

48:22-1 et seq.

February 20, 1969

LEGISLATIVE HISTORY OF R.S. 48:22-1 et seq.
(Public Movers Act)

COPY NO. 2

Bills introduced in previous years:

1963 - A654

April 1 - Introduced by Smith, Rimm, Hauser, Musto & Keegan.
April 1 - Highways, Transp. & Pub. Util. Committee.
May 10 - Reported with committee amendment.
May 10 - 2d reading.
May 13 - Passed in Assembly, amended.
May 13 - Received in Senate.
May 13 - Highways, Transp. & Pub. Util. Committee.
Dec. 9 - Reported, 2d reading.
No statement.

1964 - A396

Feb. 10 - Introduced by Smith, Musto, Hauser & Rimm.
Feb. 10 - Highways, Transp. & Pub. Util. Committee.
No statement.
Died in committee.

1965 - A131

Jan. 18 - Introduced by A. Smith, Rimm, Musto, Hauser.
Jan. 18 - Business Affairs Committee.
No statement.
Died in committee.

1966 - A492

March 14 - Introduced by Higgins and Rimm.
March 14 - Rev. & Amend. of Laws Committee.
March 28 - Reported, 2nd reading.
June 27 - Recommitted.
No statement.
Died in committee.

Bill which became law was:

L. 1968, chapter 375 - S690

April 22 - Introduced by Dumont and Sisco.
June 20 - Passed in Senate.
Nov. 15 - Returned by Governor with recommended amendment.
Nov. 18 - Amended as recommended, re-enacted in Senate.
Nov. 25 - Re-enacted in Assembly.
Dec. 27 - Approved, Chapter 375.
No statement.
Amended during passage: amendments included.
Veto message of Governor enclosed.

No hearings or reports located.

No newspaper articles or material located in the vertical file under
N.J.--Licenses, permits.

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CHAPTER...375...LAWS OF N. J. 19...68

APPROVED...12/27/68

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SENATE, No. 690

STATE OF NEW JERSEY

INTRODUCED APRIL 22, 1968

By Senator DUMONT

Referred to Committee on Transportation and Public Utilities

AN ACT concerning public utilities in relation to the transportation of property by movers, defining the same, making an appropriation, and supplementing Title 48 of the Revised Statutes.

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

1 1. This act shall be known and may be cited as the "Public Movers
2 Act."

1 2. Declaration of policy and delegation of jurisdiction.

2 (a) It is hereby declared to be the policy of this Legislature to
3 regulate transportation of household goods and special commodi-
4 ties and the movers' service provided by movers in a fair and
5 impartial manner as to recognize and preserve the inherent advan-
6 tages of, and foster sound economic conditions in, such transporta-
7 tion and among such carriers in the public interest; promote safety
8 of operations upon the public highways, adequate, economical and
9 efficient service by movers, and just and reasonable charges there-
10 for, without unjust discriminations, undue preference or advan-
11 tages, or unfair or destructive competitive practices; to protect the
12 interest of the public, improve the relations between, and co-ordi-
13 nate transportation by, movers and other carriers; and co-operate
14 with Federal Government and the several States of the United
15 States, and duly authorized officials thereof in matters relating
16 to highway transportation, and with movers associations in the
17 administration of this act.

18 (b) The provisions of this act apply to the transportation of
19 household goods and special commodities and to the performance
20 of accessorial services in connection with such transportation by
21 movers over the public highways of this State, and regulation of
22 such transportation and such services is hereby vested in the Board
23 of Public Utility Commissioners.

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

1 3. Definitions.

2 The words and phrases used herein shall have the following
3 meaning:

4 (a) The term "person" means any individual, co-partnership,
5 association, company, or corporation, and includes any trustee,
6 receiver, assignee, leasee, or personal representative of any person
7 herein defined.

8 (b) The term "board" means the Board of Public Utility Com-
9 missioners of the Department of Public Utilities of this State.

10 (c) The term "public mover," or "mover," means any person
11 who or which engages in or holds itself out to the general public
12 to engage in the transportation of household goods and special
13 commodities by motor vehicle for compensation in intrastate com-
14 merce between points in this State, including the moving of house-
15 hold goods and special commodities from one location to another
16 at a single address, and who or which engages in the performance
17 of accessorial services.

18 (d) The term "motor vehicle" means any vehicle, machine, trac-
19 tor, truck, trailer, or semitrailer, or any combination thereof, pro-
20 pelled, driven or drawn by mechanical power, and used upon the
21 public highways in the transportation of the household goods and
22 special commodities in intrastate commerce defined herein.

23 (e) The term "intrastate commerce" means commerce moving
24 wholly between points within the State over all public highways,
25 or at a single location.

26 (f) The term "public highway" or "highway" means any pub-
27 lic street, road, thoroughfare, bridge and way in this State open
28 to the use of the public as a matter of right for purposes of motor
29 vehicular travel, including those that impose toll charges.

30 (g) The term "movers' services" includes all of the services
31 rendered by a public mover, as defined above.

32 (h) The term "household goods" means personal effects; fix-
33 tures; equipment; stock and supplies or other property usually
34 used in or as part of the stock of a dwelling, office or commercial,
35 institutional, professional, or other type of establishment;

36 and the term "special commodities," means and includes objects
37 of works of art, furniture, fixtures, appliances, business machines,
38 electronic equipment, displays, exhibits, home, office, store, theatri-
39 cal or show equipment, musical instruments or other articles of-
40 fered for transportation, uncrated or unboxed, requiring the use
41 of equipment or personnel usually furnished or employed by movers
42 of such articles.

43 (i) The term "accessorial service" means the preparation of
44 articles for shipment such as packing, crating, boxing and servicing
45 of appliances including the furnishing of containers, unpacking,
46 uncrating, reassembling of articles, placing them at final destina-
47 tion and the moving or shifting of articles from one location to
48 another within a building, or at a single address.

49 (j) The term "public movers certificate" means the certificate
50 of public convenience and necessity issued by the Board of Public
51 Utility Commissioners to a public mover to operate as such over
52 the public highways of this State, or at a single location.

53 (k) The term "property" shall include all of the articles in the
54 definition of household goods and special commodities.

55 (l) The term "booking agent" means a representative, other
56 than a regular employee, appointed by a public mover to solicit,
57 arrange for, and enter into transportation contracts exclusively
58 in the name and on behalf of such public mover.

1 4. Vehicles exempted from jurisdiction of this act.

2 The provisions of this act shall not be construed to include motor
3 vehicles owned or operated by:

4 (a) The United States, the State, or any local government
5 subdivision, agency or instrumentality thereof;

6 (b) Persons transporting property in intrastate commerce with-
7 out compensation or of which such person is the owner and where
8 the transportation is not performed as a subterfuge to avoid regu-
9 lations hereunder.

1 5. General duties and powers of the board.

2 It shall be the duty of the board:

3 (a) To regulate public movers of household goods and special
4 commodities and the transportation, moving and accessorial serv-
5 ices which they perform, as provided in this act, and to that end,
6 the board shall establish reasonable requirements in respect to
7 proper and adequate movers' service, to fix and enforce just and
8 reasonable rates for said service; to prescribe minimum levels of
9 rates, together with governing classifications or exceptions and
10 rules and regulations applicable to such rate structure; to prescribe
11 a uniform system of accounts, rates, records and reports and the
12 preservation of records.

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

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

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

1 6. Application for and issuance of certificates.

2 (a) No public mover shall operate or render a moving service
3 as defined herein unless there is in force with respect to such public
4 mover a certificate of public convenience and necessity issued by
5 the board authorizing such operation.

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

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

35 take effect. Pending determination of any such application, the
36 continuance of operation as a mover shall be lawful.

37 (d) In order to have been in bona fide operation, as required in
38 paragraph (c) above, a public mover must have maintained a per-
39 manent place of business located in this State on or before January
40 1, 1968, and shall have owned or operated under lease at least one
41 moving van registered in this State on or before January 1, 1968.

42 (e) Any public mover not included within paragraph (c) of this
43 section, who is engaged in the transportation of household goods
44 and special commodities as a public mover when this act takes
45 effect, may continue such operation for a period of 120 days there-
46 after without a certificate, and, if application for such certificate
47 has been made to the board within such period, the carrier, may,
48 under such regulations as the board shall prescribe, continue such
49 operation until otherwise ordered by the board.

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

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

1 7. Terms and conditions of certificates.

2 (a) Certificates issued under section 6 shall specify the service
3 to be rendered and the points between which, or territory within
4 which, the public mover is authorized to operate or serve. There
5 shall, at the time of issuance of such certificate and from time to
6 time thereafter, be attached to the exercise of privileges granted
7 by the certificate such reasonable terms, conditions, and limitations
8 as the public convenience and necessity may from time to time re-
9 quire; provided that no terms, conditions, or limitations shall re-
10 strict the right of the mover to add to, or dispose of, its equipment
11 and facilities within the territory specified in the certificate as the
12 development of the business and the demands of the public shall
13 require.

14 (b) Certificates issued pursuant to section 6 (c) of this act shall
15 authorize operations over irregular routes between all points within
16 the State.

1 8. Temporary approval for operation during merger and consol-
2 idation.

3 (a) Pending the determination of an application filed with the
4 board for approval of a consolidation or merger of the properties
5 or 2 or more public movers, or of a purchase, lease, or contract to
6 operate the properties of one or more movers, the board may, in its
7 discretion, and without hearings or other proceedings, grant tem-
8 porary approval of the operation of the movers' properties sought
9 to be acquired by the person proposing in such pending application
10 to acquire such properties, if it shall appear that failure to grant
11 such temporary approval may result in destruction of, or injury
12 to, such movers' properties sought to be acquired, or to interfere
13 substantially with their future usefulness in the performance of
14 adequate and continuous service to the public.

15 (b) Transportation service rendered under such temporary au-
16 thority shall be subject to all applicable provisions of this act and
17 to the rules, regulations, and requirements of the board promul-
18 gated thereunder.

1 9. Suspension, change, revocation, and transfer of certificates.

2 (a) Certificates shall be effective from the date specified therein,
3 and shall remain in effect until suspended or terminated as herein
4 provided. Any such certificate may, upon application of the holder
5 thereof, in the discretion of the board and upon public notice, be
6 amended or revoked, in whole or in part, or may upon complaint,
7 or on the board's own initiative after notice and hearing, be sus-
8 pended, changed, or revoked, in whole or in part, for willful failure
9 to comply with any provisions of this act, or with any lawful order,
10 rule, or regulation of the board promulgated thereunder, or with
11 any term, condition of limitation of such certificate; provided that
12 subject to the provisions of paragraph (c) of this section, no such
13 certificate shall be revoked (except upon application of the holder)
14 unless the holder thereof willfully fails to comply, within a reason-
15 able time, but not less than 30 days, to be fined by the board after
16 a lawful order of the board, commanding obedience to the provi-
17 sion of this act or to the rules or regulations of the board promul-
18 gated thereunder, or to the terms, conditions or limitations of such
19 certificates found by the board to have been violated by such holder;
20 and provided, further, that the right to engage in movers' service
21 in this State by virtue of any certificate, or any application filed
22 pursuant to the provisions of section 6 or temporary authority un-
23 der section 8, may be suspended by the board, upon reasonable
24 notice of not less than 15 days to the mover, but without hearing
25 or other proceedings, for failure to comply, and until compliance,

26 with the provisions of this act or with any lawful order, rule or
27 regulation of the board promulgated thereunder.

28 (b) Any certificate may be transferred pursuant to such rules
29 and regulations as the board may prescribe, including notice by
30 the board to movers having an interest therein; provided the appli-
31 cant established (1) that the transferee is fit, willing and able to
32 operate pursuant to the terms of said certificate, as provided in
33 section 7 of this act; (2) that operations authorized by such cer-
33A tificate are being conducted in accordance with the terms of the cer-
34 tificate; and (3) that if the authority sought to be acquired is to
35 be joined with other authority held by the transferee, such resulting
36 authority will not adversely affect existing authorized service.

37 (c) Where for the continuous period of 1 year, a holder of a
38 certificate fails to render any movers' service in intrastate com-
39 merce under said certificate, except for reasons not within the
40 control of said holder of such certificate, the board, on its own
41 motion, or upon the complaint of any interested party, may direct
42 the revocation of said certificate, only after reasonable opportunity
43 for hearing to interested parties. No order of revocation shall be
44 issued under this subparagraph solely for failure to render service
45 in any part of the State, as long as any movers' service has been
46 rendered by said holder.

1 10. Limitation of actions.

2 (a) All actions at law by movers subject to this act for recovery
2A of their charges, or any part thereof, or for the recovery of over-
3 charges shall be begun within 2 years from the time the cause of
4 action accrues, and not after.

5 (b) All claims against any mover for damage to property shall
6 be filed in writing with the mover within 6 months from the time
7 the cause of action accrues, and not after, and all suits in respect
8 thereof shall be instituted within 1 year, such period of institution
9 to be computed from the day that notice in writing is given by the
10 mover to the claimant that the mover has disallowed the claim or
11 any part or parts thereof specified in the notice.

1 11. Fees.

2 (a) There shall be paid to the board a fee of \$75.00 upon the
3 filing of every application for a certificate, or the transfer or as-
4 signment of same. Certificates issued shall automatically expire on
5 August 1 of each year unless the holder thereof shall on or before
6 July 17 of each year pay to the board a renewal fee of \$50.00
7 accompanied by a renewal application on a form prescribed by the
8 board. Certificates shall continue in full force and effect upon the
9 filing of such application and payment until issuance by the board

10 of evidence of renewal or until 30 days after the board shall have
11 refused to issue such evidence of renewal.

12 (b) Copies of the public movers certificate or the renewal
13 thereof shall be issued by the board to the holder thereof for a
14 fee of \$10.00 each.

15 (c) A copy of the public movers certificate shall be carried on
16 each truck, tractor, trailer or semitrailer or combination thereof
17 at all times when such vehicle is being used in operations subject
18 to this act.

19 (d) There shall be paid to the board a fee of \$75.00 upon the
20 filing of every tariff or schedule, and a fee of \$5.00 upon the filing
21 of each supplement thereto.

1 12. Security for the protection of the public.

2 (a) No certificate shall be issued to a mover or remain in force
3 unless such mover complies with such reasonable rules and regula-
4 tions as the board shall prescribe governing the approval of surety
5 bonds, policies of insurance, qualifications as a self-insurer or other
6 securities or agreements, in such reasonable amount as the board
7 may require, conditioned to pay within the amount of such surety
8 bonds, policies of insurance, qualifications as a self-insurer or other
9 securities or agreements, any final judgment recovered against such
10 mover for bodily injuries to or the death of any person resulting
11 from the negligent operation, maintenance or use of motor vehicles
12 under such certificate, or for loss or damage to property of others;
13 provided, that any surety company or casualty insurance company,
14 or mutual casualty insurance company providing said bonds or
15 policies shall be duly licensed by the Commissioner of Banking
16 and Insurance of this State or duly authorized by said commis-
17 sioner to do business in this State, and duly authorized by its char-
18 ter to write such surety bonds or policies of insurance mentioned
19 herein.

20 (b) Any mover which may be required by law or contract entered
21 into to compensate a shipper or consignee for any loss, damage,
22 or default for which a connecting carrier is legally responsible shall
23 be subrogated to the rights of such shipper or consignee under such
24 bond, policies of insurance, or other securities or agreements, to
25 the extent of the sum so paid.

26 (c) If such financial coverage shall be by insurance policy, evi-
27 dence thereof shall be filed with the board in such form and amounts
28 as the board may prescribe.

1 13. Rates and changes.

2 (a) It shall be the duty of every mover to provide safe, proper
3 and adequate service, equipment and facilities for performing

4 movers' service in intrastate commerce; to establish, observe, and
5 enforce just and reasonable regulations and practices relating
6 thereto and to manner and method of presenting, marking, packing
7 and delivering property for transportation, the facilities for trans-
8 portation, and all other matters relating to, or connected with the
9 transportation of property in intrastate commerce.

10 (b) Movers may establish reasonable through routes and joint
11 rates, charges, and classifications with other such movers or with
12 common carriers by railroad, express, water or air; and in case of
13 such joint rates, or charges, it shall be the duty of the movers and
14 carriers parties thereto to establish just and reasonable regulations
15 and practices in connection therewith, and just, reasonable, and
16 equitable divisions thereof as between the movers and carriers
17 participating therein which shall not unduly prefer or prejudice
18 any of such participating movers and carriers.

19 (c) It shall be unlawful for any mover to make, give, or cause
20 any undue or unreasonable preference or advantage to any particu-
21 lar person, port, gateway, locality, or traffic of any description in
22 any respect whatsoever, or to subject any particular person, port,
23 gateway, locality, or traffic of any description, in any respect what-
24 soever, to any unjust discrimination or any undue or unreasonable
25 prejudice or disadvantage. Movers operating under a common con-
26 trol or management or movers interchanging or intertying ship-
27 ments with each other shall maintain an equal level of rates within
28 the same area or between the same points.

29 (d) Whenever there shall be filed with the board any schedule
30 stating a new individual or joint rate, or charge, or classification
31 of property by a mover or movers in intrastate commerce, or any
32 rule, regulation, or practice affecting such rate, or charge, or the
33 value of the service thereunder, the board is authorized and empow-
34 ered upon complaint of any interested party or upon its own initia-
35 tive at once and, if it so orders, without answer or other formal
36 pleadings by the interested mover or movers, but upon reasonable
37 notice, to enter upon a hearing concerning the lawfulness of such
38 rate, or charge, or such rule, regulation, or practice, and pending
39 such hearing and the decision thereon, the board, by filing with
40 such schedule and delivering to the mover or movers affected
41 thereby a statement in writing of its reasons for such suspension,
42 may suspend the operation of such schedule and defer the use of
43 such rate, or charge, or such rule, regulation, or practice, for a
44 period of 120 days and if the proceeding has not been concluded
45 and a final order made within such period, the board may extend
46 the period of suspension by order, but not for a period exceeding 6

47 months beyond the time when it would otherwise go into effect;
48 and after hearing, whether completed before or after the rate,
49 charge, classification, rule, regulation or practice goes into effect,
50 the board may make such order with reference thereto as would
51 be proper in a proceeding instituted after it had become effective.
52 If the proceeding has not been concluded and an order made within
53 the period of suspension, the proposed change of rate, or charge,
54 or classification, rule, regulation or practice, shall go into effect
55 at the end of such period; provided, that this paragraph shall not
56 apply to any initial schedule or schedules filed by any such mover
57 or movers in bona fide operation when this section takes effect.

58 (e) In the exercise of its power to prescribe minimum rates for
59 the transportation of property by movers, the board shall give due
60 consideration, among other factors, to the inherent advantages of
61 transportation by such movers, to the effect of rates upon the
62 movement of traffic by such movers, to the need, in the public
63 interest, of adequate and efficient transportation service by such
64 movers at the lowest, reasonable cost consistent with the furnish-
65 ing of such service and to the need for revenue of a level which
66 under honest, efficient and economical management is sufficient to
67 cover the cost of providing adequate transportation service with
68 a reasonable profit to the mover.

69 (f) In a case involving a complaint against a currently effective
70 rate, the burden of proof shall be upon the complainant. In a case
71 involving a petition or complaint against a rate proposed to become
72 effective, the burden of proof shall be upon the mover proponent.

73 (g) Nothing in this section shall be held to extinguish any rem-
74 edy or right of action not inconsistent herewith.

1 14. Tariffs.

2 (a) Every mover shall file with the board, print, and keep open
3 to public inspection, tariffs showing all rates, charges for trans-
4 portation, and all services in connection therewith, of property in
5 intrastate commerce between its authorized points and between its
6 authorized points and points authorized to any other such mover
7 when a through service and joint rates shall have been established.
8 Such rates and charges shall be stated in terms of lawful money
9 of the United States. The tariffs required by this section shall be
10 published, filed, and posted in such form and manner, and shall
11 contain such information, as the board shall prescribe; and the
12 board is authorized to reject any tariff filed with it which is not
13 in consonance with this act. Any tariff so rejected by the board
14 shall be void and its use shall be unlawful.

15 (b) No mover shall charge, demand, collect or receive a greater,
16 lesser or different compensation for movers' service between the
17 points enumerated in such tariff than the rates and charges speci-
18 fied in the tariffs in effect at the time; and no such mover shall
19 refund or remit in any manner or by any device, directly or indi-
20 rectly, or through any agent or broker or otherwise, any portion
21 of the rates or charges so specified, or extend to any person any
22 privileges or facilities for transportation except such as are speci-
23 fied in its tariffs.

24 (c) No change shall be made in any rate, charge or classification,
25 or by any rule, regulation, or practice affecting such rate, charge
26 or classification, or the value of the service thereunder, specified
27 in any effective tariff of a mover except after 30 days' notice of
28 the proposed change filed and posted in accordance with paragraph
29 (a) of this section. Such notice shall plainly state the change pro-
30 posed to be made and the time when such change will take effect.
31 The board may, in its discretion and for good cause shown, in par-
32 ticular instances, allow such change upon notice less than that
33 herein specified or modify the requirements of this section with
34 respect to posting and filing the tariffs either in particular instances
35 or by general order applicable to special or peculiar circumstances
36 or conditions.

37 (d) No mover, unless otherwise provided by this act, shall en-
38 gage in the transportation of property subject to this act unless
39 the rates and charges upon which the same are transported by said
40 mover have been filed and published in accordance with the provi-
41 sions of the act.

42 (e) Under such regulations as the board may prescribe, a group
43 of 2 or more movers may be permitted to file an agreement relating
43A to rates, or a common tariff or common tariffs relating to rates,
44 classification, divisions, allowance or charges, and rules, regula-
45 tions and procedures for their operation, consideration, initiation
46 and establishment; and provided that such agreements and prac-
47 tices accord to each mover the free and unrestrained right to take
48 independent action either before or after any determination ar-
49 rived at through such procedures. Movers filing agreements or
50 tariffs pursuant to this section shall be exempt from the operation
51 of any other laws relating to agreements in restraint of trade.

1 15. Collection of charges.

2 No mover shall deliver or relinquish possession at destination
3 of any property transported by it until all rates and charges
4 thereon have been paid, except under such rules and regulations
5 as the board may from time to time prescribe to govern the set-

6 tlement of all such rates and charges, including rules and regula-
7 tions for weekly settlement, and to prevent unjust discrimination
8 and undue preference or prejudice; provided, that the provisions
9 of this section shall not be construed to prohibit any such mover
10 from extending credit in connection with rates or charges on prop-
11 erty transported for the United States, or any agency or subdivi-
12 sion thereof, this State or any department, bureau or agency
13 thereof.

1 16. Orders, notices, and service of process.

2 (a) It shall be the duty of every mover operating under a
3 certificate, to file with the board a designation in writing of the
4 name and post-office address in this State of a person upon whom
5 or which service of orders, notices or processes may be made pur-
6 suant to this act. Such designation may, from time to time be
7 changed by like writing, similarly filed. Service of orders, notices
8 or processes in proceedings under this act may be made upon a
9 mover by personal service upon it, or upon the person so desig-
10 nated by it, or by registered mail addressed to it, or to such person
11 at the address filed. In default of such designation, service of any
12 order, notice or process may be made by posting in the office of
13 the secretary of the board in the city of Trenton. Whenever notice
14 is given by mail as provided herein, the date of mailing shall be
15 considered as the time when service is made.

16 (b) This section shall not be construed as limiting any other
17 lawful manner of service of process upon movers.

18 (c) Except as otherwise provided in this act, all orders of the
19 board shall take effect on such date or within a reasonable time
20 as the board may prescribe and shall continue in force until its
21 further order, or for a specified period of time, according as shall
22 be prescribed in the order, unless the same shall be suspended or
23 modified or set aside by the board, or be suspended or set aside
24 by a court of competent jurisdiction.

1 17. Unlawful operation; penalties.

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

10 (b) If any mover operates in violation of any provisions of this
11 act (except as to the reasonableness of rates or charges and the

12 discriminatory character thereof), or any rule, regulation, require-
13 ment, or order thereunder, or of any term, condition or limitation
14 of any certificate, any person injured thereby or the board or its
15 duly authorized agent may apply to the Superior Court of this
16 State for the enforcement of such provisions of this act, or of such
17 rule, regulation, requirement, order, term, condition or limitation;
18 and such court shall have jurisdiction to enforce compliance thereto
19 by an appropriate judgment or order.

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

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

48 (e) No person shall for compensation sell or offer for sale
49 movers' services subject to this act or shall enter into any contract
50 agreement or arrangement to provide, procure, furnish or arrange
51 for such services or shall hold himself out by advertisement solici-
52 tation or otherwise to sell, provide, procure, contract or arrange
53 for movers' services unless such person is a bona fide employee
54 or a booking agent of such mover. This action shall apply insofar

55 as it concerns a movers' service subject to this act furnished by
56 any mover or movers, singly or jointly, or by any mover in com-
57 bination with any for-hire carrier.

58 (f) The appointment of a booking agent by a mover shall not
59 permit such agent to transport shipments in vehicles owned or
60 controlled by the booking agent. Nothing in paragraphs (e) and
61 (f) shall be construed to prevent a mover from interchanging
62 or interlining shipments with another mover or from leasing equip-
63 ment to or from another mover or from an owner operator.

1 18. Enforcement.

2 (a) The board shall by civil action in any court of competent
3 jurisdiction of this State, prevent any person from operating as
4 a mover in violation of the provisions of this act. Penalties as
5 provided in this act may be recovered in a summary proceeding
6 pursuant to the penalty enforcement law (N. J. S. 2A:58-1 et seq.)
7 or by any proceeding before a magistrate of the State of New Jer-
8 sey or other court of competent jurisdiction.

9 (b) It shall be the duty of the board, its agents, employees, and
10 inspectors appointed under its authority to enforce all of the pro-
11 visions of this act, and, for the purpose of such enforcement, au-
12 thority and power are hereby given to them and each of them to
13 stop any mover's vehicle and examine the same as well as any
14 shipping documents, or vehicle leases to insure that the provisions
15 and requirements of this act, the rules and regulations thereunder,
16 the terms, conditions and limitations of any certificate that may
17 have been issued to any such mover are being complied with and
18 to issue a summons in the same manner as any police officer of
19 the State for appearance before a magistrate or other court of
20-32 competent jurisdiction.

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

1 19. Disposition of Fees.

2 All fees shall be accounted for and forwarded by the board to
3 the Treasurer of the State and all such sums shall become part of
4 the General State Fund; and any and all fines, penalties and for-
5 feitures imposed and collected for violation of any of the provi-
6 sions of this act shall become a part of the General State Fund.

1 20. Appropriation.

2 There is hereby appropriated to the board the sum of \$90,000.00

3 to meet the cost of administration and enforcement of this act until
4 June 30, 1969.

1 21. Separability.

2 If any provisions of this act, or the application thereof; to any
3 person, or commerce, or circumstances, is held invalid the remain-
4 der of the act and the application thereof to other persons, com-
5 merce or circumstances, shall not be affected thereby.

1 22. Effective date of the act.

2 This act shall take effect and be in force on and after ***[January**
3 **1,]*** *July 1,* 1969; ***[provided, however, that the commission**
4 **may, if found by it necessary or desirable in the public interest,**
5 **by general or special order, postpone the taking effect of any pro-**
6 **vision of this act to such time after January 1, 1969, as the com-**
7 **mission shall prescribe, but not beyond April 1, 1969]*** *provided,*
8 *however, that the commission may in its discretion do immediately*
9 *all things necessary and appropriate to prepare for the implemen-*
10 *tation of the provisions of this act*.*

SENATE, No. 690

STATE OF NEW JERSEY

INTRODUCED APRIL 22, 1968

By Senator DUMONT

Referred to Committee on Transportation and Public Utilities

AN ACT concerning public utilities in relation to the transportation of property by movers, defining the same, making an appropriation, and supplementing Title 48 of the Revised Statutes.

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

1 1. This act shall be known and may be cited as the "Public Movers
2 Act."

1 2. Declaration of policy and delegation of jurisdiction.

2 (a) It is hereby declared to be the policy of this Legislature to
3 regulate transportation of household goods and special commodi-
4 ties and the movers' service provided by movers in a fair and
5 impartial manner as to recognize and preserve the inherent advan-
6 tages of, and foster sound economic conditions in, such transporta-
7 tion and among such carriers in the public interest; promote safety
8 of operations upon the public highways, adequate, economical and
9 efficient service by movers, and just and reasonable charges there-
10 for, without unjust discriminations, undue preference or advan-
11 tages, or unfair or destructive competitive practices; to protect the
12 interest of the public, improve the relations between, and co-ordi-
13 nate transportation by, movers and other carriers; and co-operate
14 with Federal Government and the several States of the United
15 States, and duly authorized officials thereof in matters relating
16 to highway transportation, and with movers associations in the
17 administration of this act.

18 (b) The provisions of this act apply to the transportation of
19 household goods and special commodities and to the performance
20 of accessorial services in connection with such transportation by
21 movers over the public highways of this State, and regulation of
22 such transportation and such services is hereby vested in the Board
23 of Public Utility Commissioners.

1 3. Definitions.

2 The words and phrases used herein shall have the following
3 meaning:

4 (a) The term "person" means any individual, co-partnership,
5 association, company, or corporation, and includes any trustee,
6 receiver, assignee, leasee, or personal representative of any person
7 herein defined.

8 (b) The term "board" means the Board of Public Utility Com-
9 missioners of the Department of Public Utilities of this State.

10 (c) The term "public mover," or "mover," means any person
11 who or which engages in or holds itself out to the general public
12 to engage in the transportation of household goods and special
13 commodities by motor vehicle for compensation in intrastate com-
14 merce between points in this State, including the moving of house-
15 hold goods and special commodities from one location to another
16 at a single address, and who or which engages in the performance
17 of accessorial services.

18 (d) The term "motor vehicle" means any vehicle, machine, trac-
19 tor, truck, trailer, or semitrailer, or any combination thereof, pro-
20 pelled, driven or drawn by mechanical power, and used upon the
21 public highways in the transportation of the household goods and
22 special commodities in intrastate commerce defined herein.

23 (e) The term "intrastate commerce" means commerce moving
24 wholly between points within the State over all public highways,
25 or at a single location.

26 (f) The term "public highway" or "highway" means any pub-
27 lic street, road, thoroughfare, bridge and way in this State open
28 to the use of the public as a matter of right for purposes of motor
29 vehicular travel, including those that impose toll charges.

30 (g) The term "movers' services" includes all of the services
31 rendered by a public mover, as defined above.

32 (h) The term "household goods" means personal effects; fix-
33 tures; equipment; stock and supplies or other property usually
34 used in or as part of the stock of a dwelling, office or commercial,
35 institutional, professional, or other type of establishment;

36 and the term "special commodities," means and includes objects
37 of works of art, furniture, fixtures, appliances, business machines,
38 electronic equipment, displays, exhibits, home, office, store, theatri-
39 cal or show equipment, musical instruments or other articles of-
40 fered for transportation, uncrated or unboxed, requiring the use
41 of equipment or personnel usually furnished or employed by movers
42 of such articles.

43 (i) The term "accessorial service" means the preparation of
44 articles for shipment such as packing, crating, boxing and servicing
45 of appliances including the furnishing of containers, unpacking,
46 uncrating, reassembling of articles, placing them at final destina-
47 tion and the moving or shifting of articles from one location to
48 another within a building, or at a single address.

49 (j) The term "public movers certificate" means the certificate
50 of public convenience and necessity issued by the Board of Public
51 Utility Commissioners to a public mover to operate as such over
52 the public highways of this State, or at a single location.

53 (k) The term "property" shall include all of the articles in the
54 definition of household goods and special commodities.

55 (l) The term "booking agent" means a representative, other
56 than a regular employee, appointed by a public mover to solicit,
57 arrange for, and enter into transportation contracts exclusively
58 in the name and on behalf of such public mover.

1 4. Vehicles exempted from jurisdiction of this act.

2 The provisions of this act shall not be construed to include motor
3 vehicles owned or operated by:

4 (a) The United States, the State, or any local government
5 subdivision, agency or instrumentality thereof;

6 (b) Persons transporting property in intrastate commerce with-
7 out compensation or of which such person is the owner and where
8 the transportation is not performed as a subterfuge to avoid regu-
9 lations hereunder.

1 5. General duties and powers of the board.

2 It shall be the duty of the board:

3 (a) To regulate public movers of household goods and special
4 commodities and the transportation, moving and accessorial serv-
5 ices which they perform, as provided in this act, and to that end,
6 the board shall establish reasonable requirements in respect to
7 proper and adequate movers' service, to fix and enforce just and
8 reasonable rates for said service; to prescribe minimum levels of
9 rates, together with governing classifications or exceptions and
10 rules and regulations applicable to such rate structure; to prescribe
11 a uniform system of accounts, rates, records and reports and the
12 preservation of records.

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

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

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

1 6. Application for and issuance of certificates.

2 (a) No public mover shall operate or render a moving service
3 as defined herein unless there is in force with respect to such public
4 mover a certificate of public convenience and necessity issued by
5 the board authorizing such operation.

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

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

35 take effect. Pending determination of any such application, the
36 continuance of operation as a mover shall be lawful.

37 (d) In order to have been in bona fide operation, as required in
38 paragraph (c) above, a public mover must have maintained a per-
39 manent place of business located in this State on or before January
40 1, 1968, and shall have owned or operated under lease at least one
41 moving van registered in this State on or before January 1, 1968.

42 (e) Any public mover not included within paragraph (c) of this
43 section, who is engaged in the transportation of household goods
44 and special commodities as a public mover when this act takes
45 effect, may continue such operation for a period of 120 days there-
46 after without a certificate, and, if application for such certificate
47 has been made to the board within such period, the carrier, may,
48 under such regulations as the board shall prescribe, continue such
49 operation until otherwise ordered by the board.

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

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

1 7. Terms and conditions of certificates.

2 (a) Certificates issued under section 6 shall specify the service
3 to be rendered and the points between which, or territory within
4 which, the public mover is authorized to operate or serve. There
5 shall, at the time of issuance of such certificate and from time to
6 time thereafter, be attached to the exercise of privileges granted
7 by the certificate such reasonable terms, conditions, and limitations
8 as the public convenience and necessity may from time to time re-
9 quire; provided that no terms, conditions, or limitations shall re-
10 strict the right of the mover to add to, or dispose of, its equipment
11 and facilities within the territory specified in the certificate as the
12 development of the business and the demands of the public shall
13 require.

14 (b) Certificates issued pursuant to section 6 (c) of this act shall
15 authorize operations over irregular routes between all points within
16 the State.

1 8. Temporary approval for operation during merger and consol-
2 idation.

3 (a) Pending the determination of an application filed with the
4 board for approval of a consolidation or merger of the properties
5 or 2 or more public movers, or of a purchase, lease, or contract to
6 operate the properties of one or more movers, the board may, in its
7 discretion, and without hearings or other proceedings, grant tem-
8 porary approval of the operation of the movers' properties sought
9 to be acquired by the person proposing in such pending application
10 to acquire such properties, if it shall appear that failure to grant
11 such temporary approval may result in destruction of, or injury
12 to, such movers' properties sought to be acquired, or to interfere
13 substantially with their future usefulness in the performance of
14 adequate and continuous service to the public.

15 (b) Transportation service rendered under such temporary au-
16 thority shall be subject to all applicable provisions of this act and
17 to the rules, regulations, and requirements of the board promul-
18 gated thereunder.

1 9. Suspension, change, revocation, and transfer of certificates.

2 (a) Certificates shall be effective from the date specified therein,
3 and shall remain in effect until suspended or terminated as herein
4 provided. Any such certificate may, upon application of the holder
5 thereof, in the discretion of the board and upon public notice, be
6 amended or revoked, in whole or in part, or may upon complaint,
7 or on the board's own initiative after notice and hearing, be sus-
8 pended, changed, or revoked, in whole or in part, for willful failure
9 to comply with any provisions of this act, or with any lawful order,
10 rule, or regulation of the board promulgated thereunder, or with
11 any term, condition of limitation of such certificate; provided that
12 subject to the provisions of paragraph (c) of this section, no such
13 certificate shall be revoked (except upon application of the holder)
14 unless the holder thereof willfully fails to comply, within a reason-
15 able time, but not less than 30 days, to be fined by the board after
16 a lawful order of the board, commanding obedience to the provi-
17 sion of this act or to the rules or regulations of the board promul-
18 gated thereunder, or to the terms, conditions or limitations of such
19 certificates found by the board to have been violated by such holder;
20 and provided, further, that the right to engage in movers' service
21 in this State by virtue of any certificate, or any application filed
22 pursuant to the provisions of section 6 or temporary authority un-
23 der section 8, may be suspended by the board, upon reasonable
24 notice of not less than 15 days to the mover, but without hearing
25 or other proceedings, for failure to comply, and until compliance,

26 with the provisions of this act or with any lawful order, rule or
27 regulation of the board promulgated thereunder.

28 (b) Any certificate may be transferred pursuant to such rules
29 and regulations as the board may prescribe, including notice by
30 the board to movers having an interest therein; provided the appli-
31 cant established (1) that the transferee is fit, willing and able to
32 operate pursuant to the terms of said certificate, as provided in
33 section 7 of this act; (2) that operations authorized by such cer-
33A tificate are being conducted in accordance with the terms of the cer-
34 tificate; and (3) that if the authority sought to be acquired is to
35 be joined with other authority held by the transferee, such resulting
36 authority will not adversely affect existing authorized service.

37 (c) Where for the continuous period of 1 year, a holder of a
38 certificate fails to render any movers' service in intrastate com-
39 merce under said certificate, except for reasons not within the
40 control of said holder of such certificate, the board, on its own
41 motion, or upon the complaint of any interested party, may direct
42 the revocation of said certificate, only after reasonable opportunity
43 for hearing to interested parties. No order of revocation shall be
44 issued under this subparagraph solely for failure to render service
45 in any part of the State, as long as any movers' service has been
46 rendered by said holder.

1 10. Limitation of actions.

2 (a) All actions at law by movers subject to this act for recovery
2A of their charges, or any part thereof, or for the recovery of over-
3 charges shall be begun within 2 years from the time the cause of
4 action accrues, and not after.

5 (b) All claims against any mover for damage to property shall
6 be filed in writing with the mover within 6 months from the time
7 the cause of action accrues, and not after, and all suits in respect
8 thereof shall be instituted within 1 year, such period of institution
9 to be computed from the day that notice in writing is given by the
10 mover to the claimant that the mover has disallowed the claim or
11 any part or parts thereof specified in the notice.

1 11. Fees.

2 (a) There shall be paid to the board a fee of \$75.00 upon the
3 filing of every application for a certificate, or the transfer or as-
4 signment of same. Certificates issued shall automatically expire on
5 August 1 of each year unless the holder thereof shall on or before
6 July 17 of each year pay to the board a renewal fee of \$50.00
7 accompanied by a renewal application on a form prescribed by the
8 board. Certificates shall continue in full force and effect upon the
9 filing of such application and payment until issuance by the board

10 of evidence of renewal or until 30 days after the board shall have
11 refused to issue such evidence of renewal.

12 (b) Copies of the public movers certificate or the renewal
13 thereof shall be issued by the board to the holder thereof for a
14 fee of \$10.00 each.

15 (c) A copy of the public movers certificate shall be carried on
16 each truck, tractor, trailer or semitrailer or combination thereof
17 at all times when such vehicle is being used in operations subject
18 to this act.

19 (d) There shall be paid to the board a fee of \$75.00 upon the
20 filing of every tariff or schedule, and a fee of \$5.00 upon the filing
21 of each supplement thereto.

1 12. Security for the protection of the public.

2 (a) No certificate shall be issued to a mover or remain in force
3 unless such mover complies with such reasonable rules and regula-
4 tions as the board shall prescribe governing the approval of surety
5 bonds, policies of insurance, qualifications as a self-insurer or other
6 securities or agreements, in such reasonable amount as the board
7 may require, conditioned to pay within the amount of such surety
8 bonds, policies of insurance, qualifications as a self-insurer or other
9 securities or agreements, any final judgment recovered against such
10 mover for bodily injuries to or the death of any person resulting
11 from the negligent operation, maintenance or use of motor vehicles
12 under such certificate, or for loss or damage to property of others;
13 provided, that any surety company or casualty insurance company,
14 or mutual casualty insurance company providing said bonds or
15 policies shall be duly licensed by the Commissioner of Banking
16 and Insurance of this State or duly authorized by said commis-
17 sioner to do business in this State, and duly authorized by its char-
18 ter to write such surety bonds or policies of insurance mentioned
19 herein.

20 (b) Any mover which may be required by law or contract entered
21 into to compensate a shipper or consignee for any loss, damage,
22 or default for which a connecting carrier is legally responsible shall
23 be subrogated to the rights of such shipper or consignee under such
24 bond, policies of insurance, or other securities or agreements, to
25 the extent of the sum so paid.

26 (c) If such financial coverage shall be by insurance policy, evi-
27 dence thereof shall be filed with the board in such form and amounts
28 as the board may prescribe.

1 13. Rates and changes.

2 (a) It shall be the duty of every mover to provide safe, proper
3 and adequate service, equipment and facilities for performing

4 movers' service in intrastate commerce; to establish, observe, and
5 enforce just and reasonable regulations and practices relating
6 thereto and to manner and method of presenting, marking, packing
7 and delivering property for transportation, the facilities for trans-
8 portation, and all other matters relating to, or connected with the
9 transportation of property in intrastate commerce.

10 (b) Movers may establish reasonable through routes and joint
11 rates, charges, and classifications with other such movers or with
12 common carriers by railroad, express, water or air; and in case of
13 such joint rates, or charges, it shall be the duty of the movers and
14 carriers parties thereto to establish just and reasonable regulations
15 and practices in connection therewith, and just, reasonable, and
16 equitable divisions thereof as between the movers and carriers
17 participating therein which shall not unduly prefer or prejudice
18 any of such participating movers and carriers.

19 (c) It shall be unlawful for any mover to make, give, or cause
20 any undue or unreasonable preference or advantage to any particu-
21 lar person, port, gateway, locality, or traffic of any description in
22 any respect whatsoever, or to subject any particular person, port,
23 gateway, locality, or traffic of any description, in any respect what-
24 soever, to any unjust discrimination or any undue or unreasonable
25 prejudice or disadvantage. Movers operating under a common con-
26 trol or management or movers interchanging or intertying ship-
27 ments with each other shall maintain an equal level of rates within
28 the same area or between the same points.

29 (d) Whenever there shall be filed with the board any schedule
30 stating a new individual or joint rate, or charge, or classification
31 of property by a mover or movers in intrastate commerce, or any
32 rule, regulation, or practice affecting such rate, or charge, or the
33 value of the service thereunder, the board is authorized and empow-
34 ered upon complaint of any interested party or upon its own initia-
35 tive at once and, if it so orders, without answer or other formal
36 pleadings by the interested mover or movers, but upon reasonable
37 notice, to enter upon a hearing concerning the lawfulness of such
38 rate, or charge, or such rule, regulation, or practice, and pending
39 such hearing and the decision thereon, the board, by filing with
40 such schedule and delivering to the mover or movers affected
41 thereby a statement in writing of its reasons for such suspension,
42 may suspend the operation of such schedule and defer the use of
43 such rate, or charge, or such rule, regulation, or practice, for a
44 period of 120 days and if the proceeding has not been concluded
45 and a final order made within such period, the board may extend
46 the period of suspension by order, but not for a period exceeding 6

47 months beyond the time when it would otherwise go into effect;
48 and after hearing, whether completed before or after the rate,
49 charge, classification, rule, regulation or practice goes into effect,
50 the board may make such order with reference thereto as would
51 be proper in a proceeding instituted after it had become effective.
52 If the proceeding has not been concluded and an order made within
53 the period of suspension, the proposed change of rate, or charge,
54 or classification, rule, regulation or practice, shall go into effect
55 at the end of such period; provided, that this paragraph shall not
56 apply to any initial schedule or schedules filed by any such mover
57 or movers in bona fide operation when this section takes effect.

58 (e) In the exercise of its power to prescribe minimum rates for
59 the transportation of property by movers, the board shall give due
60 consideration, among other factors, to the inherent advantages of
61 transportation by such movers, to the effect of rates upon the
62 movement of traffic by such movers, to the need, in the public
63 interest, of adequate and efficient transportation service by such
64 movers at the lowest, reasonable cost consistent with the furnish-
65 ing of such service and to the need for revenue of a level which
66 under honest, efficient and economical management is sufficient to
67 cover the cost of providing adequate transportation service with
68 a reasonable profit to the mover.

69 (f) In a case involving a complaint against a currently effective
70 rate, the burden of proof shall be upon the complainant. In a case
71 involving a petition or complaint against a rate proposed to become
72 effective, the burden of proof shall be upon the mover proponent.

73 (g) Nothing in this section shall be held to extinguish any rem-
74 edy or right of action not inconsistent herewith.

1 14. Tariffs.

2 (a) Every mover shall file with the board, print, and keep open
3 to public inspection, tariffs showing all rates, charges for trans-
4 portation, and all services in connection therewith, of property in
5 intrastate commerce between its authorized points and between its
6 authorized points and points authorized to any other such mover
7 when a through service and joint rates shall have been established.
8 Such rates and charges shall be stated in terms of lawful money
9 of the United States. The tariffs required by this section shall be
10 published, filed, and posted in such form and manner, and shall
11 contain such information, as the board shall prescribe; and the
12 board is authorized to reject any tariff filed with it which is not
13 in consonance with this act. Any tariff so rejected by the board
14 shall be void and its use shall be unlawful.

15 (b) No mover shall charge, demand, collect or receive a greater,
16 lesser or different compensation for movers' service between the
17 points enumerated in such tariff than the rates and charges speci-
18 fied in the tariffs in effect at the time; and no such mover shall
19 refund or remit in any manner or by any device, directly or indi-
20 rectly, or through any agent or broker or otherwise, any portion
21 of the rates or charges so specified, or extend to any person any
22 privileges or facilities for transportation except such as are speci-
23 fied in its tariffs.

24 (c) No change shall be made in any rate, charge or classification,
25 or by any rule, regulation, or practice affecting such rate, charge
26 or classification, or the value of the service thereunder, specified
27 in any effective tariff of a mover except after 30 days' notice of
28 the proposed change filed and posted in accordance with paragraph
29 (a) of this section. Such notice shall plainly state the change pro-
30 posed to be made and the time when such change will take effect.
31 The board may, in its discretion and for good cause shown, in par-
32 ticular instances, allow such change upon notice less than that
33 herein specified or modify the requirements of this section with
34 respect to posting and filing the tariffs either in particular instances
35 or by general order applicable to special or peculiar circumstances
36 or conditions.

37 (d) No mover, unless otherwise provided by this act, shall en-
38 gage in the transportation of property subject to this act unless
39 the rates and charges upon which the same are transported by said
40 mover have been filed and published in accordance with the provi-
41 sions of the act.

42 (e) Under such regulations as the board may prescribe, a group
43 of 2 or more movers may be permitted to file an agreement relating
43A to rates, or a common tariff or common tariffs relating to rates,
44 classification, divisions, allowance or charges, and rules, regula-
45 tions and procedures for their operation, consideration, initiation
46 and establishment; and provided that such agreements and prac-
47 tices accord to each mover the free and unrestrained right to take
48 independent action either before or after any determination ar-
49 rived at through such procedures. Movers filing agreements or
50 tariffs pursuant to this section shall be exempt from the operation
51 of any other laws relating to agreements in restraint of trade.

1 15. Collection of charges.

2 No mover shall deliver or relinquish possession at destination
3 of any property transported by it until all rates and charges
4 thereon have been paid, except under such rules and regulations
5 as the board may from time to time prescribe to govern the set-

6 tlement of all such rates and charges, including rules and regula-
7 tions for weekly settlement, and to prevent unjust discrimination
8 and undue preference or prejudice; provided, that the provisions
9 of this section shall not be construed to prohibit any such mover
10 from extending credit in connection with rates or charges on prop-
11 erty transported for the United States, or any agency or subdivi-
12 sion thereof, this State or any department, bureau or agency
13 thereof.

1 16. Orders, notices, and service of process.

2 (a) It shall be the duty of every mover operating under a
3 certificate, to file with the board a designation in writing of the
4 name and post-office address in this State of a person upon whom
5 or which service of orders, notices or processes may be made pur-
6 suant to this act. Such designation may, from time to time be
7 changed by like writing, similarly filed. Service of orders, notices
8 or processes in proceedings under this act may be made upon a
9 mover by personal service upon it, or upon the person so desig-
10 nated by it, or by registered mail addressed to it, or to such person
11 at the address filed. In default of such designation, service of any
12 order, notice or process may be made by posting in the office of
13 the secretary of the board in the city of Trenton. Whenever notice
14 is given by mail as provided herein, the date of mailing shall be
15 considered as the time when service is made.

16 (b) This section shall not be construed as limiting any other
17 lawful manner of service of process upon movers.

18 (c) Except as otherwise provided in this act, all orders of the
19 board shall take effect on such date or within a reasonable time
20 as the board may prescribe and shall continue in force until its
21 further order, or for a specified period of time, according as shall
22 be prescribed in the order, unless the same shall be suspended or
23 modified or set aside by the board, or be suspended or set aside
24 by a court of competent jurisdiction.

1 17. Unlawful operation; penalties.

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

10 (b) If any mover operates in violation of any provisions of this
11 act (except as to the reasonableness of rates or charges and the

12 discriminatory character thereof), or any rule, regulation, require-
13 ment, or order thereunder, or of any term, condition or limitation
14 of any certificate, any person injured thereby or the board or its
15 duly authorized agent may apply to the Superior Court of this
16 State for the enforcement of such provisions of this act, or of such
17 rule, regulation, requirement, order, term, condition or limitation;
18 and such court shall have jurisdiction to enforce compliance thereto
19 by an appropriate judgment or order.

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

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

48 (e) No person shall for compensation sell or offer for sale
49 movers' services subject to this act or shall enter into any contract
50 agreement or arrangement to provide, procure, furnish or arrange
51 for such services or shall hold himself out by advertisement solici-
52 tation or otherwise to sell, provide, procure, contract or arrange
53 for movers' services unless such person is a bona fide employee
54 or a booking agent of such mover. This action shall apply insofar

55 as it concerns a movers' service subject to this act furnished by
 56 any mover or movers, singly or jointly, or by any mover in com-
 57 bination with any for-hire carrier.

58 (f) The appointment of a booking agent by a mover shall not
 59 permit such agent to transport shipments in vehicles owned or
 60 controlled by the booking agent. Nothing in paragraphs (e) and
 61 (f) shall be construed to prevent a mover from interchanging
 62 or interlining shipments with another mover or from leasing equip-
 63 ment to or from another mover or from an owner operator.

1 18. Enforcement.

2 (a) The board shall by civil action in any court of competent
 3 jurisdiction of this State, prevent any person from operating as
 4 a mover in violation of the provisions of this act. Penalties as
 5 provided in this act may be recovered in a summary proceeding
 6 pursuant to the penalty enforcement law (N. J. S. 2A:58-1 et seq.)
 7 or by any proceeding before a magistrate of the State of New Jer-
 8 sey or other court of competent jurisdiction.

9 (b) It shall be the duty of the board, its agents, employees, and
 10 inspectors appointed under its authority to enforce all of the pro-
 11 visions of this act, and, for the purpose of such enforcement, au-
 12 thority and power are hereby given to them and each of them to
 13 stop any mover's vehicle and examine the same as well as any
 14 shipping documents, or vehicle leases to insure that the provisions
 15 and requirements of this act, the rules and regulations thereunder,
 16 the terms, conditions and limitations of any certificate that may
 17 have been issued to any such mover are being complied with and
 18 to issue a summons in the same manner as any police officer of
 19 the State for appearance before a magistrate or other court of
 20-32 competent jurisdiction.

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

1 19. Disposition of Fees.

2 All fees shall be accounted for and forwarded by the board to
 3 the Treasurer of the State and all such sums shall become part of
 4 the General State Fund; and any and all fines, penalties and for-
 5 feitures imposed and collected for violation of any of the provi-
 6 sions of this act shall become a part of the General State Fund.

1 20. Appropriation.

2 There is hereby appropriated to the board the sum of \$90,000.00

3 to meet the cost of administration and enforcement of this act until
4 June 30, 1969.

1 21. Separability.

2 If any provisions of this act, or the application thereof; to any
3 person, or commerce, or circumstances, is held invalid the remain-
4 der of the act and the application thereof to other persons, com-
5 merce or circumstances, shall not be affected thereby.

1 22. Effective date of the act.

2 This act shall take effect and be in force on and after January 1,
3 1969; provided, however, that the commission may, if found by it
4 necessary or desirable in the public interest, by general or special
5 order, postpone the taking effect of any provision of this act to such
6 time after January 1, 1969, as the commission shall prescribe, but
7 not beyond April 1, 1969.

SENATE AMENDMENTS TO
SENATE, No. 690

—◆—
STATE OF NEW JERSEY
—◆—

ADOPTED NOVEMBER 15, 1968

Amend page 15, section 22, line 2, following "on and after", delete "January 1", and insert in lieu thereof "July 1".

Amend page 15, section 22, line 3, following "1969", delete in its entirety the clause beginning "provided, however," in line 3 and ending "April 1, 1969" in line 7 and insert in lieu thereof "provided, however, that the commission may in its discretion do immediately all things necessary and appropriate to prepare for the implementation of the provisions of this act".

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

November 15, 1968

SENATE BILL NO. 690

To the Senate:

Pursuant to Article V, Section I, paragraph 14(b) of the Constitution, I herewith return Senate Bill No. 690, with my objections, for reconsideration.

Senate Bill No. 690 would empower the Board of Public Utility Commissioners to license and regulate the Public Movers of this State. This licensing and regulation would encompass all movers of household goods and of special commodities incidental to the movement of household goods. Its clear purpose is the protection of the consumer of this necessary service from unfair dealing, the promotion of safety, and the protection and coordination of services within this industry.

In all respects, save one, this measure is worthy of enthusiastic approval. By its terms, however, the bill requires implementation of its provisions on January 1, 1969, subject to administrative postponement by the Board of Public Utility Commissioners not beyond April 1, 1969. As this measure requires the Board to enter upon a new field of regulation and to establish an administrative structure competent in all respects to serve both this industry and the public at large, a period of time greater than two months is necessary for preparation by the Board.

I therefore urge the effective date of this legislation be extended to July 1, 1969, by which time adequate preparation should be completed.

For this reason I herewith return Senate Bill No. 690 for reconsideration and recommend that it be amended as follows:

On page 15, Section 22, line 2, following "on and after", delete "January 1", and insert in lieu thereof "July 1".

On page 15, Section 22, line 3, following "1969", delete in its entirety the clause beginning "provided, however," in line 3 and ending "April 1, 1969" in line 7 and insert in lieu thereof "provided, however, that the commission may in its discretion do immediately all things necessary and appropriate to prepare for the implementation of the provisions of this act".

Respectfully,

/S/ RICHARD J. HUGHES

GOVERNOR

[SEAL]

Attest:

/S/ ALAN J. KARCHER

Acting Secretary to the Governor

PUC Petitioned to Issue Declaratory Order to Clarify Clauses in Movers' Act

The State Board of Public Utility Commissioners has been asked to issue a declaratory order designed to resolve any ambiguity as to who is subject to the Public Movers Act of 1968, which will impose intrastate economic regulation on household goods movers starting July 1.

The request came in the form of a petition and proposed order recently submitted to the Board by attorneys representing NJMTA and the New Jersey Warehousemen and Movers Association. The submission was the culmination of efforts by both organizations to come up with language that would dissipate fears of non-movers that they would have to register under the act to haul freight defined as special commodities in the law.

Three Basic Functions

The proposed order pivots on the definition of a public mover as one who performs three essential functions, namely (1) the transportation of household goods and (2) special commodities and (3) the performance of accessorial services (packing, crating, uncrating, unpacking, boxing, etc.) Any carrier who does

not provide all three of these services, the proposed order states, is not subject to the Act and therefore is not required to register.

The fears of non-movers stemmed from language in the law authorizing public movers to haul uncrated or unboxed special commodities such as objects or works of art, furniture, fixtures, appliances, business machines, electronic equipment, displays, exhibits, home, office, store, theatrical or show equipment, and musical instruments.

Non-Movers Disturbed

Since for-hire carriers who are not household goods movers also transport such commodities, and since quite a number of such carriers affiliated with NJMTA felt that language in the Act would require them to register to continue to carry such articles, efforts were initiated to seek clarification. The result was the framing of the proposed petition and order.

Before the PUC can act on the proposed order, it must first hold a public hearing. If it then approves the order, it will have the force of law. If the order should be held in-

valid, NJMTA members will have the retroactive right to file for certificates under the law, under a reservation written into the petition by the attorneys.


Most of the text of the petition and proposed order follows:

"The fundamental question presented by this petition is whether motor carriers, other than public movers, that transport special commodities as defined in Section 3(h) of the Act are subject to the provision of the new law and must therefore file applications for certificates of public convenience and necessity, tariffs, and otherwise comply with the requirements of the Act. It is the position of the petitioners that the Public Movers Act does not apply to motor carriers, other than movers, under the legislative language and purpose of the Act, and that confirmation of this fact by the Board in the form of a declaratory order would obviate the needless preparation and filing of applications on behalf of carriers other than public movers.

Restricted to Movers

"The Public Movers Act vests in this Board the authority to administer the provisions of the Act on the basis of the subject petition and further on the basis of numerous inquiries received from the public concerning the application of the Public Movers Act. The Board finds a decisive need to confirm that under the clear wording of the Act the regulatory provisions and requirements apply only to the public mover who performs all the transportation services performed by public movers and not to any other type of for-hire intrastate motor carriers.

"The historical and characteristic service performed by a mover is the transportation of used furniture, personal effects, and other belongings from one private residence to another or the movement of office furniture, equipment and fixtures from one office location to another, and the transportation of special commodities such as new furniture, fixtures, appliances, business machines, etc., which require equipment and personnel usually furnished by a mover and the performance of accessorial services in connection with said movements. Section 2(b) of the Public Movers Act specifically states that its provisions apply only to the for-hire intrastate transportation performed by movers. Section 3(c) of the Act, in defining the term



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mover or public mover, sets forth the three essential services of a public mover, namely, the transportation of household goods and special commodities and the performance of accessorial services incidental thereto. The definition of a mover describes three essential activities and is in accord with the historical and characteristic service of a mover. A person who does not perform all three of the named functions as stated in the definition is not a mover or public mover, and is, therefore, not subject to regulation under the Public Movers Act.

General Carriers Involved

"General and specific freight carriers such as are represented by the membership of the New Jersey Motor Truck Association also transport special commodities such as new furniture, fixtures, appliances and business machines. However, such carriers do not perform the other functions so clearly characteristic of the public mover. Since these general and specific freight carriers are not movers either in the historical and characteristic sense of the term nor within the legislative definition of a mover, the regulatory provisions of the Public Movers Act do not apply to their transportation operations. These general and specific freight carriers may continue to perform their for-hire intrastate transportation operations without filing applications for Certificates of Public Convenience and Necessity, tariffs, or otherwise comply with the requirements of the Act.

"The members of the New Jersey Warehousemen and Movers Association recognize in the subject petition that there will be an area in which they are subject to regulation and that other for-hire motor carriers will not be regulated although transporting the same commodities. The moving industry states that it will be readily able to compete with unregulated carriers. A public mover is employed because of a particular type of service it renders and shippers of such traffic recognize this fact and will continue to tender freight in the same manner as they currently do.

"This order is issued by the Board to confirm the position expressed by the New Jersey Warehousemen and Movers Association in their petition that general and specific freight carriers who do not perform all three essential services of a public mover, namely, the transportation of household goods and the transpor-

tation of special commodities and the accessorial services incidental to such movements, are not subject to regulation under the provisions of the Public Movers Act, and therefore not required to file applications for certificates, tariffs or otherwise comply with the requirements of the Act or the regulations of the Board thereunder.

"If for any reason whatsoever this declaratory order is held invalid, the members of the New Jersey Motor Truck Association shall have the right to file for a certificate under the provisions of Section 6(c) nunc pro tunc."

AGENCY EMPLOYS OWN GBL

Although the General Accounting Office recently authorized use of the short form U. S. Government bill of lading by all Federal agencies, the Department of Defense is continuing to use its own short form.

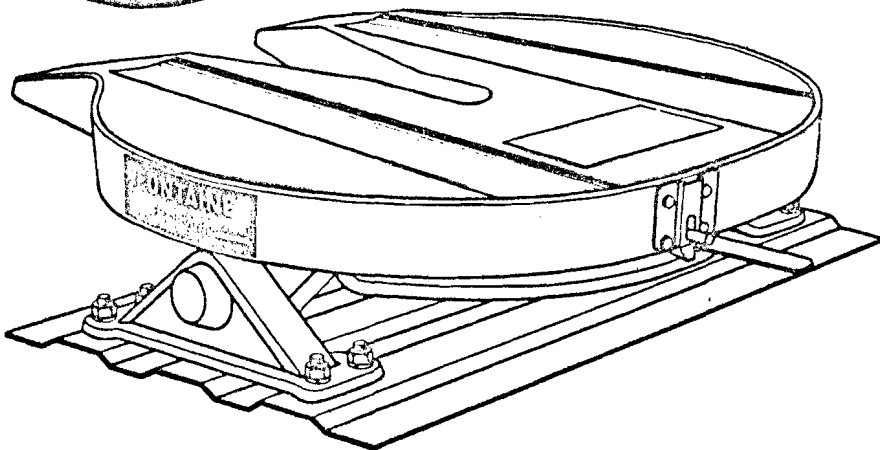
However, in line with the GAO revisions, a carrier can submit this bill for payment after 15 days from date of shipment, even though DD 1536 carries a notation on the reverse side that the carrier must hold for 30 days.

This means that all short form GBLs, regardless of agency, can be sent in for payment after 15 days.

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