

Committee Substitute for House Bill No. 893

An act relating to regulation of movers; providing definitions; providing construction, intent, and application; providing for registration with the Department of Agriculture and Consumer Services; authorizing the department to adopt rules; providing for fees; providing for display of certain information; providing for local registration; providing requirements, procedures, criteria, and limitations; authorizing the department to charge certain fees; providing for denial of or refusal to renew registration; requiring cargo legal liability valuation and insurance coverage; requiring estimates of moving costs; providing requirements and criteria; providing for delivery and storage of household goods; specifying violations; providing that certain violations constitute deceptive and unfair trade practices; providing penalties; providing for relief; providing for deposit of funds; providing for local regulation; providing for enforcement by the department under cooperative agreements with local governments; providing an appropriation; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Definitions.—For the purposes of this act, the term:

(1) “Accessorial services” means any service performed by a mover which results in a charge to the shipper and is incidental to the transportation service, including, but not limited to, valuation coverage; preparation of written inventory; equipment, including dollies, hand-trucks, pads, blankets, and straps; storage, packing, unpacking, or crating of articles; hoisting or lowering; waiting time; long carry, which is defined as carrying articles excessive distances between the mover’s vehicle and the residence; overtime loading and unloading; reweighing; disassembly or reassembly; elevator or stair carrying; boxing or servicing of appliances; and furnishing of packing or crating materials. Accessorial services also include services not performed by the mover but by a third party at the request of the shipper or mover, if the charges for such services are to be paid to the mover by the shipper at or prior to the time of delivery.

(2) “Advertise” means to advise, announce, give notice of, publish, or call attention by use of oral, written, or graphic statement made in a newspaper or other publication or on radio or television, any electronic medium, or contained in any notice, handbill, sign, including signage on vehicle, flyer, catalog or letter, or printed on or contained in any tag or label attached to or accompanying any good.

(3) “Compensation” means money, fee, emolument, quid pro quo, barter, remuneration, pay, reward, indemnification, or satisfaction.

(4) “Contract for service” or “bill of lading” means a written document approved by the shipper in writing prior to the performance of any service which authorizes services from the named mover and lists the services and

all costs associated with the transportation of household goods and accessorial services to be performed.

(5) “Department” means the Department of Agriculture and Consumer Services.

(6) “Estimate” means a written document which sets forth the total cost and the basis of such costs related to a shipper’s move, which shall include, but not be limited to, transportation or accessorial services.

(7) “Household goods” means personal effects or other personal property found in a home, personal residence, storage facility, or other location, including property in a storehouse or warehouse facility that is owned or rented by a shipper or shipper’s agent, but does not include freight or personal property moving to or from a factory, store, or other place of business.

(8) “Mover” means any person who engages in the transportation or shipment of household goods for compensation.

(9) “Shipper” means any person who uses the services of a mover to transport or ship household goods.

(10) “Storage” means warehousing of the shipper’s goods while under the care, custody, and control of the mover.

Section 2. Construction; intent; application.—

(1) The provisions of this act shall be construed liberally to:

(a) Establish the law of this state governing the transportation, shipment, and affiliated storage of household goods.

(b) Address moving practices in this state in a manner not inconsistent with federal law relating to consumer protection.

(2) The provisions of this act shall apply to the operations of any mover engaged in the intrastate transportation of household goods, except this act shall not be construed to include shipments contracted by the United States, the state, or any local government or political subdivision of the state. The provisions of this act shall only apply to the transportation of household goods originating in this state and terminating in this state.

(3) It is the intent of this act to secure the satisfaction and confidence of shippers and members of the public when using a mover.

(4) Nothing in this act shall be construed to remove the authority or jurisdiction of any federal agency with respect to goods or services regulated or controlled under other provisions of law.

Section 3. Registration.—

(1) Each mover shall annually register with the department, providing its legal business and trade name, mailing address, and business locations; the full names, addresses, telephone numbers, and social security numbers

of its owners or corporate officers and directors and the Florida agent of the corporation; a statement whether it is a domestic or foreign corporation, its state and date of incorporation, its charter number, and, if a foreign corporation, the date it registered with the State of Florida, and occupational license where applicable; the date on which a mover registered its fictitious name if the mover is operating under a fictitious or trade name; the name of all other corporations, business entities, and trade names through which each owner of the mover operated, was known, or did business as a mover within the preceding 5 years; and proof of insurance coverage as required by this act.

(2) A certificate evidencing proof of registration shall be issued by the department and must be prominently displayed in the mover's primary place of business.

(3) Registration fees shall be \$300 per year per mover. All amounts collected shall be deposited by the Treasurer to the credit of the General Inspection Trust Fund of the department for the sole purpose of administration of this act.

(4) Any mover whose principal place of business is located in a county or municipality that requires, by local ordinance, a local license or registration to engage in the business of moving and storage of household goods shall obtain the license or registration from such county or municipality. A mover that obtains such local license or registration shall also be required to pay the state registration fee under subsection (3) and the department shall issue the mover a state certificate of registration upon submission of proof of the local license or registration by the mover.

(5) Each contract of a mover must include the phrase "...(NAME OF FIRM)... is registered with the State of Florida as a Mover. Registration No."

(6) Each advertisement of a mover must include the phrase "Fla. Mover Reg. No."

(7) No registration shall be valid for any mover transacting business at any place other than that designated in its application, unless the department is first notified in writing in advance of any change of location. A registration issued under this act shall not be assignable, and the mover shall not be permitted to conduct business under more than one name except as registered. A mover desiring to change its registered name or location or designated agent for service of process at a time other than upon renewal of registration shall notify the department of such change.

(8) The department may deny or refuse to renew the registration of any mover based upon a determination that the mover, or any of its directors, officers, owners, or general partners:

(a) Has failed to meet the requirements for registration as provided in this act;

(b) Has been convicted of a crime involving fraud, dishonest dealing, or any other act of moral turpitude;

(c) Has not satisfied a civil fine or penalty arising out of any administrative or enforcement action brought by any governmental agency or private person based upon conduct involving fraud, dishonest dealing, or any violation of this act;

(d) Has pending against him or her any criminal, administrative, or enforcement proceedings in any jurisdiction, based upon conduct involving fraud, dishonest dealing, or any other act of moral turpitude;

(e) Has had a judgment entered against him or her in any action brought by the department or the Department of Legal Affairs pursuant to this act or ss. 501.201-501.213, Florida Statutes, the Florida Deceptive and Unfair Trade Practices Act; or

(f) Each mover shall provide evidence of current and valid insurance coverage as described in section 4.

Section 4. Cargo legal liability valuation and insurance coverage.—

(1) A mover operating in this state shall maintain current and valid cargo legal liability valuation and insurance coverage which includes:

(a) Coverage for cargo legal liability for loss or damage to household goods arising or resulting from the negligence of the mover, its employees, or agents, in an amount not less than \$10,000 per shipment.

(b) Motor vehicle coverage, including combined bodily injury and property damage liability coverage in the following minimum amounts:

1. \$50,000 per occurrence for a commercial motor vehicle with a gross weight of less than 35,000 pounds.

2. \$100,000 per occurrence for a commercial motor vehicle with a gross weight of more than 35,000 pounds, but less than 44,000 pounds.

3. \$300,000 per occurrence for a commercial motor vehicle with a gross weight of 44,000 pounds or more.

(c) A limitation on the release of a mover's liability for the value of a shipper's goods at a rate not less than 60 cents per pound per article. This limitation of liability shall be disclosed to the shipper in writing at the time the estimate or contract for services is executed prior to the provision of any moving or accessorial services. The disclosure shall also inform the shipper of the opportunity to reject or select additional valuation, including the cost and coverage of such additional valuation.

(2) All insurance coverages required under subsection (1) shall be issued by an insurance company or carrier duly authorized to transact business in the State of Florida. The department may require a mover to present evidence of the required coverages prior to issuance of a registration certificate, or renewal thereof, under section 3 of this act.

Section 5. Estimates and contracts for service.—Prior to providing any moving or accessorial services, a contract and estimate must be provided to

a prospective shipper in writing, must be signed and dated by the shipper and the mover, and must include:

(1) The name, telephone number, and physical address where the mover's employees are available during normal business hours.

(2) The date the contract or estimate is prepared and any proposed date of the move.

(3) The name and address of the shipper, the addresses where the items are to be picked up and delivered, and a telephone number where the shipper may be reached.

(4) The name, telephone number, and physical address of any location where the goods will be held pending further transportation, including situations where the mover retains possession of goods pending resolution of a fee dispute with the shipper.

(5) An itemized breakdown and description and total of all costs and services for transportation and accessorial services to be provided during a move or storage of household goods.

(6) Acceptable forms of payment. A mover shall accept a minimum of two of the three following forms of payment:

(a) Cash, cashier's check, money order, or traveler's check;

(b) Valid personal check, showing upon its face the name and address of the shipper or authorized representative; or

(c) Valid credit card, which shall include, but not be limited to, Visa or MasterCard.

A mover shall clearly and conspicuously disclose to the shipper in the estimate and contract for services the forms of payments the mover it will accept from those categories described in paragraphs (a)-(c).

Section 6. Delivery and storage of household goods.—

(1) A mover must relinquish household goods to a shipper and must place the goods inside a shipper's dwelling unless the shipper has not tendered payment in the amount specified in a written contract or estimate signed and dated by the shipper. A mover may not refuse to relinquish prescription medicines and goods for use by children, including children's furniture, clothing, or toys, under any circumstances.

(2) A mover may not refuse to relinquish household goods to a shipper or fail to place the goods inside a shipper's dwelling based on the mover's refusal to accept an acceptable form of payment.

(3) A mover that lawfully fails to relinquish a shipper's household goods may place the goods in storage until payment is tendered; however, the mover must notify the shipper of the location where the goods are stored and the amount due within 5 days after receipt of a written request for that

information from the shipper, which request must include the address where the shipper may receive the notice. A mover may not require a prospective shipper to waive any rights or requirements under this section.

Section 7. Violations.—It is a violation of this act to:

(1) Conduct business as a mover or advertise to engage in the business of moving or offering to move without first being registered annually with the department.

(2) Knowingly make any false statement, representation, or certification in any application, document, or record required to be submitted or retained under this act.

(3) Misrepresent or deceptively represent:

(a) The contract for services, bill of lading, or inventory of household goods for the move estimated.

(b) The timeframe or schedule for delivery or storage of household goods estimated.

(c) The price, size, nature, extent, qualities, or characteristics of accessory or moving services offered.

(d) The nature or extent of other goods, services, or amenities offered.

(e) A shipper's rights, privileges, or benefits.

(4) Fail to honor and comply with all provisions of the contract for services or bill of lading regarding the purchaser's rights, benefits, and privileges thereunder.

(5) Withhold delivery of household goods or in any way hold goods in storage against the expressed wishes of the shipper if payment has been made as delineated in the estimate or contract for services.

(6)(a) Include in any contract any provision purporting to waive or limit any right or benefit provided to shippers under this act.

(b) Seek or solicit such waiver or acceptance of limitation from a shipper concerning rights or benefits provided under this act.

(c) Use a local mailing address, registration facility, drop box, or answering service in the promotion, advertising, solicitation, or sale of contracts, unless the mover's fixed business address is clearly disclosed during any telephone solicitation and is prominently and conspicuously disclosed on all solicitation materials and on the contract.

(d) Do any other act which constitutes fraud, misrepresentation, or failure to disclose a material fact.

(e) Refuse or fail, or for any of the mover's principal officers to refuse or fail, after notice, to produce any document or record or disclose any information required to be produced or disclosed.

(f) Knowingly make a material false statement in response to any request or investigation by the department, the Department of Legal Affairs, or the state attorney.

Section 8. Deceptive and unfair trade practice.—Acts, conduct, practices, omissions, failings, misrepresentations, or nondisclosures which constitute a violation of this act also constitute a deceptive and unfair trade practice for the purpose of ss. 501.201-501.213, Florida Statutes, the Florida Deceptive and Unfair Trade Practices Act, and administrative rules adopted thereunder.

Section 9. Administrative remedies; penalties.—

(1) The department may enter an order doing one or more of the following if the department finds that a mover or person employed or contracted by a mover has violated or is operating in violation of any of the provisions of this act or the rules or orders issued thereunder:

(a) Issuing a notice of noncompliance pursuant to s. 120.695, Florida Statutes.

(b) Imposing an administrative fine not to exceed \$5,000 for each act or omission.

(c) Directing that the person cease and desist specified activities.

(d) Refusing to register or revoking or suspending a registration.

(e) Placing the registrant on probation for a period of time, subject to such conditions as the department may specify.

(2) The administrative proceedings which could result in the entry of an order imposing any of the penalties specified in subsection (1) are governed by chapter 120, Florida Statutes.

(3) The department has the authority to adopt rules pursuant to chapter 120, Florida Statutes, to implement this act.

Section 10. Civil penalties; remedies.—

(1) The department may institute a civil action in a court of competent jurisdiction to recover any penalties or damages allowed in this act and for injunctive relief to enforce compliance with this act.

(2) The department may seek a civil penalty of up to \$5,000 for each violation of this act.

(3) The department may seek restitution for and on behalf of any shipper aggrieved or injured by a violation of this act.

(4) Any provision in a contract for services or bill of lading from a mover that purports to waive, limit, restrict, or avoid any of the duties, obligations, or prescriptions of the mover, as provided in this act, is void and unenforceable and against public policy.

(5) The remedies provided in this act are in addition to any other remedies available for the same conduct, including those provided in local ordinances.

(6) Upon motion of the department in any action brought under this act, the court may make appropriate orders, including appointment of a master or receiver or sequestration of assets, to reimburse shippers found to have been damaged, to carry out a consumer transaction in accordance with the shipper's reasonable expectations, or to grant other appropriate relief.

Section 11. Criminal penalties.—

(1) The refusal of a mover or a mover's employee, agent, or contractor to comply with an order from a law enforcement officer to relinquish a shipper's household goods after the officer determines that the shipper has tendered payment of the amount of a written estimate or contract, or after the officer determines that the mover did not produce a signed estimate or contract upon which demand is being made for payment, is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, Florida Statutes. A mover's compliance with an order from a law enforcement officer to relinquish goods to a shipper is not a waiver or finding of fact regarding any right to seek further payment from the shipper.

(2) Except as provided in subsection (1), any person or business that violates this act commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, Florida Statutes.

Section 12. General Inspection Trust Fund; payments.—Any moneys recovered by the department as a penalty under this act shall be deposited in the General Inspection Trust Fund.

Section 13. Local regulation.—The provisions of this act are not intended to preempt local ordinances or regulations of a county or municipality that regulate transactions relating to movers of household goods. As provided in section 3(4), counties and municipalities may require, levy, or collect any registration fee or tax or require the registration or bonding in any manner of any mover. The department may enter into a cooperative agreement with any county or municipality that provides for the referral, investigation, and prosecution of consumer complaints alleging violations of this act.

Section 14. There is hereby appropriated six full time equivalent positions and \$200,000 from General Revenue and \$200,000 from the General Inspection Trust Fund in the Department of Agriculture to implement the provisions of this act.

Section 15. This act shall take effect July 1, 2002.

Approved by the Governor April 19, 2002.

Filed in Office Secretary of State April 19, 2002.