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RWH 4/11/08

P.L. 2007, CHAPTER 50, *approved March 15, 2007*
Senate, No. 506 (*First Reprint*)

1 **AN ACT** concerning public movers and amending and supplementing
2 P.L.1981, c.311.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

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

9 2. As used in this act:

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

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

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

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

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

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

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

38 h. "Motor vehicle" means any vehicle, machine, tractor, truck or
39 semitrailer, or any combination thereof, propelled, driven or drawn
40 by mechanical power, and used upon the public highways in the

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 SCM committee amendments adopted May 15, 2006.

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

1 usually furnished or employed by warehousemen or public movers,
2 except that the provisions of P.L.1981, c.311 (C.45:14D-1 et seq.)
3 shall not apply to any person engaged in the transportation or
4 storage of special commodities when these commodities are not
5 transported by virtue of a removal, in whole or in part;

6 r. "Storage" means the safekeeping of property in a depository
7 for compensation;

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

13 t. "Warehouseman" means a person engaged in the business of
14 storage;

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

19 v. ¹["Owner/operator"] "Bill of lading" means "bill of lading"
20 as defined by paragraph (6) of N.J.S.12A:1-201.

21 w. "Consumer" means a person who contracts with a public
22 mover for mover's services.

23 x. "Contracting public mover" means a licensed public mover
24 who contracts with an owner-operator to provide any mover's
25 service of the licensed public mover, and is liable for any mover's
26 services performed or agreed to be performed by the owner-
27 operator pursuant to that contract.

28 y. "Director" means the Director of the Division of Consumer
29 Affairs in the Department of Law and Public Safety.

30 z. "Owner-operator"¹ means a person who owns ¹["his own
31 vehicle and leases his services to a public mover or company which
32 is a public mover for compensation to perform mover's services for
33 and using the forms and bill of lading of the] , leases, or rents one
34 or more motor vehicles and who uses the vehicles to provide
35 mover's services for a contracting¹ public mover.

36 (cf: P.L.1998, c.60, s.1)

37

38 ¹[2. (New section) a. A public mover who employs the services
39 of an owner/operator to perform mover's services shall provide to
40 the consumer in advance and in writing the following information:

41 (1) the definition of owner/operator as provided in section 2 of
42 P.L.1981, c.311 (C.45:14D-2); and

43 (2) an explanation, as determined by the board by regulation,
44 concerning the nature of the relationship between the public mover
45 and the owner/operator.

1 b. Any public mover who employs the services of an
2 owner/operator shall remain responsible to the consumer for the
3 mover's services provided by the owner/operator.】¹

4
5 ¹[3. 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 for the first offense and not more than \$5,000.00 for the
11 second and each subsequent offense. For the purpose of this
12 section, each transaction or violation shall constitute a separate
13 offense; except a second or subsequent offense shall not be deemed
14 to exist unless an administrative or court order has been entered in a
15 prior, separate and independent proceeding. In lieu of an
16 administrative proceeding or an action in the Superior Court, the
17 Attorney General may bring an action in the name of the board for
18 the collection or enforcement of civil penalties for the violation of
19 any provision of that act. The action may be brought in a summary
20 manner pursuant to ["the penalty enforcement law" (N.J.S.2A:58-1
21 et seq.)] the "Penalty Enforcement Law of 1999," P.L.1999, c.274
22 (C.2A:58-10 et seq.) and the rules of court governing actions for the
23 collection of civil penalties in the municipal or Special Civil Part of
24 the Law Division of the Superior Court where the offense occurred.
25 Process in the action may be by summons or warrant and if the
26 defendant in the action fails to answer the action, the court shall,
27 upon finding an unlawful act or practice to have been committed by
28 the defendant, issue a warrant for the defendant's arrest in order to
29 bring the person before the court to satisfy the civil penalties
30 imposed. In an action commenced pursuant to this section, the
31 court may order restored to any person in interest any moneys or
32 property acquired by means of an unlawful act or practice. Any
33 action alleging the unlicensed practice of the activities regulated by
34 P.L.1981, c.311 (C.45:14D-1 et seq.) shall be brought pursuant to
35 this section or, where injunctive relief is sought, by an action
36 commenced in the Superior Court. In an action brought pursuant to
37 that act, the board or the court may order the payment of costs for
38 the use of the State.

39 b. A public mover shall be liable for any violations of P.L.1981,
40 c.311 (C.45:14D-1 et seq.) caused by an owner/operator operating
41 under that public mover's license.
42 (cf: P.L.1993, c.365, s.10)】¹

43
44 ¹2. Section 10 of P.L.1981, c.311 (C.45:14D-10) is amended to
45 read as follows:

46 10. a. Every person engaged in the business of storing or
47 moving household goods, office goods, or special commodities for

1 transportation in intrastate commerce shall issue a receipt or bill of
2 lading therefor and shall be liable to the lawful holder thereof in
3 accordance with the provisions of chapters 3, 4, 5, and 7 of Title
4 12A of the New Jersey Statutes. Notwithstanding any other
5 provision of law, a receipt issued pursuant to this section shall not
6 be denied legal effect solely because it is in electronic form,
7 provided that both parties have affirmatively agreed to the
8 electronic form of the receipt, the issuer affirmatively provides to
9 the holder the receipt in an accessible form which is capable of
10 being received, retained and accurately reproduced by the holder,
11 and the receipt contains all legally required information.

12 b. A contracting public mover may permit an owner-operator
13 providing any mover's services of the public mover to issue, using
14 the forms of the public mover or otherwise in the name of the public
15 mover, a bill of lading and any other documentation evidencing the
16 performance of, or agreement to perform, any mover's services on
17 behalf of the contracting public mover. The contracting public
18 mover shall be liable to the holder of the bill of lading or other
19 documentation as if it provided, or agreed to provide, the mover's
20 services for the consumer.¹

21 (cf: P.L.2001, c.277, s.1)

22

23 ^{13.} (New section) a. It shall be unlawful for a contracting public
24 mover to utilize an owner-operator for purposes of the owner-
25 operator providing to a consumer any mover's services of the public
26 mover, unless the public mover provides written notice to the
27 consumer, not less than one business day before any mover's
28 services are performed, or unless otherwise permitted on the same
29 business day by regulation. The notice shall include:

30 (1) the name, address, telephone number, and any other relevant
31 contact information for the owner-operator as required by
32 regulation;

33 (2) a list describing the mover's services to be performed by the
34 owner-operator; and

35 (3) a statement that the public mover shall be liable for all
36 mover's services to be performed by the owner-operator.

37 b. The contracting public mover shall perform any physical
38 survey, and issue the estimate and order for service to the
39 consumer, as required by P.L.1981, c.311 (C.45:14D-1 et seq.), for
40 those household goods, office goods, or special commodities to be
41 transported by the owner-operator.¹

42

43 ^{14.} (New section) A contracting public mover shall add as an
44 additional covered insured under its policies of insurance or other
45 securities or agreements, as required pursuant to section 15 of
46 P.L.1984, c.140 (C.45:14D-25), any owner-operator contracted to
47 perform any mover's services of the public mover, or secure and

1 maintain separate insurance coverage, or other securities or
2 agreements, of the type and amount required pursuant to regulation
3 for the public mover's liability for any act or omission of an owner-
4 operator for which the public mover is liable pursuant to P.L.1981,
5 c.311 (C.45:14D-1 et seq.) and any applicable regulation.¹

6
7 ¹5. (New section) a. An owner-operator, in order to enter into
8 any contract with a public mover to perform any mover's services
9 of the public mover, shall secure and maintain insurance coverage,
10 or other securities or agreements, of the type and amount required
11 pursuant to regulation, which shall include, but not be limited to
12 coverage, securities, or agreements to cover property-casualty and
13 workers' compensation liabilities.

14 b. A public mover shall not contract with an owner-operator
15 until the owner-operator presents the public mover with proof of
16 adequate insurance coverage, or other securities or agreements.¹

17
18 ¹6. (New section) The director shall promulgate rules and
19 regulations pursuant to the "Administrative Procedure Act,"
20 P.L.1968, c.410 (C.52:14B-1 et seq.) to effectuate the purposes of
21 this act.¹

22
23 ¹[4.] ¹7. This act shall take effect immediately.

24
25
26
27
28 Establishes responsibilities for owner/operators working for
29 licensed public movers.

SENATE, No. 506

STATE OF NEW JERSEY 212th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2006 SESSION

Sponsored by:

Senator NIA H. GILL

District 34 (Essex and Passaic)

SYNOPSIS

Establishes responsibilities for owner/operators working for licensed public movers.

CURRENT VERSION OF TEXT

As introduced.



S506 GILL

2

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

3

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

6

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

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2. As used in this act:

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

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

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

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

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

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

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

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

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

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

Matter underlined thus is new matter.

S506 GILL

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

S506 GILL

1 storage of special commodities when these commodities are not
2 transported by virtue of a removal, in whole or in part;

3 r. "Storage" means the safekeeping of property in a depository
4 for compensation;

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

10 t. "Warehouseman" means a person engaged in the business of
11 storage;

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

16 v. "Owner/operator" means a person who owns his own vehicle
17 and leases his services to a public mover or company which is a
18 public mover for compensation to perform mover's services for and
19 using the forms and bill of lading of the public mover.

20 (cf: P.L.1998, c.60, s.1)

21

22 2. (New section) a. A public mover who employs the services
23 of an owner/operator to perform mover's services shall provide to
24 the consumer in advance and in writing the following information:

25 (1) the definition of owner/operator as provided in section 2 of
26 P.L.1981, c.311 (C.45:14D-2); and

27 (2) an explanation, as determined by the board by regulation,
28 concerning the nature of the relationship between the public mover
29 and the owner/operator.

30 b. Any public mover who employs the services of an
31 owner/operator shall remain responsible to the consumer for the
32 mover's services provided by the owner/operator.

33

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

36 16. a. Any person violating any provision of P.L.1981, c.311
37 (C.45:14D-1 et seq.) shall, in addition to any other sanctions
38 provided herein, be liable to a civil penalty of not more than
39 \$2,500.00 for the first offense and not more than \$5,000.00 for the
40 second and each subsequent offense. For the purpose of this
41 section, each transaction or violation shall constitute a separate
42 offense; except a second or subsequent offense shall not be deemed
43 to exist unless an administrative or court order has been entered in a
44 prior, separate and independent proceeding. In lieu of an
45 administrative proceeding or an action in the Superior Court, the
46 Attorney General may bring an action in the name of the board for
47 the collection or enforcement of civil penalties for the violation of

1 any provision of that act. The action may be brought in a summary
2 manner pursuant to ["the penalty enforcement law" (N.J.S.2A:58-1
3 et seq.)] the "Penalty Enforcement Law of 1999," P.L.1999, c.274
4 (C.2A:58-10 et seq.) and the rules of court governing actions for the
5 collection of civil penalties in the municipal or Special Civil Part of
6 the Law Division of the Superior Court where the offense occurred.
7 Process in the action may be by summons or warrant and if the
8 defendant in the action fails to answer the action, the court shall,
9 upon finding an unlawful act or practice to have been committed by
10 the defendant, issue a warrant for the defendant's arrest in order to
11 bring the person before the court to satisfy the civil penalties
12 imposed. In an action commenced pursuant to this section, the
13 court may order restored to any person in interest any moneys or
14 property acquired by means of an unlawful act or practice. Any
15 action alleging the unlicensed practice of the activities regulated by
16 P.L.1981, c.311 (C.45:14D-1 et seq.) shall be brought pursuant to
17 this section or, where injunctive relief is sought, by an action
18 commenced in the Superior Court. In an action brought pursuant to
19 that act, the board or the court may order the payment of costs for
20 the use of the State.

21 b. A public mover shall be liable for any violations of P.L.1981,
22 c.311 (C.45:14D-1 et seq.) caused by an owner/operator operating
23 under that public mover's license.
24 (cf: P.L.1993, c.365, s.10)
25

26 4. This act shall take effect immediately.
27
28

29 STATEMENT

30
31 This bill incorporates into New Jersey statutory law the common
32 practice of an owner/operator performing professional moving
33 services on behalf of, and under the license of, a public mover. The
34 owner/operator concept is already incorporated in the New Jersey
35 Administrative Code.

36 The bill defines an "owner/operator" as a person who owns his
37 own vehicle and leases his services to a public mover or company
38 which is a public mover for compensation to perform mover's
39 services for and using the forms and bill of lading of the public
40 mover.

41 The bill provides that a public mover that intends to use the
42 services of an owner/operator must provide to the consumer in
43 writing: (1) the definition of an owner/operator; and (2) an
44 explanation, as determined by the board by regulation, concerning
45 the nature of the relationship between the public mover and the
46 owner/operator.

S506 GILL

6

1 Finally, the bill provides that a public mover will be liable to a
2 consumer for any violations of the existing law caused by the
3 owner/operator in his performance of mover's services.

ASSEMBLY REGULATED PROFESSIONS AND
INDEPENDENT AUTHORITIES COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 506

STATE OF NEW JERSEY

DATED: JUNE 12, 2006

The Assembly Regulated Professions and Independent Authorities Committee reports favorably Senate Bill No. 506 (1R).

This bill regulates public movers' contracting with, and use of, owner-operators, who are subcontracted to provide mover's services for public movers using vehicles that the owner-operators own, lease, or rent.

Under this bill, it shall be unlawful for a contracting public mover to utilize an owner-operator for purposes of the owner-operator providing to a consumer any mover's services, unless the public mover first provides written notice to the consumer, which contains: contact information for the owner-operator; a list describing the mover's services to be performed by the owner-operator; and a statement concerning the public mover's liability for the services performed by the owner-operator. This notice shall be presented to the consumer not less than one business day before any mover's services are performed, or on the same day if permitted by regulation.

The bill establishes certain liability for contracting public movers, by affirmatively stating that such public movers are responsible for any mover's services performed by an owner-operator. This liability includes situations in which a public mover permits an owner-operator to issue a bill of lading or other documentation using the forms of the public mover or otherwise issuing forms "in the name of" the public mover; the public mover shall be liable to the holder of any documentation presented by an owner-operator to that holder as if the public mover provided, or agreed to provide, the mover's services detailed in the document.

In order to cover owner-operator liability, public movers shall add owner-operators under contract to perform mover's services to the public movers' policies of insurance or other such securities or agreements, or secure and maintain separate insurance coverage or other securities or agreements, of the type and amount required pursuant to regulation to cover any potential liability.

Additionally, owner-operators, as a condition of entering any contract with a public mover, shall secure and maintain insurance

coverage, or other securities or agreements, of the type and amount required pursuant to regulation. To help ensure compliance with this insurance condition, public movers shall not contract with any owner-operator until the owner-operator presents adequate proof of insurance, or other securities or agreements.

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 506

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 15, 2006

The Senate Commerce Committee reports favorably and with committee amendments Senate Bill No. 506.

This bill, as amended, regulates public movers' contracting with, and use of, owner-operators, who are subcontracted to provide mover's services for public movers using vehicles that the owner-operators own, lease, or rent.

Under the amended bill, it shall be unlawful for a contracting public mover to utilize an owner-operator for purposes of the owner-operator providing to a consumer any mover's services, unless the public mover first provides written notice to the consumer, which contains: contact information for the owner-operator; a list describing the mover's services to be performed by the owner-operator; and a statement concerning the public mover's liability for the services performed by the owner-operator. This notice shall be presented to the consumer not less than one business day before any mover's services are performed, or on the same day if permitted by regulation.

The amended bill establishes certain liability for contracting public movers, by affirmatively stating that such public movers are responsible for any mover's services performed by an owner-operator. This liability includes situations in which a public mover permits an owner-operator to issue a bill of lading or other documentation using the forms of the public mover or otherwise issuing forms "in the name of" the public mover; the public mover shall be liable to the holder of any documentation presented by an owner-operator to that holder as if the public mover provided, or agreed to provide, the mover's services detailed in the document.

In order to cover owner-operator liability, public movers shall add owner-operators under contract to perform mover's services to the public movers' policies of insurance or other such securities or agreements, or secure and maintain separate insurance coverage or other securities or agreements, of the type and amount required pursuant to regulation to cover any potential liability.

Additionally, owner-operators, as a condition of entering any contract with a public mover, shall secure and maintain insurance

coverage, or other securities or agreements, of the type and amount required pursuant to regulation. To help ensure compliance with this insurance condition, public movers shall not contract with any owner-operator until the owner-operator presents adequate proof of insurance, or other securities or agreements.

The committee amendments to the bill:

- add several new definitions concerning the contractual relationship between public movers, owner-operators, and consumers;
- permit a public mover to allow an owner-operator to issue, using the forms of the public mover or otherwise in the name of the public mover, documentation evidencing the performance of, or agreement to perform, any moving services on behalf of the public mover;
- require more detailed information on the written notice provided by a public mover to a consumer concerning any mover's services to be performed by an owner-operator;
- require insurance or other security by public movers for the acts or omissions of an owner-operator for which the public mover is liable; and
- additionally require owner-operators to secure insurance or other security with respect to any mover's services performed on behalf of a contracting public mover.

ASSEMBLY, No. 3266

STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED JUNE 8, 2006

Sponsored by:

Assemblyman WILFREDO CARABALLO

District 29 (Essex and Union)

Assemblyman THOMAS P. GIBLIN

District 34 (Essex and Passaic)

Co-Sponsored by:

Assemblyman Gordon and Assemblywoman Oliver

SYNOPSIS

Establishes responsibilities for owner/operators working for licensed public movers.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As 1/30/2007)

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

3

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

6

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

9 2. As used in this act:

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

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

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

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

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

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

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

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

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

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

Matter underlined thus is new matter.

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

- 1 r. "Storage" means the safekeeping of property in a depository
2 for compensation;
- 3 s. "Tariff" means a schedule of rates and charges for the storage
4 or transportation of property in intrastate commerce on file with the
5 board, which shall be used, except in the use of binding estimates
6 by movers, in computing all charges on the storage or transportation
7 of property as of the date of the time in storage or transportation;
- 8 t. "Warehouseman" means a person engaged in the business of
9 storage;
- 10 u. "Removal" means the physical relocation, in whole or in part,
11 of either household goods, office goods or special commodities
12 from one location to another location, including internal relocations
13 within the same room or facility, for compensation.
- 14 v. "Bill of lading" means "bill of lading" as defined by
15 paragraph (6) of N.J.S.12A:1-201.
- 16 w. "Consumer" means a person who contracts with a public
17 mover for mover's services.
- 18 x. "Contracting public mover" means a licensed public mover
19 who contracts with an owner-operator to provide any mover's
20 service of the licensed public mover, and is liable for any mover's
21 services performed or agreed to be performed by the owner-
22 operator pursuant to that contract.
- 23 y. "Director" means the Director of the Division of Consumer
24 Affairs in the Department of Law and Public Safety.
- 25 z. "Owner-operator" means a person who owns, leases, or rents
26 one or more motor vehicles and who uses the vehicles to provide
27 mover's services for a contracting public mover.
28 (cf: P.L.1998, c.60, s.1)

29
30 2. Section 10 of P.L.1981, c.311 (C.45:14D-10) is amended to
31 read as follows:

- 32 10. a. Every person engaged in the business of storing or
33 moving household goods, office goods, or special commodities for
34 transportation in intrastate commerce shall issue a receipt or bill of
35 lading therefor and shall be liable to the lawful holder thereof in
36 accordance with the provisions of chapters 3, 4, 5, and 7 of Title
37 12A of the New Jersey Statutes. Notwithstanding any other
38 provision of law, a receipt issued pursuant to this section shall not
39 be denied legal effect solely because it is in electronic form,
40 provided that both parties have affirmatively agreed to the
41 electronic form of the receipt, the issuer affirmatively provides to
42 the holder the receipt in an accessible form which is capable of
43 being received, retained and accurately reproduced by the holder,
44 and the receipt contains all legally required information.
- 45 b. A contracting public mover may permit an owner-operator
46 providing any mover's services of the public mover to issue, using
47 the forms of the public mover or otherwise in the name of the public
48 mover, a bill of lading and any other documentation evidencing the

1 performance of, or agreement to perform, any mover's services on
2 behalf of the contracting public mover. The contracting public
3 mover shall be liable to the holder of the bill of lading or other
4 documentation as if it provided, or agreed to provide, the mover's
5 services for the consumer.

6 (cf: P.L.2001, c.277, s.1)

7

8 3. (New section) a. It shall be unlawful for a contracting public
9 mover to utilize an owner-operator for purposes of the owner-
10 operator providing to a consumer any mover's services of the public
11 mover, unless the public mover provides written notice to the
12 consumer, not less than one business day before any mover's
13 services are performed, or unless otherwise permitted on the same
14 business day by regulation. The notice shall include:

15 (1) the name, address, telephone number, and any other relevant
16 contact information for the owner-operator as required by
17 regulation;

18 (2) a list describing the mover's services to be performed by the
19 owner-operator; and

20 (3) a statement that the public mover shall be liable for all
21 mover's services to be performed by the owner-operator.

22 b. The contracting public mover shall perform any physical
23 survey, and issue the estimate and order for service to the
24 consumer, as required by P.L.1981, c.311 (C.45:14D-1 et seq.), for
25 those household goods, office goods, or special commodities to be
26 transported by the owner-operator.

27

28 4. (New section) A contracting public mover shall add as an
29 additional covered insured under its policies of insurance or other
30 securities or agreements, as required pursuant to section 15 of
31 P.L.1984, c.140 (C.45:14D-25), any owner-operator contracted to
32 perform any mover's services of the public mover, or secure and
33 maintain separate insurance coverage, or other securities or
34 agreements, of the type and amount required pursuant to regulation
35 for the public mover's liability for any act or omission of an owner-
36 operator for which the public mover is liable pursuant to P.L.1981,
37 c.311 (C.45:14D-1 et seq.) and any applicable regulation.

38

39 5. (New section) a. An owner-operator, in order to enter into
40 any contract with a public mover to perform any mover's services
41 of the public mover, shall secure and maintain insurance coverage,
42 or other securities or agreements, of the type and amount required
43 pursuant to regulation, which shall include, but not be limited to
44 coverage, securities, or agreements to cover property-casualty and
45 workers' compensation liabilities.

46 b. A public mover shall not contract with an owner-operator
47 until the owner-operator presents the public mover with proof of
48 adequate insurance coverage, or other securities or agreements.

1 6. (New section) The director shall promulgate rules and
2 regulations pursuant to the “Administrative Procedure Act,”
3 P.L.1968, c.410 (C.52:14B-1 et seq.) to effectuate the purposes of
4 this act.

5

6 7. This act shall take effect immediately.

7

8

9

STATEMENT

10

11 This bill regulates public movers’ contracting with, and use of,
12 owner-operators, who are subcontracted to provide mover’s services
13 for public movers using vehicles that the owner-operators own,
14 lease, or rent.

15 Under the bill, it shall be unlawful for a contracting public mover
16 to utilize an owner-operator for purposes of the owner-operator
17 providing to a consumer any mover’s services, unless the public
18 mover first provides written notice to the consumer, which contains:
19 contact information for the owner-operator; a list describing the
20 mover’s services to be performed by the owner-operator; and a
21 statement concerning the public mover’s liability for the services
22 performed by the owner-operator. This notice shall be presented to
23 the consumer not less than one business day before any mover’s
24 services are performed, or on the same day if permitted by
25 regulation.

26 The bill establishes certain liability for contracting public
27 movers, by affirmatively stating that such public movers are
28 responsible for any mover’s services performed by an owner-
29 operator. This liability includes situations in which a public mover
30 permits an owner-operator to issue a bill of lading or other
31 documentation using the forms of the public mover or otherwise
32 issuing forms “in the name of” the public mover; the public mover
33 shall be liable to the holder of any documentation presented by an
34 owner-operator to that holder as if the public mover provided, or
35 agreed to provide, the mover’s services detailed in the document.

36 In order to cover owner-operator liability, public movers shall
37 add owner-operators under contract to perform mover’s services to
38 the public movers’ policies of insurance or other such securities or
39 agreements, or secure and maintain separate insurance coverage or
40 other securities or agreements, of the type and amount required
41 pursuant to regulation to cover any potential liability.

42 Additionally, owner-operators, as a condition of entering any
43 contract with a public mover, shall secure and maintain insurance
44 coverage, or other securities or agreements, of the type and amount
45 required pursuant to regulation. To help ensure compliance with
46 this insurance condition, public movers shall not contract with any
47 owner-operator until the owner-operator presents adequate proof of
48 insurance, or other securities or agreements.

ASSEMBLY REGULATED PROFESSIONS AND
INDEPENDENT AUTHORITIES COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3266

STATE OF NEW JERSEY

DATED: JUNE 12, 2006

The Assembly Regulated Professions and Independent Authorities Committee reports favorably Assembly Bill No. 3266.

This bill regulates public movers' contracting with, and use of, owner-operators, who are subcontracted to provide mover's services for public movers using vehicles that the owner-operators own, lease, or rent.

Under this bill, it shall be unlawful for a contracting public mover to utilize an owner-operator for purposes of the owner-operator providing to a consumer any mover's services, unless the public mover first provides written notice to the consumer, which contains: contact information for the owner-operator; a list describing the mover's services to be performed by the owner-operator; and a statement concerning the public mover's liability for the services performed by the owner-operator. This notice shall be presented to the consumer not less than one business day before any mover's services are performed, or on the same day if permitted by regulation.

The bill establishes certain liability for contracting public movers, by affirmatively stating that such public movers are responsible for any mover's services performed by an owner-operator. This liability includes situations in which a public mover permits an owner-operator to issue a bill of lading or other documentation using the forms of the public mover or otherwise issuing forms "in the name of" the public mover; the public mover shall be liable to the holder of any documentation presented by an owner-operator to that holder as if the public mover provided, or agreed to provide, the mover's services detailed in the document.

In order to cover owner-operator liability, public movers shall add owner-operators under contract to perform mover's services to the public movers' policies of insurance or other such securities or agreements, or secure and maintain separate insurance coverage or other securities or agreements, of the type and amount required pursuant to regulation to cover any potential liability.

Additionally, owner-operators, as a condition of entering any contract with a public mover, shall secure and maintain insurance coverage, or other securities or agreements, of the type and amount

required pursuant to regulation. To help ensure compliance with this insurance condition, public movers shall not contract with any owner-operator until the owner-operator presents adequate proof of insurance, or other securities or agreements.