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FLOOR AMENDMENT STATEMENT: Yes 5/23/2019

LEGISLATIVE FISCAL ESTIMATE: Yes 4/3/2019
6/27/2019

INTRODUCED BILL A3617 (Sponsor's statement begins on pg. 4) Yes

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

RWH/JA

§§3-6 -
C.45:14D-16a to
45:14D-16d
§7 - C.45:14D-30
§8 - Note

P.L. 2019, CHAPTER 216, *approved August 9, 2019*
Senate, No. 781 (*Fourth Reprint*)

1 AN ACT concerning public movers and warehousemen, and
2 amending ²and supplementing² 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 6 of P.L.1981, c.311 (C.45:14D-6) is amended to
8 read as follows:

9 6. The director shall, in addition to such other powers and
10 duties as the director may possess by law:

11 a. Administer and enforce the provisions of **[this act]**
12 P.L.1981, c.311 (C.45:14D-1 et seq.);

13 b. Adopt and promulgate rules and regulations, pursuant to the
14 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
15 1 et seq.), to effectuate the purposes of **[this act]** P.L.1981,
16 c.311 (C.45:14D-1 et seq.);

17 c. Examine and pass on the qualifications of all applicants for
18 license under **[this act]** P.L.1981, c.311 (C.45:14D-1 et seq.), and
19 issue a license to each qualified applicant;

20 d. Establish professional standards for persons licensed under
21 **[this act]** P.L.1981, c.311 (C.45:14D-1 et seq.);

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

27 f. Conduct proceedings before any board, agency or court of
28 competent jurisdiction for the enforcement of the provisions of
29 **[this act]** P.L.1981, c.311 (C.45:14D-1 et seq.);

30 g. Annually publish a list of the names, addresses and tariffs of
31 all persons who are licensed under **[this act]** P.L.1981,
32 c.311 (C.45:14D-1 et seq.);

33 h. Establish reasonable requirements with respect to proper and
34 adequate movers' and warehousemen's services and the furnishing
35 of estimates, and prescribe a uniform system of accounts, records
36 and reports;

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:

¹Senate floor amendments adopted June 7, 2018.

²Assembly ARP committee amendments adopted January 24, 2019.

³Assembly AAP committee amendments adopted March 18, 2019.

⁴Assembly floor amendments adopted May 23, 2019.

1 i. Adopt and promulgate rules and regulations to protect the
2 interests of the consumer, including, but not limited to, regulations
3 concerning the contents of information brochures which a mover or
4 warehouseman shall give to a customer¹, in either a written or
5 digital format,¹ prior to the signing of a contract for moving or
6 storage services; and

7 j. ¹["Promulgate rules and regulations authorizing"]
8 ⁴["Authorize¹ a regular police officer to issue a summons and
9 impound a motor vehicle for a violation of P.L.1981, c.311
10 (C.45:14D-1 et seq.). A summons and impoundment shall be issued
11 in accordance with subsections b., c., and d. of section 16 of
12 P.L.1981, c.311 (C.45:14D-16)"] Coordinate division enforcement
13 efforts with State and local law enforcement agencies as may be
14 appropriate, including but not limited to, exercising authority to
15 impound a motor vehicle for a violation of P.L.1981, c.311
16 (C.45:14D-1 et seq.)⁴.

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

20 16. a. Any person ¹["willfully"]¹ violating any provision of
21 P.L.1981, c.311 (C.45:14D-1 et seq.) shall, in addition to any other
22 sanctions provided herein, be liable to a civil penalty of not more
23 than ["\$2,500.00"] \$5,000 for the first offense and not more than
24 ["\$5,000.00"] \$20,000 for the second and each subsequent offense , a
25 portion of which shall be dedicated to cover the administrative costs
26 of the ¹municipality and¹ Division of Consumer Affairs in the
27 Department of Law and Public Safety, as determined by the
28 director. Any person engaging in the unlicensed practice of
29 activities regulated by P.L.1981, c.311 (C.45:14D-1 et seq.) who
30 violates a provision of P.L.1981, c.311 (C.45:14D-1 et seq.) shall be
31 ordered, after a first offense, to delete or block access to any
32 Internet website maintained by the person that advertises the
33 person's unlicensed practice of activities regulated by P.L.1981,
34 c.311 (C.45:14D-1 et seq.). The person shall be liable for an
35 additional penalty of up to \$1,000 each day that the website remains
36 viewable to the public. For the purpose of this section, each
37 transaction or violation shall constitute a separate offense; except a
38 second or subsequent offense shall not be deemed to exist unless an
39 administrative or court order has been entered in a prior, separate
40 and independent proceeding. In lieu of an administrative proceeding
41 or an action in the Superior Court, the Attorney General may bring
42 an action in the name of the director for the collection or
43 enforcement civil penalties for the violation of any provision of that
44 act. The action may be brought in a summary manner pursuant to
45 the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-
46 10 et seq.), and the rules of court governing actions for the

1 collection of civil penalties in the municipal or Special Civil Part of
2 the Law Division of the Superior Court where the offense occurred.
3 Process in the action may be by summons or warrant and if the
4 defendant in the action fails to answer the action, the court shall,
5 upon finding an unlawful act or practice to have been committed by
6 the defendant, issue a warrant for the defendant's arrest in order to
7 bring the person before the court to satisfy the civil penalties
8 imposed. In an action commenced pursuant to this section, the
9 court may order restored to any person in interest any moneys or
10 property acquired by means of an unlawful act or practice. Any
11 action alleging the unlicensed practice of the activities regulated by
12 P.L.1981, c.311 (C.45:14D-1 et seq.) shall be brought pursuant to
13 this section or, where injunctive relief is sought, by an action
14 commenced in the Superior Court. In an action brought pursuant to
15 that act, the director or the court may order the payment of costs for
16 the use of the State.

17 b. Any person ¹willfully violating any provision of
18 ⁴advertising or engaging in the business of public moving or
19 storage without a license issued pursuant to¹ P.L.1981, c.311
20 (C.45:14D-1 et seq.) shall be guilty of a disorderly persons offense
21 and shall, upon conviction, be punished by a fine of up to ¹[\$5,000]
22 \$1,000¹, or by imprisonment for up to six months, or by both fine
23 and imprisonment] found to have engaged in the unlicensed
24 practice of activities regulated by P.L.1981, c.311 (C.45:14D-1 et
25 seq.) shall be ordered, after a first violation, to remove or cause to
26 be removed from public view on any Internet website maintained by
27 or on behalf of the person any information that a reasonable person
28 would construe as an offer to perform in this State activities or
29 services subject to regulation under P.L.1981, c.311 (C.45:14D-1 et
30 seq.) and any advertising that suggests that the person is licensed to
31 perform such activities or services in this State. In addition to any
32 other penalties, a person who violates an order entered in
33 accordance with this subsection shall be liable for an additional
34 penalty of up to \$1,000 each day that information on the website is
35 viewable to the public.⁴ ³Nothing in ⁴[P.L.1981, c.311 (C.45:14D-
36 1 et seq.)] this section⁴ shall be construed to impose liability on
37 news media that accept ⁴, publish, or accept and publish⁴
38 advertising ⁴provided by or on behalf of a third party unrelated to
39 the news media entity⁴ that may fall within the scope of P.L.1981,
40 c.311 (C.45:14D-1 et seq.) ⁴[, or publish advertising that may fall
41 within the scope of P.L.1981, c.311 (C.45:14D-1 et seq.), or
42 both]⁴ .³

43 ⁴[c. Any person engaging in the business of public moving
44 without a license issued pursuant to P.L.1981, c.311 (C.45:14D-1 et
45 seq.) may be subject to a suspension, for a period of no more than
46 three months, of a driver's license issued pursuant to R.S.39:3-10 or

1 commercial driver license issued pursuant to P.L.1990,
2 c.103 (C.39:3-10.9 et seq.), and the impoundment of the motor
3 vehicle used to engage in the unlicensed practice of public moving.

4 d. In addition to any penalty provided for in this section or the
5 penalty established pursuant to subsection d. of section 6 of
6 P.L.1998, c.60 (C.45:14D-29), a public mover, warehouseman, or
7 any other person who engages in the business of public moving or
8 storage and who knows, or reasonably should have known, that
9 payment for the lawfully agreed charges for the mover's services,
10 storage services, or other person's services has been **'[tendered]**
11 paid in full¹ by a consumer, shall release the consumer's property to
12 the consumer. If the mover, warehouseman, or other person fails to
13 release the consumer's property to the consumer, then the mover,
14 warehouseman, or other person shall be guilty of a crime of the
15 fourth degree and shall, upon conviction, be punished by a fine of
16 up to \$10,000, or by imprisonment for up to 18 months, or by both
17 fine and imprisonment. If the mover, warehouseman, or other
18 person fails to release the consumer's property to the consumer, any
19 regular police officer may take custody of the consumer's property
20 and release the property to the consumer.]⁴

21
22 ⁴3. (New section) It shall be an unlawful practice for a person
23 who
24 does not hold a license to engage in the business of public moving or
25 storage issued pursuant to section 9 of P.L.1981, c.311 (C.45:14D-9) to
26 offer to perform activities or services subject to regulation under
27 P.L.1981, c.311 (C.45:14D-1 et seq.) or advertise or cause to be
28 advertised, via an Internet website or by any other means, that the
29 person may perform such activities or services in this State. Nothing
30 in this section shall be construed to impose liability on any news media
31 for accepting or publishing advertising that may fall within the scope
32 of P.L.1981, c.311 (C.45:14D-1 et seq.) if that advertising is provided
33 by or on behalf of a third party unrelated to the news media entity.⁴

34
35 ⁴4. (New section) It shall be an unlawful practice for a public
36 mover, warehouseman, or any other person, whether or not holding a
37 license issued pursuant to section 9 of P.L.1981, c.311 (C.45:14D-9),
38 who engages in the business of public moving or storage who knows,
39 or reasonably should know, that the lawfully agreed charges for the
40 moving or storage services have been paid in full by a consumer, to
41 withhold or fail to timely release the consumer's property to the
42 consumer, or to threaten to withhold or fail to timely release the
43 consumer's property to the consumer, or to demand payment beyond
44 or in addition to the lawfully agreed charges for the moving or storage
45 services. Nothing in this section shall be construed to preclude or limit
46 the prosecution or conviction of any person for theft by failure to make
47 required disposition of property in violation of N.J.S.2C:20-9, or any

1 other applicable criminal offense enumerated in chapter 20 of Title
2 2C.⁴

3
4 ⁴5. (New section) a. A person owning or operating a motor
5 vehicle who shall use or direct another person to use his motor vehicle
6 for engaging in the business of public moving without having a license
7 as provided for in section 9 of P.L.1981, c.311 (C.45:14D-9), commits
8 a disorderly persons offense. The first offense is punishable by a fine
9 of \$500, and the motor vehicle so used may be impounded; the second
10 or any subsequent offense is punishable by a fine of \$1,000, and the
11 motor vehicle so used may be impounded. In the event of such an
12 impoundment, the person owning or operating the motor vehicle shall
13 notify any consumer whose property is contained in the motor vehicle
14 and shall arrange for the expeditious return of the property to the
15 consumer at the expense of the person owning or operating the motor
16 vehicle.

17 b. Any law enforcement officer is authorized to remove any
18 motor vehicle used to engage in the business of public moving without
19 having a license as provided for in section 9 of P.L.1981, c.311
20 (C.45:14D-9) from the public highway to a storage space or garage,
21 and the expense involved in such removal and storing of the vehicle
22 shall be borne by the owner of the vehicle, except that the expense
23 shall be borne by the lessee of a leased vehicle.⁴

24
25 ⁴6. (New section) Any person who does not hold a license to
26 engage in the business of public moving or storage issued pursuant to
27 section 9 of P.L.1981, c.311 (C.45:14D-9), who holds himself out as a
28 public mover or warehouseman or as providing mover's services or
29 storage services as defined in section 2 of P.L.1981, c.11 (C.45:12D-2)
30 and engages in the business of public moving or storage shall be guilty
31 of a disorderly persons offense and shall, upon conviction, be punished
32 by a fine of up to \$1,000, or by imprisonment for up to six months, or
33 by both fine and imprisonment. A motor vehicle used to commit a
34 violation of P.L.1981, c.311 (C.45:14D-1 et seq.) may be impounded,
35 and may be held as collateral to secure payment of any fines or towing
36 and storage costs related to the violation and impoundment.⁴

37
38 ⁴[²3.] ⁴7. (New section) The Division of Consumer Affairs
39 shall annually submit a report to the Legislature, pursuant to section
40 2 of P.L.1991, c.164 (C.52:14-19.1), which provides information on
41 the enforcement and violations of P.L.1981, c.311 (C.45:14D-1 et
42 seq.). The report shall include a description of all enforcement
43 proceedings undertaken at the State and local levels and violations
44 of P.L.1981, c.311 (C.45:14D-1 et seq.) in the preceding year and
45 may include recommendations to improve enforcement of P.L.1981,
46 c.311 (C.45:14D-1 et seq.).²

1

2 ¹~~[3.]~~ ⁴~~[4.]~~¹ 8.⁴ This act shall take effect ⁴~~immediately~~ on
3 the first day of the fourth month next following enactment, except
4 that the director may take any anticipatory administrative action in
5 advance as shall be necessary for the implementation of this act⁴ .

6

7

8

9

10 Revises penalties for certain violations of law by public movers
11 and warehousemen.

SENATE, No. 781

STATE OF NEW JERSEY 218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

Sponsored by:

Senator PAUL A. SARLO

District 36 (Bergen and Passaic)

Co-Sponsored by:

Senator Diegnan

SYNOPSIS

Revises penalties for certain violations of law by public movers and warehousemen.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



S781 SARLO

2

1 AN ACT concerning public movers and warehousemen, and
2 amending 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 6 of P.L.1981, c.311 (C.45:14D-6) is amended to
8 read as follows:

9 6. The director shall, in addition to such other powers and
10 duties as the director may possess by law:

11 a. Administer and enforce the provisions of **[this act]**
12 P.L.1981, c.311 (C.45:14D-1 et seq.);

13 b. Adopt and promulgate rules and regulations, pursuant to the
14 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
15 seq.), to effectuate the purposes of **[this act]** P.L.1981,
16 c.311 (C.45:14D-1 et seq.);

17 c. Examine and pass on the qualifications of all applicants for
18 license under **[this act]** P.L.1981, c.311 (C.45:14D-1 et seq.), and
19 issue a license to each qualified applicant;

20 d. Establish professional standards for persons licensed under
21 **[this act]** P.L.1981, c.311 (C.45:14D-1 et seq.);

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

27 f. Conduct proceedings before any board, agency or court of
28 competent jurisdiction for the enforcement of the provisions of
29 **[this act]** P.L.1981, c.311 (C.45:14D-1 et seq.);

30 g. Annually publish a list of the names, addresses and tariffs of
31 all persons who are licensed under **[this act]** P.L.1981,
32 c.311 (C.45:14D-1 et seq.);

33 h. Establish reasonable requirements with respect to proper and
34 adequate movers' and warehousemen's services and the furnishing
35 of estimates, and prescribe a uniform system of accounts, records
36 and reports;

37 i. Adopt and promulgate rules and regulations to protect the
38 interests of the consumer, including, but not limited to, regulations
39 concerning the contents of information brochures which a mover or
40 warehouseman shall give to a customer prior to the signing of a
41 contract for moving or storage services; and

42 j. Promulgate rules and regulations authorizing a regular police
43 officer to issue a summons and impound a motor vehicle for a
44 violation of P.L.1981, c.311 (C.45:14D-1 et seq.). A summons and

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

Matter underlined thus is new matter.

1 impoundment shall be issued in accordance with subsections b., c.,
2 and d. of section 16 of P.L.1981, c.311 (C.45:14D-16).
3 (cf: P.L.2010, c.87, s.27)
4

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

7 16. a. Any person willfully violating any provision of P.L.1981,
8 c.311 (C.45:14D-1 et seq.) shall, in addition to any other sanctions
9 provided herein, be liable to a civil penalty of not more than
10 ~~[\$2,500.00]~~ \$5,000 for the first offense and not more than
11 ~~[\$5,000.00]~~ \$20,000 for the second and each subsequent offense, a
12 portion of which shall be dedicated to cover the administrative costs
13 of the Division of Consumer Affairs in the Department of Law and
14 Public Safety, as determined by the director. Any person engaging
15 in the unlicensed practice of activities regulated by P.L.1981,
16 c.311 (C.45:14D-1 et seq.) who violates a provision of P.L.1981,
17 c.311 (C.45:14D-1 et seq.) shall be ordered, after a first offense, to
18 delete or block access to any Internet website maintained by the
19 person that advertises the person's unlicensed practice of activities
20 regulated by P.L.1981, c.311 (C.45:14D-1 et seq.). The person
21 shall be liable for an additional penalty of up to \$1,000 each day
22 that the website remains viewable to the public. For the purpose of
23 this section, each transaction or violation shall constitute a separate
24 offense; except a second or subsequent offense shall not be deemed
25 to exist unless an administrative or court order has been entered in a
26 prior, separate and independent proceeding. In lieu of an
27 administrative proceeding or an action in the Superior Court, the
28 Attorney General may bring an action in the name of the director
29 for the collection or enforcement of civil penalties for the violation
30 of any provision of that act. The action may be brought in a
31 summary manner pursuant to the "Penalty Enforcement Law of
32 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), and the rules of court
33 governing actions for the collection of civil penalties in the
34 municipal or Special Civil Part of the Law Division of the Superior
35 Court where the offense occurred. Process in the action may be by
36 summons or warrant and if the defendant in the action fails to
37 answer the action, the court shall, upon finding an unlawful act or
38 practice to have been committed by the defendant, issue a warrant
39 for the defendant's arrest in order to bring the person before the
40 court to satisfy the civil penalties imposed. In an action
41 commenced pursuant to this section, the court may order restored to
42 any person in interest any moneys or property acquired by means of
43 an unlawful act or practice. Any action alleging the unlicensed
44 practice of the activities regulated by P.L.1981, c.311 (C.45:14D-1
45 et seq.) shall be brought pursuant to this section or, where
46 injunctive relief is sought, by an action commenced in the Superior
47 Court. In an action brought pursuant to that act, the director or the
48 court may order the payment of costs for the use of the State.

1 from not more than \$2,500 for a first offense and not more than
2 \$5,000 for a second or subsequent offense, to not more than \$5,000
3 for a first offense and not more than \$20,000 for a second or
4 subsequent offense. Any person engaging in the unlicensed practice
5 of activities regulated under the act who violates a provision of the
6 act will be ordered, after a first offense, to delete or block access to
7 an Internet website maintained by the person that advertises the
8 person's unlicensed practice. The person will be liable for an
9 additional penalty of up to \$1,000 each day that the website remains
10 viewable to the public. Under the bill, a portion of the civil
11 penalties collected are dedicated to cover the administrative costs of
12 the Division of Consumer Affairs, in an amount determined by the
13 director.

14 The bill stipulates that any person willfully violating any
15 provision of the "Public Movers and Warehousemen Licensing Act"
16 is guilty of a criminal offense, and upon conviction may be
17 punished by a fine of up to \$5,000, or by imprisonment of up to six
18 months, or both. The bill also provides that any person engaging in
19 the business of public moving without a license may be subject to a
20 suspension, for a period of no more than three months, of the
21 person's driver's license or commercial driver license, and the
22 impoundment of the motor vehicle used to engage in the unlicensed
23 practice of public moving.

24 Finally, the bill provides that a public mover, warehouseman, or
25 any other person who engages in the business of public moving or
26 storage and who knows, or reasonably should have known, that
27 payment for the lawfully agreed charges for the mover's services,
28 storage services, or other person's services has been tendered by a
29 consumer, must release the consumer's property to the consumer. If
30 the mover, warehouseman, or other person fails to release the
31 consumer's property, then the mover, warehouseman, or other
32 person is guilty of a crime of the fourth degree and, upon
33 conviction, will be punished by a fine of up to \$10,000, or by
34 imprisonment for up to 18 months, or both. If the mover,
35 warehouseman, or other person fails to release the consumer's
36 property, any regular police officer may take custody of the
37 property and release the property to the consumer.

ASSEMBLY REGULATED PROFESSIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 781

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 24, 2019

The Assembly Regulated Professions Committee reports favorably and with committee amendments Senate Bill No. 781 (1R).

This bill revises the penalties for violations of the “Public Movers and Warehousemen Licensing Act,” P.L.1981, c.311 (C.45:14D-1 et seq.), and authorizes the enforcement of certain provisions of that act by regular police officers.

The bill provides that the Director of the Division of Consumer Affairs, in the Department of Law and Public Safety, will promulgate rules and regulations authorizing a regular police officer to issue a summons to, and impound the motor vehicle of, any person engaging in the business of public moving and storage in violation of the “Public Movers and Warehousemen Licensing Act.”

The bill also increases the civil penalties levied for any violation of the “Public Movers and Warehousemen Licensing Act,” from not more than \$2,500 for a first offense and not more than \$5,000 for a second or subsequent offense, to not more than \$5,000 for a first offense and not more than \$20,000 for a second or subsequent offense. Any person engaging in the unlicensed practice of activities regulated under the act who violates a provision of the act will be ordered, after a first offense, to delete or block access to an Internet website maintained by the person that advertises the person’s unlicensed practice. The person will be liable for an additional penalty of up to \$1,000 each day that the website remains viewable to the public. Under the bill, a portion of the civil penalties collected are dedicated to cover the administrative costs of a municipality in enforcing the act and the Division of Consumer Affairs, in an amount determined by the director.

The bill stipulates that any person advertising or engaging in the business of public moving or storage without a license issued pursuant to the “Public Movers and Warehousemen Licensing Act” is guilty of a disorderly persons offense, and upon conviction may be punished by a fine of up to \$1,000, or by imprisonment of up to six months, or both. The bill also provides that any person engaging in the business of public moving without a license may be

subject to a suspension, for a period of no more than three months, of the person's driver's license or commercial driver license, and the impoundment of the motor vehicle used to engage in the unlicensed practice of public moving.

The bill provides that a public mover, warehouseman, or any other person who engages in the business of public moving or storage and who knows, or reasonably should have known, that payment for the lawfully agreed charges for the mover's services, storage services, or other person's services has been paid in full by a consumer, must release the consumer's property to the consumer. If the mover, warehouseman, or other person fails to release the consumer's property, then the mover, warehouseman, or other person is guilty of a crime of the fourth degree and, upon conviction, will be punished by a fine of up to \$10,000, or by imprisonment for up to 18 months, or both. If the mover, warehouseman, or other person fails to release the consumer's property, any regular police officer may take custody of the property and release the property to the consumer.

Additionally, the bill provides that the contents of information brochures which a mover or warehouseman is required to give to a customer may be in either a written or digital format.

Lastly, the bill requires the Division of Consumer Affairs to submit an annual report to the Legislature concerning the enforcement of and violations of the act. The bill requires the report to include information on all violations of the act in the preceding year and may include recommendations to improve enforcement.

As amended and reported, this bill is identical to the Assembly Committee Substitute for Assembly Bill Nos. 4884 and 3617, as reported by the committee.

COMMITTEE AMENDMENTS:

The committee amended the bill to provide that the Division of Consumer Affairs shall annually submit a report to the Legislature providing information on the enforcement and violations of the "Public Movers and Warehousemen Licensing Act."

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[Second Reprint]

SENATE, No. 781

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 18, 2019

The Assembly Appropriations Committee reports favorably Senate Bill No. 781 (2R), with committee amendments.

This bill revises the penalties for violations of the “Public Movers and Warehousemen Licensing Act,” P.L.1981, c.311 (C.45:14D-1 et seq.), and authorizes the enforcement of certain provisions of that act by regular police officers.

The bill provides that the Director of the Division of Consumer Affairs, in the Department of Law and Public Safety, will promulgate rules and regulations authorizing a regular police officer to issue a summons to, and impound the motor vehicle of, any person engaging in the business of public moving and storage in violation of the “Public Movers and Warehousemen Licensing Act.”

The bill also increases the civil penalties levied for any violation of the “Public Movers and Warehousemen Licensing Act,” from not more than \$2,500 for a first offense and not more than \$5,000 for a second or subsequent offense, to not more than \$5,000 for a first offense and not more than \$20,000 for a second or subsequent offense. Any person engaging in the unlicensed practice of activities regulated under the act who violates a provision of the act will be ordered, after a first offense, to delete or block access to an Internet website maintained by the person that advertises the person’s unlicensed practice. The person will be liable for an additional penalty of up to \$1,000 each day that the website remains viewable to the public. Under the bill, a portion of the civil penalties collected are dedicated to cover the administrative costs of a municipality enforcing the act and the Division of Consumer Affairs, in an amount determined by the director.

The bill stipulates that any person advertising or engaging in the business of public moving or storage without a license issued pursuant to the “Public Movers and Warehousemen Licensing Act” is guilty of a disorderly persons offense, and upon conviction shall be punished by a fine of up to \$1,000, or by imprisonment of up to six months, or both. The bill also provides that any person engaging

in the business of public moving without a license may be subject to a suspension, for a period of no more than three months, of the person's driver's license or commercial driver license, and the impoundment of the motor vehicle used to engage in the unlicensed practice of public moving. The bill provides that nothing in the bill shall be construed to impose liability on news media that accept advertising that may fall within the scope of the bill, publish advertising that may fall within the scope of the bill, or both.

The bill provides that a public mover, warehouseman, or any other person who engages in the business of public moving or storage and who knows, or reasonably should have known, that payment for the lawfully agreed charges for the mover's services, storage services, or other person's services has been paid in full by a consumer, must release the consumer's property to the consumer. If the mover, warehouseman, or other person fails to release the consumer's property, then the mover, warehouseman, or other person is guilty of a crime of the fourth degree and, upon conviction, will be punished by a fine of up to \$10,000, or by imprisonment for up to 18 months, or both. If the mover, warehouseman, or other person fails to release the consumer's property, any regular police officer may take custody of the property and release the property to the consumer.

Additionally, the bill provides that the information brochure which a mover or warehouseman is required to give to a customer may be in either a written or digital format.

Lastly, the bill requires the Division of Consumer Affairs to submit an annual report to the Legislature concerning the enforcement and violations of the act. The bill requires the report to include information on all violations of the act in the preceding year and the report may include recommendations to improve enforcement.

As amended and reported, this bill is identical to the Assembly Committee Substitute for Assembly Bill No. 4884 and 3617, as amended and reported by the committee.

COMMITTEE AMENDMENTS:

The amendments provide that nothing in the bill shall be construed to impose liability on news media that accept advertising that may fall within the scope of the bill, publish advertising that may fall within the scope of the bill, or both.

As amended and reported, this bill is identical to the Assembly Committee Substitute for Assembly Bill No. 4884 and 3617, as amended and reported by the committee.

FISCAL IMPACT:

The Office of Legislative Services (OLS) finds that enactment of the bill will cause indeterminate annual expenditure and revenue

increases to the Department of Law and Public Safety, Motor Vehicle Commission, Department of Corrections, Administrative Office of the Courts (AOC), and municipal courts. The OLS has insufficient data to serve as a basis for projecting the frequency of civil and criminal violations subject to sanctions under the bill.

The bill's establishment of new crimes of the fourth degree and disorderly persons offenses will increase the workload of the Division of Criminal Justice and the (AOC). The bill's annual reporting requirements may increase expenditures by the Division of Consumer Affairs, but these costs may be offset by fine and penalty payments. Fourth degree crimes are punishable by a term of imprisonment of up to 18 months, a fine of up to \$10,000, or both. Disorderly persons offenses are punishable by a term of imprisonment of up to six months, a fine of up to \$1,000, or both.

Additional indeterminate annual State and municipal revenue will accrue from increased and new fine and penalty payments. The bill directs a portion of these payments to be dedicated to offset the administrative costs incurred by municipalities and the Division of Consumer Affairs. The OLS cannot estimate the number of convictions for the bill's newly created crimes, and by extension, the total of any resultant fee, fine, and assessment collections.

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 781

STATE OF NEW JERSEY

DATED: FEBRUARY 15, 2018

The Senate Commerce Committee reports favorably Senate Bill No. 781.

This bill revises the penalties for violations of the “Public Movers and Warehousemen Licensing Act,” P.L.1981, c.311 (C.45:14D-1 et seq.), and authorizes the enforcement of certain provisions of that act by regular police officers.

The bill provides that the Director of the Division of Consumer Affairs, in the Department of Law and Public Safety, will promulgate rules and regulations authorizing a regular police officer to issue a summons to, and impound the motor vehicle of, any person engaging in the business of public moving and storage in violation of the “Public Movers and Warehousemen Licensing Act.”

The bill also increases the civil penalties levied for any willful violation of the “Public Movers and Warehousemen Licensing Act,” from not more than \$2,500 for a first offense and not more than \$5,000 for a second or subsequent offense, to not more than \$5,000 for a first offense and not more than \$20,000 for a second or subsequent offense. Any person engaging in the unlicensed practice of activities regulated under the act who violates a provision of the act will be ordered, after a first offense, to delete or block access to an Internet website maintained by the person that advertises the person’s unlicensed practice. The person will be liable for an additional penalty of up to \$1,000 each day that the website remains viewable to the public. Under the bill, a portion of the civil penalties collected are dedicated to cover the administrative costs of the Division of Consumer Affairs, in an amount determined by the director.

The bill stipulates that any person willfully violating any provision of the “Public Movers and Warehousemen Licensing Act” is guilty of a criminal offense, and upon conviction may be punished by a fine of up to \$5,000, or by imprisonment of up to six months, or both. The bill also provides that any person engaging in the business of public moving without a license may be subject to a suspension, for a period of no more than three months, of the person’s driver’s license or commercial driver license, and the impoundment of the motor vehicle used to engage in the unlicensed practice of public moving.

Finally, the bill provides that a public mover, warehouseman, or any other person who engages in the business of public moving or storage and who knows, or reasonably should have known, that payment for the lawfully agreed charges for the mover's services, storage services, or other person's services has been tendered by a consumer, must release the consumer's property to the consumer. If the mover, warehouseman, or other person fails to release the consumer's property, then the mover, warehouseman, or other person is guilty of a crime of the fourth degree and, upon conviction, will be punished by a fine of up to \$10,000, or by imprisonment for up to 18 months, or both. If the mover, warehouseman, or other person fails to release the consumer's property, any regular police officer may take custody of the property and release the property to the consumer.

This bill was pre-filed for introduction in the 2018-2019 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 781

STATE OF NEW JERSEY

DATED: MAY 21, 2018

The Senate Budget Committee reports favorably Senate Bill No. 781.

Senate Bill No. 781 revises the penalties for violations of the “Public Movers and Warehousemen Licensing Act,” P.L.1981, c.311 (C.45:14D-1 et seq.), and authorizes the enforcement of certain provisions of that act by regular police officers.

The bill provides that the Director of the Division of Consumer Affairs, in the Department of Law and Public Safety, will promulgate rules and regulations authorizing a regular police officer to issue a summons to, and impound the motor vehicle of, any person engaging in the business of public moving and storage in violation of the “Public Movers and Warehousemen Licensing Act.”

The bill also increases the civil penalties levied for any willful violation of the “Public Movers and Warehousemen Licensing Act,” from not more than \$2,500 for a first offense and not more than \$5,000 for a second or subsequent offense, to not more than \$5,000 for a first offense and not more than \$20,000 for a second or subsequent offense. Any person engaging in the unlicensed practice of activities regulated under the act who violates a provision of the act will be ordered, after a first offense, to delete or block access to an Internet website maintained by the person that advertises the person’s unlicensed practice. The person will be liable for an additional penalty of up to \$1,000 each day that the website remains viewable to the public. Under the bill, a portion of the civil penalties collected are dedicated to cover the administrative costs of the Division of Consumer Affairs, in an amount determined by the director.

The bill stipulates that any person willfully violating any provision of the “Public Movers and Warehousemen Licensing Act” is guilty of a criminal offense, and upon conviction may be punished by a fine of up to \$5,000, or by imprisonment of up to six months, or both. The bill also provides that any person engaging in the business of public moving without a license may be subject to a suspension, for a period of no more than three months, of the person’s driver’s license or commercial driver license, and the impoundment of the motor vehicle used to engage in the unlicensed practice of public moving.

The bill provides that a public mover, warehouseman, or any other person who engages in the business of public moving or storage and who knows, or reasonably should have known, that payment for the lawfully agreed charges for the mover's services, storage services, or other person's services has been tendered by a consumer, must release the consumer's property to the consumer. If the mover, warehouseman, or other person fails to release the consumer's property, then the mover, warehouseman, or other person is guilty of a crime of the fourth degree and, upon conviction, will be punished by a fine of up to \$10,000, or by imprisonment for up to 18 months, or both. If the mover, warehouseman, or other person fails to release the consumer's property, any regular police officer may take custody of the property and release the property to the consumer.

FISCAL IMPACT:

The Office of Legislative Services (OLS) finds that the bill will cause indeterminate annual expenditure and revenue increases to the Department of Law and Public Safety, the Motor Vehicle Commission, the Department of Corrections, the Administrative Office of the Courts, and municipal courts. The OLS has insufficient data to serve as a basis for projecting the frequency of civil and criminal violations subject to sanctions under the bill.

STATEMENT TO
SENATE, No. 781

with Assembly Floor Amendments
(Proposed by Senator SARLO)

ADOPTED: JUNE 7, 2018

These Senate amendments revise the penalty provisions of the bill to provide that:

(1) any person who advertises or engages in the business of public moving or storage without a license is guilty of a disorderly persons offense, punishable by a fine of up to \$1,000, or imprisonment for up to six months, or by both a fine and imprisonment, rather than applying the disorderly persons offense to any person who willfully violates any provision of the “Public Movers and Warehousemen Licensing Act,” punishable by a fine of up to \$5,000, as provided in the bill as introduced; and

(2) a person who violates any provision of the “Public Movers and Warehousemen Licensing Act” is liable to a civil penalty, thereby removing reference to a willful violation of any provision of the act.

The amendments also provide that a portion of the civil penalties collected pursuant to the bill will be dedicated to cover the administrative costs of a municipality in enforcing the act, in addition to the Division of Consumer Affairs, as determined by the director.

Finally, the amendments provide that the contents of information brochures which a mover or warehouseman must give to a customer may be in either a written or digital format.

STATEMENT TO
[Third Reprint]
SENATE, No. 781

with Assembly Floor Amendments
(Proposed by Assemblyman GIBLIN)

ADOPTED: MAY 23, 2019

These amendments require the Director of the Division of Consumer Affairs in the Department of Law and Public Safety to coordinate division efforts with State and local law enforcement agencies including, but not limited to, exercising authority to impound motor vehicles for violation of “Public Movers and Warehousemen Licensing Act” (the act).

The amendments make the unlicensed practice of activities regulated under the act punishable by an order to remove or cause to be removed from public view on any Internet website any information that a reasonable person would construe as an offer to perform in this State activities or services subject to regulation under the act and any advertising that suggests that a person is licensed to perform those activities or services in this State. In addition to any other penalties, a person who violates an order entered in accordance with this requirement is liable for an additional penalty of up to \$1,000 each day that information on the website is viewable to the public. The amendments clarify that nothing in the act imposes liability upon news media that accept, publish, or accept and publish unlawful advertising provided by or on behalf of a third party unrelated to the news mediate entity.

The amendments make it an unlawful practice to engage in the business of public moving or storage or to offer to perform activities or services subject to regulation under the act, or advertise or cause to be advertised that the person may perform such activities or services in this State without a license.

In addition, the amendments make it an unlawful practice, even if licensed, for a person who knows or reasonably should know that the lawfully agreed charges for the moving or storage services have been paid in full by a consumer to engage in the business of public moving or storage to withhold, fail to timely release, or threaten to withhold or fail to timely release the consumer’s property to the consumer, or to demand payment beyond or in addition to the lawfully agreed charges for the moving or storage services.

The amendments make it a disorderly persons offense for a person owning or operating a motor vehicle to use or direct another person to use his motor vehicle for engaging in the business of public moving without a license. A disorderly persons offense is ordinarily punishable by a term of imprisonment of up to six months or a fine of up to \$1,000, or both.

LEGISLATIVE FISCAL ESTIMATE
SENATE, No. 781
STATE OF NEW JERSEY
218th LEGISLATURE

DATED: MAY 24, 2018

SUMMARY

- Synopsis:** Revises penalties for certain violations of law by public movers and warehousemen.
- Type of Impact:** Annual State and Local Expenditure and Revenue Increases.
- Agencies Affected:** Department of Law and Public Safety; Motor Vehicle Commission; Administrative Office of the Courts; the Department of Corrections; Municipal Courts.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
Annual Increase in State Costs and Revenue		Indeterminate	
Annual Increase in Local Costs and Revenue		Indeterminate	

- The Office of Legislative Services (OLS) finds that the bill will cause indeterminate annual expenditure and revenue increases to the Department of Law and Public Safety, the Motor Vehicle Commission, the Department of Corrections, the Administrative Office of the Courts, and municipal courts. The OLS has insufficient data to serve as a basis for projecting the frequency of civil and criminal violations subject to sanctions under the bill.
- The bill’s establishment of rules permitting county and municipal law enforcement to impound vehicles of public movers will increase the workload and revenue of the respective law enforcement agencies and municipal courts.
- The bill increases the civil penalties levied for any willful violation of the “Public Movers and Warehousemen Licensing Act” from not more than \$2,500 for a first offense and not more than \$5,000 for a second or subsequent offense, to not more than \$5,000 for a first offense and not more than \$20,000 for a second or subsequent offense. A portion of these fees are to be dedicated to the Division of Consumer Affairs administrative costs.
- The bill’s establishment of the suspension of the driver’s license, for a period of no more than three months, of any person engaging in the business of public moving without a license

will increase the workload of the New Jersey Motor Vehicle Commission by an indeterminate amount and at indeterminate cost.

- The bill establishes a fine of \$1,000 per day to be assessed a person who maintains an internet website that advertises the unlicensed practice of activities regulated by P.L. 1981,C.311, and fails to delete or block public access to that same website.
- The bill's establishment of new crimes of the fourth degree for persons knowingly or intentionally failing to release a consumer's property to the consumer will increase the workload of the Department of Law and Public Safety and the Administrative Office of the Courts. Fourth degree crimes are punishable by a term of imprisonment of up to 18 months, a fine of up to \$10,000, or both.
- The bill's establishment of new crimes of a disorderly persons offense for willful violation of the "Public Movers and Warehousemen Licensing Act," will increase the workload of the Department of Law and Public Safety and the Municipal Courts. Disorderly persons offenses are punishable by a term of imprisonment of up to six months, a fine of up to \$5,000, or both.

BILL DESCRIPTION

This bill revises the penalties for violations of the "Public Movers and Warehousemen Licensing Act," P.L.1981, c.311 (C.45:14D-1 et seq.), and authorizes the enforcement of certain provisions of that act by regular police officers.

The bill provides that the Director of the Division of Consumer Affairs, in the Department of Law and Public Safety, will promulgate rules and regulations authorizing a regular police officer to issue a summons to, and impound the motor vehicle of, any person engaging in the business of public moving and storage in violation of the "Public Movers and Warehousemen Licensing Act."

The bill also increases the civil penalties levied for any willful violation of the "Public Movers and Warehousemen Licensing Act," from not more than \$2,500 for a first offense and not more than \$5,000 for a second or subsequent offense, to not more than \$5,000 for a first offense and not more than \$20,000 for a second or subsequent offense. Any person engaging in the unlicensed practice of activities regulated under the act who violates a provision of the act will be ordered, after a first offense, to delete or block access to an Internet website maintained by the person that advertises the person's unlicensed practice. The person will be liable for an additional penalty of up to \$1,000 each day that the website remains viewable to the public. Under the bill, a portion of the civil penalties collected are dedicated to cover the administrative costs of the Division of Consumer Affairs, in an amount determined by the director.

The bill stipulates that any person willfully violating any provision of the "Public Movers and Warehousemen Licensing Act" is guilty of a criminal offense, and upon conviction may be punished by a fine of up to \$5,000, or by imprisonment of up to six months, or both. The bill also provides that any person engaging in the business of public moving without a license may be subject to a suspension, for a period of no more than three months, of the person's driver's license or commercial driver license, and the impoundment of the motor vehicle used to engage in the unlicensed practice of public moving.

Finally, the bill provides that a public mover, warehouseman, or any other person who engages in the business of public moving or storage and who knows, or reasonably should have

known, that payment for the lawfully agreed charges for the mover's services, storage services, or other person's services has been tendered by a consumer, must release the consumer's property to the consumer. If the mover, warehouseman, or other person fails to release the consumer's property, then the mover, warehouseman, or other person is guilty of a crime of the fourth degree and, upon conviction, will be punished by a fine of up to \$10,000, or by imprisonment for up to 18 months, or both. If the mover, warehouseman, or other person fails to release the consumer's property, any regular police officer may take custody of the property and release the property to the consumer.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS finds that the bill will cause indeterminate annual expenditure and revenue increases to the Department of Law and Public Safety, the Motor Vehicle Commission, the Department of Corrections, the Administrative Office of the Courts, and municipal courts. The OLS has insufficient data to serve as a basis for projecting the frequency of civil and criminal violations subject to sanctions under the bill.

Expenditure Increases: The OLS estimates that the bill's provisions will produce indeterminate annual expenditure increases to the State and municipalities from the additional workload created by the new provisions.

The bill's establishment of new crimes of the fourth degree, and disorderly persons offenses will increase the workload of the Division of Criminal Justice in the Department of Law and Public Safety and the Administrative Office of the Courts.

A presumption of non-incarceration applies to first-time offenders of crimes of the fourth degree and disorderly persons cases.

Revenue Gains: Additional indeterminate annual State and municipal revenue will accrue from increased and new fine and penalty payments from convicted violators of current and new statutory provisions. The bill indicates a portion of these fees are to be dedicated to the Division of Consumer Affairs' administrative costs.

The OLS cannot determine the number of convictions of the bill's newly created crimes, and by extension the total of any resultant fine, fee, and assessment collections.

The OLS additionally notes that due to financial constraints many penalties go unpaid by those persons convicted of crimes.

Background: According to a 2016 press release issued by the Office of the Attorney General, the New Jersey Division of Consumer Affairs reported that there were approximately 300 licensed intrastate movers in New Jersey. Further, it was reported that in November of 2015 there was a law enforcement operation to locate unlicensed movers. The 2015 investigation uncovered 21 unlicensed moving companies who violated State law and assessed civil penalties of up to \$2,500 each.

According to a 2015 press release issued by the Office of the Attorney General, the New Jersey Division of Consumer Affairs reported that there were approximately 310 licensed intrastate movers in New Jersey. Further, it was reported that in November of 2014 there was a law enforcement operation to locate unlicensed movers. The 2014 investigation uncovered 19 unlicensed public movers.

Section: Law and Public Safety

*Analyst: Kristin Brunner Santos
Senior Fiscal Analyst*

*Approved: Frank W. Haines III
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 781

STATE OF NEW JERSEY 218th LEGISLATURE

DATED: OCTOBER 17, 2018

SUMMARY

- Synopsis:** Revises penalties for certain violations of law by public movers and warehousemen.
- Type of Impact:** Annual State and Local Expenditure and Revenue Increases.
- Agencies Affected:** Department of Law and Public Safety; Motor Vehicle Commission; Administrative Office of the Courts; the Department of Corrections; Municipal Courts.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
Annual Increase in State Costs and Revenue		Indeterminate	
Annual Increase in Local Costs and Revenue		Indeterminate	

- The Office of Legislative Services (OLS) finds that the bill will cause indeterminate annual expenditure and revenue increases to the Department of Law and Public Safety, the Motor Vehicle Commission, the Department of Corrections, the Administrative Office of the Courts, and municipal courts. The OLS has insufficient data to serve as a basis for projecting the frequency of civil and criminal violations subject to sanctions under the bill.
- The bill’s establishment of rules permitting county and municipal law enforcement to impound vehicles of public movers will increase the workload and revenue of the respective law enforcement agencies and municipal courts.
- The bill increases the civil penalties levied for any violation of the “Public Movers and Warehousemen Licensing Act” from not more than \$2,500 for a first offense and not more than \$5,000 for a second or subsequent offense, to not more than \$5,000 for a first offense and not more than \$20,000 for a second or subsequent offense. A portion of these fees are to be dedicated for the administrative costs of a municipality in enforcing the act, in addition to the Division of Consumer Affairs, as determined by the director.

- The bill's establishment of the suspension of the driver's license, for a period of no more than three months, of any person engaging in the business of public moving without a license will increase the workload of the New Jersey Motor Vehicle Commission by an indeterminate amount and at indeterminate cost.
- The bill establishes a fine of \$1,000 per day for a person who maintains an internet website that advertises the unlicensed practice of activities regulated by P.L. 1981, C.311, and fails to delete or block public access to that same website.
- The bill's establishment of new crimes of the fourth degree for persons knowingly or intentionally failing to release a consumer's property to the consumer will increase the workload of the Department of Law and Public Safety and the Administrative Office of the Courts. Fourth degree crimes are punishable by a term of imprisonment of up to 18 months, a fine of up to \$10,000, or both.
- The bill's establishment of new crimes of a disorderly persons offense for willful violation of the "Public Movers and Warehousemen Licensing Act," will increase the workload of the Department of Law and Public Safety and the Municipal Courts. Disorderly persons offenses are punishable by a term of imprisonment of up to six months, a fine of up to \$1,000, or both.

BILL DESCRIPTION

This bill revises the penalties for violations of the "Public Movers and Warehousemen Licensing Act," P.L.1981, c.311 (C.45:14D-1 et seq.), and authorizes the enforcement of certain provisions of that act by regular police officers.

The bill authorizes a regular police officer to issue a summons to, and impound the motor vehicle of, any person engaging in the business of public moving and storage in violation of the "Public Movers and Warehousemen Licensing Act."

The bill also increases the civil penalties levied for any violation of the "Public Movers and Warehousemen Licensing Act," from not more than \$2,500 for a first offense and not more than \$5,000 for a second or subsequent offense, to not more than \$5,000 for a first offense and not more than \$20,000 for a second or subsequent offense. Any person engaging in the unlicensed practice of activities regulated under the act who violates a provision of the act will be ordered, after a first offense, to delete or block access to an Internet website maintained by the person that advertises the person's unlicensed practice. The person will be liable for an additional penalty of up to \$1,000 each day that the website remains viewable to the public. Under the bill, a portion of the civil penalties collected are dedicated to cover the administrative costs of a municipality in enforcing the act, in addition to the Division of Consumer Affairs, as determined by the director.

The bill stipulates that any person violating any provision of the "Public Movers and Warehousemen Licensing Act" is guilty of a criminal offense, and upon conviction may be punished by a fine of up to \$5,000, or by imprisonment of up to six months, or both. The bill also provides that any person engaging in the business of public moving without a license may be subject to a suspension, for a period of no more than three months, of the person's driver's license or commercial driver license, and the impoundment of the motor vehicle used to engage in the unlicensed practice of public moving.

Finally, the bill provides that a public mover, warehouseman, or any other person who engages in the business of public moving or storage and who knows, or reasonably should have

known, that payment for the lawfully agreed charges for the mover's services, storage services, or other person's services has been paid in full by a consumer, must release the consumer's property to the consumer. If the mover, warehouseman, or other person fails to release the consumer's property, then the mover, warehouseman, or other person is guilty of a crime of the fourth degree and, upon conviction, will be punished by a fine of up to \$10,000, or by imprisonment for up to 18 months, or both. If the mover, warehouseman, or other person fails to release the consumer's property, any regular police officer may take custody of the property and release the property to the consumer.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS finds that the bill will cause indeterminate annual expenditure and revenue increases to the Department of Law and Public Safety, the Motor Vehicle Commission, the Department of Corrections, the Administrative Office of the Courts, and municipal courts. The OLS has insufficient data to serve as a basis for projecting the frequency of civil and criminal violations subject to sanctions under the bill.

Expenditure Increases: The OLS estimates that the bill's provisions will produce indeterminate annual expenditure increases to the State and municipalities from the additional workload created by the new provisions.

The bill's establishment of new crimes of the fourth degree, and disorderly persons offenses will increase the workload of the Division of Criminal Justice in the Department of Law and Public Safety and the Administrative Office of the Courts.

A presumption of non-incarceration applies to first-time offenders of crimes of the fourth degree and disorderly persons cases.

Revenue Gains: Additional indeterminate annual State and municipal revenue will accrue from increased and new fine and penalty payments from convicted violators of current and new statutory provisions. The bill indicates a portion of these fees are to be dedicated to offset the municipal and Division of Consumer Affairs' administrative costs.

The OLS cannot determine the number of convictions of the bill's newly created crimes, and by extension the total of any resultant fine, fee, and assessment collections.

The OLS additionally notes that due to financial constraints many penalties go unpaid by those persons convicted of crimes.

Background: According to a 2016 press release issued by the Office of the Attorney General, the New Jersey Division of Consumer Affairs reported that there were approximately 300 licensed intrastate movers in New Jersey. Further, it was reported that in November of 2015 there was a law enforcement operation to locate unlicensed movers. The 2015 investigation uncovered 21 unlicensed moving companies who violated State law and assessed civil penalties of up to \$2,500 each.

According to a 2015 press release issued by the Office of the Attorney General, the New Jersey Division of Consumer Affairs reported that there were approximately 310 licensed intrastate movers in New Jersey. Further, it was reported that in November of 2014 there was a law enforcement operation to locate unlicensed movers. The 2014 investigation uncovered 19 unlicensed public movers.

Section: Law and Public Safety

*Analyst: Kristin Brunner Santos
Senior Fiscal Analyst*

*Approved: Frank W. Haines III
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

SENATE, No. 781

STATE OF NEW JERSEY 218th LEGISLATURE

DATED: FEBRUARY 5, 2019

SUMMARY

- Synopsis:** Revises penalties for certain violations of law by public movers and warehousemen.
- Type of Impact:** Annual State and Local Expenditure and Revenue Increases.
- Agencies Affected:** Department of Law and Public Safety; Motor Vehicle Commission; Administrative Office of the Courts; the Department of Corrections; Municipal Courts.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
Annual Increase in State Costs and Revenue		Indeterminate	
Annual Increase in Local Costs and Revenue		Indeterminate	

- The Office of Legislative Services (OLS) finds that the bill will cause indeterminate annual expenditure and revenue increases to the Department of Law and Public Safety, the Motor Vehicle Commission, the Department of Corrections, the Administrative Office of the Courts, and municipal courts. The OLS has insufficient data to serve as a basis for projecting the frequency of civil and criminal violations subject to sanctions under the bill.
- The bill's establishment of rules permitting county and municipal law enforcement to impound vehicles of public movers will increase the workload and revenue of the respective law enforcement agencies and municipal courts.
- The bill increases the civil penalties levied for any violation of the "Public Movers and Warehousemen Licensing Act" from not more than \$2,500 for a first offense and not more than \$5,000 for a second or subsequent offense, to not more than \$5,000 for a first offense and not more than \$20,000 for a second or subsequent offense. A portion of these fees are to be dedicated for the administrative costs of a municipality in enforcing the act, in addition to the Division of Consumer Affairs, as determined by the director.

- The bill's establishment of the suspension of the driver's license, for a period of no more than three months, of any person engaging in the business of public moving without a license will increase the workload of the New Jersey Motor Vehicle Commission by an indeterminate amount and at indeterminate cost.
- The bill establishes a fine of \$1,000 per day for a person who maintains an internet website that advertises the unlicensed practice of activities regulated by P.L. 1981, C.311, and fails to delete or block public access to that same website.
- The bill's establishment of new crimes of the fourth degree for persons knowingly or intentionally failing to release a consumer's property to the consumer will increase the workload of the Department of Law and Public Safety and the Administrative Office of the Courts. Fourth degree crimes are punishable by a term of imprisonment of up to 18 months, a fine of up to \$10,000, or both.
- The bill's establishment of new crimes of a disorderly persons offense for willful violation of the "Public Movers and Warehousemen Licensing Act," will increase the workload of the Department of Law and Public Safety and the Municipal Courts. Disorderly persons offenses are punishable by a term of imprisonment of up to six months, a fine of up to \$1,000, or both.

BILL DESCRIPTION

This bill revises the penalties for violations of the "Public Movers and Warehousemen Licensing Act," P.L.1981, c.311 (C.45:14D-1 et seq.), and authorizes the enforcement of certain provisions of that act by regular police officers.

The bill authorizes a regular police officer to issue a summons to, and impound the motor vehicle of, any person engaging in the business of public moving and storage in violation of the "Public Movers and Warehousemen Licensing Act."

The bill also increases the civil penalties levied for any violation of the "Public Movers and Warehousemen Licensing Act," from not more than \$2,500 for a first offense and not more than \$5,000 for a second or subsequent offense, to not more than \$5,000 for a first offense and not more than \$20,000 for a second or subsequent offense. Any person engaging in the unlicensed practice of activities regulated under the act who violates a provision of the act will be ordered, after a first offense, to delete or block access to an Internet website maintained by the person that advertises the person's unlicensed practice. The person will be liable for an additional penalty of up to \$1,000 each day that the website remains viewable to the public. Under the bill, a portion of the civil penalties collected are dedicated to cover the administrative costs of a municipality in enforcing the act, in addition to the Division of Consumer Affairs, as determined by the director.

The bill stipulates that any person violating any provision of the "Public Movers and Warehousemen Licensing Act" is guilty of a criminal offense, and upon conviction may be punished by a fine of up to \$5,000, or by imprisonment of up to six months, or both. The bill also provides that any person engaging in the business of public moving without a license may be subject to a suspension, for a period of no more than three months, of the person's driver's license or commercial driver license, and the impoundment of the motor vehicle used to engage in the unlicensed practice of public moving.

The bill provides that a public mover, warehouseman, or any other person who engages in the business of public moving or storage and who knows, or reasonably should have known, that

payment for the lawfully agreed charges for the mover's services, storage services, or other person's services has been paid in full by a consumer, must release the consumer's property to the consumer. If the mover, warehouseman, or other person fails to release the consumer's property, then the mover, warehouseman, or other person is guilty of a crime of the fourth degree and, upon conviction, will be punished by a fine of up to \$10,000, or by imprisonment for up to 18 months, or both. If the mover, warehouseman, or other person fails to release the consumer's property, any regular police officer may take custody of the property and release the property to the consumer.

Finally, the bill provides that the Division of Consumer Affairs annually submit a report to the Legislature providing information on the enforcement and violations of the "Public Movers and Warehousemen Licensing Act." The annual report may also include recommendations to improve enforcement.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS finds that the bill will cause indeterminate annual expenditure and revenue increases to the Department of Law and Public Safety, the Motor Vehicle Commission, the Department of Corrections, the Administrative Office of the Courts, and municipal courts. The OLS has insufficient data to serve as a basis for projecting the frequency of civil and criminal violations subject to sanctions under the bill.

Expenditure Increases: The OLS estimates that the bill's provisions will produce indeterminate annual expenditure increases to the State and municipalities from the additional workload created by the new provisions.

The bill's establishment of new crimes of the fourth degree, and disorderly persons offenses will increase the workload of the Division of Criminal Justice in the Department of Law and Public Safety and the Administrative Office of the Courts.

A presumption of non-incarceration applies to first-time offenders of crimes of the fourth degree and disorderly persons cases.

The OLS estimates that the bill's provision establishing annual reporting requirements for enforcement of public movers and warehousemen and violations by the Division of Consumer Affairs may have a fiscal impact. That fiscal impact however may be offset by the fine and penalty payments from convicted violators.

Revenue Gains: Additional indeterminate annual State and municipal revenue will accrue from increased and new fine and penalty payments from convicted violators of current and new statutory provisions. The bill indicates a portion of these fees are to be dedicated to offset the municipal and Division of Consumer Affairs' administrative costs.

The OLS cannot determine the number of convictions of the bill's newly created crimes, and by extension the total of any resultant fine, fee, and assessment collections.

The OLS additionally notes that due to financial constraints many penalties go unpaid by those persons convicted of crimes.

Background: According to a 2016 press release issued by the Office of the Attorney General, the New Jersey Division of Consumer Affairs reported that there were approximately 300 licensed intrastate movers in New Jersey. Further, it was reported that in November of 2015 there was a law enforcement operation to locate unlicensed movers. The 2015 investigation uncovered 21 unlicensed moving companies who violated State law and assessed civil penalties of up to \$2,500 each.

According to a 2015 press release issued by the Office of the Attorney General, the New Jersey Division of Consumer Affairs reported that there were approximately 310 licensed intrastate movers in New Jersey. Further, it was reported that in November of 2014 there was a law enforcement operation to locate unlicensed movers. The 2014 investigation uncovered 19 unlicensed public movers.

Section: Law and Public Safety

*Analyst: Kristin Brunner Santos
Senior Fiscal Analyst*

*Approved: Frank W. Haines III
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

LEGISLATIVE FISCAL ESTIMATE

[Third Reprint]

SENATE, No. 781

STATE OF NEW JERSEY 218th LEGISLATURE

DATED: APRIL 3, 2019

SUMMARY

- Synopsis:** Revises penalties for certain violations of law by public movers and warehousemen.
- Type of Impact:** Annual State and Local Expenditure and Revenue Increases.
- Agencies Affected:** Department of Law and Public Safety; Motor Vehicle Commission; Department of Corrections; the Judiciary; Municipal Courts.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
Increase in State Expenditures and Revenues		Indeterminate	
Increase in Local Expenditures and Revenues		Indeterminate	

- The Office of Legislative Services (OLS) finds that the bill will cause indeterminate annual expenditure and revenue increases to the Department of Law and Public Safety, the Motor Vehicle Commission, the Department of Corrections, the Judiciary, and municipal courts. The OLS has insufficient data to serve as a basis for projecting the frequency of civil and criminal violations subject to sanctions under the bill.
- The bill's establishment of rules permitting county and municipal law enforcement to impound vehicles of public movers will increase the workload and revenue of the respective law enforcement agencies and municipal courts.
- The bill increases the civil penalties levied for any violation of the "Public Movers and Warehousemen Licensing Act" from not more than \$2,500 for a first offense and not more than \$5,000 for a second or subsequent offense, to not more than \$5,000 for a first offense and not more than \$20,000 for a second or subsequent offense. A portion of these fees are to be dedicated for the administrative costs of the municipality enforcing the act, in addition to the Division of Consumer Affairs.

- The bill's establishment of the suspension of the driver's license, for a period of no more than three months, of any person engaging in the business of public moving without a license will increase the workload of the New Jersey Motor Vehicle Commission by an indeterminate amount and an indeterminate cost.
- The bill establishes a fine of \$1,000 per day for a person who maintains an Internet website that advertises the unlicensed practice of activities regulated by P.L. 1981, C.311, and fails to delete or block public access to that same website. A portion of this fee will be dedicated to cover the administrative costs of the affected municipality and the Division of Consumer Affairs.
- The bill's establishment of new crimes of the fourth degree for persons knowingly or intentionally failing to release a consumer's property to the consumer will increase the workload of the Department of Law and Public Safety and the Administrative Office of the Courts within the Judiciary. Fourth degree crimes are punishable by a term of imprisonment of up to 18 months, a fine of up to \$10,000, or both.
- The bill's establishment of new crimes of a disorderly persons offense for willful violation of the "Public Movers and Warehousemen Licensing Act," will increase the workload of the Department of Law and Public Safety and the Municipal Courts. Disorderly persons offenses are punishable by a term of imprisonment of up to six months, a fine of up to \$1,000, or both.

BILL DESCRIPTION

This bill revises the penalties for violations of the "Public Movers and Warehousemen Licensing Act," P.L.1981, c.311 (C.45:14D-1 et seq.), and authorizes the enforcement of certain provisions of that act by regular police officers.

The bill authorizes a regular police officer to issue a summons to, and impound the motor vehicle of, any person engaging in the business of public moving and storage in violation of the "Public Movers and Warehousemen Licensing Act."

The bill also increases the civil penalties levied for any violation of the "Public Movers and Warehousemen Licensing Act," from not more than \$2,500 for a first offense and not more than \$5,000 for a second or subsequent offense, to not more than \$5,000 for a first offense and not more than \$20,000 for a second or subsequent offense. Any person engaging in the unlicensed practice of activities regulated under the act who violates a provision of the act will be ordered, after a first offense, to delete or block access to an Internet website maintained by the person that advertises the person's unlicensed practice. The person will be liable for an additional penalty of up to \$1,000 each day that the website remains viewable to the public. Under the bill, a portion of the civil penalties collected are dedicated to cover the administrative costs of a municipality in enforcing the act, in addition to the Division of Consumer Affairs, as determined by the director.

The bill stipulates that any person violating any provision of the "Public Movers and Warehousemen Licensing Act" is guilty of a criminal offense, and upon conviction may be punished by a fine of up to \$5,000, or by imprisonment of up to six months, or both. The bill also provides that any person engaging in the business of public moving without a license may be subject to a suspension, for a period of no more than three months, of the person's driver's license or commercial driver license, and the impoundment of the motor vehicle used to engage in the unlicensed practice of public moving.

The bill provides that a public mover, warehouseman, or any other person who engages in the business of public moving or storage and who knows, or reasonably should have known, that payment for the lawfully agreed charges for the mover's services, storage services, or other person's services has been paid in full by a consumer, must release the consumer's property to the consumer. If the mover, warehouseman, or other person fails to release the consumer's property, then the mover, warehouseman, or other person is guilty of a crime of the fourth degree and, upon conviction, will be punished by a fine of up to \$10,000, or by imprisonment for up to 18 months, or both. If the mover, warehouseman, or other person fails to release the consumer's property, any regular police officer may take custody of the property and release the property to the consumer.

Finally, the bill provides that the Division of Consumer Affairs annually submit a report to the Legislature providing information on the enforcement and violations of the "Public Movers and Warehousemen Licensing Act." The annual report may also include recommendations to improve enforcement.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS finds that the bill will cause indeterminate annual expenditure and revenue increases to the Department of Law and Public Safety, the Motor Vehicle Commission, the Department of Corrections, the Administrative Office of the Courts within the Judiciary, and municipal courts. The OLS has insufficient data to serve as a basis for projecting the frequency of civil and criminal violations subject to sanctions under the bill.

Expenditure Increases: The OLS estimates that the bill's provisions will produce indeterminate annual expenditure increases to the State and municipalities from the additional workload created by the new provisions.

The bill's establishment of new crimes of the fourth degree, and disorderly persons offenses will increase the workload of the Division of Criminal Justice in the Department of Law and Public Safety and the Administrative Office of the Courts.

A presumption of non-incarceration applies to first-time offenders of crimes of the fourth degree and disorderly persons cases.

The OLS estimates that the bill's provision establishing annual reporting requirements for enforcement of public movers and warehousemen and violations by the Division of Consumer Affairs may have a fiscal impact. That fiscal impact, however, may be offset by the fine and penalty payments from convicted violators.

Revenue Increases: Additional indeterminate annual State and municipal revenue will accrue from increased and new fine and penalty payments from convicted violators of current and new statutory provisions. The bill indicates a portion of these fees are to be dedicated to offset the administrative costs of the municipality and the Division of Consumer Affairs.

The OLS cannot determine the number of convictions under the bill's newly created crimes and, by extension, the total of any resultant fine, fee, and assessment collections.

The OLS additionally notes that due to financial constraints, many penalties go unpaid by those persons convicted of crimes.

Background: According to a 2016 press release issued by the Office of the Attorney General, the New Jersey Division of Consumer Affairs reported that there were approximately 300 licensed intrastate movers in New Jersey. Further, it was reported that in November of 2015 there was a law enforcement operation to locate unlicensed movers. The 2015 investigation uncovered 21 unlicensed moving companies who violated State law and assessed civil penalties of up to \$2,500 each.

According to a 2015 press release issued by the Office of the Attorney General, the New Jersey Division of Consumer Affairs reported that there were approximately 310 licensed intrastate movers in New Jersey. Further, it was reported that in November of 2014 there was a law enforcement operation to locate unlicensed movers. The 2014 investigation uncovered 19 unlicensed public movers.

Section: Law and Public Safety

*Analyst: Kristin Brunner Santos
Senior Fiscal Analyst*

*Approved: Frank W. Haines III
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

LEGISLATIVE FISCAL ESTIMATE

[Fourth Reprint]

SENATE, No. 781

STATE OF NEW JERSEY 218th LEGISLATURE

DATED: JUNE 27, 2019

SUMMARY

- Synopsis:** Revises penalties for certain violations of law by public movers and warehousemen.
- Type of Impact:** Annual State and Local Expenditure and Revenue Increases.
- Agencies Affected:** Department of Law and Public Safety; Motor Vehicle Commission; The Judiciary; Municipal Courts.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
Increase in State Expenditures and Revenues		Indeterminate	
Increase in Local Expenditures and Revenues		Indeterminate	

- The Office of Legislative Services (OLS) finds that the bill will cause indeterminate annual expenditure and revenue increases to the Department of Law and Public Safety, the Motor Vehicle Commission, the Judiciary, and municipal courts. The OLS has insufficient data to serve as a basis for projecting the frequency of civil and criminal violations subject to sanctions under the bill.
- The bill's requirement of the Division of Consumer Affairs to coordinate efforts with State and local law enforcement agencies to impound vehicles due to violations of the "Public Movers and Warehousemen Licensing Act" will increase the workload and revenue of the respective law enforcement agencies and municipal courts.
- The bill increases the civil penalties levied for any violation of the "Public Movers and Warehousemen Licensing Act" from not more than \$2,500 for a first offense and not more than \$5,000 for a second or subsequent offense, to not more than \$5,000 for a first offense and not more than \$20,000 for a second or subsequent offense. A portion of these fees are to be dedicated for the administrative costs of the municipality enforcing the act, in addition to the Division of Consumer Affairs.

- The bill establishes a fine of \$1,000 per day for a person who fails to remove the Internet website from public view of a business that advertises the unlicensed practice of activities regulated by P.L.1981, c.311 (C.45:14D-1 et seq.). A portion of this fee may be dedicated to cover the administrative costs of the affected municipality and the Division of Consumer Affairs.
- The bill's establishment of new crimes of an unlawful practices of the "Public Movers and Warehousemen Licensing Act," will increase the workload of the Department of Law and Public Safety and the municipal courts.
- The bill makes it a disorderly persons offense for a person to advertise and conduct business as a public mover while not being licensed. A disorderly persons offense is ordinarily punishable by a term of imprisonment of up to six months or a fine of up to \$1,000, or both.

BILL DESCRIPTION

This bill revises the penalties for violations of the "Public Movers and Warehousemen Licensing Act.

The bill requires the Director of the Division of Consumer Affairs in the Department of Law and Public Safety to coordinate Division efforts with State and local law enforcement agencies including, but not limited to, exercising authority to impound motor vehicles for violation of "Public Movers and Warehousemen Licensing Act."

The bill makes the unlicensed practice of activities regulated under the act punishable by an order to remove or cause to be removed from public view on any Internet website maintained by or on behalf of the person any information that a reasonable person would construe as an offer to perform in this State activities or services subject to regulation under the act and any advertising that suggests that the person is licensed to perform such activities or services in this State. In addition to any other penalties, a person who violates an order entered in accordance with this subsection would be liable for an additional penalty of up to \$1,000 each day that information on the website is viewable to the public.

The bill makes it an unlawful practice to engage in the business of public moving or storage or to offer to perform activities or services subject to regulation under this act, or advertise or cause to be advertised that the person may perform such activities or services in this State without a license.

In addition, the bill makes it an unlawful practice, even if licensed, for a person who knows or reasonably should know that the lawfully agreed charges for the moving or storage services have been paid in full by a consumer to engage in the business of public moving or storage to withhold, fail to timely release, or threaten to withhold or fail to timely release the consumer's property to the consumer, or to demand payment beyond or in addition to the lawfully agreed charges for the moving or storage services.

The bill makes it a disorderly persons offense for a person owning or operating a motor vehicle to use or direct another person to use his motor vehicle for engaging in the business of public moving without a license. A disorderly persons offense is ordinarily punishable by a term of imprisonment of up to six months or a fine of up to \$1,000, or both.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS finds that the bill will cause indeterminate annual expenditure and revenue increases to the Department of Law and Public Safety, the Motor Vehicle Commission, the Judiciary, and municipal courts. The OLS has insufficient data to serve as a basis for projecting the frequency of civil and criminal violations subject to sanctions under the bill.

Expenditure Increases: The OLS estimates that the bill's provisions will produce indeterminate annual expenditure increases to the State and municipalities from the additional workload created by the new provisions.

The bill's establishment of new crimes of disorderly persons offenses and unlawful practices will increase the workload of the Division of Criminal Justice in the Department of Law and Public Safety and the Administrative Office of the Courts.

The OLS estimates that the bill's provision establishing annual reporting requirements for enforcement of public movers and warehousemen and violations by the Division of Consumer Affairs may have a fiscal impact. That fiscal impact, however, may be offset by the fine and penalty payments from convicted violators.

Revenue Increases: Additional indeterminate annual State and municipal revenue will accrue from increased and new fine and penalty payments from convicted violators of current and new statutory provisions. The bill indicates a portion of these fees are to be dedicated to offset the administrative costs of the municipality and the Division of Consumer Affairs.

The OLS cannot determine the number of convictions under the bill's newly created crimes and, by extension, the total of any resultant fine, fee, and assessment collections.

The OLS additionally notes that due to financial constraints, many penalties go unpaid by those persons convicted of crimes.

Background: According to a 2016 press release issued by the Office of the Attorney General, the New Jersey Division of Consumer Affairs reported that there were approximately 300 licensed intrastate movers in New Jersey. Further, it was reported that in November of 2015 there was a law enforcement operation to locate unlicensed movers. The 2015 investigation uncovered 21 unlicensed moving companies who violated State law and assessed civil penalties of up to \$2,500 each.

According to a 2015 press release issued by the Office of the Attorney General, the New Jersey Division of Consumer Affairs reported that there were approximately 310 licensed intrastate movers in New Jersey. Further, it was reported that in November of 2014 there was a law enforcement operation to locate unlicensed movers. The 2014 investigation uncovered 19 unlicensed public movers.

Section: Law and Public Safety

*Analyst: Kristin Brunner Santos
Senior Fiscal Analyst*

*Approved: Frank W. Haines III
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

ASSEMBLY, No. 4884

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED JANUARY 15, 2019

Sponsored by:

Assemblyman THOMAS P. GIBLIN

District 34 (Essex and Passaic)

SYNOPSIS

Revises penalties for certain violations of law by public movers and warehousemen and requires annual report.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning public movers and warehousemen and
2 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 6 of P.L.1981, c.311 (C.45:14D-6) is amended to
8 read as follows:

9 6. The director shall, in addition to such other powers and
10 duties as the director may possess by law:

11 a. Administer and enforce the provisions of **[this act]**
12 P.L.1981, c.311 (C.45:14D-1 et seq.);

13 b. Adopt and promulgate rules and regulations, pursuant to the
14 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
15 seq.), to effectuate the purposes of **[this act]** P.L.1981,
16 c.311 (C.45:14D-1 et seq.);

17 c. Examine and pass on the qualifications of all applicants for
18 license under **[this act]** P.L.1981, c.311 (C.45:14D-1 et seq.), and
19 issue a license to each qualified applicant;

20 d. Establish professional standards for persons licensed under
21 **[this act]** P.L.1981, c.311 (C.45:14D-1 et seq.);

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

27 f. Conduct proceedings before any board, agency or court of
28 competent jurisdiction for the enforcement of the provisions of
29 **[this act]** P.L.1981, c.311 (C.45:14D-1 et seq.);

30 g. Annually publish a list of the names, addresses and tariffs of
31 all persons who are licensed under **[this act]** P.L.1981,
32 c.311 (C.45:14D-1 et seq.);

33 h. Establish reasonable requirements with respect to proper and
34 adequate movers' and warehousemen's services and the furnishing
35 of estimates, and prescribe a uniform system of accounts, records
36 and reports;

37 i. Adopt and promulgate rules and regulations to protect the
38 interests of the consumer, including, but not limited to, regulations
39 concerning the contents of information brochures which a mover or
40 warehouseman shall give to a customer, in either a written or digital
41 format, prior to the signing of a contract for moving or storage
42 services; and

43 j. Authorize a regular police officer to issue a summons and
44 impound a motor vehicle for a violation of P.L.1981, c.311
45 (C.45:14D-1 et seq.). A summons and impoundment shall be issued

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 in accordance with subsections b., c., and d. of section 16 of
2 P.L.1981, c.311 (C.45:14D-16).

3 (cf: P.L.2010, c.87, s.27)

4

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

7 16. a. Any person violating any provision of P.L.1981, c.311
8 (C.45:14D-1 et seq.) shall, in addition to any other sanctions
9 provided herein, be liable to a civil penalty of not more than
10 ~~[\$2,500.00]~~ \$5,000 for the first offense and not more than
11 ~~[\$5,000.00]~~ \$20,000 for the second and each subsequent offense, a
12 portion of which shall be dedicated to cover the administrative costs
13 of the municipality and Division of Consumer Affairs in the
14 Department of Law and Public Safety, as determined by the
15 director. Any person engaging in the unlicensed practice of
16 activities regulated by P.L.1981, c.311 (C.45:14D-1 et seq.) who
17 violates a provision of P.L.1981, c.311 (C.45:14D-1 et seq.) shall be
18 ordered, after a first offense, to delete or block access to any
19 Internet website maintained by the person that advertises the
20 person's unlicensed practice of activities regulated by P.L.1981,
21 c.311 (C.45:14D-1 et seq.). The person shall be liable for an
22 additional penalty of up to \$1,000 each day that the website remains
23 viewable to the public. For the purpose of this section, each
24 transaction or violation shall constitute a separate offense; except a
25 second or subsequent offense shall not be deemed to exist unless an
26 administrative or court order has been entered in a prior, separate
27 and independent proceeding. In lieu of an administrative
28 proceeding or an action in the Superior Court, the Attorney General
29 may bring an action in the name of the director for the collection or
30 enforcement of civil penalties for the violation of any provision of
31 that act. The action may be brought in a summary manner pursuant
32 to the "Penalty Enforcement Law of 1999," P.L.1999, c.274
33 (C.2A:58-10 et seq.), and the rules of court governing actions for
34 the collection of civil penalties in the municipal or Special Civil
35 Part of the Law Division of the Superior Court where the offense
36 occurred. Process in the action may be by summons or warrant and
37 if the defendant in the action fails to answer the action, the court
38 shall, upon finding an unlawful act or practice to have been
39 committed by the defendant, issue a warrant for the defendant's
40 arrest in order to bring the person before the court to satisfy the
41 civil penalties imposed. In an action commenced pursuant to this
42 section, the court may order restored to any person in interest any
43 moneys or property acquired by means of an unlawful act or
44 practice. Any action alleging the unlicensed practice of the
45 activities regulated by P.L.1981, c.311 (C.45:14D-1 et seq.) shall be
46 brought pursuant to this section or, where injunctive relief is
47 sought, by an action commenced in the Superior Court. In an action
48 brought pursuant to that act, the director or the court may order the
49 payment of costs for the use of the State.

1 Movers and Warehousemen Licensing Act,” P.L.1981,
2 c.311 (C.45:14D-1 et seq.), and authorizes the enforcement of
3 certain provisions of that act by regular police officers.

4 The bill provides that the Director of the Division of Consumer
5 Affairs, in the Department of Law and Public Safety, will
6 promulgate rules and regulations authorizing a regular police officer
7 to issue a summons to, and impound the motor vehicle of, any
8 person engaging in the business of public moving and storage in
9 violation of the “Public Movers and Warehousemen Licensing Act.”

10 The bill also increases the civil penalties levied for any violation
11 of the “Public Movers and Warehousemen Licensing Act,” from not
12 more than \$2,500 for a first offense and not more than \$5,000 for a
13 second or subsequent offense, to not more than \$5,000 for a first
14 offense and not more than \$20,000 for a second or subsequent
15 offense. Any person engaging in the unlicensed practice of
16 activities regulated under the act who violates a provision of the act
17 will be ordered, after a first offense, to delete or block access to an
18 Internet website maintained by the person that advertises the
19 person’s unlicensed practice. The person will be liable for an
20 additional penalty of up to \$1,000 each day that the website remains
21 viewable to the public. Under the bill, a portion of the civil
22 penalties collected are dedicated to cover the administrative costs of
23 a municipality in enforcing the act and the Division of Consumer
24 Affairs, in an amount determined by the director.

25 The bill stipulates that any person advertising or engaging in the
26 business of public moving or storage without a license issued
27 pursuant to the “Public Movers and Warehousemen Licensing Act”
28 is guilty of a disorderly persons offense, and upon conviction may
29 be punished by a fine of up to \$1,000, or by imprisonment of up to
30 six months, or both. The bill also provides that any person
31 engaging in the business of public moving without a license may be
32 subject to a suspension, for a period of no more than three months,
33 of the person’s driver’s license or commercial driver license, and
34 the impoundment of the motor vehicle used to engage in the
35 unlicensed practice of public moving.

36 The bill provides that a public mover, warehouseman, or any
37 other person who engages in the business of public moving or
38 storage and who knows, or reasonably should have known, that
39 payment for the lawfully agreed charges for the mover’s services,
40 storage services, or other person’s services has been paid in full by
41 a consumer, must release the consumer’s property to the consumer.
42 If the mover, warehouseman, or other person fails to release the
43 consumer’s property, then the mover, warehouseman, or other
44 person is guilty of a crime of the fourth degree and, upon
45 conviction, will be punished by a fine of up to \$10,000, or by
46 imprisonment for up to 18 months, or both. If the mover,
47 warehouseman, or other person fails to release the consumer’s
48 property, any regular police officer may take custody of the
49 property and release the property to the consumer.

A4884 GIBLIN

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1 Additionally, the bill provides that the contents of information
2 brochures which a mover or warehouseman is required to give to a
3 customer may be in either a written or digital format.

4 Lastly, the bill requires the Division of Consumer Affairs to
5 submit an annual report to the Legislature concerning the
6 enforcement of and violations of the act. The bill requires the
7 report to include information on all violations of the act in the
8 preceding year and may include recommendations to improve
9 enforcement.

ASSEMBLY REGULATED PROFESSIONS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, Nos. 4884 and 3617

STATE OF NEW JERSEY

DATED: JANUARY 24, 2019

The Assembly Regulated Professions Committee reports favorably Assembly Committee Substitute for Assembly Bill Nos. 4884 and 3617.

This bill, a committee substitute for Assembly Bill Nos. 4884 and 3617, revises the penalties for violations of the “Public Movers and Warehousemen Licensing Act,” P.L.1981, c.311 (C.45:14D-1 et seq.), and authorizes the enforcement of certain provisions of that act by regular police officers.

The bill provides that the Director of the Division of Consumer Affairs, in the Department of Law and Public Safety, will promulgate rules and regulations authorizing a regular police officer to issue a summons to, and impound the motor vehicle of, any person engaging in the business of public moving and storage in violation of the “Public Movers and Warehousemen Licensing Act.”

The bill also increases the civil penalties levied for any violation of the “Public Movers and Warehousemen Licensing Act,” from not more than \$2,500 for a first offense and not more than \$5,000 for a second or subsequent offense, to not more than \$5,000 for a first offense and not more than \$20,000 for a second or subsequent offense. Any person engaging in the unlicensed practice of activities regulated under the act who violates a provision of the act will be ordered, after a first offense, to delete or block access to an Internet website maintained by the person that advertises the person’s unlicensed practice. The person will be liable for an additional penalty of up to \$1,000 each day that the website remains viewable to the public. Under the bill, a portion of the civil penalties collected are dedicated to cover the administrative costs of a municipality enforcing the act and the Division of Consumer Affairs, in an amount determined by the director.

The bill stipulates that any person advertising or engaging in the business of public moving or storage without a license issued pursuant to the “Public Movers and Warehousemen Licensing Act” is guilty of a disorderly persons offense, and upon conviction shall be punished by a fine of up to \$1,000, or by imprisonment of up to six months, or both. The bill also provides that any person engaging in the business of public moving without a license may be subject to

a suspension, for a period of no more than three months, of the person's driver's license or commercial driver license, and the impoundment of the motor vehicle used to engage in the unlicensed practice of public moving.

The bill provides that a public mover, warehouseman, or any other person who engages in the business of public moving or storage and who knows, or reasonably should have known, that payment for the lawfully agreed charges for the mover's services, storage services, or other person's services has been paid in full by a consumer, must release the consumer's property to the consumer. If the mover, warehouseman, or other person fails to release the consumer's property, then the mover, warehouseman, or other person is guilty of a crime of the fourth degree and, upon conviction, will be punished by a fine of up to \$10,000, or by imprisonment for up to 18 months, or both. If the mover, warehouseman, or other person fails to release the consumer's property, any regular police officer may take custody of the property and release the property to the consumer.

Additionally, the bill provides that the information brochure which a mover or warehouseman is required to give to a customer may be in either a written or digital format.

Lastly, the bill requires the Division of Consumer Affairs to submit an annual report to the Legislature concerning the enforcement and violations of the act. The bill requires the report to include information on all violations of the act in the preceding year and the report may include recommendations to improve enforcement.

This Assembly Committee Substitute for Assembly Bill Nos. 4884 and 3617 is identical to Senate Bill No. 781 (1R) as amended and reported by the committee.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, Nos. 4884 and 3617

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 18, 2019

The Assembly Appropriations Committee reports favorably the Assembly Committee Substitute for Assembly Bill Nos. 4884 and 3617 with committee amendments.

This bill revises the penalties for violations of the “Public Movers and Warehousemen Licensing Act,” P.L.1981, c.311 (C.45:14D-1 et seq.), and authorizes the enforcement of certain provisions of that act by regular police officers.

The bill provides that the Director of the Division of Consumer Affairs, in the Department of Law and Public Safety, will promulgate rules and regulations authorizing a regular police officer to issue a summons to, and impound the motor vehicle of, any person engaging in the business of public moving and storage in violation of the “Public Movers and Warehousemen Licensing Act.”

The bill also increases the civil penalties levied for any violation of the “Public Movers and Warehousemen Licensing Act,” from not more than \$2,500 for a first offense and not more than \$5,000 for a second or subsequent offense, to not more than \$5,000 for a first offense and not more than \$20,000 for a second or subsequent offense. Any person engaging in the unlicensed practice of activities regulated under the act who violates a provision of the act will be ordered, after a first offense, to delete or block access to an Internet website maintained by the person that advertises the person’s unlicensed practice. The person will be liable for an additional penalty of up to \$1,000 each day that the website remains viewable to the public. Under the bill, a portion of the civil penalties collected are dedicated to cover the administrative costs of a municipality enforcing the act and the Division of Consumer Affairs, in an amount determined by the director.

The bill stipulates that any person advertising or engaging in the business of public moving or storage without a license issued pursuant to the “Public Movers and Warehousemen Licensing Act” is guilty of a disorderly persons offense, and upon conviction shall be punished by a fine of up to \$1,000, or by imprisonment of up to

six months, or both. The bill also provides that any person engaging in the business of public moving without a license may be subject to a suspension, for a period of no more than three months, of the person's driver's license or commercial driver license, and the impoundment of the motor vehicle used to engage in the unlicensed practice of public moving. The bill provides that nothing in the bill shall be construed to impose liability on news media that accept advertising that may fall within the scope of the bill, publish advertising that may fall within the scope of the bill, or both.

The bill provides that a public mover, warehouseman, or any other person who engages in the business of public moving or storage and who knows, or reasonably should have known, that payment for the lawfully agreed charges for the mover's services, storage services, or other person's services has been paid in full by a consumer, must release the consumer's property to the consumer. If the mover, warehouseman, or other person fails to release the consumer's property, then the mover, warehouseman, or other person is guilty of a crime of the fourth degree and, upon conviction, will be punished by a fine of up to \$10,000, or by imprisonment for up to 18 months, or both. If the mover, warehouseman, or other person fails to release the consumer's property, any regular police officer may take custody of the property and release the property to the consumer.

Additionally, the bill provides that the information brochure which a mover or warehouseman is required to give to a customer may be in either a written or digital format.

Lastly, the bill requires the Division of Consumer Affairs to submit an annual report to the Legislature concerning the enforcement and violations of the act. The bill requires the report to include information on all violations of the act in the preceding year and the report may include recommendations to improve enforcement.

As amended and reported, this bill is identical to Senate Bill No. 781 (2R) as amended and reported by the committee on this date.

COMMITTEE AMENDMENTS:

The amendments provide that nothing in the bill shall be construed to impose liability on news media that accept advertising that may fall within the scope of the bill, publish advertising that may fall within the scope of the bill, or both.

As amended and reported, this bill is identical to Senate Bill No. 781 (2R) as also amended and reported by the committee on this date.

FISCAL IMPACT:

The Office of Legislative Services (OLS) finds that enactment of the bill will cause indeterminate annual expenditure and revenue increases to the Department of Law and Public Safety, Motor Vehicle

Commission, Department of Corrections, Administrative Office of the Courts (AOC), and municipal courts. The OLS has insufficient data to serve as a basis for projecting the frequency of civil and criminal violations subject to sanctions under the bill.

The bill's establishment of new crimes of the fourth degree and disorderly persons offenses will increase the workload of the Division of Criminal Justice and the AOC. The bill's annual reporting requirements may increase expenditures by the Division of Consumer Affairs, but these costs may be offset by fine and penalty payments. Fourth degree crimes are punishable by a term of imprisonment of up to 18 months, a fine of up to \$10,000, or both. Disorderly persons offenses are punishable by a term of imprisonment of up to six months, a fine of up to \$1,000, or both.

Additional indeterminate annual State and municipal revenue will accrue from increased and new fine and penalty payments. The bill directs a portion of these payments to be dedicated to offset the administrative costs incurred by municipalities and the Division of Consumer Affairs. The OLS cannot estimate the number of convictions for the bill's newly created crimes, and by extension, the total of any resultant fee, fine, and assessment collections.

STATEMENT TO

[First Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR **ASSEMBLY, Nos. 4884 and 3617**

with Assembly Floor Amendments
(Proposed by Assemblyman GIBLIN)

ADOPTED: MAY 23, 2019

These amendments require the Director of the Division of Consumer Affairs in the Department of Law and Public Safety to coordinate division efforts with State and local law enforcement agencies including, but not limited to, exercising authority to impound motor vehicles for violation of “Public Movers and Warehousemen Licensing Act” (the act).

The amendments make the unlicensed practice of activities regulated under the act punishable by an order to remove or cause to be removed from public view on any Internet website any information that a reasonable person would construe as an offer to perform in this State activities or services subject to regulation under the act and any advertising that suggests that a person is licensed to perform those activities or services in this State. In addition to any other penalties, a person who violates an order entered in accordance with this requirement is liable for an additional penalty of up to \$1,000 each day that information on the website is viewable to the public. The amendments clarify that nothing in the act imposes liability upon news media that accept, publish, or accept and publish unlawful advertising provided by or on behalf of a third party unrelated to the news mediate entity.

The amendments make it an unlawful practice to engage in the business of public moving or storage or to offer to perform activities or services subject to regulation under this act, or advertise or cause to be advertised that the person may perform such activities or services in this State without a license.

In addition, the amendments make it an unlawful practice, even if licensed, for a person who knows or reasonably should know that the lawfully agreed charges for the moving or storage services have been paid in full by a consumer to engage in the business of public moving or storage to withhold, fail to timely release, or threaten to withhold or fail to timely release the consumer’s property to the consumer, or to demand payment beyond or in addition to the lawfully agreed charges for the moving or storage services.

The amendments make it a disorderly persons offense for a person owning or operating a motor vehicle to use or direct another person to use his motor vehicle for engaging in the business of public moving

without a license. A disorderly persons offense is ordinarily punishable by a term of imprisonment of up to six months or a fine of up to \$1,000, or both.

LEGISLATIVE FISCAL ESTIMATE
 [First Reprint]
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, Nos. 4884 and 3617
STATE OF NEW JERSEY
218th LEGISLATURE

DATED: APRIL 3, 2019

SUMMARY

Synopsis: Revises penalties for certain violations of law by public movers and warehousemen.

Type of Impact: Annual State and Local Expenditure and Revenue Increases.

Agencies Affected: Department of Law and Public Safety; Motor Vehicle Commission; Department of Corrections; the Judiciary; Municipal Courts.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
Increase in State Expenditures and Revenues		Indeterminate	
Increase in Local Expenditures and Revenues		Indeterminate	

- The Office of Legislative Services (OLS) finds that the bill will cause indeterminate annual expenditure and revenue increases to the Department of Law and Public Safety, the Motor Vehicle Commission, the Department of Corrections, the Judiciary, and municipal courts. The OLS has insufficient data to serve as a basis for projecting the frequency of civil and criminal violations subject to sanctions under the bill.
- The bill’s establishment of rules permitting county and municipal law enforcement to impound vehicles of public movers will increase the workload and revenue of the respective law enforcement agencies and municipal courts.
- The bill increases the civil penalties levied for any violation of the “Public Movers and Warehousemen Licensing Act” from not more than \$2,500 for a first offense and not more than \$5,000 for a second or subsequent offense, to not more than \$5,000 for a first offense and not more than \$20,000 for a second or subsequent offense. A portion of these fees are to be dedicated for the administrative costs of the municipality enforcing the act, in addition to the Division of Consumer Affairs.

- The bill's establishment of the suspension of the driver's license, for a period of no more than three months, of any person engaging in the business of public moving without a license will increase the workload of the New Jersey Motor Vehicle Commission by an indeterminate amount and an indeterminate cost.
- The bill establishes a fine of \$1,000 per day for a person who maintains an Internet website that advertises the unlicensed practice of activities regulated by P.L. 1981, C.311, and fails to delete or block public access to that same website. A portion of this fee will be dedicated to cover the administrative costs of the affected municipality and the Division of Consumer Affairs.
- The bill's establishment of new crimes of the fourth degree for persons knowingly or intentionally failing to release a consumer's property to the consumer will increase the workload of the Department of Law and Public Safety and the Administrative Office of the Courts within the Judiciary. Fourth degree crimes are punishable by a term of imprisonment of up to 18 months, a fine of up to \$10,000, or both.
- The bill's establishment of new crimes of a disorderly persons offense for willful violation of the "Public Movers and Warehousemen Licensing Act," will increase the workload of the Department of Law and Public Safety and the Municipal Courts. Disorderly persons offenses are punishable by a term of imprisonment of up to six months, a fine of up to \$1,000, or both.

BILL DESCRIPTION

This bill revises the penalties for violations of the "Public Movers and Warehousemen Licensing Act," P.L.1981, c.311 (C.45:14D-1 et seq.), and authorizes the enforcement of certain provisions of that act by regular police officers.

The bill authorizes a regular police officer to issue a summons to, and impound the motor vehicle of, any person engaging in the business of public moving and storage in violation of the "Public Movers and Warehousemen Licensing Act."

The bill also increases the civil penalties levied for any violation of the "Public Movers and Warehousemen Licensing Act," from not more than \$2,500 for a first offense and not more than \$5,000 for a second or subsequent offense, to not more than \$5,000 for a first offense and not more than \$20,000 for a second or subsequent offense. Any person engaging in the unlicensed practice of activities regulated under the act who violates a provision of the act will be ordered, after a first offense, to delete or block access to an Internet website maintained by the person that advertises the person's unlicensed practice. The person will be liable for an additional penalty of up to \$1,000 each day that the website remains viewable to the public. Under the bill, a portion of the civil penalties collected are dedicated to cover the administrative costs of a municipality in enforcing the act, in addition to the Division of Consumer Affairs, as determined by the director.

The bill stipulates that any person violating any provision of the "Public Movers and Warehousemen Licensing Act" is guilty of a criminal offense, and upon conviction may be punished by a fine of up to \$5,000, or by imprisonment of up to six months, or both. The bill also provides that any person engaging in the business of public moving without a license may be subject to a suspension, for a period of no more than three months, of the person's driver's license or commercial driver license, and the impoundment of the motor vehicle used to engage in the unlicensed practice of public moving.

The bill provides that a public mover, warehouseman, or any other person who engages in the business of public moving or storage and who knows, or reasonably should have known, that payment for the lawfully agreed charges for the mover's services, storage services, or other person's services has been paid in full by a consumer, must release the consumer's property to the consumer. If the mover, warehouseman, or other person fails to release the consumer's property, then the mover, warehouseman, or other person is guilty of a crime of the fourth degree and, upon conviction, will be punished by a fine of up to \$10,000, or by imprisonment for up to 18 months, or both. If the mover, warehouseman, or other person fails to release the consumer's property, any regular police officer may take custody of the property and release the property to the consumer.

Finally, the bill provides that the Division of Consumer Affairs annually submit a report to the Legislature providing information on the enforcement and violations of the "Public Movers and Warehousemen Licensing Act." The annual report may also include recommendations to improve enforcement.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS finds that the bill will cause indeterminate annual expenditure and revenue increases to the Department of Law and Public Safety, the Motor Vehicle Commission, the Department of Corrections, the Administrative Office of the Courts within the Judiciary, and municipal courts. The OLS has insufficient data to serve as a basis for projecting the frequency of civil and criminal violations subject to sanctions under the bill.

Expenditure Increases: The OLS estimates that the bill's provisions will produce indeterminate annual expenditure increases to the State and municipalities from the additional workload created by the new provisions.

The bill's establishment of new crimes of the fourth degree, and disorderly persons offenses will increase the workload of the Division of Criminal Justice in the Department of Law and Public Safety and the Administrative Office of the Courts.

A presumption of non-incarceration applies to first-time offenders of crimes of the fourth degree and disorderly persons cases.

The OLS estimates that the bill's provision establishing annual reporting requirements for enforcement of public movers and warehousemen and violations by the Division of Consumer Affairs may have a fiscal impact. That fiscal impact, however, may be offset by the fine and penalty payments from convicted violators.

Revenue Increases: Additional indeterminate annual State and municipal revenue will accrue from increased and new fine and penalty payments from convicted violators of current and new statutory provisions. The bill indicates a portion of these fees are to be dedicated to offset the administrative costs of the municipality and the Division of Consumer Affairs.

The OLS cannot determine the number of convictions under the bill's newly created crimes and, by extension, the total of any resultant fine, fee, and assessment collections.

The OLS additionally notes that due to financial constraints, many penalties go unpaid by those persons convicted of crimes.

Background: According to a 2016 press release issued by the Office of the Attorney General, the New Jersey Division of Consumer Affairs reported that there were approximately 300 licensed intrastate movers in New Jersey. Further, it was reported that in November of 2015 there was a law enforcement operation to locate unlicensed movers. The 2015 investigation uncovered 21 unlicensed moving companies who violated State law and assessed civil penalties of up to \$2,500 each.

According to a 2015 press release issued by the Office of the Attorney General, the New Jersey Division of Consumer Affairs reported that there were approximately 310 licensed intrastate movers in New Jersey. Further, it was reported that in November of 2014 there was a law enforcement operation to locate unlicensed movers. The 2014 investigation uncovered 19 unlicensed public movers.

Section: Law and Public Safety
Analyst: Kristin Brunner Santos
Senior Fiscal Analyst
Approved: Frank W. Haines III
Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

LEGISLATIVE FISCAL ESTIMATE
 [Second Reprint]
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, Nos. 4884 and 3617
STATE OF NEW JERSEY
218th LEGISLATURE

DATED: JUNE 27, 2019

SUMMARY

- Synopsis:** Revises penalties for certain violations of law by public movers and warehousemen.
- Type of Impact:** Annual State and Local Expenditure and Revenue Increases.
- Agencies Affected:** Department of Law and Public Safety; Motor Vehicle Commission; The Judiciary; Municipal Courts.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
Increase in State Expenditures and Revenues		Indeterminate	
Increase in Local Expenditures and Revenues		Indeterminate	

- The Office of Legislative Services (OLS) finds that the bill will cause indeterminate annual expenditure and revenue increases to the Department of Law and Public Safety, the Motor Vehicle Commission, the Judiciary, and municipal courts. The OLS has insufficient data to serve as a basis for projecting the frequency of civil and criminal violations subject to sanctions under the bill.
- The bill’s requirement of the Division of Consumer Affairs to coordinate efforts with State and local law enforcement agencies to impound vehicles due to violations of the “Public Movers and Warehousemen Licensing Act” will increase the workload and revenue of the respective law enforcement agencies and municipal courts.
- The bill increases the civil penalties levied for any violation of the “Public Movers and Warehousemen Licensing Act” from not more than \$2,500 for a first offense and not more than \$5,000 for a second or subsequent offense, to not more than \$5,000 for a first offense and not more than \$20,000 for a second or subsequent offense. A portion of these fees are to be dedicated for the administrative costs of the municipality enforcing the act, in addition to the Division of Consumer Affairs.



- The bill establishes a fine of \$1,000 per day for a person who fails to remove the Internet website from public view of a business that advertises the unlicensed practice of activities regulated by P.L.1981, c.311 (C.45:14D-1 et seq.). A portion of this fee may be dedicated to cover the administrative costs of the affected municipality and the Division of Consumer Affairs.
- The bill's establishment of new crimes of an unlawful practices of the "Public Movers and Warehousemen Licensing Act," will increase the workload of the Department of Law and Public Safety and the municipal courts.
- The bill makes it a disorderly persons offense for a person to advertise and conduct business as a public mover while not being licensed. A disorderly persons offense is ordinarily punishable by a term of imprisonment of up to six months or a fine of up to \$1,000, or both.

BILL DESCRIPTION

This bill revises the penalties for violations of the "Public Movers and Warehousemen Licensing Act.

The bill requires the Director of the Division of Consumer Affairs in the Department of Law and Public Safety to coordinate Division efforts with State and local law enforcement agencies including, but not limited to, exercising authority to impound motor vehicles for violation of "Public Movers and Warehousemen Licensing Act."

The bill makes the unlicensed practice of activities regulated under the act punishable by an order to remove or cause to be removed from public view on any Internet website maintained by or on behalf of the person any information that a reasonable person would construe as an offer to perform in this State activities or services subject to regulation under the act and any advertising that suggests that the person is licensed to perform such activities or services in this State. In addition to any other penalties, a person who violates an order entered in accordance with this subsection would be liable for an additional penalty of up to \$1,000 each day that information on the website is viewable to the public.

The bill makes it an unlawful practice to engage in the business of public moving or storage or to offer to perform activities or services subject to regulation under this act, or advertise or cause to be advertised that the person may perform such activities or services in this State without a license.

In addition, the bill makes it an unlawful practice, even if licensed, for a person who knows or reasonably should know that the lawfully agreed charges for the moving or storage services have been paid in full by a consumer to engage in the business of public moving or storage to withhold, fail to timely release, or threaten to withhold or fail to timely release the consumer's property to the consumer, or to demand payment beyond or in addition to the lawfully agreed charges for the moving or storage services.

The bill makes it a disorderly persons offense for a person owning or operating a motor vehicle to use or direct another person to use his motor vehicle for engaging in the business of public moving without a license. A disorderly persons offense is ordinarily punishable by a term of imprisonment of up to six months or a fine of up to \$1,000, or both.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS finds that the bill will cause indeterminate annual expenditure and revenue increases to the Department of Law and Public Safety, the Motor Vehicle Commission, the Judiciary, and municipal courts. The OLS has insufficient data to serve as a basis for projecting the frequency of civil and criminal violations subject to sanctions under the bill.

Expenditure Increases: The OLS estimates that the bill's provisions will produce indeterminate annual expenditure increases to the State and municipalities from the additional workload created by the new provisions.

The bill's establishment of new crimes of disorderly persons offenses and unlawful practices will increase the workload of the Division of Criminal Justice in the Department of Law and Public Safety and the Administrative Office of the Courts.

The OLS estimates that the bill's provision establishing annual reporting requirements for enforcement of public movers and warehousemen and violations by the Division of Consumer Affairs may have a fiscal impact. That fiscal impact, however, may be offset by the fine and penalty payments from convicted violators.

Revenue Increases: Additional indeterminate annual State and municipal revenue will accrue from increased and new fine and penalty payments from convicted violators of current and new statutory provisions. The bill indicates a portion of these fees are to be dedicated to offset the administrative costs of the municipality and the Division of Consumer Affairs.

The OLS cannot determine the number of convictions under the bill's newly created crimes and, by extension, the total of any resultant fine, fee, and assessment collections.

The OLS additionally notes that due to financial constraints, many penalties go unpaid by those persons convicted of crimes.

Background: According to a 2016 press release issued by the Office of the Attorney General, the New Jersey Division of Consumer Affairs reported that there were approximately 300 licensed intrastate movers in New Jersey. Further, it was reported that in November of 2015 there was a law enforcement operation to locate unlicensed movers. The 2015 investigation uncovered 21 unlicensed moving companies who violated State law and assessed civil penalties of up to \$2,500 each.

According to a 2015 press release issued by the Office of the Attorney General, the New Jersey Division of Consumer Affairs reported that there were approximately 310 licensed intrastate movers in New Jersey. Further, it was reported that in November of 2014 there was a law enforcement operation to locate unlicensed movers. The 2014 investigation uncovered 19 unlicensed public movers.

Section: Law and Public Safety

*Analyst: Kristin Brunner Santos
Senior Fiscal Analyst*

*Approved: Frank W. Haines III
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

Governor Murphy Takes Action on Legislation

08/9/2019

TRENTON - Today, Governor Phil Murphy signed the following bills into law:

A312 (Pinkin, Conaway, Giblin, Holley, Danielsen, Mukherji, Wimberly/Vitale, Rice) - Requires certain health care facilities to provide information concerning palliative care and hospice care services.

A841 (Land, Calabrese/Andrzejczak) - Provides for establishment of county college certificate programs to meet needs of certain regional employers.

A1700 (Dancer, Vainieri Huttie, Calabrese/Cruz-Perez, Cunningham) - Expands eligibility criteria for designating certain areas as being in need of redevelopment.

A2004 (Karabinchak, Mazzeo, Pinkin, Coughlin/Diegnan) - Requires municipality to pay certain nonresidential property tax appeal refunds in equal installments over period of three years.

A3937 (DeAngelo, Reynolds-Jackson, Verrelli/Turner) - Allows local government water system employees to reside in all municipalities served by water system.

A4115 (Benson, DeAngelo, Holley/Greenstein) - Clarifies that certain students are eligible for NJ STARS and NJ STARS II scholarship upon initial enrollment at institution of higher education on part-time basis.

A4223 (Johnson, Rooney/Weinberg, Lagana) - Requires State Treasurer to pay county prosecutor's expenses for overseeing certain law enforcement agencies.

A4938 (Tucker, Pinkin, Vainieri Huttie/Ruiz, Greenstein) - Requires DOH to establish "My Life, My Plan" program to support women of childbearing age in developing reproductive life plan.

A5021 (Quijano, Bramnick, Reynolds-Jackson, Pinkin, Downey/Vitale, Kean) - Requires Medicaid coverage for group prenatal care services under certain circumstances.

A5322 (Burzichelli, Milam, Houghtaling, Taliaferro/Sweeney, Oroho, Beach, Andrzejczak) - Establishes program for cultivation, handling, processing, transport, and sale of hemp; repeals New Jersey Industrial Hemp Pilot Program.

A5392 (Quijano, Murphy/Vitale, Scutari) - Establishes new liability standards in sexual abuse lawsuits filed against public entities and public employees.

A5595 (Milam, Houghtaling, Dancer, Wirths/Oroho, Pennacchio) - Expands eligibility for EDA small business loan program to specifically include certain farming operations and qualified dairy farmers.

S601 (Smith, Greenstein/Pinkin, McKeon) - Establishes "New Jersey Solar Panel Recycling Commission."

S781 (Sarlo, O'Scanlon/Giblin, DiMaso, Handlin) - Revises penalties for certain violations of law by public movers and warehousemen.

S984 (Vitale, Singleton/Conaway, Mukherji, Murphy) - Establishes certain requirements, including allowable fees, for provision of medical records to patients, legally authorized representatives, and authorized third parties.

S1109 (Ruiz/Munoz, Quijano) - Renames "Physician Orders for Life-Sustaining Treatment Act" as "Practitioner Orders for Life-Sustaining Treatment Act"; permits physician assistants to sign and modify POLST forms; requires continuing education concerning end-of-life care.

S1739 (Oroho, Andrzejczak/Land, Space, Milam) - Renames county corrections officers as county correctional police officers.

S2807 (Cryan, Cruz-Perez/Pinkin, Moriarty, Zwicker) - Concerns service of food or refreshments on mortuary premises.

S2858 (Gopal, Diegnan/Houghtaling, Downey, Johnson) - Prohibits issuance of certain badges to NJT board members, PANYNJ commissioners, and local and State elected officials.

S3212 (Ruiz, Rice/Pintor Marin, Holley) - Permits municipalities to establish temporary supplemental zoning boards of adjustment to address application backlogs.

S3334 (Diegnan, Vitale/Conaway, Pinkin) - Exempts certain surgical technologists from general educational and training requirements.