moving or storage services shall
23 include in any advertisement the number of his license, and his New
24 Jersey business address and telephone number;

25 d. No license shall be issued to an applicant if the applicant has:
26 (1) committed any act which if committed by a licensee would be
27 grounds for suspension or revocation; (2) misrepresented any material
28 fact on his application; (3) not registered each vehicle which will be
29 performing intrastate moves in New Jersey, except on vehicles which
30 have been rented or leased and are operated by a public mover licensed
31 under this act; (4) not established or maintained a place of business in
32 New Jersey;

33 e. A copy of the license shall be carried on each truck, tractor,
34 trailer or semitrailer or combination thereof at all times when the
35 vehicle is being used in operations subject to this act.

36 (cf: P.L.1993, c.365, s.6)

37

38 6. Section 11 of P.L.1981, c.311 (C.45:14D-11) is amended to
39 read as follows:

40 11. Every warehouseman or mover shall provide safe, proper and
41 adequate service and shall observe the [board's] director's rules and
42 regulations concerning the storage or transportation of property.

43 (cf: P.L.1993, c.365, s.7)

44

45 7. Section 15 of P.L.1981, c.311 (C.45:14D-15) is amended to
46 read as follows:

1 15. a. The [board] director shall by rule or regulation establish,
2 prescribe or change the fees for licenses, renewals of licenses or other
3 services. Licenses shall expire one year from the date of issue unless
4 the holder thereof shall, 30 days before such expiration, pay to the
5 [board] director a renewal fee accompanied by a renewal application
6 on a form prescribed by the [board] director.

7 b. The [board's] director's fees established, prescribed or changed
8 pursuant to this section shall be established, prescribed or changed to
9 such extent as shall be necessary to defray all proper expenses incurred
10 by the [board] director and any staff employed to administer this act;
11 but such fees shall not be fixed at a level that will raise amounts in
12 excess of the amount estimated to be so required.

13 c. All fees and any fines imposed by the [board] director shall be
14 paid to the [board] director and shall be forwarded by the [board]
15 director to the State Treasurer and become part of the General Fund.

16 d. There shall be annually appropriated to the Department of Law
17 and Public Safety for the use of the [board] director such sums as shall
18 be necessary to implement and effectuate the provisions of this act.
19 (cf: P.L.1993, c.365, s.9)

20
21 8. Section 16 of P.L.1981, c.311 (C.45:14D-16) is amended to
22 read as follows:

23 16. Any person violating any provision of P.L.1981, c.311
24 (C.45:14D-1 et seq.) shall, in addition to any other sanctions provided
25 herein, be liable to a civil penalty of not more than \$2,500.00 for the
26 first offense and not more than \$5,000.00 for the second and each
27 subsequent offense. For the purpose of this section, each transaction
28 or violation shall constitute a separate offense; except a second or
29 subsequent offense shall not be deemed to exist unless an
30 administrative or court order has been entered in a prior, separate and
31 independent proceeding. In lieu of an administrative proceeding or an
32 action in the Superior Court, the Attorney General may bring an action
33 in the name of the [board] director for the collection or enforcement
34 of civil penalties for the violation of any provision of that act. The
35 action may be brought in a summary manner pursuant to "the penalty
36 enforcement law" (N.J.S.2A:58-1 et seq.) and the rules of court
37 governing actions for the collection of civil penalties in the municipal
38 or Special Civil Part of the Law Division of the Superior Court where
39 the offense occurred. Process in the action may be by summons or
40 warrant and if the defendant in the action fails to answer the action,
41 the court shall, upon finding an unlawful act or practice to have been
42 committed by the defendant, issue a warrant for the defendant's arrest
43 in order to bring the person before the court to satisfy the civil
44 penalties imposed. In an action commenced pursuant to this section,
45 the court may order restored to any person in interest any moneys or
46 property acquired by means of an unlawful act or practice. Any action

1 alleging the unlicensed practice of the activities regulated by P.L.1981,
2 c.311 (C.45:14D-1 et seq.) shall be brought pursuant to this section
3 or, where injunctive relief is sought, by an action commenced in the
4 Superior Court. In an action brought pursuant to that act, the [board]
5 director or the court may order the payment of costs for the use of the
6 State.

7 (cf: P.L.1993, c.365, s.10)

8

9 9. Section 7 of P.L.1984, c.140 (C.45:14D-17) is amended to read
10 as follows:

11 7. Whenever it shall appear to the [board] director or the Attorney
12 General that a person has engaged in, or is engaging in, any act or
13 practice declared unlawful by P.L.1981, c.311 (C.45:14D-1 et seq.),
14 or when the [board] director or the Attorney General shall deem it to
15 be in the public interest to inquire whether a violation may exist, the
16 [board] director through the Attorney General, or the Attorney
17 General acting independently, may:

18 a. Require any person to file, on a form to be prescribed, a
19 statement or report in writing under oath, or otherwise, as to the facts
20 and circumstances concerning the rendition of any service or conduct
21 of any sale incidental to the discharge of any act or practice subject to
22 that act;

23 b. Examine under oath any person in connection with any act or
24 practice subject to that act;

25 c. Inspect any premises from which the activity regulated by that
26 act is conducted;

27 d. Examine any goods, ware or item used in the rendition of any
28 service by a public mover or warehouseman;

29 e. Examine any record, book, document, account or paper
30 maintained by or for any public mover or warehouseman in the regular
31 course of engaging in the activities regulated by that act or regulations
32 promulgated pursuant to that act;

33 f. For the purpose of preserving evidence of an unlawful act or
34 practice, pursuant to an order of the Superior Court, impound any
35 record, book, document, account, paper, goods, ware, or item used or
36 maintained by or for any public mover or warehouseman in the regular
37 course of engaging in the activities regulated by that act or regulations
38 promulgated pursuant to that act. When necessary, the Superior Court
39 may, on application of the Attorney General, issue an order sealing
40 items or material subject to this subsection.

41 In order to accomplish the objectives of P.L.1981, c.311
42 (C.45:14D-1 et seq.) or the regulations promulgated pursuant to that
43 act, the [board] director or the Attorney General may hold
44 investigative hearings as necessary and may issue subpoenas to compel
45 the attendance of any person or the production of books, records or
46 papers at a hearing or inquiry.

1 (cf: P.L.1993, c.365, s.11)

2

3 10. Section 8 of P.L.1984, c.140 (C.45:14D-18) is amended to
4 read as follows:

5 8. If a person fails or refuses to file any statement or report, or
6 refuses access to premises from which activities regulated by
7 P.L.1981, c.311 (C.45:14D-1 et seq.) are conducted in any lawfully
8 conducted investigative matter or fails to obey a subpoena issued
9 pursuant to that act, the [board] director or the Attorney General may
10 apply to the Superior Court and obtain an order:

11 a. Adjudging that person in contempt of court and assessing civil
12 penalties in accordance with the amounts prescribed by that act; or

13 b. Granting other relief as required; or

14 c. Suspending the license of that person until compliance with the
15 subpoena or investigative demand is effected.

16 (cf: P.L.1993, c.365, s.12)

17

18 11. Section 10 of P.L.1984, c.140 (C.45:14D-20) is amended to
19 read as follows:

20 10. In addition or as an alternative, as the case may be, to
21 revoking, suspending or refusing to renew any license, the [board]
22 director may, after affording an opportunity to be heard:

23 a. Assess civil penalties in accordance with P.L.1981, c.311
24 (C.45:14D-1 et seq.);

25 b. Order that any person violating any provision of that act cease
26 and desist from future violations thereof or take affirmative corrective
27 action as necessary with regard to any act or practice found to be
28 unlawful by the [board] director;

29 c. Order any person found to have violated any provision of that
30 act to restore or to return to any person aggrieved by an unlawful act
31 or practice any moneys or property, real or personal, acquired by
32 means of that act or practice; except that the [board] director shall not
33 order restoration in a dollar amount greater than those moneys
34 received by a licensee or his agent or any other person violating that
35 act.

36 In any administrative proceeding on a complaint alleging a violation
37 of that act, the [board] director may issue subpoenas to compel the
38 attendance of witnesses or the production of books, records, or
39 documents at the hearing on the complaint.

40 (cf: P.L.1993, c.365, s.13)

41

42 12. Section 11 of P.L.1984, c.140 (C.45:14D-21) is amended to
43 read as follows:

44 11. Whenever it shall appear to the [board] director or the
45 Attorney General that a violation of P.L.1981, c.311 (C.45:14D-1 et
46 seq.), including the unlicensed practice of the activities regulated

1 therein, has occurred, is occurring, or will occur, the Attorney
2 General, in addition to any other proceeding authorized by law, may
3 seek and obtain in a summary proceeding in the Superior Court an
4 injunction prohibiting the act or practice. In the proceeding the court
5 may assess a civil penalty in accordance with the provisions of that act,
6 order restoration to any person in interest of any moneys or property,
7 real or personal, acquired by means of an unlawful act or practice and
8 may enter any orders necessary to prevent the performance of an
9 unlawful practice in the future and to remedy fully any past unlawful
10 activity. In any action brought pursuant to this section, the court shall
11 not suspend or revoke any license issued by the [board] director.
12 (cf: P.L.1993, c.365, s.14)

13

14 13. Section 12 of P.L.1984, c.140 (C.45:14D-22) is amended to
15 read as follows:

16 12. Upon the failure of any person to comply within 10 days after
17 service of any order of the [board] director directing payment of
18 penalties or restoration of moneys or property, the Attorney General
19 or the [board] director may issue a certificate to the Clerk of the
20 Superior Court that the person is indebted to the State for the payment
21 of the penalty and the moneys or property ordered restored. A copy
22 of the certificate shall be served upon the person against whom the
23 order was entered. Thereupon the clerk shall immediately enter upon
24 his record of docketed judgments the name of the person so indebted
25 and of the State, a designation of the statute under which the penalty
26 is imposed, the amount of the penalty imposed, and amount of moneys
27 ordered restored, a listing of property ordered restored, and the date
28 of the certification. The entry shall have the same force and effect as
29 the entry of a docketed judgment in the Superior Court, and the
30 Attorney General shall have all rights and remedies of a judgment
31 creditor, in addition to exercising any other available remedies. The
32 entry, however, shall be without prejudice to the right of appeal to the
33 Appellate Division of the Superior Court from the [board's] director's
34 order.

35 An action to enforce the provisions of an order entered by the
36 [board] director or to collect a penalty levied thereby may be brought
37 in any municipal or Special Civil Part of the Law Division of the
38 Superior Court or the Superior Court in a summary manner pursuant
39 to "the penalty enforcement law" (N.J.S. 2A:58-1 et seq.) and the rules
40 of court governing the collection of civil penalties. Process in the
41 action shall be by summons or warrant, and if the defendant fails to
42 answer the action, the court shall issue a warrant for the defendant's

1 arrest for the purpose of bringing the person before the court to satisfy
2 any order entered.

3 (cf: P.L.1993, c.365, s.15)

4

5 14. Section 13 of P.L.1984, c.140 (C.45:14D-23) is amended to
6 read as follows:

7 13. When it shall appear to the [board] director or the Attorney
8 General that a person against whom a cease and desist order has been
9 entered has violated the order, the [board] director or the Attorney
10 General may initiate a summary proceeding in the Superior Court for
11 the violation thereof. Any person found to have violated a cease and
12 desist order shall pay to the State of New Jersey civil penalties in the
13 amount of not more than \$25,000.00 for each violation of the order.
14 If a person fails to pay a civil penalty assessed by the court for
15 violation of a cease and desist order, the court assessing the unpaid
16 penalty is authorized, upon application of the [board] director or the
17 Attorney General, to grant any relief which may be obtained under any
18 statute or court rule governing the collection and enforcement of
19 penalties.

20 (cf: P.L.1993, c.365, s.16)

21

22 15. Section 15 of P.L.1984, c.140 (C.45:14D-25) is amended to
23 read as follows:

24 15. No license shall be issued to a warehouseman or mover or
25 remain in force unless the warehouseman or mover complies with the
26 rules or regulations that the [board] director shall prescribe governing
27 policies of insurance, qualifications as a self-insurer or other securities
28 or agreements in the amount that the [board] director may require.

29 (cf: P.L.1993, c.365, s.17)

30

31 16. Section 1 of P.L.1971, c.60 (C.45:1-2.1) is amended to read as
32 follows:

33 1. The provisions of this act shall apply to the following boards and
34 commissions: the New Jersey State Board of Accountancy, the New
35 Jersey State Board of Architects, the New Jersey State Board of
36 Cosmetology and Hairstyling, the Board of Examiners of Electrical
37 Contractors, the New Jersey State Board of Dentistry, the State Board
38 of Mortuary Science of New Jersey, the State Board of Professional
39 Engineers and Land Surveyors, the State Board of Marriage and
40 Family Therapy Examiners, the State Board of Medical Examiners, the
41 New Jersey Board of Nursing, the New Jersey State Board of
42 Optometrists, the State Board of Examiners of Ophthalmic Dispensers
43 and Ophthalmic Technicians, the Board of Pharmacy, the State Board
44 of Professional Planners, the State Board of Psychological Examiners,
45 the State Board of Examiners of Master Plumbers, the New Jersey
46 Real Estate Commission, the State Board of Shorthand Reporting, the

1 State Board of Veterinary Medical Examiners, the Radiologic
2 Technology Board of Examiners, the Acupuncture Examining Board,
3 the State Board of Chiropractic Examiners, the State Board of
4 Respiratory Care, the State Real Estate Appraiser Board [.] and the
5 State Board of Social Work Examiners [, and the State Board of
6 Public Movers and Warehousemen].

7 (cf: P.L.1995, c.366, s.20)

8

9 17. (New section) A person licensed under P.L.1981, c.311
10 (C.45:14D-1 et seq.) shall maintain a bond issued by a surety
11 authorized to transact business in this State or maintain an irrevocable
12 letter of credit by a bank or maintain with the director securities,
13 moneys or other security acceptable to the director to fulfill the
14 requirements of this section. The principal sum of the bond, letter of
15 credit, or securities, moneys or other security shall be not less than
16 \$10,000, which amount the director may adjust by regulation. The
17 bond, letter of credit, or securities, moneys or other security shall be
18 filed or deposited with the director and shall be executed to the State
19 of New Jersey for the use of any person who, after entering into a
20 contract with a mover or warehouseman, is damaged or suffers any
21 loss for any violation of P.L.1981, c.311 (C.45:14D-1 et seq.). Any
22 person claiming against the bond, letter of credit, or securities, moneys
23 or other security may maintain an action at law against the mover or
24 warehouseman and the surety, bank, or director, as the case may be.
25 The aggregate liability of the surety, bank, or the director to all
26 persons for all breaches of the conditions of the bond, letter of credit
27 or the securities, moneys or other security held by the director shall
28 not exceed the amount of the bond, letter of credit, or the securities,
29 moneys or other security held by the director.

30 In the case of a bond, the mover or warehouseman shall file a copy
31 of the bond with the director and a certificate by the surety that the
32 surety will notify the director at least 10 days in advance of the date
33 of any cancellation or material change in the bond.

34

35 18. (New section) a. An applicant for licensure under P.L.1981,
36 c.311 (C.45:14D-1 et seq.) shall not be eligible for licensure and any
37 holder of a license under that act may have his license revoked if the
38 director determines, consistent with the requirements and standards of
39 P.L.1981, C.311 (C.45:14D-1 et seq.) and this 1996 amendatory and
40 supplementary act, that criminal history record information exists on
41 file in the Federal Bureau of Investigation, Identification Division, or
42 in the State Bureau of Identification in the Division of State Police,
43 which would disqualify that individual from being licensed. An
44 applicant shall be, and a holder of a license may be, disqualified from
45 licensure if that individual's criminal history record check reveals a
46 record of conviction of any of the following crimes and offenses:

1 (1) In New Jersey, any crime or disorderly persons offense:

2 (a) Involving danger to the person, meaning those crimes and
3 disorderly persons offenses set forth in N.J.S.2C:11-1 et seq.,
4 N.J.S.2C:12-1 et seq., N.J.S.2C:13-1 et seq., N.J.S.2C:14-1 et seq. or
5 N.J.S.2C:15-1 et seq.; or

6 (b) Against the family, children or incompetents, meaning those
7 crimes and disorderly persons offenses set forth in N.J.S.2C:24-1 et
8 seq.; or

9 (2) In any other state or jurisdiction, of conduct which, if
10 committed in New Jersey, would constitute any of the crimes or
11 disorderly persons offenses described in paragraph (1) of this
12 subsection.

13 b. Notwithstanding the provisions of subsection a. of this section,
14 no individual shall be disqualified from licensure on the basis of any
15 conviction disclosed by a criminal history record check performed
16 pursuant to this section if the individual has affirmatively demonstrated
17 to the director clear and convincing evidence of his rehabilitation. In
18 determining whether an individual has affirmatively demonstrated
19 rehabilitation, the following factors shall be considered:

20 (1) The nature and responsibility of the position which the
21 convicted individual would hold;

22 (2) The nature and seriousness of the offense;

23 (3) The circumstances under which the offense occurred;

24 (4) The date of the offense;

25 (5) The age of the individual when the offense was committed;

26 (6) Whether the offense was an isolated or repeated incident;

27 (7) Any social conditions which may have contributed to the
28 offense; and

29 (8) Any evidence of rehabilitation, including good conduct in
30 prison or in the community, counseling or psychiatric treatment
31 received, acquisition of additional academic or vocational schooling,
32 successful participation in correctional work-release programs, or the
33 recommendation of persons who have had the individual under their
34 supervision.

35

36 19. (New section) An applicant and holder of a license shall
37 submit to the director his name, address and fingerprints taken on
38 standard fingerprint cards by a State or municipal law enforcement
39 agency. The director is authorized to exchange fingerprint data with
40 and receive criminal history record information from the Federal
41 Bureau of Investigation and the Division of State Police for use in
42 making the determinations required by section 18 of P.L. , c. (C.)
43 (pending before the Legislature as this bill).

44

45 20. (New section) a. Upon receipt of an applicant's or licensee's
46 criminal history record information from the Federal Bureau of

1 Investigation or the Division of State Police, as applicable, the director
2 shall notify the applicant or licensee, in writing, of the applicant's or
3 licensee's qualification or disqualification for licensure under P.L.1981,
4 c.311 (C45:14D-1 et seq.). If the applicant or licensee is disqualified,
5 the conviction or convictions which constitute the basis for the
6 disqualification shall be identified in the written notice.

7 b. The applicant or licensee shall have 30 days from the date of
8 written notice of disqualification to petition the director for a hearing
9 on the accuracy of the criminal history record information or to
10 establish his rehabilitation under subsection b. of section 18 of P.L. ,
11 c. (C.) (pending before the Legislature as this bill). The director
12 may refer any case arising hereunder to the Office of Administrative
13 Law for administrative proceedings pursuant to P.L.1978, c.67
14 (C.52:14F-1 et al.).

15 c. The director shall not maintain any individual's criminal history
16 record information or evidence of rehabilitation submitted under this
17 section for more than six months from the date of a final determination
18 by the director as to the individual's qualification or disqualification to
19 be licensed pursuant to P.L.1981, c.311 (C.45:14D-1 et seq.).
20

21 21. Sections 4 and 14 of P.L.1981, c.311 (C.45:14D-4 and
22 C.45:14D-14) are repealed.
23

24 22. This act shall take effect 60 days following enactment.
25
26

27 STATEMENT

28

29 This bill amends the "Public Movers and Warehousemen Licensing
30 Act," P.L.1981, c.311 (C.45:14D-1 et seq.), by providing the Director
31 of the Division of Consumer Affairs in the Department of Law and
32 Public Safety with the authority to license and regulate public movers
33 and warehousemen. The bill also abolishes the State Board of Public
34 Movers and Warehousemen.

35 The bill repeals section 14 of P.L.1981, c.311 (C.45:14D-14), and
36 removes other references to tariffs in the "Public Movers and
37 Warehousemen Act," to eliminate the statutory requirement that public
38 movers and warehousemen file tariffs. Under current law, the tariff,
39 which is a schedule of rates and charges for the storage or
40 transportation of property in intrastate commerce, must be used in
41 computing all charges on the storage or transportation of property as
42 of the date of the time in storage or transportation.

43 The bill also requires applicants for licensure and those persons
44 already licensed under the provisions of P.L.1981, c.311 to submit to
45 a State and federal criminal history background check, to determine
46 whether those persons are fit to be so licensed. The Director of the

1 Division of Consumer Affairs shall determine that an applicant for
2 licensure is unfit to be licensed and may revoke the licensure of a
3 person currently licensed if such person meets the criteria for
4 disqualification as provided in the bill.

5 This bill further requires that persons licensed under the provisions
6 of P.L.1981, c.311 (C.45:14D-1 et seq.), maintain a bond, letter of
7 credit, or securities of not less than \$10,000.

8

9

10

11

12 Eliminates State Board of Public Movers and Warehousemen;
13 authorizes Director of the Division of Consumer Affairs to regulate.