

48:22-2 et al

LEGISLATIVE HISTORY CHECKLIST

NJSA 48:22-2 et al ("Public Movers Act"--covers advertising and solicitation)

Laws of 1977 Chapter 263

Bill No. A1743

Sponsor(s) Jackman and Perkins

Date Introduced March 10, 1976

Committee: Assembly Transportation and Communications

Senate Transportation and Communciations

Amended during passage Yes No

Date of passage: Assembly December 6, 1976

Senate June 20, 1977

Date of approval October 18, 1977

Following statements are attached if available:

Sponsor statement Yes ~~Yes~~

Committee Statement: Assembly Yes ~~Yes~~

Senate Yes ~~Yes~~

Fiscal Note ~~Yes~~ No

Veto message ~~Yes~~ No

Message on signing ~~Yes~~ No

Following were printed:

Reports ~~Yes~~ No

Hearings ~~Yes~~ No

MAY 1976
10/4/76

ASSEMBLY, No. 1743

STATE OF NEW JERSEY

INTRODUCED MARCH 10, 1976

By Assemblymen JACKMAN and PERKINS

Referred to Committee on Transportation and Communications

AN ACT to amend the "Public Movers Act," approved December 27, 1968 (P. L. 1968, c. 375).

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

1 1. Section 2 of P. L. 1968, c. 375 (C. 48:22-2) is amended to
2 read as follows:

3 2. Declaration of policy and delegation of jurisdiction.

4 (a) It is hereby declared to be the policy of this Legislature to
5 regulate transportation of household goods and special commodi-
6 ties and the movers' service provided by movers in a fair and
7 impartial manner as to recognize and preserve the inherent ad-
8 vantages of, and foster sound economic conditions in, such trans-
9 portation and among such carriers in the public interest; promote
10 safety of operations upon the public highways, adequate, economi-
11 cal and efficient service by movers, and just and reasonable charges
12 therefor, without unjust discriminations, undue preference or
13 advantages, or unfair or destructive competitive practice; to pro-
14 tect the interest of the public, improve the relations between, and
15 coordinate transportation by, movers and other carriers; and
16 cooperate with Federal Government and the several states of the
17 United States, and duly authorized officials thereof in matters relat-
18 ing to highway transportation, and with movers associations in
19 the administration of this act.

20 (b) The provisions of this act apply to the transportation, by a
21 public mover or mover, of household goods and special commodities
22 and to the performance of accessorial services in connection with
23 such transportation by a public mover or mover over the public
24 highways of this State, and **[regulation]** *to the holding out or*
25 *advertising of such transportation or services. Regulation of such*

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

26 transportation **[and such]**, *holding out, advertising, and perform-*
 27 *ance of accessorial* services is hereby vested in the Board of Public
 28 Utility Commissioners.

1 2. Section 5 of P. L. 1968, c. 375 (C. 48:22-5) is amended to
 2 read as follows:

3 5. General duties and powers of the board.

4 It shall be the duty of the board:

5 (a) To regulate public movers of household goods and special
 6 commodities and the transportation, moving and accessorial serv-
 7 ices which they perform, *as well as their conduct in soliciting*
 8 *business, advertising, and holding themselves out to the public to*
 9 *perform such services*, as provided in this act, and to that end,
 10 the board shall establish reasonable requirements in respect to
 11 proper and adequate movers' service, to fix and enforce just and
 12 reasonable rates for said service; to prescribe minimum levels of
 13 rates, together with governing classifications or exceptions and
 14 rules and regulations applicable to such rate structure; to prescribe
 15 a uniform system of accounts, rates, records and reports and the
 16 preservation of records, *and to prescribe methods by which movers'*
 17 *solicitation of business and advertising may be regulated in the*
 18 *public interest.* -

19 (b) To administer, execute and enforce all other provisions of
 20 this act; to make all necessary orders in connection therewith, and
 21 to make the rules, regulations and procedure for such administra-
 22 tion; provided, however, that such rules, regulations and procedures
 23 shall be adopted upon notice to the public and an opportunity for
 24 interested parties to set forth their views thereon.

25 (c) To employ, and fix the compensation of such experts, assist-
 26 ants, inspectors, examiners, and other employees as in its judgment
 27 may be necessary or advisable for the convenience of the public
 28 and for the effective administration of this act subject to the provi-
 29 sions of Title 11 (Civil Service) of the Revised Statutes.

30 (d) On all hearings before the board, a mover may appear in
 31 his own behalf or if a corporation may be represented by an officer
 32 thereof.

1 3. Section 6 of P. L. 1968, c. 375 (C. 48:22-6) is amended to
 2 read as follows:

3 6. Application for and issuance of certificates.

4 (a) No **[public mover]** *person* shall operate or render a moving
 5 service as defined herein *nor publicly hold himself or itself out*
 6 *to do so, nor in any way advertise the provision of such service*

7 unless there is in force with respect to such **public mover** *person*
8 a certificate of public convenience and necessity issued by the board
9 authorizing such operation.

10 (b) Applications for certificates shall be made in writing to the
11 board, be verified under oath, and shall be in such form and contain
12 such information and be accompanied by proof of such notice to
13 the interested parties as the board may by rule or regulations re-
14 quire. A certificate shall be issued to any qualified applicant there-
15 for, authorizing the whole or any part of the operations covered
16 by the application, if it is found that the applicant is fit, willing
17 and able properly to perform the service of a mover, and to con-
18 form to the provisions of this act and the lawful requirements,
19 rules and regulations of the board thereunder, and that the pro-
20 posed service, to the extent to be authorized by the certificate, is
21 or will be required by public convenience and necessity; otherwise,
22 said application shall be denied. In any application for authority
23 or for additional authority, the burden of proof shall be upon the
24 applicant to establish (1) the need for the service or for the addi-
25 tional service, (2) inadequacy of existing service, and (3) that any
26 prior violations of this or other laws, rule, and regulations of the
27 board hereunder or the limitations of any prior authority did not
28 result from a deliberate disregard thereof.

29 (c) The board shall issue a certificate to any public mover or
30 his successor in interest, who was in bona fide operation as a
31 mover on January 1, 1968, within any portion of this State, and
32 has so operated since that time, or, in the instance of an interrup-
33 tion of service and such interruption was due to circumstances over
34 which the person or his predecessor in interest had no control, with-
35 out requiring further proof that public convenience and necessity
36 will serve by such operation, and without further proceedings if
37 application for such certificate is made to the board as provided
38 in paragraph (b) of this section within 120 days after the act shall
39 take effect. Pending determination of any such application, the
40 continuance of operation as a mover shall be lawful.

41 (d) In order to have been in bona fide operation, as required in
42 paragraph (c) above, a public mover must have maintained a per-
43 manent place of business located in this State on or before January
44 1, 1968, and shall have owned or operated under lease at least one
45 moving van registered in this State on or before January 1, 1968.

46 (e) Any public mover not included within paragraph (c) of this
47 section, who is engaged in the transportation of household goods
48 and special commodities as a public mover when this act takes effect,

49 may continue such operation for a period of 120 days thereafter
 50 without a certificate, and, if application for such certificate has
 51 been made to the board within such period, the carrier, may, under
 52 such regulations as the board shall prescribe, continue such opera-
 53 tion until otherwise ordered by the board.

54 (f) No certificate shall be issued to an applicant if the applicant
 55 or any officer, director, partner or associate thereof is one who has
 56 (1) committed any act which, if committed by a certificate holder
 57 would be grounds for a suspension or revocation of the certificate,
 58 or (2) misrepresented any material fact on his application.

59 (g) Every public mover subject to this act, receiving household
 60 goods or special commodities for transportation in intrastate com-
 61 merce shall issue a receipt or bill of lading therefor, and shall be
 62 liable to the lawful holder thereof in accordance with the provisions
 63 of subchapters 3, 4, 5, and 6 of Title 12A of New Jersey Statutes
 64 Uniform Commercial Code.

65 (h) *Every person advertising his or its moving services by any*
 66 *means, oral, written, or electronic, shall include in such advertise-*
 67 *ment the number of his or its certificate, as issued by the board,*
 68 *and no person or entity shall publish or otherwise disseminate*
 69 *advertising by such advertiser unless it includes the number of*
 70 *such certificate.*

1 4. Section 17 of P. L. 1968, c. 375 (C. 48:22-17) is amended to
 2 read as follows:

3 17. Unlawful operation; penalties.

4 (a) Any person, *whether or not such person is a public mover*
 5 *or mover, knowingly and willfully violating any provision of this*
 6 *act, or aiding any other person in so doing, or any person knowingly*
 7 *and willfully violating any rule, regulation, requirement or order*
 8 *thereunder, or any terms, condition or limitation of any certificate*
 9 *or aiding any other person in so doing, for which violation a penalty*
 10 *is not otherwise herein provided, shall upon conviction thereof be*
 11 *fined not less than \$25.00, nor more than \$100.00, for the first*
 12 *offense and not more than \$300.00 for any subsequent offense. Each*
 13 *day of such violation shall constitute a separate offense.*

14 (b) If any **[mover]** *person holds himself or itself out to the*
 15 *public, advertises, solicits business, performs movers services,*
 16 *publishes or disseminates such advertising, or otherwise operates*
 17 *in violation of any provisions of this act (except as to the reason-*
 18 *ableness of rates or charges and the discriminatory character*
 19 *thereof), or any rule, regulation, requirement, or order thereunder,*
 20 *or of any term, condition or limitation of any certificate, any person*

21 injured thereby or the board or its duly authorized agent may apply
22 to the Superior Court of this State for the enforcement of such
23 provisions of this act, or of such rule, regulation, requirement,
24 order, term, condition or limitation; and such court shall have
25 jurisdiction to enforce compliance thereto by an appropriate
26 judgment or order, *including therein a grant of injunctive relief.*

27 (c) Any person, whether mover or any officer, employee, agent
28 or representative thereof, who shall knowingly offer, grant, or give,
29 or solicit, accept, or receive any rebate, concession or discrimina-
30 tion in violation of any provision of this act, or who by means of
31 any false statement or representation, or by the use of any false
32 or fictitious bill, bill of lading, receipt, voucher, account, claim,
33 certificate, affidavit, deposition, lease or bill of sale, or by any other
34 means or device, shall knowingly and willfully assist, suffer or per-
35 mit any person or persons, natural or artificial to obtain transpor-
36 tation of property subject to this act for less than the applicable
37 rate, or charge, or who knowingly and willfully misrepresents to
38 the shipper the applicable rate for transportation or the approxi-
39 mate weight of the shipment or the approximate cost, nature or
40 character of the service to be rendered or which the mover holds
41 himself out to render or who shall knowingly and willfully by any
42 such means or otherwise fraudulently seek to evade or defeat reg-
43 ulation as in this act provided for movers shall be guilty of a
44 violation of this act and upon conviction thereof be fined not more
45 than \$100.00 for the first offense and not more than \$500.00 for any
46 subsequent offense.

47 (d) Any mover, or any officer, agent, employee, or representative
48 thereof who shall willfully fail or refuse to make a report to the
49 board as required by this act, or to keep any accounts, records,
50 and memoranda in the form and manner approved or prescribed
51 by the board, or who shall knowingly and willfully falsify, destroy,
52 mutilate, or alter any such report, account, record, or memorandum,
53 shall be guilty of a violation of this act and upon conviction thereof
54 shall be punished by a fine not exceeding \$1,000.00.

55 (e) No person shall for compensation sell or offer for sale
56 movers' services subject to this act or shall enter into any contract
57 agreement or arrangement to provide, procure, furnish or arrange
58 for the services or shall hold himself out by advertisement solici-
59 tation or otherwise to sell, provide, procure, contract or arrange
60 for movers' services unless such person is a bona fide employee
61 or a booking agent of such mover. This action shall apply insofar
62 as it concerns a movers' service subject to this act furnished by

63 any mover or movers, singly or jointly, or by any mover in com-
64 bination with any for-hire carrier.

65 (f) The appointment of a booking agent by a mover shall not
66 permit such agent to transport shipments in vehicles owned or
67 controlled by the booking agent. Nothing in paragraphs (e) and
68 (f) shall be construed to prevent a mover from interchanging or
69 interlining shipments with another mover or from leasing equip-
70 ment to or from another mover or from an owner operator.

1 5. Section 18 of P. L. 1968, c. 375 (C. 48:22-18) is amended to
2 read as follows:

3 18. Enforcement.

4 (a) The board shall by civil action in any court of competent
5 jurisdiction of this State, prevent any person from operating as
6 a mover *or publishing or otherwise disseminating advertising* in
7 violation of the provisions of this act. Penalties as provided in
8 this act may be recovered in a summary proceeding pursuant to
9 the penalty enforcement law (N. J. S. 2A:58-1 et seq.) or by any
10 proceeding before a magistrate of the State of New Jersey or
11 other court of competent jurisdiction, *and injunctive relief shall*
12 *be available in proceedings before the Superior Court, Chancery*
13 *Division, or other court of competent jurisdiction.*

14 (b) It shall be the duty of the board, its agents, employees, and
15 inspectors appointed under its authority to enforce all of the pro-
16 visions of this act, and, for the purpose of such enforcement, au-
17 thority and power are hereby given to them and each of them to
18 stop any mover's vehicle and examine the same as well as any
19 shipping documents, or vehicle leases to insure that the provisions
20 and requirements of this act, the rules and regulations thereunder,
21 the terms, conditions and limitation of any certificate that may
22 have been issued to any such mover are being complied with and
23 to issue a summons in the same manner as any police officer of
24 the State for appearance before a magistrate or other court of
25 competent jurisdiction.

26 (c) If any mover shall after hearing by the board be found to
27 have violated any of the provisions of this act, or rule, regulation
28 or order of the board, or any legally filed tariff issued by such
29 mover, the board may suspend the certificate issued to such mover
30 for a stated period. Operation after suspension as herein provided
31 shall constitute a misdemeanor by the operator and the mover.

1 6. This act shall take effect immediately.

STATEMENT

The purpose of this bill is to amend the 1968 "Public Movers Act," P. L. 1968, c. 375, so that the Board of Public Utility Commissioners will regulate not only the business of moving and public moving of household goods and other special commodities, but also the activities of all those persons who advertise, solicit business, or hold themselves out as movers or public movers. Pursuant to this bill, no person will be able to advertise as a mover or public mover without being in possession of a certificate of public convenience and necessity issued by the P. U. C.

This legislation is motivated by a desire to protect the public interest by closing an unintentional loophole in the 1968 legislation through which certain unscrupulous persons have been acting as movers and public movers, and actually advertising themselves as such, without any regulation, supervision, or control by the P. U. C.

ASSEMBLY TRANSPORTATION AND
COMMUNICATIONS COMMITTEE

STATEMENT TO
ASSEMBLY, No. 1743

STATE OF NEW JERSEY

DATED: NOVEMBER 8, 1976

The purpose of this bill is to amend the 1968 "Public Movers Act," P. L. 1968, c. 375, so that the Board of Public Utility Commissioners will regulate not only the business of moving and public moving of household goods and other special commodities, but also the activities of all those persons who advertise, solicit business, or hold themselves out as movers or public movers. Pursuant to this bill, no person will be able to advertise as a mover or public mover without being in possession of a certificate of public convenience and necessity issued by the Public Utilities Commission.

In addition, the bill requires that any public mover advertising his moving services shall include in the advertisement his certificate number as issued by the Public Utilities Commission. Assembly Bill No. 1743 also provides that any advertiser publishing or otherwise disseminating advertising by the aforementioned advertiser shall include the number of such certificate in the advertisement.

The bill provides that injunctive relief shall be available in cases where the Board of Public Utilities Commission shall by civil action in any court of competent jurisdiction of this State, prevent any person from operating as a mover or publishing or otherwise disseminating advertising in violation of the provisions of this act.

SENATE TRANSPORTATION AND COMMUNICATIONS
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 1743

STATE OF NEW JERSEY

DATED: MAY 5, 1977

This legislation amends the 1968 "Public Movers Act" in order to strengthen the Board of Public Utility Commissioners regulatory authority. The board, pursuant to this bill, will be able to regulate the activities of persons who advertise, solicit business, or hold themselves out as movers or public movers. No person will be able to advertise as a mover or public mover without possessing a certificate of public convenience and necessity. Advertising of moving services shall include such certificate number issued by the board. In addition, this legislation provides the board with the authority to seek injunctive relief in proceedings before the Superior Court, Chancery Division, or other court of competent jurisdiction.

A representative from the Department of Public Utilities stated that the department supported this legislation.

FROM THE OFFICE OF THE GOVERNOR

OCTOBER 18, 1977

FOR FURTHER INFORMATION

FOR IMMEDIATE RELEASE

ANNE BURNS

Governor Brendan Byrne today signed into law A-1743, sponsored by Assemblyman Christopher Jackman, D-Hudson.

The bill amends the 1968 "Public Movers Act" to allow the Board of Public Utility Commissioners to regulate the activities of all people who advertise, solicit business or hold themselves out as movers or public movers.

Prior to this legislation, the PUC could only regulate the business of moving and public moving of household goods and other special commodities.

The bill requires all people who advertise as movers or public movers to possess a certificate of public convenience and necessity from the PUC.

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