



LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 1998

CHAPTER:60

NJSA: 45:14D-26 to 45:14D-29

"Public movers -- licensure requirements"

BILL NO: A405 (Substituted for S379)

SPONSOR(S): Moran and Impreveduto

DATE INTRODUCED: Pre-filed

COMMITTEE:

ASSEMBLY:Consumer Affairs and Regulated Professions

SENATE: ~~~~

AMENDED DURING PASSAGE:Yes

DATE OF PASSAGE:

ASSEMBLY: June 18, 1998

SENATE: June 22, 1998

DATE OF APPROVAL: July 30, 1998

THE FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL: Assembly Committee Substitute -- 1st reprint
(Amendments during passage denoted by superscript numbers)

A405

SPONSORS STATEMENT: *Yes* (Begins on page 8 of original bill)

COMMITTEE STATEMENT:

ASSEMBLY:*Yes*

SENATE: *No*

FLOOR AMENDMENT STATEMENTS: *Yes*

LEGISLATIVE FISCAL ESTIMATE: *Yes*

S379

SPONSORS STATEMENT: *Yes* (Begins on page 7 of original bill)

COMMITTEE STATEMENT:

ASSEMBLY: *No*

SENATE: *Yes* (Identical to Assembly Statement for A405)

FLOOR AMENDMENT STATEMENTS: *Yes*

(Identical to Assembly Floor Amendment Statement for A405)

LEGISLATIVE FISCAL ESTIMATE: *Yes*

(Identical to Legislative Fiscal Estimate for A405)

VETO MESSAGE: *No*

GOVERNOR'S PRESS RELEASE ON SIGNING: *Yes*

THE FOLLOWING WERE PRINTED:

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REPORTS: *No*

HEARINGS: *No*

NEWSPAPER ARTICLES:

"New law gives more freedom when moving," 8-1-98, Bridgewater Courier News, p. A2.

[First Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 405

STATE OF NEW JERSEY
208th LEGISLATURE

ADOPTED MAY 7, 1998

Sponsored by:

Assemblyman **JEFFREY W. MORAN**
District 9 (Atlantic, Burlington and Ocean)
Assemblyman **ANTHONY IMPREVEDUTO**
District 32 (Bergen and Hudson)

Co-Sponsored by:

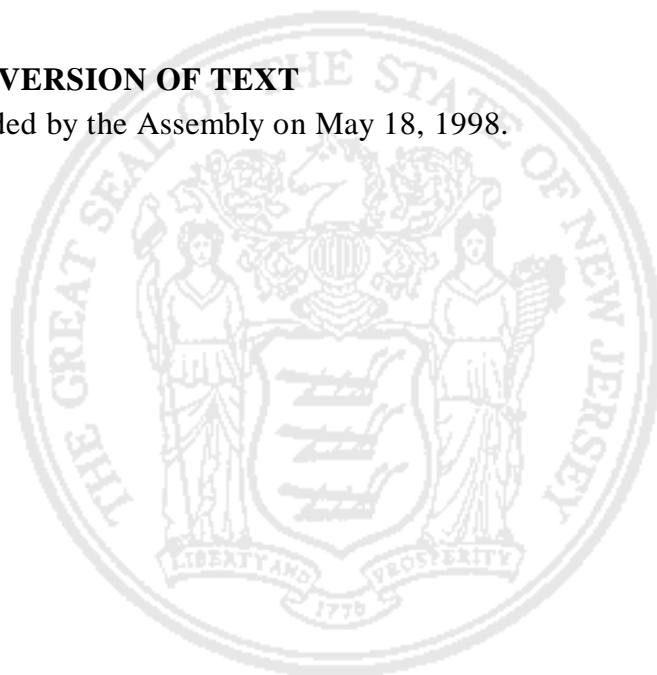
Senator **Cardinale**

SYNOPSIS

Revises licensure requirements and provides for binding estimates for public movers and warehousemen.

CURRENT VERSION OF TEXT

As amended by the Assembly on May 18, 1998.



(Sponsorship Updated As Of: 6/23/1998)

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

3

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

6

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

9 2. As used in this act:

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

16 b. "Board" means the State Board of Public Movers and
17 Warehousemen established under this act;

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

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

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

32 f. "Intrastate commerce" means commerce moving wholly between
33 points within the State over all public highways, or at a single location;

34 g. "License" means a license issued by the board;

35 h. "Motor vehicle" means any vehicle, machine, tractor, truck or
36 semitrailer, or any combination thereof, propelled, driven or drawn by
37 mechanical power, and used upon the public highways in the
38 transportation of household goods, office goods and special
39 commodities in intrastate commerce;

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

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:

¹Assembly floor amendments adopted May 18, 1998.

- 1 j. "Storage services" means all of the services rendered by a
2 warehouseman;
- 3 k. "Office goods" means personal effects, fixtures, furniture,
4 equipment, stock and supplies or other property usually used in or as
5 part of the stock of any office, or commercial, institutional,
6 professional or other type of establishment, when it is put into storage
7 or when the property is transported by virtue of its removal, in whole
8 or in part, from one location to another, but does not mean or include
9 stock and supplies or other property usually used in or as part of the
10 stock of any office, or commercial, institutional, professional or other
11 type of establishment, when put into storage;
- 12 l. "Person" means any individual, copartnership, association,
13 company, or corporation, and includes any trustee, receiver, assignee,
14 lessee, or personal representative of any person herein defined;
- 15 m. "Place of business" means a business office located in New
16 Jersey from which the mover or warehouseman conducts his daily
17 business and where records are kept;
- 18 n. "Property" means all of the articles in the definition of
19 household goods, office goods or special commodities;
- 20 o. "Public highway" or "highway" means any public street, road,
21 thoroughfare, bridge and way in this State open to the use of the
22 public as a matter of right for purposes of motor vehicular travel,
23 including those that impose toll charges;
- 24 p. "Public mover" or "mover" means any person who engages in
25 the transportation of household goods, office goods or special
26 commodities by motor vehicle for compensation in intrastate
27 commerce between points in this State, including the moving of
28 household goods, office goods or special commodities from one
29 location to another at a single address, and any person who engages
30 in the performance of accessorial services; except that the term "public
31 mover" or "mover" shall not apply to any person who engages in, or
32 holds himself out to the general public as engaging in, the
33 transportation of special commodities when such commodities are not
34 transported by virtue of a removal, in whole or in part, and who does
35 not engage, nor hold himself out to the general public as engaging in,
36 the transportation of household or office goods;
- 37 q. "Special commodities" means uncrated or unboxed works of
38 art, fixtures, appliances, business machines, electronic equipment,
39 displays, exhibits, home, office, store, theatrical or show equipment,
40 musical instruments, or other articles being put into storage or being
41 moved, and which require the use of equipment and personnel usually
42 furnished or employed by warehousemen or public movers, except that
43 the provisions of P.L.1981, c.311 (C.45:14D-1 et seq.) shall not apply
44 to any person engaged in the transportation or storage of special
45 commodities when these commodities are not transported by virtue of
46 a removal, in whole or in part;

1 r. "Storage" means the safekeeping of property in a depository for
2 compensation;

3 s. "Tariff" means a schedule of rates and charges for the storage
4 or transportation of property in intrastate commerce on file with the
5 board, which shall be used, except in the use of binding estimates by
6 movers, in computing all charges on the storage or transportation of
7 property as of the date of the time in storage or transportation;

8 t. "Warehouseman" means a person engaged in the business of
9 storage;

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

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

15

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

18 14. a. Public movers and warehousemen shall file their tariffs with
19 the board semiannually;

20 b. **[No]** Except in the use of binding estimates provided for in
21 section 6 of P.L. , c. (C.)(now before the Legislature as this
22 bill), no public mover or warehouseman shall charge, demand, collect
23 or receive a greater **[or lesser]** compensation for his service than
24 specified in the tariff **[**, except that discounts and rebates may be
25 provided in connection with the furnishing of moving, storage or
26 accessorial services to any person who is 62 years or older**]**.

27 (cf: P.L.1993, c.365, s.8)

28

29 ¹**[**3. (New section) a. An applicant for licensure under P.L.1981,
30 c.311 (C.45:14D-1 et seq.) shall not be eligible for licensure and any
31 holder of a license under that act may have his license revoked if the
32 board determines, consistent with the requirements and standards of
33 P.L.1981, C.311 (C.45:14D-1 et seq.) and this 1998 amendatory and
34 supplementary act, that criminal history record information exists on
35 file in the Federal Bureau of Investigation, Identification Division, or
36 in the State Bureau of Identification in the Division of State Police,
37 which would disqualify that individual from being licensed. An
38 applicant shall be, and a holder of a license may be, disqualified from
39 licensure if that individual's criminal history record check reveals a
40 record of conviction of any of the following crimes:

41 (1) In New Jersey, any crime:

42 (a) Involving danger to the person, meaning those crimes set forth
43 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.,
44 N.J.S.2C:14-1 et seq. or N.J.S.2C:15-1 et seq.; or

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

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

4 b. Notwithstanding the provisions of subsection a. of this section,
5 no individual shall be disqualified from licensure on the basis of any
6 conviction disclosed by a criminal history record check performed
7 pursuant to this section if the individual has affirmatively demonstrated
8 to the board clear and convincing evidence of his rehabilitation. In
9 determining whether an individual has affirmatively demonstrated
10 rehabilitation, the following factors shall be considered:

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

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

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

15 (4) The date of the offense;

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

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

18 (7) Any social conditions which may have contributed to the
19 offense; and

20 (8) Any evidence of rehabilitation, including good conduct in
21 prison or in the community, counseling or psychiatric treatment
22 received, acquisition of additional academic or vocational schooling,
23 successful participation in correctional work-release programs, or the
24 recommendation of persons who have had the individual under their
25 supervision.]¹

26
27 ¹[4. (New section) a. An applicant and holder of a license shall
28 submit to the board his name, address and fingerprints taken on
29 standard fingerprint cards by a State or municipal law enforcement
30 agency. The board is authorized to exchange fingerprint data with and
31 receive criminal history record information from the Federal Bureau
32 of Investigation and the Division of State Police for use in making the
33 determinations required by section 3 of P.L. , c. (C.) (pending before
34 the Legislature as this bill).

35 b. All costs associated with performing the criminal history record
36 check shall be borne by the applicant or holder of a license.]¹

37
38 ¹[5. (New section) a. Upon receipt of an applicant's or licensee's
39 criminal history record information from the Federal Bureau of
40 Investigation or the Division of State Police, as applicable, the board
41 shall notify the applicant or licensee, in writing, of the applicant's or
42 licensee's qualification or disqualification for licensure under P.L.1981,
43 c.311 (C45:14D-1 et seq.). If the applicant or licensee is disqualified,
44 the conviction or convictions which constitute the basis for the
45 disqualification shall be identified in the written notice.

46 b. The applicant or licensee shall have 30 days from the date of

1 written notice of disqualification to petition the board for a hearing on
2 the accuracy of the criminal history record information or to establish
3 his rehabilitation under subsection b. of section 3 of P.L. , c. (C.)
4 (pending before the Legislature as this bill). The board may refer any
5 case arising hereunder to the Office of Administrative Law for
6 administrative proceedings pursuant to P.L.1968, c.410 (C.52:14B-1
7 et seq.).

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

13
14 ¹3. (New section) The board shall notify the Board of Public
15 Utilities of the business location and telephone number of any public
16 mover that does not have a valid license issued by the board.¹

17
18 ¹4. (New section) When notified by the State Board of Public
19 Movers and Warehousemen pursuant to section 3 of P.L. , c.
20 (C.)(now before the Legislature as this bill), the Board of Public
21 Utilities shall order the servicing telecommunications company to
22 disconnect that mover's telephone number that is published in any
23 commercial listing.¹

24
25 ¹5. (New section) When ordered by the Board of Public Utilities
26 pursuant to section 4 of P.L. , c. (C.)(now before the
27 Legislature as this bill), the telecommunications company shall
28 disconnect that mover's telephone number that is published in any
29 commercial listing.¹

30
31 6. (New section) a. If a binding estimate is used for moving, the
32 estimate shall be furnished in writing to the customer or other person
33 responsible for payment of the charges for the mover's services and a
34 copy of the estimate shall be retained by the public mover as an
35 addendum to the bill of lading. A binding estimate shall clearly
36 indicate on its face that the estimate is binding on the public mover and
37 that the charges shown are the charges to be assessed for the services
38 identified in the estimate. A binding estimate shall clearly describe the
39 property to be moved and all services to be provided. ¹If, at the time
40 of the move, additional property is to be moved or additional services
41 are to be provided, or both, that are in excess of that provided in the
42 binding estimate, the mover shall not charge, demand, collect or
43 receive a greater compensation for those services than specified in his
44 filed tariff.¹

45 b. (1) No mover shall withhold all or any part of a shipment if the
46 amount due on the moving contract based on a binding estimate in

1 regard to the move is offered to be paid, or is paid, in full to the
2 mover.

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

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

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

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

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

22
23 ¹[7. (New section) A person licensed under P.L.1981, c.311
24 (C.45:14D-1 et seq.) shall maintain a bond issued by a surety
25 authorized to transact business in this State or maintain an irrevocable
26 letter of credit by a bank or maintain with the board securities, moneys
27 or other security acceptable to the board to fulfill the requirements of
28 this section. The principal sum of the bond, letter of credit, or
29 securities, moneys or other security shall be not less than \$10,000,
30 which amount the board may adjust by regulation. The bond, letter of
31 credit, or securities, moneys or other security shall be filed or
32 deposited with the board and shall be executed to the State of New
33 Jersey for the use of any person who, after entering into a contract
34 with a mover or warehouseman, is damaged or suffers any loss for any
35 violation of P.L.1981, c.311 (C.45:14D-1 et seq.). Any person
36 claiming against the bond, letter of credit, or securities, moneys or
37 other security may maintain an action at law against the mover or
38 warehouseman and the surety, bank, or board, as the case may be.
39 The aggregate liability of the surety, bank, or the board to all persons
40 for all breaches of the conditions of the bond, letter of credit or the
41 securities, moneys or other security held by the board shall not exceed
42 the amount of the bond, letter of credit, or the securities, moneys or
43 other security held by the board.

44 In the case of a bond, the mover or warehouseman shall file a copy
45 of the bond with the board and a certificate by the surety that the
46 surety will notify the board at least 10 days in advance of the date of

1 any cancellation or material change in the bond.】¹

2

3 ¹【8.】7.¹ This act shall take effect 60 days following the date of

4 enactment.

ASSEMBLY, No. 405

STATE OF NEW JERSEY 208th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 1998 SESSION

Sponsored by:

Assemblyman JEFFREY W. MORAN

District 9 (Atlantic, Burlington and Ocean)

Assemblyman ANTHONY IMPREVEDUTO

District 32 (Bergen and Hudson)

SYNOPSIS

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

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



A405 MORAN, IMPREVEDUTO

2

1 AN ACT concerning the licensing of public movers and warehousemen,
2 amending and supplementing P.L.1981, c.311, and repealing
3 section 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;]** "Board" means the State
19 Board of Public Movers and Warehousemen established under
20 P.L.1981, c.311 (C.45:14D-1 et seq.);

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;

35 f. "Intrastate commerce" means commerce moving wholly between
36 points within the State over all public highways, or at a single location;

37 g. "License" means a license issued by the board;

38 h. "Motor vehicle" means any vehicle, machine, tractor, truck or
39 semitrailer, or any combination thereof, propelled, driven or drawn by
40 mechanical power, and used upon the public highways in the
41 transportation of household goods, office goods and special
42 commodities in intrastate commerce;

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.

A405 MORAN, IMPREVEDUTO

- 1 i. "Mover's services" means all of the services rendered by a public
2 mover;
- 3 j. "Storage services" means all of the services rendered by a
4 warehouseman;
- 5 k. "Office goods" means personal effects, fixtures, furniture,
6 equipment, stock and supplies or other property usually used in or as
7 part of the stock of any office, or commercial, institutional,
8 professional or other type of establishment, when it is put into storage
9 or when the property is transported by virtue of its removal, in whole
10 or in part, from one location to another, but does not mean or include
11 stock and supplies or other property usually used in or as part of the
12 stock of any office, or commercial, institutional, professional or other
13 type of establishment, when put into storage;
- 14 l. "Person" means any individual, copartnership, association,
15 company, or corporation, and includes any trustee, receiver, assignee,
16 lessee, or personal representative of any person herein defined;
- 17 m. "Place of business" means a business office located in New
18 Jersey from which the mover or warehouseman conducts his daily
19 business and where records are kept;
- 20 n. "Property" means all of the articles in the definition of household
21 goods, office goods or special commodities;
- 22 o. "Public highway" or "highway" means any public street, road,
23 thoroughfare, bridge and way in this State open to the use of the
24 public as a matter of right for purposes of motor vehicular travel,
25 including those that impose toll charges;
- 26 p. "Public mover" or "mover" means any person who engages in
27 the transportation of household goods, office goods or special
28 commodities by motor vehicle for compensation in intrastate
29 commerce between points in this State, including the moving of
30 household goods, office goods or special commodities from one
31 location to another at a single address, and any person who engages
32 in the performance of accessorial services; except that the term "public
33 mover" or "mover" shall not apply to any person who engages in, or
34 holds himself out to the general public as engaging in, the
35 transportation of special commodities when such commodities are not
36 transported by virtue of a removal, in whole or in part, and who does
37 not engage, nor hold himself out to the general public as engaging in,
38 the transportation of household or office goods;
- 39 q. "Special commodities" means uncrated or unboxed works of art,
40 fixtures, appliances, business machines, electronic equipment, displays,
41 exhibits, home, office, store, theatrical or show equipment, musical
42 instruments, or other articles being put into storage or being moved,
43 and which require the use of equipment and personnel usually
44 furnished or employed by warehousemen or public movers, except that
45 the provisions of P.L.1981, c.311 (C.45:14D-1 et seq.) shall not apply
46 to any person engaged in the transportation or storage of special

- 1 commodities when these commodities are not transported by virtue of
2 a removal, in whole or in part;
- 3 r. "Storage" means the safekeeping of property in a depository for
4 compensation;
- 5 s. ["Tariff" means a schedule of rates and charges for the storage
6 or transportation of property in intrastate commerce on file with the
7 board, which shall be used in computing all charges on the storage or
8 transportation of property as of the date of the time in storage or
9 transportation;] (Deleted by amendment, P.L. . . , c. . .)
- 10 t. "Warehouseman" means a person engaged in the business of
11 storage;
- 12 u. "Removal" means the physical relocation, in whole or in part, of
13 either household goods, office goods or special commodities from one
14 location to another location, including internal relocations within the
15 same room or facility, for compensation.
16 (cf: P.L.1993, c.365, s.1)
- 17
- 18 2. Section 6 of P.L.1981, c.311 (C.45:14D-6) is amended to read
19 as follows:
- 20 6. The board shall, in addition to such other powers and duties as
21 it may possess by law:
- 22 a. Administer and enforce the provisions of this act;
- 23 b. Adopt and promulgate rules and regulations, pursuant to the
24 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
25 seq.), to effectuate the purposes of this act;
- 26 c. Examine and pass on the qualifications of all applicants for
27 license under this act, and issue a license to each qualified applicant;
- 28 d. Establish professional standards for persons licensed under this
29 act;
- 30 e. Conduct hearings pursuant to the "Administrative Procedure
31 Act," P.L.1968, c.410 (C.52:14B-1 et seq.); except that the board
32 shall have the right to administer oaths to witnesses, and shall have the
33 power to issue subpoenas for the compulsory attendance of witnesses
34 and the production of pertinent books, papers, or records;
- 35 f. Conduct proceedings before any board, agency or court of
36 competent jurisdiction for the enforcement of the provisions of this
37 act;
- 38 g. Annually publish a list of the names[,] and addresses [and
39 tariffs] of all persons who are licensed under this act;
- 40 h. Establish reasonable requirements with respect to proper and
41 adequate movers' and warehousemen's services and the furnishing of
42 estimates, and prescribe a uniform system of accounts, records and
43 reports;
- 44 i. Adopt and promulgate rules and regulations to protect the
45 interests of the consumer, including, but not limited to, regulations
46 concerning the contents of information brochures which a mover or

1 warehouseman shall give to a customer prior to the signing of a
2 contract for moving or storage services.

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

4

5 3. (New section) a. An applicant for licensure under P.L.1981,
6 c.311 (C.45:14D-1 et seq.) shall not be eligible for licensure and any
7 holder of a license under that act may have his license revoked if the
8 board determines, consistent with the requirements and standards of
9 P.L.1981, C.311 (C.45:14D-1 et seq.) and this 1997 amendatory and
10 supplementary act, that criminal history record information exists on
11 file in the Federal Bureau of Investigation, Identification Division, or
12 in the State Bureau of Identification in the Division of State Police,
13 which would disqualify that individual from being licensed. An
14 applicant shall be, and a holder of a license may be, disqualified from
15 licensure if that individual's criminal history record check reveals a
16 record of conviction of any of the following crimes:

17 (1) In New Jersey, any crime:

18 (a) Involving danger to the person, meaning those crimes set forth
19 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.,
20 N.J.S.2C:14-1 et seq. or N.J.S.2C:15-1 et seq.; or

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

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

26 b. Notwithstanding the provisions of subsection a. of this section,
27 no individual shall be disqualified from licensure on the basis of any
28 conviction disclosed by a criminal history record check performed
29 pursuant to this section if the individual has affirmatively demonstrated
30 to the board clear and convincing evidence of his rehabilitation. In
31 determining whether an individual has affirmatively demonstrated
32 rehabilitation, the following factors shall be considered:

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

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

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

37 (4) The date of the offense;

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

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

40 (7) Any social conditions which may have contributed to the
41 offense; and

42 (8) Any evidence of rehabilitation, including good conduct in
43 prison or in the community, counseling or psychiatric treatment
44 received, acquisition of additional academic or vocational schooling,
45 successful participation in correctional work-release programs, or the

1 recommendation of persons who have had the individual under their
2 supervision.

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

12
13 5. (New section) a. Upon receipt of an applicant's or licensee's
14 criminal history record information from the Federal Bureau of
15 Investigation or the Division of State Police, as applicable, the board
16 shall notify the applicant or licensee, in writing, of the applicant's or
17 licensee's qualification or disqualification for licensure under P.L.1981,
18 c.311 (C45:14D-1 et seq.). If the applicant or licensee is disqualified,
19 the conviction or convictions which constitute the basis for the
20 disqualification shall be identified in the written notice.

21 b. The applicant or licensee shall have 30 days from the date of
22 written notice of disqualification to petition the board for a hearing on
23 the accuracy of the criminal history record information or to establish
24 his rehabilitation under subsection b. of section 3 of P.L. , c. (C.)
25 (pending before the Legislature as this bill). The board may refer any
26 case arising hereunder to the Office of Administrative Law for
27 administrative proceedings pursuant to P.L.1968, c.410 (C.52:14B-1
28 et seq.).

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

34
35 6. (New section) a. If a binding estimate is used for moving, the
36 estimate shall be furnished in writing to the customer or other person
37 responsible for payment of the charges for the mover's services and a
38 copy of the estimate shall be retained by the public mover as an
39 addendum to the bill of lading. A binding estimate shall clearly
40 indicate on its face that the estimate is binding on the public mover and
41 that the charges shown are the charges to be assessed for the services
42 identified in the estimate. A binding estimate shall clearly describe the
43 property to be moved and all services to be provided.

44 b. (1) No mover shall withhold all or any part of a shipment if the
45 amount due on the moving contract based on a binding estimate in

1 regard to the move is offered to be paid, or is paid, in full to the
2 mover.

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

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

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

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

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

22

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

44 In the case of a bond, the mover or warehouseman shall file a copy
45 of the bond with the board and a certificate by the surety that the
46 surety will notify the board at least 10 days in advance of the date of

1 any cancellation or material change in the bond.

2

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

4

5 9. This act shall take effect 60 days following enactment.

6

7

8

STATEMENT

9

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

18 The bill requires applicants for licensure and those persons already
19 licensed under the provisions of the act to submit to a State and
20 federal criminal history background check, to determine whether those
21 persons are fit to be so licensed. The State Board of Public Movers
22 and Warehousemen shall determine that an applicant for licensure is
23 unfit to be licensed and may revoke the licensure of a person currently
24 licensed if that person meets the criteria for disqualification as
25 provided in the bill. However, no individual shall be disqualified from
26 licensure on the basis of a conviction disclosed by a criminal history
27 record check if the individual has affirmatively demonstrated to the
28 board clear and convincing evidence of his rehabilitation.

29 The bill also requires that a binding estimate for moving be in
30 writing and indicate on its face that the estimate is binding on the
31 mover and prohibits a mover from withholding all or any part of a
32 shipment if:

33 a. the moving contract is based on a binding estimate and the
34 amount due for the move is offered to be paid, or is paid, in full to the
35 mover; or

36 b. the moving contract is not based on a binding estimate and the
37 mover has not otherwise disclosed in the moving contract that the
38 mover may withhold all or any part of the shipment for payment of the
39 freight bill.

40 In addition, the bill requires licensees to maintain a bond, letter of
41 credit or securities of not less than \$10,000 for the protection of their
42 customers.

ASSEMBLY CONSUMER AFFAIRS AND REGULATED
PROFESSIONS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 405

STATE OF NEW JERSEY

DATED: MAY 7, 1998

The Assembly Consumer Affairs and Regulated Professions Committee reports favorably Assembly Committee Substitute for Assembly Bill No. 405.

This committee substitute exempts binding estimates from the tariff requirements for movers under the "Public Movers and Warehousemen Licensing Act," P.L.1981, c.311 (C.45:14D-1 et seq.), and allows movers to provide discounts and rebates from their tariff rates in connection with furnishing moving, storage or accessorial services to any person. Current law prohibits a mover from charging less or more for his services than that specified in the tariff that he has filed with the State Board of Public Movers and Warehousemen, except that the mover may discount the rates for services to a person who is 62 years or older. The bill requires that a binding estimate for moving be in writing and indicate on its face that the estimate is binding on the mover.

The bill also prohibits a mover from withholding all or any part of a shipment if: (1) the moving contract is based on a binding estimate and the amount due for the move is offered to be paid, or is paid, in full to the mover; or (2) the moving contract is not based on a binding estimate and the mover has not otherwise disclosed in the moving contract that the mover may withhold all or any part of the shipment for payment of the freight bill. A mover who violates this provision would be subject to a civil penalty of not less than \$1,000 nor more than \$5,000 for a first violation and not less than \$5,000 nor more than \$10,000 for a subsequent violation.

The bill requires licensees to maintain a bond, letter of credit or securities of not less than \$10,000 for the protection of their customers.

In addition, the bill requires applicants for licensure and those persons already licensed under the provisions of the act to submit to a State and federal criminal history background check, to determine whether those persons are fit to be so licensed. The State Board of Public Movers and Warehousemen shall determine that an applicant for licensure is unfit to be licensed and may revoke the licensure of a

person currently licensed if that person meets the criteria for disqualification as provided in the bill. However, no individual shall be disqualified from licensure on the basis of a conviction disclosed by a criminal history record check if the individual affirmatively demonstrates to the board clear and convincing evidence of his rehabilitation. All costs associated with performing the criminal history record check would be borne by the applicant or holder of a license.

As reported by the committee, this bill is identical to Senate Bill No. 379 (1R).

STATEMENT TO
ASSEMBLY, No. 405

with Assembly Floor Amendments
(Proposed By Assemblyman MORAN)

ADOPTED: MAY 18, 1998

This amendment allows a mover who has agreed to provide moving services pursuant to a binding estimate to charge only his tariff rates or less for moving any property for that customer in excess of that provided for in the binding estimate, and requires a telephone company to disconnect the business telephone of a mover who has had his license revoked. In addition, the bill eliminates the provisions in the bill requiring a criminal history background check for movers and a bond for movers.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, No. 405

STATE OF NEW JERSEY

208th LEGISLATURE

DATED: JULY 20, 1998

Assembly Committee Substitute (1R) for Assembly Bill No. 405 of 1998 authorizes intrastate public movers to charge compensation that is less than the amount specified in their tariffs. A tariff is a schedule of rates that licensees file twice a year with the Board of Public Movers and Warehousemen in the Division of Consumer Affairs in the Department of Law and Public Safety.

The bill would authorize public movers to issue written, binding estimates for their services, which would be exempt from tariff requirements currently imposed on movers. Costs added subsequent to such an estimate would only be permitted if the added amount is lower than or equal to the amount specified in the mover's or warehousemen's filed tariff.

The bill also requires the board to notify the Board of Public Utilities (BPU), an agency in but not of the Department of Treasury, of any public movers who do not have a valid license. The bill requires BPU, in turn, to order a telecommunications company to disconnect the published, commercial telephone number of the unlicensed mover.

The bill imposes penalties for violation of its provisions: not less than \$1,000 or more than \$5,000 for a first violation and not less than \$5,000 or more than \$10,000 for a subsequent violation.

The Executive prepared a cost estimate for a prior version of the bill, which is no longer applicable.

The Office of Legislative Services (OLS) estimates that the costs of this bill may be absorbed within the current budget of the board. While the bill is silent regarding whether the board would be affirmatively responsible for investigating and identifying the names of unlicensed Statewide public movers, OLS assumes that the board may primarily receive the names and addresses of unlicensed movers through either a peer notification process or through occasional directory searches, two procedures that would likely incur minimal

administrative expenses. The penalties provided by the bill should serve to defray the costs of responding to any increase in public complaints that occurs as a result of this bill.

OLS further notes that the Customer Service Division of BPU currently handles discontinuation of telephone service in certain cases and may therefore be able to implement the bill's mandate without additional cost.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

SENATE, No. 379

STATE OF NEW JERSEY
208th LEGISLATURE

INTRODUCED JANUARY 20, 1998

Sponsored by:

Senator GERALD CARDINALE

District 39 (Bergen)

SYNOPSIS

Revises licensure requirements and provides for binding estimates for public movers and warehousemen.

CURRENT VERSION OF TEXT

As introduced.



S379 CARDINALE

2

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

3

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

6

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

9 2. As used in this act:

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

16 b. "Board" means the State Board of Public Movers and
17 Warehousemen established under this act;

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

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

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

32 f. "Intrastate commerce" means commerce moving wholly between
33 points within the State over all public highways, or at a single location;

34 g. "License" means a license issued by the board;

35 h. "Motor vehicle" means any vehicle, machine, tractor, truck or
36 semitrailer, or any combination thereof, propelled, driven or drawn by
37 mechanical power, and used upon the public highways in the
38 transportation of household goods, office goods and special
39 commodities in intrastate commerce;

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

42 j. "Storage services" means all of the services rendered by a
43 warehouseman;

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 k. "Office goods" means personal effects, fixtures, furniture,
2 equipment, stock and supplies or other property usually used in or as
3 part of the stock of any office, or commercial, institutional,
4 professional or other type of establishment, when it is put into storage
5 or when the property is transported by virtue of its removal, in whole
6 or in part, from one location to another, but does not mean or include
7 stock and supplies or other property usually used in or as part of the
8 stock of any office, or commercial, institutional, professional or other
9 type of establishment, when put into storage;
- 10 l. "Person" means any individual, copartnership, association,
11 company, or corporation, and includes any trustee, receiver, assignee,
12 lessee, or personal representative of any person herein defined;
- 13 m. "Place of business" means a business office located in New
14 Jersey from which the mover or warehouseman conducts his daily
15 business and where records are kept;
- 16 n. "Property" means all of the articles in the definition of household
17 goods, office goods or special commodities;
- 18 o. "Public highway" or "highway" means any public street, road,
19 thoroughfare, bridge and way in this State open to the use of the
20 public as a matter of right for purposes of motor vehicular travel,
21 including those that impose toll charges;
- 22 p. "Public mover" or "mover" means any person who engages in
23 the transportation of household goods, office goods or special
24 commodities by motor vehicle for compensation in intrastate
25 commerce between points in this State, including the moving of
26 household goods, office goods or special commodities from one
27 location to another at a single address, and any person who engages
28 in the performance of accessorial services; except that the term "public
29 mover" or "mover" shall not apply to any person who engages in, or
30 holds himself out to the general public as engaging in, the
31 transportation of special commodities when such commodities are not
32 transported by virtue of a removal, in whole or in part, and who does
33 not engage, nor hold himself out to the general public as engaging in,
34 the transportation of household or office goods;
- 35 q. "Special commodities" means uncrated or unboxed works of art,
36 fixtures, appliances, business machines, electronic equipment, displays,
37 exhibits, home, office, store, theatrical or show equipment, musical
38 instruments, or other articles being put into storage or being moved,
39 and which require the use of equipment and personnel usually
40 furnished or employed by warehousemen or public movers, except that
41 the provisions of P.L.1981, c.311 (C.45:14D-1 et seq.) shall not apply
42 to any person engaged in the transportation or storage of special
43 commodities when these commodities are not transported by virtue of
44 a removal, in whole or in part;
- 45 r. "Storage" means the safekeeping of property in a depository for
46 compensation;

1 s. "Tariff" means a schedule of rates and charges for the storage or
2 transportation of property in intrastate commerce on file with the
3 board, which shall be used, except in the use of binding estimates by
4 movers, in computing all charges on the storage or transportation of
5 property as of the date of the time in storage or transportation;

6 t. "Warehouseman" means a person engaged in the business of
7 storage;

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

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

13
14 2. Section 14 of P.L. 1981, c. 311 (C. 45:14D-14) is amended to
15 read as follows:

16 14. a. Public movers and warehousemen shall file their tariffs with
17 the board semiannually;

18 b. **[No]** Except in the use of binding estimates provided for in
19 section 6 of P.L. , c. (C.)(now before the Legislature as this
20 bill), no public mover or warehouseman shall charge, demand, collect
21 or receive a greater or lesser compensation for his service than
22 specified in the tariff, except that discounts and rebates may be
23 provided in connection with the furnishing of moving, storage or
24 accessorial services to any person who is 62 years or older.

25 (cf: P.L.1993, c.365, s.8)

26
27 3. (New section) a. An applicant for licensure under P.L.1981,
28 c.311 (C.45:14D-1 et seq.) shall not be eligible for licensure and any
29 holder of a license under that act may have his license revoked if the
30 board determines, consistent with the requirements and standards of
31 P.L.1981, C.311 (C.45:14D-1 et seq.) and this 1998 amendatory and
32 supplementary act, that criminal history record information exists on
33 file in the Federal Bureau of Investigation, Identification Division, or
34 in the State Bureau of Identification in the Division of State Police,
35 which would disqualify that individual from being licensed. An
36 applicant shall be, and a holder of a license may be, disqualified from
37 licensure if that individual's criminal history record check reveals a
38 record of conviction of any of the following crimes:

39 (1) In New Jersey, any crime:

40 (a) Involving danger to the person, meaning those crimes set forth
41 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.,
42 N.J.S.2C:14-1 et seq. or N.J.S.2C:15-1 et seq.; or

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

45 (2) In any other state or jurisdiction, of conduct which, if
46 committed in New Jersey, would constitute any of the crimes

1 described in paragraph (1) of this subsection.

2 b. Notwithstanding the provisions of subsection a. of this section,
3 no individual shall be disqualified from licensure on the basis of any
4 conviction disclosed by a criminal history record check performed
5 pursuant to this section if the individual has affirmatively demonstrated
6 to the board clear and convincing evidence of his rehabilitation. In
7 determining whether an individual has affirmatively demonstrated
8 rehabilitation, the following factors shall be considered:

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

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

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

13 (4) The date of the offense;

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

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

16 (7) Any social conditions which may have contributed to the
17 offense; and

18 (8) Any evidence of rehabilitation, including good conduct in
19 prison or in the community, counseling or psychiatric treatment
20 received, acquisition of additional academic or vocational schooling,
21 successful participation in correctional work-release programs, or the
22 recommendation of persons who have had the individual under their
23 supervision.

24

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

33

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

42 b. The applicant or licensee shall have 30 days from the date of
43 written notice of disqualification to petition the board for a hearing on
44 the accuracy of the criminal history record information or to establish
45 his rehabilitation under subsection b. of section 3 of P.L. , c. (C.)
46 (pending before the Legislature as this bill). The board may refer any

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1 case arising hereunder to the Office of Administrative Law for
2 administrative proceedings pursuant to P.L.1968, c.410 (C.52:14B-1
3 et seq.).

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

9
10 6. (New section) a. If a binding estimate is used for moving, the
11 estimate shall be furnished in writing to the customer or other person
12 responsible for payment of the charges for the mover's services and a
13 copy of the estimate shall be retained by the public mover as an
14 addendum to the bill of lading. A binding estimate shall clearly
15 indicate on its face that the estimate is binding on the public mover and
16 that the charges shown are the charges to be assessed for the services
17 identified in the estimate. A binding estimate shall clearly describe the
18 property to be moved and all services to be provided.

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

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

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

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

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

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

42
43 7. (New section) A person licensed under P.L.1981, c.311
44 (C.45:14D-1 et seq.) shall maintain a bond issued by a surety
45 authorized to transact business in this State or maintain an irrevocable
46 letter of credit by a bank or maintain with the board securities, moneys

1 or other security acceptable to the board to fulfill the requirements of
2 this section. The principal sum of the bond, letter of credit, or
3 securities, moneys or other security shall be not less than \$10,000,
4 which amount the board may adjust by regulation. The bond, letter of
5 credit, or securities, moneys or other security shall be filed or
6 deposited with the board and shall be executed to the State of New
7 Jersey for the use of any person who, after entering into a contract
8 with a mover or warehouseman, is damaged or suffers any loss for any
9 violation of P.L.1981, c.311 (C.45:14D-1 et seq.). Any person
10 claiming against the bond, letter of credit, or securities, moneys or
11 other security may maintain an action at law against the mover or
12 warehouseman and the surety, bank, or board, as the case may be.
13 The aggregate liability of the surety, bank, or the board to all persons
14 for all breaches of the conditions of the bond, letter of credit or the
15 securities, moneys or other security held by the board shall not exceed
16 the amount of the bond, letter of credit, or the securities, moneys or
17 other security held by the board.

18 In the case of a bond, the mover or warehouseman shall file a copy
19 of the bond with the board and a certificate by the surety that the
20 surety will notify the board at least 10 days in advance of the date of
21 any cancellation or material change in the bond.

22

23 8. This act shall take effect 60 days following the date of
24 enactment.

25

26

27

STATEMENT

28

29 This bill retains tariffs, which are schedules of rates and charges for
30 the storage or transportation of property in intrastate commerce,
31 provided for public movers and warehousemen in the "Public Movers
32 and Warehousemen Licensing Act," (C.45:14D-1 et seq.), and
33 provides for the use of binding estimates by public movers.

34 The bill requires applicants for licensure and those persons already
35 licensed under the provisions of the act to submit to a State and
36 federal criminal history background check, to determine whether those
37 persons are fit to be so licensed. The State Board of Public Movers
38 and Warehousemen shall determine that an applicant for licensure is
39 unfit to be licensed and may revoke the licensure of a person currently
40 licensed if that person meets the criteria for disqualification as
41 provided in the bill. However, no individual shall be disqualified from
42 licensure on the basis of a conviction disclosed by a criminal history
43 record check if the individual affirmatively demonstrates to the board
44 clear and convincing evidence of his rehabilitation.

45 The bill exempts binding estimates from the tariff requirement and
46 requires that a binding estimate for moving be in writing and indicates

S379 CARDINALE

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1 on its face that the estimate is binding on the mover. The bill also
2 prohibits a mover from withholding all or any part of a shipment if:
3 (1) the moving contract is based on a binding estimate and the amount
4 due for the move is offered to be paid, or is paid, in full to the mover;
5 or (2) the moving contract is not based on a binding estimate and the
6 mover has not otherwise disclosed in the moving contract that the
7 mover may withhold all or any part of the shipment for payment of the
8 freight bill. The bill requires licensees to maintain a bond, letter of
9 credit or securities of not less than \$10,000 for the protection of their
10 customers.

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 379

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 26, 1998

The Senate Commerce Committee reports favorably and with committee amendments Senate Bill No. 379.

This bill, as amended by the committee, exempts binding estimates from the tariff requirements for movers under the "Public Movers and Warehousemen Licensing Act," P.L.1981, c.311 (C.45:14D-1 et seq.), and allows movers to provide discounts and rebates from their tariff rates in connection with furnishing moving, storage or accessorial services to any person. Current law prohibits a mover from charging less or more for his services than that specified in the tariff that he has filed with the State Board of Public Movers and Warehousemen, except that the mover may discount the rates for services to a person who is 62 years or older. The bill requires that a binding estimate for moving be in writing and indicate on its face that the estimate is binding on the mover.

The bill also prohibits a mover from withholding all or any part of a shipment if: (1) the moving contract is based on a binding estimate and the amount due for the move is offered to be paid, or is paid, in full to the mover; or (2) the moving contract is not based on a binding estimate and the mover has not otherwise disclosed in the moving contract that the mover may withhold all or any part of the shipment for payment of the freight bill. A mover who violates this provision would be subject to a civil penalty of not less than \$1,000 nor more than \$5,000 for a first violation and not less than \$5,000 nor more than \$10,000 for a subsequent violation.

The bill requires licensees to maintain a bond, letter of credit or securities of not less than \$10,000 for the protection of their customers.

Finally, the bill requires applicants for licensure and those persons already licensed under the provisions of the act to submit to a State and federal criminal history background check, to determine whether those persons are fit to be so licensed. The State Board of Public Movers and Warehousemen shall determine that an applicant for licensure is unfit to be licensed and may revoke the licensure of a person currently licensed if that person meets the criteria for

disqualification as provided in the bill. However, no individual shall be disqualified from licensure on the basis of a conviction disclosed by a criminal history record check if the individual affirmatively demonstrates to the board clear and convincing evidence of his rehabilitation. All costs associated with performing the criminal history record check would be borne by the applicant or holder of a license.

STATEMENT TO
[First Reprint]
SENATE, No. 379

with Senate Floor Amendments
(Proposed By Senator CARDINALE)

ADOPTED: MAY 18, 1998

This amendment allows a mover who has agreed to provide moving services pursuant to a binding estimate to charge only his tariff rates or less for moving any property for that customer in excess of that provided for in the binding estimate, and requires a telephone company to disconnect the business telephone of a mover who has had his license revoked. In addition, the bill eliminates the provisions in the bill requiring a criminal history background check for movers and a bond for movers.

FISCAL NOTE

[Second Reprint]

SENATE, No. 379

STATE OF NEW JERSEY

208th LEGISLATURE

DATED: JULY 28, 1998

Senate Bill No. 379 (2R) of 1998 authorizes intrastate public movers to charge compensation that is less than the amount specified in their tariffs. A tariff is a schedule of rates that licensees file twice a year with the Board of Public Movers and Warehousemen in the Division of Consumer Affairs in the Department of Law and Public Safety.

The bill would authorize public movers to issue written, binding estimates for their services, which would be exempt from tariff requirements currently imposed on movers. Costs added subsequent to such an estimate would only be permitted if the added amount is lower than or equal to the amount specified in the mover's or warehousemen's filed tariff.

The bill also requires the board to notify the Board of Public Utilities (BPU), an agency in but not of the Department of Treasury, of any public movers who do not have a valid license. The bill requires BPU, in turn, to order a telecommunications company to disconnect the published, commercial telephone number of the unlicensed mover.

The bill imposes penalties for violation of its provisions: not less than \$1,000 or more than \$5,000 for a first violation and not less than \$5,000 or more than \$10,000 for a subsequent violation.

The Executive prepared a cost estimate for a prior version of the bill, which is no longer applicable.

The Office of Legislative Services (OLS) estimates that the costs of this bill may be absorbed within the current budget of the board. While the bill is silent regarding whether the board would be affirmatively responsible for investigating and identifying the names of unlicensed Statewide public movers, OLS assumes that the board may primarily receive the names and addresses of unlicensed movers through either a peer notification process or through occasional directory searches, two procedures that would likely incur minimal administrative expenses. The penalties provided by the bill should serve to defray the costs of responding to any increase in public

complaints that occurs as a result of this bill.

OLS further notes that the Customer Service Division of BPU currently handles discontinuation of telephone service in certain cases and may therefore be able to implement the bill's mandate without additional cost.

This fiscal note has been prepared pursuant to P.L.1980, c.67.

Office of the Governor
NEWS RELEASE

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RELEASE: July 30, 1998

Gov. Christie Whitman today acted on a number of pieces of legislation.

The Governor signed the following pieces of legislation:

A-405, sponsored by Assembly Members Jeffrey Moran (R-Atlantic/Ocean/Burlington) and Anthony Impreveduto (D-Bergen/Hudson), would give professional movers the option of using binding price estimates instead of the existing tariff system. Currently, movers are restricted to charging only the tariff price. The bill also limits a mover's right to withhold shipment in the event of a dispute with a customer who has been given a binding estimate. The bill is aimed at providing consumers with price breaks and protection, and will allow movers to lower prices when business is slow.

S-593, sponsored by Senators Winona Lipman (D-Essex/Union) and Ron Rice (D-Essex) and Assembly Members William Payne (D-Essex/Union) and Craig Stanley (D-Essex), provides a \$25,000 supplemental appropriation to the Department of Community Affairs for a grant to the Newark Boys Chorus School for transportation expenses to the Union of South Africa. The trip was completed in May. The funding will help defray costs of transportation for students and accompanying adults.

S-1159, sponsored by Senators C. Louis Bassano (R-Essex/Union) and Donald T. DiFrancesco (R-Middlesex/Morris/Somerset/Union), provides for a five-year extension for the mandatory upgrade of non-residential heating oil underground storage tanks (USTs) with a capacity of over 2,000 gallons. The previous deadline for upgrading the USTs was December 22, 1998, which is the federal deadline for federally - regulated USTs. The extension provided for in the bill is conditioned upon the owner or operator signing a contract for the testing of the UST and submitting it to the state Department of Environmental Protection (DEP).

Under the legislation, owners and operators have until August 31, 1999 to complete testing and submit the results to the DEP. The bill also extends the deadline to apply for financing pursuant to the Underground Storage Tank Financing Act from January 1, 1999 to August 31, 1999.

The Governor conditionally vetoed S-402, sponsored by Senator Robert Littell (R-Sussex/Hunterdon/Morris) and Assembly Members Guy Gregg and Scott Garrett (both R-Sussex/Hunterdon/Morris), which would expand the authority of fire police, who are members of volunteer companies, to control traffic and crowds at public events. The Governor recommended that the bill be modified to clarify that duly authorized police officers would have supervisory authority over fire police in crowd control situations. A copy of the conditional veto is attached.

The Governor vetoed S-427, sponsored by Senator Peter A. Inverso (R-Mercer/

Middlesex) and Assembly Member Guy R. Gregg (R- Sussex), which would have exempted automated car washes from sales and use tax. Automated car washes, as defined in the bill, accept either currency or coins without assistance from a human being. The Governor vetoed the bill citing that this case was not one which necessitated a special exemption from the sales tax. A copy of the Governor's veto message is attached.