

[First Reprint]
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:

7
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

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:

¹ Senate SCM committee amendments adopted December 1, 1997.

- 1 which is transported at his request as part of the movement by the
2 householder from one dwelling to another;
- 3 f. "Intrastate commerce" means commerce moving wholly between
4 points within the State over all public highways, or at a single location;
- 5 g. "License" means a license issued by the board;
- 6 h. "Motor vehicle" means any vehicle, machine, tractor, truck or
7 semitrailer, or any combination thereof, propelled, driven or drawn by
8 mechanical power, and used upon the public highways in the
9 transportation of household goods, office goods and special
10 commodities in intrastate commerce;
- 11 i. "Mover's services" means all of the services rendered by a public
12 mover;
- 13 j. "Storage services" means all of the services rendered by a
14 warehouseman;
- 15 k. "Office goods" means personal effects, fixtures, furniture,
16 equipment, stock and supplies or other property usually used in or as
17 part of the stock of any office, or commercial, institutional,
18 professional or other type of establishment, when it is put into storage
19 or when the property is transported by virtue of its removal, in whole
20 or in part, from one location to another, but does not mean or include
21 stock and supplies or other property usually used in or as part of the
22 stock of any office, or commercial, institutional, professional or other
23 type of establishment, when put into storage;
- 24 l. "Person" means any individual, copartnership, association,
25 company, or corporation, and includes any trustee, receiver, assignee,
26 lessee, or personal representative of any person herein defined;
- 27 m. "Place of business" means a business office located in New
28 Jersey from which the mover or warehouseman conducts his daily
29 business and where records are kept;
- 30 n. "Property" means all of the articles in the definition of household
31 goods, office goods or special commodities;
- 32 o. "Public highway" or "highway" means any public street, road,
33 thoroughfare, bridge and way in this State open to the use of the
34 public as a matter of right for purposes of motor vehicular travel,
35 including those that impose toll charges;
- 36 p. "Public mover" or "mover" means any person who engages in
37 the transportation of household goods, office goods or special
38 commodities by motor vehicle for compensation in intrastate
39 commerce between points in this State, including the moving of
40 household goods, office goods or special commodities from one
41 location to another at a single address, and any person who engages
42 in the performance of accessorial services; except that the term "public
43 mover" or "mover" shall not apply to any person who engages in, or
44 holds himself out to the general public as engaging in, the
45 transportation of special commodities when such commodities are not
46 transported by virtue of a removal, in whole or in part, and who does

1 not engage, nor hold himself out to the general public as engaging in,
2 the transportation of household or office goods;

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

13 r. "Storage" means the safekeeping of property in a depository for
14 compensation;

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

20 t. "Warehouseman" means a person engaged in the business of
21 storage;

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

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 shall, in addition to such other powers and duties as
31 it 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 shall have the right to administer oaths to witnesses, and shall have the
43 power to issue subpoenas for the compulsory attendance of witnesses
44 and the production of pertinent books, papers, or records;

45 f. Conduct proceedings before any board, agency or court of
46 competent jurisdiction for the enforcement of the provisions of this

1 act;

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

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

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

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

14

15 3. (New section) a. An applicant for licensure under P.L.1981,
16 c.311 (C.45:14D-1 et seq.) shall not be eligible for licensure and any
17 holder of a license under that act may have his license revoked if the
18 board determines, consistent with the requirements and standards of
19 P.L.1981, C.311 (C.45:14D-1 et seq.) and this ¹[1996] 1997 ¹
20 amendatory and supplementary act, that criminal history record
21 information exists on file in the Federal Bureau of Investigation,
22 Identification Division, or in the State Bureau of Identification in the
23 Division of State Police, which would disqualify that individual from
24 being licensed. An applicant shall be, and a holder of a license may be,
25 disqualified from licensure if that individual's criminal history record
26 check reveals a record of conviction of any of the following crimes:

27 (1) In New Jersey, any crime:

28 (a) Involving danger to the person, meaning those crimes set forth
29 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.,
30 N.J.S.2C:14-1 et seq. or N.J.S.2C:15-1 et seq.; or

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

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

36 b. Notwithstanding the provisions of subsection a. of this section,
37 no individual shall be disqualified from licensure on the basis of any
38 conviction disclosed by a criminal history record check performed
39 pursuant to this section if the individual has affirmatively demonstrated
40 to the board clear and convincing evidence of his rehabilitation. In
41 determining whether an individual has affirmatively demonstrated
42 rehabilitation, the following factors shall be considered:

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

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

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

- 1 (4) The date of the offense;
2 (5) The age of the individual when the offense was committed;
3 (6) Whether the offense was an isolated or repeated incident;
4 (7) Any social conditions which may have contributed to the
5 offense; and
6 (8) Any evidence of rehabilitation, including good conduct in
7 prison or in the community, counseling or psychiatric treatment
8 received, acquisition of additional academic or vocational schooling,
9 successful participation in correctional work-release programs, or the
10 recommendation of persons who have had the individual under their
11 supervision.

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

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

30 b. The applicant or licensee shall have 30 days from the date of
31 written notice of disqualification to petition the board for a hearing on
32 the accuracy of the criminal history record information or to establish
33 his rehabilitation under subsection b. of section 3 of P.L. , c. (C.)
34 (pending before the Legislature as this bill). The board may refer any
35 case arising hereunder to the Office of Administrative Law for
36 administrative proceedings pursuant to ¹[P.L.1978, c.67 (C.52:14F-1
37 et al.)] P.L.1968, c.410 (C.52:14B-1 et seq.)¹.

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

43
44 ¹6. (New section) a. If a binding estimate is used for moving, the
45 estimate shall be furnished in writing to the customer or other person
46 responsible for payment of the charges for the mover's services and a

1 copy of the estimate shall be retained by the public mover as an
2 addendum to the bill of lading. A binding estimate shall clearly
3 indicate on its face that the estimate is binding on the public mover and
4 that the charges shown are the charges to be assessed for the services
5 identified in the estimate. A binding estimate shall clearly describe the
6 property to be moved and all services to be provided.

7 b. (1) No mover shall withhold all or any part of a shipment if the
8 amount due on the moving contract based on a binding estimate in
9 regard to the move is offered to be paid, or is paid, in full to the
10 mover.

11 (2) No mover shall withhold all or any part of a shipment pursuant
12 to a moving contract not based on a binding estimate unless the mover
13 discloses in the moving contract that the mover may withhold all or a
14 part of the shipment for payment of the freight bill.

15 c. A mover shall disclose in the moving contract that the mover
16 may not withhold all or any part of a shipment if:

17 (1) the moving contract is based on a binding estimate and the
18 amount due on a binding estimate for the move is offered to be paid,
19 or is paid, in full to the mover; and

20 (2) the moving contract is not based on a binding estimate and the
21 mover has not otherwise disclosed in the moving contract that the
22 mover may withhold all or any part of the shipment for payment of the
23 freight bill.

24 d. A mover which violates any provision of this section shall be
25 liable to a civil penalty of not less than \$1,000 nor more than \$5,000
26 for a first violation and not less than \$5,000 nor more than \$10,000 for
27 a subsequent violation. The penalty prescribed in this section shall be
28 collected and enforced by summary proceedings pursuant to "the
29 penalty enforcement law" (N.J.S.2A:58-1 et seq.).¹

30
31 ^{17.} (New section) A person licensed under P.L.1981, c.311
32 (C.45:14D-1 et seq.) shall maintain a bond issued by a surety
33 authorized to transact business in this State or maintain an irrevocable
34 letter of credit by a bank or maintain with the board securities, moneys
35 or other security acceptable to the board to fulfill the requirements of
36 this section. The principal sum of the bond, letter of credit, or
37 securities, moneys or other security shall be not less than \$10,000,
38 which amount the board may adjust by regulation. The bond, letter of
39 credit, or securities, moneys or other security shall be filed or
40 deposited with the board and shall be executed to the State of New
41 Jersey for the use of any person who, after entering into a contract
42 with a mover or warehouseman, is damaged or suffers any loss for any
43 violation of P.L.1981, c.311 (C.45:14D-1 et seq.). Any person
44 claiming against the bond, letter of credit, or securities, moneys or
45 other security may maintain an action at law against the mover or
46 warehouseman and the surety, bank, or board, as the case may be.

1 The aggregate liability of the surety, bank, or the board to all persons
2 for all breaches of the conditions of the bond, letter of credit or the
3 securities, moneys or other security held by the board shall not exceed
4 the amount of the bond, letter of credit, or the securities, moneys or
5 other security held by the board.

6 In the case of a bond, the mover or warehouseman shall file a copy
7 of the bond with the board and a certificate by the surety that the
8 surety will notify the board at least 10 days in advance of the date of
9 any cancellation or material change in the bond.¹

10

11 ¹[6.] 8.¹ Section 14 of P.L.1981, c.311 (C.45:14D-14) is
12 repealed.

13

14 ¹[7.] 9.¹ This act shall take effect 60 days following enactment.

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19 Revises licensure requirements and eliminates tariffs for public movers
20 and warehousemen.