

45:14D-2 et al

LEGISLATIVE HISTORY CHECKLIST

NJSA: 45:14D-2 et al

('Public movers and warehouse men licensing act--amendments')

LAWS OF: 1984

CHAPTER: 140

Bill No: S482

Sponsor(s): DiFrancesco

Date Introduced: Pre-filed

Committee: Assembly: /////

Senate: Labor, Industry and Professions

Amended during passage: Yes Substituted for A191 (not attached since identical to S482)

Date of Passage: Assembly: June 21, 1984

Senate: May 17, 1984

Date of Approval: Sept. 6, 1984

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: Assembly No

Senate Yes

Fiscal Note: No

Veto Message: No

Message on Signing: Yes

Following were printed:

Reports: No

Hearings: No

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SENATE, No. 482

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1984 SESSION

By Senator DiFRANCESCO

AN ACT to amend and supplement the "Public Movers and Warehousemen Licensing Act," approved December 3, 1981 (P. L. 1981, c. 311).

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

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

3 2. As used in this act:

4 a. "Accessorial service" means the preparation of articles for
5 shipment including, but not limited to, the packing, crating, boxing
6 and servicing of appliances, the furnishing of containers, un-pack-
7 ing, uncrating and reassembling of articles, placing them at final
8 destination and the moving or shifting of articles from one location
9 to another within a building, or at a single address;

10 b. "Board" means the State Advisory Board of Public Movers
11 and Warehousemen established under this act;

12 c. "Director" means the Director of the Division of Consumer
13 Affairs in the Department of Law and Public Safety;

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

16 e. "Household goods" means personal effects, fixtures, equip-
17 ment, stock and supplies or other property usually used in or as
18 part of the stock of a dwelling, when it is put into storage or when
19 it is transported by virtue of its removal, in whole or in part,
20 by a householder from one dwelling to another, or from the dwelling
21 of a householder to the dwelling of another householder, or 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 printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

*—Senate committee amendments adopted April 30, 1984.

22 the dwelling of a householder and a repair or storage facility, or
23 from the dwelling to an auction house or other place of sale. The
24 term "household goods" shall not apply to property moving from a
25 factory or store, except property which the householder has
26 purchased and which is transported at his request as part of the
27 movement by the householder from one dwelling to another;

28 f. "Intrastate commerce" means commerce moving wholly be-
29 tween points within the State over all public highways, or at a
30 single location;

31 g. "License" means a license issued by the director;

32 h. "Motor vehicle" means any vehicle, machine, tractor, truck
33 or semitrailer, or any combination thereof, propelled, driven or
34 drawn by mechanical power, and used upon the public highways in
35 the transportation of household goods, office goods and special com-
36 modities in intrastate commerce;

37 i. "Mover's services" means all of the services rendered by a
38 public mover;

39 j. "Storage services" means all of the services rendered by a
40 warehouseman;

41 k. "Office goods" means personal effects, fixtures, **furniture,**
42 equipment, stock and supplies or other property usually used in or
43 as part of the stock of any office, or commercial, institutional, pro-
44 fessional or other type of establishment, when it is put into storage
45 or when the property is transported by virtue of its removal, in
46 whole or in part, from one location to another, *but does not mean or*
47 *include stock and supplies or other property usually used in or as*
48 *part of the stock of any office, or commercial, institutional, profes-*
49 *sional or other type of establishment, when put into storage;*

50 l. "Person" means any individual, copartnership, association,
51 company, or corporation, and includes any trustee, receiver,
52 assignee, lessee, or personal representative of any person herein
53 defined;

54 m. "Place of business" means a business office located in New
55 Jersey from which the mover or warehouseman conducts his daily
56 business and where records are kept;

57 n. "Property" means all of the articles in the definition of house-
58 hold goods, office goods or special commodities;

59 o. "Public highway" or "highway" means any public street,
60 road, thoroughfare, bridge and way in this State open to the use of
61 the public as a matter of right for purposes of motor vehicular
62 travel, including those that impose toll charges;

63 p. "Public mover" or "mover" means any person who engages
64 in the transportation of household goods, office goods or special

65 commodities by motor vehicle for compensation in intrastate com-
 66 merce between points in this State, including the moving of house-
 67 hold goods, office goods or special commodities from one location to
 68 another at a single address, and any person who engages in the
 69 performance of accessorial services; except that the term "public
 70 mover" or "mover" shall not apply to any person who engages in,
 71 or holds himself out to the general public as engaging in, the trans-
 72 portation of special commodities when such commodities are not
 73 transported by virtue of a removal, in whole or in part, and who
 74 does not engage, nor hold himself out to the general public as
 75 engaging in, the transportation of household or office goods;

76 q. "Special commodities" means uncrated or unboxed works of
 77 art, ***[furniture,]*** fixtures, appliances, business machines, elec-
 78 tronic equipment, displays, exhibits, home, office, store, theatrical or
 79 show equipment, musical instruments, or other articles being put
 80 into storage or being moved, and which require the use of equipment
 81 and personnel usually furnished or employed by warehousemen or
 82 public movers, *except that the provisions of P. L. 1981, c. 311 (C.*
 83 *45:15D-1 et seq.) shall not apply to any person engaged in the*
 84 *transportation *or storage* of special commodities when these com-*
 85 *modities are not transported by virtue of a removal, in whole or*
 85A *in part;*

86 r. "Storage" means the safekeeping of property in a depository
 87 for compensation;

88 s. "Tariff" means a schedule of rates and charges for the storage
 89 or transportation of property in intrastate commerce **on file with*
 90 *the director, which shall be used in computing all charges on the*
 91 *storage or transportation of property as of the date of the time*
 92 *in storage or transportation*;*

93 t. "Warehouseman" means a person engaged in the business of
 94 storage***[.]*** *;*

95 *u. "Removal" means the physical relocation, in whole or in part,
 96 of either household goods, office goods or special commodities from
 97 one location to another location, including internal relocations
 98 within the same room or facility, for compensation.*

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

3 4. There is created in the Division of Consumer Affairs in the
 4 Department of Law and Public Safety a State Advisory Board of
 5 Public Movers and Warehousemen consisting of four citizen mem-
 6 bers to be appointed by the Governor, with the advice and consent
 7 of the Senate. Two of the four citizen members shall be repre-

8 representatives of the public and two shall be representatives of the
9 moving and storage industry.

10 The term of office of each citizen board member shall be four
11 years; except that of the members first appointed, one shall serve
12 for one year, one shall serve for two years, one shall serve for three
13 years, and one shall serve for four years. Vacancies shall be filled
14 for the unexpired terms only. No citizen member may be appointed
15 for more than two consecutive terms.

16 The organization, meetings and management of the board shall
17 be established in regulations promulgated by the director. The
18 board shall participate in the formulation of rules and regulations,
19 the hearing of grievances, the establishment of standards, and the
20 issuance of ***[revocations]*** **revocation** of licenses.

21 The officers and members of the board shall **[serve without com-**
22 **pensation but]** *be compensated on a per diem basis in the amount*
23 *of \$50.00 or an amount to be determined by the Attorney General*
24 *with the approval of the State Treasurer, but not to exceed \$100.00*
25 *per diem or \$2,500.00 annually, and shall be reimbursed for actual*
26 *expenses reasonably incurred in the performance of their duties.*
27 *The moneys shall be paid according to rules and regulations pro-*
28 *mulgated by the Attorney General.*

29 The Attorney General shall maintain within any public building,
30 whether owned or leased by the State, suitable quarters for the
31 board's office and meeting place, except that no office or meeting
32 place shall be within premises owned or occupied by an officer or
33 member of the board.

34 The executive secretary of the board shall be appointed by the
35 director and shall serve at his pleasure. He shall receive a salary
36 as shall be determined by the director within the limits of available
37 funds.

38 The director shall be empowered, within the limits of available
39 funds, to hire any assistants as he may deem necessary to admin-
40 ister this act.

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

3 7. The director may, after notice and opportunity for a hearing,
4 revoke, suspend or refuse to **[review]** *renew* or issue any license
5 issued pursuant to this act upon a finding *that the applicant or*
6 *holder of a license:*

7 a. **[That such license was]** *Has* obtained a license by means of
8 fraud, misrepresentation or concealment of material facts;

9 b. **[Of fraud or deceit in connection with services rendered]** *Has*

10 engaged in the use or employment ***or*** *of* dishonesty, fraud,
11 deception, misrepresentation, false promise or false pretense;

12 c. **Of unprofessional or unethical conduct or gross negligence**
13 **by a person holding such license** *Has engaged in gross negligence*
14 *or gross incompetence;*

15 d. **That the provisions of this act, or the rules or regulations**
16 **promulgated pursuant to this act, have been violated.** *Has en-*
17 *gaged in repeated acts of negligence or incompetence;*

18 e. *Has repeatedly failed to discharge contractual obligations to*
19 *any person contracting for moving or storage services;*

20 f. *Has engaged in occupational misconduct;*

21 g. *Has been convicted of any crime involving moral turpitude or*
22 *any crime relating adversely to the activities regulated by P. L.*
23 *1981, c. 311 (C. 45:14D-1 et seq.). For the purpose of this sub-*
24 *section a plea of guilty, non vult, nolo contendere or any other*
25 *similar disposition of alleged criminal activity shall be deemed a*
26 *conviction;*

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

31 i. *Has violated or failed to comply with the provisions of P. L.*
32 *1981, c. 311 (C. 45:14D-1 et seq.) or any regulation adopted*
33 *hereunder.*

34 The licensee or applicant shall be furnished with an official state-
35 ment of the reasons for the director's proposed action and shall
36 be afforded an opportunity for a hearing.

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

3 9. a. It shall be unlawful for any person to engage in the business
4 of public moving or storage unless he shall have obtained from the
5 director a license to engage in the business and shall have a
6 permanent place of business in this State;

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

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

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

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

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

3 14. a. Public movers and warehousemen shall file their tariffs
4 with the director semiannually;

5 b. No public mover or warehouseman shall charge, demand,
6 collect or receive a greater or lesser compensation for his service
7 than specified in the tariff, *except that discounts and rebates may*
8 *be provided in connection with the furnishing of moving, storage*
9 *or accessorial services to any person who is 62 years or older.*

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

3 16. **【**Any person who violates the provisions of this act shall
4 be subject to a penalty of not less than \$100.00 nor more than
5 \$200.00 for the first offense and not less than \$200.00 nor more
6 than \$500.00 for each subsequent offense, to be sued for and re-
7 covered by and in the name of the director pursuant to the pro-
8 visions of the "Penalty Enforcement Law" (N. J. S. 2A:58-1
9 et seq.)**】** *Any person violating any provision of P. L. 1981, c. 311*
10 *(C. 45:14D-1 et seq.) shall, in addition to any other sanctions pro-*
11 *vided herein, be liable to a civil penalty of not more than \$2,500.00*
12 *for the first offense and not more than \$5,000.00 for the second*
13 *and each subsequent offense. For the purpose of this section, each*
14 *transaction or violation shall constitute a separate offense; except*
15 *a second or subsequent offense shall not be deemed to exist unless*
16 *an administrative or court order has been entered in a prior,*
17 *separate and independent proceeding. In lieu of an administrative*
18 *proceeding or an action in the Superior Court, the Attorney*
19 *General may bring an action in the name of the director for the*
20 *collection or enforcement of civil penalties for the violation of any*

21 provision of that act. The action may be brought in a summary
 22 manner pursuant to "the penalty enforcement law" (N. J. S.
 23 2A:58-1 et seq.) and the rules of court governing actions for the
 24 collection of civil penalties in the municipal or ***[county district**
 25 **court]*** *Special Civil Part of the Law Division of the Superior
 26 Court* where the offense occurred. Process in the action may be by
 26A summons or warrant and if the defendant in the action fails to
 27 answer the action, the court shall, upon finding an unlawful
 28 act or practice to have been committed by the defendant, issue a
 29 warrant for the defendant's arrest in order to bring the person
 30 before the court to satisfy the civil penalties imposed. In an action
 31 commenced pursuant to this section, the court may order restored
 32 to any person in interest any moneys or property acquired by
 33 means of an unlawful act or practice. Any action alleging the un-
 34 licensed practice of the activities regulated by P. L. 1981, c. 311
 35 (C. 45:14D-1 et seq.) shall be brought pursuant to this section or,
 36 where injunctive relief is sought, by an action commenced in the
 37 Superior Court. In an action brought pursuant to that act, the
 38 director or the court may order the payment of costs for the use
 39 of the State.

1 7. (New section) Whenever it shall appear to the director or the
 2 Attorney General that a person has engaged in, or is engaging in
 3 any act or practice declared unlawful by P. L. 1981, c. 311 (C.
 4 45:14D-1 et seq.), or when the director or the Attorney General
 5 shall deem it to be in the public interest to inquire whether a viola-
 6 tion may exist, the director through the Attorney General, or the
 7 Attorney General acting independently, may:

8 a. Require any person to file on a form to be prescribed, a state-
 9 ment or report in writing under oath, or otherwise, as to the facts
 10 and circumstances concerning the rendition of any service or con-
 11 duct of any sale incidental to the discharge of any act or practice
 12 subject to that act;

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

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

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

19 e. Examine any record, book, document, account or paper main-
 20 tained by or for any public mover or warehouseman in the regular
 21 course of engaging in the activities regulated by that act or
 22 regulations promulgated pursuant to that act;

23 f. For the purpose of preserving evidence of an unlawful act or
 24 practice, pursuant to an order of the Superior Court, impound any
 25 record, book, document, account, paper, goods, ware, or item used
 26 or maintained by or for any public mover or warehouseman in the
 27 regular course of engaging in the activities regulated by that act
 28 or regulations promulgated pursuant to that act. When necessary,
 29 the Superior Court may, on application of the Attorney General,
 30 issue an order sealing items or material subject to this subsection.

31 In order to accomplish the objectives of P. L. 1981, c. 311 (C.
 32 45:14D-1 et seq.) or the regulations promulgated pursuant to that
 33 act, the director or the Attorney General may hold investigative
 34 hearings as necessary and may issue subpoenas to compel the
 35 attendance of any person or the production of books, records or
 36 papers at a hearing or inquiry.

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

- 7 a. Adjudging that person in contempt of court and assessing civil
- 8 penalties in accordance with the amounts prescribed by that act; or
- 9 b. Granting other relief as required; or
- 10 c. Suspending the license of that person until compliance with
- 11 the subpoena or investigative demand is effected.

1 9. (New section) If a person who refuses to testify or produce any
 2 book, paper, or other document in any proceeding under P. L. 1981,
 3 c. 311 (C. 45:14D-1 et seq.) for the reason that the testimony or
 4 evidence, documentary or otherwise, required of him may tend to
 5 incriminate him, or convict him of a crime, is directed to testify
 6 or to produce the book, paper, or document by the Attorney
 7 General, he shall comply with the direction.

8 A person who is entitled by law to, and does assert a privilege,
 9 and who complies with the direction of the Attorney General, shall
 10 not thereafter be prosecuted or subjected to any penalty or for-
 11 feiture in any criminal proceeding which arises out of and relates
 12 to the subject matter of the proceeding. No person so testifying
 13 shall be exempt from prosecution or punishment for perjury or
 14 false swearing committed by him in giving the testimony or from
 15 any civil or administrative action arising from the testimony.

1 10. (New section). In addition or as an alternative, as the case
 2 may be, to revoking, suspending or refusing to renew any license,

- 3 the director may, after affording an opportunity to be heard:
- 4 a. Assess civil penalties in accordance with P. L. 1981, c. 311
5 (C. 45:14D-1 et seq.);
- 6 b. Order that any person violating any provision of that act cease
7 and desist from future violations thereof or take affirmative cor-
8 rective action as necessary with regard to any act or practice found
9 to be unlawful by the director;
- 10 c. Order any person found to have violated any provision of that
11 act to restore or to return to any person aggrieved by an unlawful
12 act or practice, any moneys or property, real or personal, acquired
13 by means of that act or practice; except that the director shall not
14 order restoration in a dollar amount greater than those moneys
15 received by a licensee or his agent or any other person violating
16 that act.

17 In any administrative proceeding on a complaint alleging a
18 violation of that act, the director may issue subpoenas to compel the
19 attendance of witnesses or the production of books, records, or
20 documents at the hearing on the complaint.

1 11. (New section) Whenever it shall appear to the director or
2 the Attorney General that a violation of P. L. 1981, c. 311 (C.
3 45:14D-1 et seq.) including the unlicensed practice of the activities
4 regulated therein, has occurred, is occurring, or will occur, the
5 Attorney General, in addition to any other proceeding authorized
6 by law, may seek and obtain in a summary proceeding in the
7 Superior Court an injunction prohibiting the act or practice. In the
8 proceeding the court may assess a civil penalty in accordance with
9 the provisions of that act, order restoration to any person in inter-
10 est of any moneys or property, real or personal, acquired by means
11 of an unlawful act or practice and may enter any orders necessary
12 to prevent the performance of an unlawful practice in the future
13 and to remedy fully any past unlawful activity. In any action
14 brought pursuant to this section, the court shall not suspend or
15 revoke any license issued by the director.

1 12. (New section) Upon the failure of any person to comply
2 within 10 days after service of any order of the director directing
3 payment of penalties or restoration of moneys or property, the
4 Attorney General or the director may issue a certificate to the
5 Clerk of the Superior Court that the person is indebted to the
6 State for the payment of the penalty and the moneys or property
7 ordered restored. A copy of the certificate shall be served upon the
8 person against whom the order was entered. Thereupon the clerk
9 shall immediately enter upon his record of docketed judgments the
10 name of the person so indebted and of the State, a designation of

11 the statute under which the penalty is imposed, the amount of the
 12 penalty imposed, and amount of moneys ordered restored, a listing
 13 of property ordered restored, and the date of the certification. The
 14 entry shall have the same force and effect as the entry of a docketed
 15 judgment in the Superior Court, and the Attorney General shall
 16 have all rights and remedies of a judgment creditor in addition to
 17 exercising any other available remedies. The entry, however, shall
 18 be without prejudice to the right of appeal to the Appellate Divi-
 19 sion of the Superior Court from the director's order.

20 An action to enforce the provisions of an order entered by the
 21 director or to collect a penalty levied thereby may be brought in
 22 any municipal or *~~county district court~~* *Special Civil Part of*
 22A *the Law Division of the Superior Court** or the Superior Court in a
 23 summary manner pursuant to "the penalty enforcement law"
 24 (N. J. S. 2A:58-1 et seq.) and the rules of court governing the
 25 collection of civil penalties. Process in the action shall be by sum-
 26 mons or warrant, and if the defendant fails to answer the action,
 27 the court shall issue a warrant for the defendant's arrest for the
 28 purpose of bringing the person before the court to satisfy any
 29 order entered.

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

1 14. (New section) Any person who suffers any ascertainable loss
 2 of moneys or property, real or personal, as a result of the use or
 3 employment by another person of any method, act, or practice
 4 declared unlawful under P. L. 1981, c. 311 (C. 45:14D-1 et seq.)
 5 may bring an action or assert a counterclaim therefor in any court
 6 of competent jurisdiction. In any action under this section the
 7 court shall, in addition to any appropriate legal or equitable relief,
 8 award threefold the damages sustained by any person in interest.
 9 In all actions under this section the court shall also award reason-
 10 able attorney's fees, filing fees, and reasonable costs of suit.

1 15. (New section) No license shall be issued to a warehouseman
2 or mover or remain in force unless the warehouseman or mover
3 complies with the rules or regulations that the director shall
4 prescribe governing policies of insurance, qualifications as a self-
5 insurer or other securities or agreements in the amount that the
6 director may require.

1 16. This act shall take effect immediately.

STATEMENT

This bill is designed to amend and supplement the "Public Movers and Warehousemen Licensing Act," approved December 3, 1981 (P. L. 1981, c. 311). For the most part, the amendments and new sections contained herein mirror those provisions set forth in the uniform enforcement powers and procedures law, P. L. 1978, c. 73 (C. 45:1-14 et seq.).

The bill expands the number of grounds upon which the director may refuse to issue or may suspend or revoke any license and provides additional or alternative penalties to revocation, suspension or refusal to renew. In addition, the bill increases the amount of the civil penalty that may be assessed upon any person violating any provision of this act.

The bill empowers the director or the Attorney General to fully investigate alleged violations of this act and provides for the issuance of subpoenas or civil investigative demands and the inspection of premises.

The bill provides for the initiation of a summary proceeding in Superior Court for an injunction prohibiting any violations of this act including the unlicensed practice of this occupation.

The bill additionally provides for an action or counterclaim by any person suffering an ascertainable loss of moneys or property as a result of the use or employment by any other person of any act or practice declared unlawful by the act and for the recovery of treble damages, costs and attorney's fees.

Finally, this bill requires any person currently holding or applying for a license to obtain and maintain insurance or other securities or agreements in amounts as the director may require.

SENATE LABOR, INDUSTRY AND PROFESSIONS
COMMITTEE

STATEMENT TO

SENATE, No. 482

with Senate committee amendments

STATE OF NEW JERSEY

DATED: APRIL 30, 1984

This bill amends and supplements the "Public Movers and Warehousemen Licensing Act," P. L. 1981, c. 311 (C. 45:14D-1 et seq.). For the most part, the amendments and new sections in the bill mirror those provisions set forth in the uniform enforcement powers and procedures act, P. L. 1978, c. 73 (C. 45:1-14 et seq.), used by the major occupational and professional boards under the jurisdiction of the Division of Consumer Affairs.

The bill expands the number of grounds upon which the director may refuse to issue or may suspend or revoke any license and provides additional penalties to revocation, suspension or refusal to renew. In addition, the bill increases the amount of the civil penalties that may be assessed upon any person violating any provision of this act to not more than \$2,500.00 for the first offense and not more than \$5,000.00 for a subsequent offense.

The bill empowers the director or the Attorney General to fully investigate alleged violators of this act and provides for issuance of subpoenas for civil investigative demands and inspection of premises.

The bill provides for the initiation of a summary proceeding in Superior Court for an injunction prohibiting any violation of the act, including the unlicensed practice of this occupation. A person found violating a cease and desist order would be liable to a civil penalty of not more than \$25,000.00. This civil penalty provision for violating a cease and desist order is similar to that found in the "consumer fraud act."

The bill additionally provides for an action or counterclaim by any person suffering an ascertainable loss of moneys or property as a result of the use or employment by any other person of any act or practice declared unlawful by the act and for the recovery of treble damages, court costs and attorney's fees. A similar provision is found in the "consumer fraud act."

The bill requires any person currently holding or applying for a license to obtain and maintain insurance or other securities or agreements in amounts as the director may require. In addition, an applicant

for a license or a licensee must establish or maintain a place of business in New Jersey.

A licensee under the bill may provide discounts and rebates from his established tariff for moving, storage or accessorial services to persons who are 62 years or older.

Finally, the bill provides compensation for the members of the State Advisory Board of Public Movers and Warehousemen in the amount of \$50.00 per diem, or an amount determined by the Attorney General, but not more than \$100.00 per diem or \$2,500.00 annually.

Bills

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"These changes in the law will enable the Department of Environmental Protection to respond more quickly and more effectively to spill incidents," Kean said. "It will also give the Department greatly expanded flexibility to deal with land as well as water spills and will permit greater use of the compensation fund on individual sites."

Kean also signed S-482, sponsored by Senator Donald DiFrancesco, R-Union, which enhances the powers of the Division of Consumer Affairs to take action against individuals or firms who violate regulations governing public movers and warehousemen.

The bill expands the grounds on which the Division may refuse to issue a license as well as to suspend or revoke a license. It also increases to \$2,500 the fine for a first offense and to \$5,000 the fine for subsequent offenses.

A key element in the bill authorizes the Attorney General to seek a court injunction to deal with persons who violate the public moving regulations.

Other sections of the bill provide:

*Any person holding a license or applying for one must obtain and maintain insurance.

*Any license holder or applicant must establish or maintain a place of business in New Jersey.

*A license holder may provide discounts or rebates for his services to persons 62 years or older.

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