

SENATE, No. 1682

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 18, 1996

By Senators SINGER and ADLER

1 AN ACT concerning the licensing of public movers and warehousemen,
2 amending and supplementing P.L.1981, c.311, and repealing section
3 14 of P.L.1981, c.311.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

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

10 2. As used in this act:

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

17 b. "Board" means the State Board of Public Movers and
18 Warehousemen established under [this act] P.L.1981, c.311
19 (C.45:14D-1 et seq.);

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

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

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

34 f. "Intrastate commerce" means commerce moving wholly between

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.

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

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

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

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

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

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

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

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

27 6. The board shall, in addition to such other powers and duties as
28 it may possess by law:

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

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

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

35 d. Establish professional standards for persons licensed under this
36 act;

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

42 f. Conduct proceedings before any board, agency or court of
43 competent jurisdiction for the enforcement of the provisions of this
44 act;

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

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

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

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

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12 3. (New section) a. An applicant for licensure under P.L.1981,
13 c.311 (C.45:14D-1 et seq.) shall not be eligible for licensure and any
14 holder of a license under that act may have his license revoked if the
15 board determines, consistent with the requirements and standards of
16 P.L.1981, C.311 (C.45:14D-1 et seq.) and this 1996 amendatory and
17 supplementary act, that criminal history record information exists on
18 file in the Federal Bureau of Investigation, Identification Division, or
19 in the State Bureau of Identification in the Division of State Police,
20 which would disqualify that individual from being licensed. An
21 applicant shall be, and a holder of a license may be, disqualified from
22 licensure if that individual's criminal history record check reveals a
23 record of conviction of any of the following crimes:

24 (1) In New Jersey, any crime:

25 (a) Involving danger to the person, meaning those crimes set forth
26 in N.J.S.2C:11-1 et seq., N.J.S.2C:12-1 et seq., N.J.S.2C:13-1 et seq.,
27 N.J.S.2C:14-1 et seq. or N.J.S.2C:15-1 et seq.; or

28 (b) Against the family, children or incompetents, meaning those
29 crimes set forth in N.J.S.2C:24-1 et seq.; or

30 (2) In any other state or jurisdiction, of conduct which, if
31 committed in New Jersey, would constitute any of the crimes
32 described in paragraph (1) of this subsection.

33 b. Notwithstanding the provisions of subsection a. of this section,
34 no individual shall be disqualified from licensure on the basis of any
35 conviction disclosed by a criminal history record check performed
36 pursuant to this section if the individual has affirmatively demonstrated
37 to the board clear and convincing evidence of his rehabilitation. In
38 determining whether an individual has affirmatively demonstrated
39 rehabilitation, the following factors shall be considered: (1) The
40 nature and responsibility of the position which the convicted individual
41 would hold;

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

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

44 (4) The date of the offense;

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

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

1 (7) Any social conditions which may have contributed to the
2 offense; and

3 (8) Any evidence of rehabilitation, including good conduct in
4 prison or in the community, counseling or psychiatric treatment
5 received, acquisition of additional academic or vocational schooling,
6 successful participation in correctional work-release programs, or the
7 recommendation of persons who have had the individual under their
8 supervision.

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10 4. (New section) An applicant and holder of a license shall submit
11 to the board his name, address and fingerprints taken on standard
12 fingerprint cards by a State or municipal law enforcement agency. The
13 board is authorized to exchange fingerprint data with and receive
14 criminal history record information from the Federal Bureau of
15 Investigation and the Division of State Police for use in making the
16 determinations required by section 3 of P.L. , c. (C.) (pending before
17 the Legislature as this bill).

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19 5. (New section) a. Upon receipt of an applicant's or licensee's
20 criminal history record information from the Federal Bureau of
21 Investigation or the Division of State Police, as applicable, the board
22 shall notify the applicant or licensee, in writing, of the applicant's or
23 licensee's qualification or disqualification for licensure under P.L.1981,
24 c.311 (C45:14D-1 et seq.). If the applicant or licensee is disqualified,
25 the conviction or convictions which constitute the basis for the
26 disqualification shall be identified in the written notice.

27 b. The applicant or licensee shall have 30 days from the date of
28 written notice of disqualification to petition the board for a hearing on
29 the accuracy of the criminal history record information or to establish
30 his rehabilitation under subsection b. of section 3 of P.L. , c. (C.)
31 (pending before the Legislature as this bill). The board may refer any
32 case arising hereunder to the Office of Administrative Law for
33 administrative proceedings pursuant to P.L.1978, c.67 (C.52:14F-1 et
34 al.).

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

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41 6. Section 14 of P.L.1981, c.311 (C.45:14D-14) is repealed.

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43 7. This act shall take effect 60 days following enactment.

STATEMENT

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3 This bill repeals section 14 of P.L.1981, c.311 (C.45:14D-14), and
4 removes other references to tariffs in the "Public Movers and
5 Warehousemen Licensing Act," (C.45:14D-1 et seq.) to eliminate the
6 statutory requirement that public movers and warehousemen file
7 tariffs. Under current law, the tariff, which is a schedule of rates and
8 charges for the storage or transportation of property in intrastate
9 commerce, must be used in computing all charges on the storage or
10 transportation of property as of the date of the time in storage or
11 transportation.

12 The bill also requires applicants for licensure and those persons
13 already licensed under the provisions of the act to submit to a State
14 and federal criminal history background check, to determine whether
15 those persons are fit to be so licensed. The State Board of Public
16 Movers and Warehousemen shall determine that an applicant for
17 licensure is unfit to be licensed and may revoke the licensure of a
18 person currently licensed if such person meets the criteria for
19 disqualification as provided in the bill.

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24 Revises licensure requirements and eliminates tariffs for public movers
25 and warehousemen.