

By Representative Seiler

1 A bill to be entitled
2 An act relating to moving companies; creating
3 the "Movers Regulation Act"; providing
4 definitions; providing construction and
5 legislative intent; providing for the
6 Department of Agriculture and Consumer Services
7 to regulate businesses engaged in intrastate
8 transportation of household goods; providing
9 that the act does not supersede local
10 ordinances; prohibiting a person from engaging
11 in business as a mover without obtaining an
12 operating permit from the Department of
13 Agriculture and Consumer Services; requiring
14 that a mover be bonded or establish financial
15 security of a specified amount; providing
16 application requirements; providing for a
17 permit fee; authorizing the department to bring
18 an action to recover against a mover's bond or
19 financial security; specifying circumstances
20 under which the department may deny or refuse
21 to renew an operating permit; providing a
22 procedure for a mover to appeal a denial or
23 revocation of an operating permit; providing
24 for issuance of a replacement permit; requiring
25 that a permit be annually renewed; requiring a
26 mover to provide a written estimate to a
27 shipper; providing requirements for the written
28 estimate; authorizing a mover to require a
29 deposit before loading a shipper's household
30 goods; specifying circumstances under which a
31 mover may retain the deposit; requiring that a

1 mover prepare a written contract before
2 performing any service on behalf of a shipper;
3 providing requirements for the written
4 contract; requiring that the contract contain a
5 disclosure statement; prohibiting a mover from
6 charging a fee in excess of the written
7 contract; providing an exception; requiring
8 that a mover accept certain forms of payment;
9 providing that a violation of the act is a
10 civil infraction; providing penalties;
11 providing procedures for contesting a citation
12 issued by the department; providing that
13 certain offenses involving the unlawful
14 increase of the contract amount or failure to
15 relinquish household goods are felony offenses;
16 authorizing the Department of Legal Affairs to
17 prosecute violations of the act under the
18 Florida Deceptive and Unfair Trade Practices
19 Act; authorizing the Department of Agriculture
20 and Consumer Services to enter into the
21 business premises of a mover to enforce
22 compliance with the act; providing that the act
23 preempts conflicting local laws or ordinances;
24 amending s. 895.02, F.S.; defining felony
25 violations of the act as "racketeering
26 activity" under the Florida RICO (Racketeer
27 Influenced and Corrupt Organization) Act;
28 providing for severability; providing an
29 effective date.

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

1 Section 1. Movers Regulation Act.--
2 (1) SHORT TITLE.--This section may be cited as the
3 "Movers Regulation Act."
4 (2) DEFINITIONS.--As used in this section, the term:
5 (a) "Accessorial service" means any service performed
6 by a mover which results in a charge to the shipper and which
7 is incidental to the transportation of household goods,
8 including, but not limited to, valuation coverage; preparation
9 of a written inventory; storage, packing, unpacking, or
10 crating of articles; hoisting or lowering; waiting time; long
11 carry, which is the carrying of articles an excessive distance
12 between the mover's vehicle and the residence or business;
13 overtime loading and unloading; reweighing; disassembly or
14 reassembly; carrying that involves an elevator or stairs;
15 boxing or servicing of appliances; and furnishing of packing
16 or crating materials. The term also includes services
17 performed by a third party at the request of the shipper or
18 mover, if the charges for such services are to be paid to the
19 mover by the shipper at or before the time of delivery.
20 (b) "Advertising" means any written statement or
21 representation:
22 1. Made in connection with the solicitation of a
23 mover, including, but not limited to, statements and
24 representations made in a newspaper, telephone yellow pages,
25 internet, or other publication;
26 2. Made on radio or television; or
27 3. Contained in any notice, handbill, direct mailing,
28 business card, sign, catalog, billboard, brochure, poster, or
29 letter.
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1 (c) "Compensation" means money, fee, emolument, quid
2 pro quo, barter, remuneration, pay, reward, indemnification,
3 or satisfaction.

4 (d) "Contract for service" means a written document
5 prepared by the mover and signed by the shipper, before the
6 performance of any service, which authorizes services from the
7 named mover and lists the services and all costs associated
8 with the transportation of household goods and accessorial
9 services to be performed on behalf of the shipper.

10 (e) "Department" means the Department of Agriculture
11 and Consumer Services.

12 (f) "Estimate" means a written document provided to
13 the prospective shipper which sets forth the total cost and
14 the basis of such cost related to a shipper's move, which must
15 include, but need not be limited to, transportation services
16 or accessorial services.

17 (g) "Household goods" means personal effects or other
18 personal property found in a home, personal residence, other
19 storage facility, or other location, of which the shipper is
20 the owner or agent of the owner of the items. The term
21 includes property held or found in a storage or warehouse
22 facility that is owned or rented by a shipper or shipper's
23 agent. The term does not include freight or personal property
24 moving to or from a factory, store, or other place of
25 business.

26 (h) "Inventory" means a detailed descriptive list of
27 all the household goods, furniture, boxes, and other items
28 that are tendered to the mover by the shipper, and which shows
29 the number and condition of each item.

30 (i) "Mover" means any person who engages in the
31 transportation or shipment of household goods for compensation

1 or any person who holds himself or herself out to the public
2 as engaging in the transportation or shipment of household
3 goods for compensation.

4 (j) "Person" includes individuals, partnerships,
5 corporations, companies, trusts, societies, associations, and
6 any other legal entity.

7 (k) "Shipper" means any person who uses the services
8 of a mover to transport or ship household goods. The term
9 includes any other person whom a shipper designates in
10 writing.

11 (l) "Storage" means the warehousing of a shipper's
12 household goods while under the care, custody, and control of
13 the mover.

14 (3) CONSTRUCTION; INTENT; APPLICATION.--

15 (a) This section shall be construed liberally to:

16 1. Establish the law of this state governing the
17 intrastate transportation, shipment, and affiliated storage of
18 household goods; and

19 2. Secure the satisfaction and confidence of shippers
20 and the public when using the services of a mover.

21 (b) This section applies to the operations of any
22 mover engaged in the intrastate transportation of household
23 goods, except that this section does not apply to shipments
24 contracted by the United States, the state, or any local
25 government or political subdivision of the state. This section
26 only applies to the transportation of household goods
27 originating in this state and terminating in this state.

28 (c) This section does not supersede the jurisdiction
29 of any federal agency with respect to goods or services that
30 are governed under any other law.

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1 (d) This section does not apply to any act or practice
2 required or permitted by federal law.

3 (e) This section does not limit the authority of a
4 board of county commissioners or other local governmental
5 entity to enact and enforce an ordinance governing the moving
6 and storage industry which imposes additional or more
7 restrictive requirements, including, but not limited to,
8 requirements for insurance and proof of insurance, valuation
9 coverage, recordkeeping, record reporting and inspection,
10 licensing, decals, permits, disclosure statements, contract
11 provisions, liability of movers, inventories, terms and
12 methods of payment, complaint handling, weighing of household
13 goods or property, cost estimates, charges in excess of
14 estimates, signage, claims, freight charges, or reasonable
15 dispatch.

16 (4) APPLICATION; OPERATING PERMIT; BONDING
17 REQUIREMENT; REVOCATION OF PERMIT.--

18 (a) A person may not engage in business, solicit
19 business, or advertise in this state as a mover of household
20 goods without first obtaining an operating permit from the
21 department and maintaining the permit as required by this
22 section.

23 1. An application for an operating permit must be
24 submitted to the department and accompanied by:

25 a. A bond executed by a corporate surety approved by
26 the department and licensed to do business in this state;

27 b. An irrevocable letter of credit issued for the
28 benefit of the applicant by a bank whose deposits are insured
29 by an agency of the Federal Government; or

30 c. A certificate of deposit in a financial institution
31 insured by an agency of the Federal Government, which may be

1 withdrawn only on the order of the department, except that the
2 interest may accrue to the applicant.

3 2. The amount of the bond, letter of credit, or
4 certificate of deposit must be a minimum of \$50,000, and the
5 bond, letter of credit, or certificate of deposit must be
6 conditioned upon compliance by the applicant with this
7 section. The department may establish a bond of a greater
8 amount to ensure the general welfare of the public and the
9 interests of the moving industry.

10 3. The bond must be posted with the department.

11 (b) The application for an operating permit must
12 include:

13 1. The mover's legal business and trade name, current
14 mailing address, and current business location for each place
15 from which the mover operates a main office, branch office, or
16 storage location, and a designation of which location
17 constitutes the mover's principal place of business.

18 2. A copy of each occupational license held by the
19 mover.

20 3. The full names, current mailing addresses, current
21 telephone numbers, and social security numbers or federal tax
22 identification numbers of the mover's owners, corporate
23 officers, and directors.

24 4. The name of the agent of the mover's corporation
25 registered in this state and a statement listing the names of
26 any other corporations, entities, or trade names through which
27 any owner, corporate officer, or director of the mover was
28 known or did business as a mover within the 5 calendar years
29 immediately preceding the date on which the mover is
30 submitting the application.

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1 (c) The application for an operating permit must be
2 accompanied by fee of \$300, to be deposited into the
3 department's Operating Trust Fund for the purpose of
4 administering this section. If 6 months or less remain before
5 the annual renewal date, the permit fee is \$150.

6 (d) The department may bring and maintain an action on
7 behalf of any shipper who is injured by the bankruptcy of a
8 mover or by the mover's breach of any agreement entered into
9 in its capacity as a permitholder to recover against the bond,
10 letter of credit, or certificate of deposit.

11 (e) Before changing a permitted business location,
12 telephone number, or registered agent, a mover must notify the
13 department of such change in writing. The permit may be
14 modified upon completion of the required forms and payment of
15 a fee established by the department.

16 (f) A permit is not valid for any mover under any
17 other name or at any place other than that designated on the
18 permit. A permit is not transferable or assignable, and the
19 ownership structure of the mover may not be modified in such a
20 manner that constitutes a change in the control or ownership
21 of the permit. If the business changes its name or ownership
22 structure, the mover must submit to the department an
23 application for a new operating permit, along with the
24 required permit fee.

25 (g) The department shall prescribe the form and size
26 of the operating permit issued to a mover, which must contain
27 a permit number. The mover must prominently display to the
28 public the operating permit at the mover's primary place of
29 business. The assigned permit number must appear in all
30 advertising, including any listing in the telephone yellow
31 pages; on all forms; and on all commercial motor vehicles

1 operated by the mover. It is a violation of this section for a
2 person to use, display, or advertise an expired permit number.

3 (h) The department may deny or refuse to renew the
4 operating permit of any mover based upon a determination that
5 a mover or any of its directors, officers, owners, or general
6 partners:

7 1. Failed to meet the requirements for initial
8 application or renewal as provided in this subsection.

9 2. Have been found by a court of competent
10 jurisdiction to have committed a crime, regardless of
11 adjudication or plea of no contest, involving fraud, a prior
12 criminal violation of this section, or theft involving
13 transportation or storage of household goods for compensation.
14 The department may conduct criminal background checks to
15 obtain such information from the Department of Law Enforcement
16 or any other government agency.

17 3. Have not satisfied a civil fine, administrative
18 fine, or other penalty arising out of any administrative or
19 enforcement action brought by any governmental agency or
20 private person based upon conduct involving fraud; theft; a
21 violation of part II of chapter 501, Florida Statutes;
22 dishonest dealing; a violation of a local moving ordinance; or
23 failure to comply with the terms and conditions of any
24 judgment, consent decree, cease and desist order, settlement
25 agreement, or assurance of voluntary compliance arising out of
26 such enforcement action.

27 4. Misrepresented or concealed a material fact on the
28 application, renewal application, or replacement application
29 for an operating permit.

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1 5. Aided or abetted a person who has not obtained an
2 operating permit to evade or avoid any provision of this
3 section.

4 (i) Upon denial or revocation of an operating permit,
5 the mover is entitled to an appeal according to the following:

6 1. If the department denies, revokes, or suspends a
7 mover's operating permit, the mover may appeal the decision to
8 the department within 20 days after receipt of the notice of
9 denial, revocation, or suspension. A nonrefundable filing fee,
10 established by rule of the department, must accompany the
11 written request for appeal. The department shall review the
12 appeal at a hearing held within 60 days after the department
13 receives the request for appeal.

14 2. At the conclusion of a hearing conducted under this
15 paragraph, the department shall orally render its decision
16 based on evidence entered into the record. The decision must
17 be stated in a written order and mailed to the mover within 10
18 days after the hearing and the decision is final agency action
19 with respect to the matter appealed.

20 3. A mover may appeal a final determination of the
21 department within 30 days after rendition of the decision by
22 filing a petition for writ of certiorari in a court of
23 competent jurisdiction.

24 (j) In the event of loss, destruction, or mutilation
25 of an operating permit issued by the department, the person to
26 whom the operating permit was issued may obtain a replacement
27 permit upon furnishing satisfactory proof of loss,
28 destruction, or mutilation to the department and payment of
29 the applicable fee established by rule of the department. An
30 application for a replacement operating permit must include:

31 1. The name and address of the applicant.

1 2. A verified explanation of the loss, destruction, or
2 mutilation of the operating permit.

3 3. Any other item or information required by the
4 department.

5 (k) Each operating permit must be renewed annually. As
6 part of the renewal process, the applicant must update and
7 verify all information required on the previous year's
8 application. An application for renewal must be accompanied by
9 a nonrefundable fee of \$300. A renewal fee is not required for
10 any mover that holds a municipal or county license that is
11 issued under an ordinance that contains standards at least
12 equal to the requirements of this section, as determined by
13 the department. All renewal fees shall be deposited into the
14 department's Operating Trust Fund for the purpose of
15 administering this section. Any operating permit that is not
16 renewed automatically expires on the expiration date of the
17 permit, and the mover must immediately cease all moving and
18 storage services authorized under the permit. The department
19 shall deny any application for a renewal permit which is
20 incomplete, is untrue in whole or in part, is not accompanied
21 by the required fee, or fails to satisfy the requirements of
22 this section. The department may impose a late fee if an
23 application is not timely filed.

24 (l) An out-of-state mover may not operate in this
25 state unless the mover obtains an operating permit and follows
26 the permitting procedures described in this section.

27 (m) Applications for the first year of the permitting
28 process must be submitted by November 30, 2001.

29 (5) WRITTEN ESTIMATE OF MOVING COSTS.--

30 (a) A mover must provide a written estimate to a
31 prospective shipper, which must be dated and signed by the

1 mover. The estimate must indicate the total and complete costs
2 that the mover will charge for the transportation services,
3 including all accessorial services. A mover may not load any
4 moving vehicle or otherwise take possession or control of any
5 household goods of a shipper unless a written estimate is
6 approved by signature of the prospective shipper. A mover may
7 not request a shipper to sign or initial a blank or otherwise
8 incomplete estimate form or contract. A mover may not impose a
9 fee for preparing an estimate unless, before preparing the
10 estimate, the mover clearly and conspicuously discloses in
11 writing to the prospective shipper the amount of the charge
12 for preparing the estimate and obtains a written authorization
13 from the prospective shipper to prepare the estimate.

14 (b) A prospective shipper may not waive the right to a
15 written estimate and a mover may not require a prospective
16 shipper to waive the right to a written estimate.

17 (c) A mover shall retain the written estimate provided
18 to the prospective shipper as part of the mover's business
19 records. The written estimate must include, at a minimum:

20 1. The current name, telephone number, permit number,
21 and physical address of the mover at which employees of the
22 mover are available during normal business hours, as well as
23 the current name and address of the mover's registered agent.

24 2. The name and address of the shipper, including each
25 address at which the items are to be picked up from and
26 delivered to, if known, and, if available, the telephone
27 number of the shipper.

28 3. The name, telephone number, and physical address of
29 the storage facility or warehouse where the household goods
30 will be held pending further transportation, if applicable.

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1 4. A complete itemized description of the costs for
2 transportation and accessorial services to be provided during
3 a move or storage of household goods. The mover must provide a
4 total of all costs to the shipper.

5 5. The method of payment, subject to subsection (9).

6 6. The following written disclosure in bold
7 capitalized letters of at least 14-point type:

8

9

PLEASE READ CAREFULLY

10 IF YOU HAVE A QUESTION OR COMPLAINT, PLEASE
11 CONTACT THE DEPARTMENT OF AGRICULTURE AND
12 CONSUMER SERVICES IN TALLAHASSEE, FLORIDA.

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ESTIMATE OF TOTAL COST

15 PURSUANT TO STATE LAW, YOU ARE ENTITLED TO A
16 WRITTEN ESTIMATE OF THE TOTAL COST OF YOUR
17 MOVE. IT IS A VIOLATION OF STATE LAW IF THE
18 TOTAL COST OF YOUR MOVE EXCEEDS THE AMOUNT OF
19 YOUR WRITTEN ESTIMATE UNLESS CIRCUMSTANCES
20 PREVIOUSLY UNKNOWN TO THE MOVER PREVENT THE
21 MOVER FROM OBTAINING REASONABLE ACCESS TO THE
22 POINT OF DESTINATION. THE MOVER SHALL ALLOW YOU
23 AT LEAST 90 DAYS TO PAY THE EXCESS AMOUNT, IF
24 ANY. PLEASE REVIEW THIS DOCUMENT TO MAKE SURE
25 THE ESTIMATE IS COMPLETE.

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27 (d) This section does not require a prospective
28 shipper to enter into a contract for service with a mover
29 based upon the issuance of a written estimate.

30 (e) The written estimate and disclosure may be
31 provided on the same form as the contract for service.

1 (f) A mover may not provide an oral estimate to a
2 prospective shipper without subsequently providing the
3 estimate in written form as required by this section.

4 (g) A mover may request and accept a deposit from a
5 prospective shipper before loading or otherwise taking
6 possession of any household goods of a shipper. A deposit may
7 not exceed 10 percent of the total amount of a written
8 estimate signed by the prospective shipper. If a prospective
9 shipper fails to agree to a revised written estimate after at
10 least one prior written estimate has been signed by the
11 shipper, the mover may retain a lawful deposit if the written
12 estimate under which the prospective shipper paid the deposit
13 discloses the amount of the deposit which will be retained if
14 the shipper and mover fail to agree to any necessary revised
15 written estimate before the date moving services are to be
16 rendered. For any canceled or failed move due to lack of
17 agreement over a revised written estimate, a mover may not
18 recover any alleged consequential damage or loss in excess of
19 the deposit provided for in this paragraph.

20 (6) CONTRACT FOR SERVICE.--

21 (a) Before performing any service on behalf of a
22 shipper, including loading a shipper's household goods into a
23 moving truck, the mover must prepare a written contract for
24 service which must be approved, signed, timed, and dated by
25 the shipper or the shipper's agent and the mover. The mover
26 must provide the shipper with a copy of the contract.

27 (b) The contract for service must clearly and
28 conspicuously disclose, at a minimum:

29 1. The current name, telephone number, permit number,
30 and physical address of the mover at which employees of the
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- 1 mover are available during normal business hours, as well as
2 the current name and address of the mover's registered agent.
- 3 2. The name and address of the shipper, including each
4 address at which the items are to be picked up from and
5 delivered to, if known, and, if available, the telephone
6 number of the shipper.
- 7 3. The name, telephone number, and physical address of
8 the storage facility or warehouse where the household goods
9 will be held pending further transportation, if applicable.
- 10 4. The agreed pickup and delivery dates or the period
11 within which pickup, delivery, or the entire move will be
12 accomplished. Unless the household goods are to be held in
13 storage, the date of delivery or the period within which
14 pickup, delivery, or the entire move will be accomplished must
15 be a specified date or period and may not be a period of
16 indeterminate length.
- 17 5. A complete itemized description, consistent with
18 the written estimate, of the costs for transportation and
19 accessorial services to be provided during a move or storage
20 of household goods. The mover must provide a total of all
21 costs to the shipper.
- 22 6. The method of payment, subject to subsection (9).
- 23 7. The maximum amount required to be paid by the
24 shipper to the mover at the time of delivery, subject to
25 subsection (8).
- 26 8. The name and telephone number of any other person
27 who is designated in writing by the shipper to authorize
28 pickup or delivery of any item.
- 29 9. A brief description of the mover's procedure for
30 handling complaints, which must include a physical address and
31 telephone number at which the shipper may contact the mover.

1 The procedure must allow at least 60 days following a move in
2 which the shipper may file a complaint.

3 10. If the cost for services provided is based on
4 weight, a statement specifying that the shipper has a right to
5 observe any weighing before and after loading. All household
6 goods must be weighed on a scale certified by the department
7 and the mover shall retain and supply weight tickets to the
8 shipper or department upon request.

9 (7) DISCLOSURE STATEMENT REQUIRED.--The contract for
10 service provided by a mover to a shipper must include the
11 following disclosure in bold capitalized letters of at least
12 14-point type on a separate page, with a copy given to the
13 shipper before the mover performs any service, including
14 loading the shipper's household goods into a loading truck:

15
16 PLEASE READ CAREFULLY

17 IF YOU HAVE A QUESTION OR COMPLAINT, PLEASE
18 CONTACT THE DEPARTMENT OF AGRICULTURE AND
19 CONSUMER SERVICES IN TALLAHASSEE, FLORIDA

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21 CONTRACT FOR SERVICE

22 THIS CONTRACT FOR SERVICE IS REQUIRED BY STATE
23 LAW AND MUST INCLUDE ALL OF THE TERMS AND COSTS
24 ASSOCIATED WITH YOUR MOVE. IN ORDER FOR THE
25 CONTRACT FOR SERVICE TO BE ACCURATE, YOU MUST
26 DISCLOSE ALL INFORMATION RELEVANT TO THE MOVE
27 TO THE MOVER. STATE LAW REQUIRES THAT A MOVER
28 DELIVER YOUR HOUSEHOLD GOODS AND COMPLETE YOUR
29 MOVE UPON PAYMENT OF NO MORE THAN THE MAXIMUM
30 AMOUNT STATED IN THE CONTRACT.

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1 (8) CHARGES IN EXCESS OF WRITTEN ESTIMATE, UNLAWFUL
2 CHARGES, REFUSAL TO RELINQUISH HOUSEHOLD GOODS PROHIBITED;
3 PAYMENT OF CHARGES IN EXCESS OF WRITTEN ESTIMATE OR CONTRACT
4 FOR SERVICE.--

5 (a) Except as provided in paragraph (c), a mover,
6 subsequent to loading any household goods of a shipper, may
7 not charge a fee for services in excess of the written
8 estimate.

9 (b) A mover may not refuse to relinquish to a shipper
10 any of the shipper's household goods, fail to place household
11 goods inside a shipper's dwelling, or fail to complete in a
12 timely manner all transportation and accessorial services
13 required to be performed under the contract for service solely
14 because the shipper has refused to pay for, or agree to, a fee
15 in excess of the written estimate. Except as expressly
16 provided in paragraph (c), a mover may not change the fee for
17 services after the mover has taken possession of household
18 goods.

19 (c) A mover may increase the contract amount if
20 circumstances of which the mover had no prior knowledge
21 prevent the mover from obtaining reasonable access to the
22 place of destination. The mover must provide a written
23 explanation to the shipper of the charges in excess of the
24 written estimate, including a complete description of the
25 circumstances that prevented reasonable access to the place of
26 destination and the total cost of any additional service. The
27 written explanation must be signed by the shipper. The shipper
28 has 90 days following completion of the move in which to pay
29 the excess amount.

30 (d) If circumstances preventing the mover from
31 obtaining reasonable access to the place of destination

1 justify a modification of the contract amount under paragraph
2 (c), the mover shall immediately relinquish to the shipper all
3 of the shipper's household goods and shall complete in a
4 timely manner all transportation and accessorial services
5 required to be performed under the contract for services.
6 (e) In an action by a mover to recover additional
7 charges under paragraph (c), the mover has the burden of
8 proving that circumstances at the point of destination
9 prohibited reasonable access and that the additional charges
10 were reasonable in relation to the changed circumstances and
11 the original contract price.
12 (9) ACCEPTABLE FORMS OF PAYMENT.--
13 (a) Subject to paragraph (b), a mover shall accept at
14 least two of the following categories of payment:
15 1. Cash, cashier's check, money order, or traveler's
16 check;
17 2. Personal check, showing upon its face the name and
18 address of the shipper or authorized representative; or
19 3. Credit card, charge card, or debit card, including,
20 but not limited to, VISA and MasterCard.
21 (b) A mover must clearly and conspicuously disclose in
22 the contract for service and in the written estimate the
23 methods of payment that the mover accepts. If the mover
24 verifies that the shipper's checking account carries
25 insufficient funds to cover the amount of the check or that
26 the shipper's credit card does not have a sufficient credit
27 limit to cover the contract charge, the mover may require an
28 alternate form of payment.
29 (c) A mover may not refuse to relinquish to a shipper
30 any of the shipper's household goods or fail to complete in a
31 timely manner all transportation and accessorial services

1 required to be performed under the contract for service solely
2 because the shipper elects one of the forms of payment
3 disclosed as acceptable in the contract for service or in the
4 written estimate.

5 (10) ENFORCEMENT AND PENALTIES.--

6 (a) Any person who fails to comply with this section
7 commits a civil infraction and shall pay a fine not to exceed
8 \$500 per violation and may be sentenced to not more than 60
9 days' imprisonment. Each day of continuing violation
10 constitutes a separate offense. In addition to the sanctions
11 contained in this paragraph, the department may take any other
12 appropriate legal action, including, but not limited to,
13 issuing a cease and desist order, taking other administrative
14 action, or requesting a temporary or permanent injunction. The
15 remedies provided by this paragraph are cumulative and do not
16 affect the availability of other remedies provided by law.

17 (b) Any authorized agent of the department or law
18 enforcement officer may issue a citation upon probable cause
19 that a person has violated this section. The department shall
20 provide a serially numbered uniform citation form to notify a
21 person of an alleged violation of this section. Any person
22 issued a citation must comply with any directive on the
23 citation.

24 (c) A person issued a citation may pay the fine by
25 mail or in person to the department within the time specified
26 on the citation. Payment of the fine is an admission of the
27 infraction and the person waives his or her right to a hearing
28 on the issue of commission of the infraction. The proceeds of
29 any fines collected under this paragraph shall be deposited
30 into the department's Operating Trust Fund and used to
31 administer this section. In addition, the fees collected by

1 the courts under sections 938.01, 938.17, and 938.19, Florida
2 Statutes, shall be assessed against any person convicted of
3 violating this section.

4 (d) A person may appear before a court having
5 jurisdiction of misdemeanors to contest a citation issued
6 under this section. The court, after a hearing, shall
7 determine whether a violation has occurred and may impose a
8 civil penalty that may not exceed \$1,000, plus court costs. If
9 a person fails to pay the civil penalty or fails to appear in
10 court to contest the citation, the person waives his or her
11 right to contest the citation, a default judgment may be
12 entered, and the judge shall impose a fine. If the fine is not
13 paid, judgment may be entered up to the maximum civil penalty.

14 (e) Any person who is cited for violating this section
15 shall sign and accept the citation indicating a promise to pay
16 the fine or appear in court. Any person who willfully refuses
17 to sign and accept a citation commits a misdemeanor of the
18 second degree, punishable as provided in section 775.082 or
19 section 775.083, Florida Statutes.

20 (f) The department may require any person who commits
21 a third or subsequent violation of this section to appear in
22 court. The citation must clearly inform the person of any
23 mandatory court appearance. The department shall maintain
24 records showing the number of citations issued to a person.

25 (g) Any person who violates paragraph (8)(b),
26 paragraph (8)(d), or paragraph (9)(c) commits a felony of the
27 third degree, punishable as provided in section 775.082 or
28 section 775.083, Florida Statutes.

29 (h) The department shall enforce this section and the
30 Department of Legal Affairs may prosecute violations of this
31

1 section under the Florida Deceptive and Unfair Trade Practices
2 Act, part II of chapter 501, Florida Statutes.

3 (i) Authorized personnel of the department may enter
4 the business premises of a mover to ascertain whether the
5 mover is in compliance with this section. If department
6 personnel are unreasonably refused entry or access to the
7 business premises of a mover, the department shall obtain an
8 inspection warrant under sections 933.20-933.30, Florida
9 Statutes, to ascertain compliance with this section.

10 (11) PREEMPTION BY THE STATE.--This section prevails
11 over any ordinance or regulation of a municipality, county, or
12 other political subdivision which conflicts with any provision
13 of this section.

14 Section 2. Paragraph (a) of subsection (1) of section
15 895.02, Florida Statutes, is amended to read:

16 895.02 Definitions.--As used in ss. 895.01-895.08, the
17 term:

18 (1) "Racketeering activity" means to commit, to
19 attempt to commit, to conspire to commit, or to solicit,
20 coerce, or intimidate another person to commit:

21 (a) Any crime which is chargeable by indictment or
22 information under the following provisions of the Florida
23 Statutes:

24 1. Section 210.18, relating to evasion of payment of
25 cigarette taxes.

26 2. Section 403.727(3)(b), relating to environmental
27 control.

28 3. Section 414.39, relating to public assistance
29 fraud.

30 4. Section 409.920, relating to Medicaid provider
31 fraud.

- 1 5. Section 440.105 or s. 440.106, relating to workers'
2 compensation.
- 3 6. Part IV of chapter 501, relating to telemarketing.
- 4 7. Chapter 517, relating to sale of securities and
5 investor protection.
- 6 8. Section 550.235, s. 550.3551, or s. 550.3605,
7 relating to dogracing and horseracing.
- 8 9. Chapter 550, relating to jai alai frontons.
- 9 10. Chapter 552, relating to the manufacture,
10 distribution, and use of explosives.
- 11 11. Chapter 560, relating to money transmitters, if
12 the violation is punishable as a felony.
- 13 12. Chapter 562, relating to beverage law enforcement.
- 14 13. Section 624.401, relating to transacting insurance
15 without a certificate of authority, s. 624.437(4)(c)1.,
16 relating to operating an unauthorized multiple-employer
17 welfare arrangement, or s. 626.902(1)(b), relating to
18 representing or aiding an unauthorized insurer.
- 19 14. Section 655.50, relating to reports of currency
20 transactions, when such violation is punishable as a felony.
- 21 15. Chapter 687, relating to interest and usurious
22 practices.
- 23 16. Section 721.08, s. 721.09, or s. 721.13, relating
24 to real estate timeshare plans.
- 25 17. Chapter 782, relating to homicide.
- 26 18. Chapter 784, relating to assault and battery.
- 27 19. Chapter 787, relating to kidnapping.
- 28 20. Chapter 790, relating to weapons and firearms.
- 29 21. Section 796.03, s. 796.04, s. 796.05, or s.
30 796.07, relating to prostitution.
- 31 22. Chapter 806, relating to arson.

- 1 23. Section 810.02(2)(c), relating to specified
2 burglary of a dwelling or structure.
- 3 24. Chapter 812, relating to theft, robbery, and
4 related crimes.
- 5 25. Chapter 815, relating to computer-related crimes.
- 6 26. Chapter 817, relating to fraudulent practices,
7 false pretenses, fraud generally, and credit card crimes.
- 8 27. Chapter 825, relating to abuse, neglect, or
9 exploitation of an elderly person or disabled adult.
- 10 28. Section 827.071, relating to commercial sexual
11 exploitation of children.
- 12 29. Chapter 831, relating to forgery and
13 counterfeiting.
- 14 30. Chapter 832, relating to issuance of worthless
15 checks and drafts.
- 16 31. Section 836.05, relating to extortion.
- 17 32. Chapter 837, relating to perjury.
- 18 33. Chapter 838, relating to bribery and misuse of
19 public office.
- 20 34. Chapter 843, relating to obstruction of justice.
- 21 35. Section 847.011, s. 847.012, s. 847.013, s.
22 847.06, or s. 847.07, relating to obscene literature and
23 profanity.
- 24 36. Section 849.09, s. 849.14, s. 849.15, s. 849.23,
25 or s. 849.25, relating to gambling.
- 26 37. Chapter 874, relating to criminal street gangs.
- 27 38. Chapter 893, relating to drug abuse prevention and
28 control.
- 29 39. Chapter 896, relating to offenses related to
30 financial transactions.
- 31

1 40. Sections 914.22 and 914.23, relating to tampering
2 with a witness, victim, or informant, and retaliation against
3 a witness, victim, or informant.

4 41. Sections 918.12 and 918.13, relating to tampering
5 with jurors and evidence.

6 42. Section 1 of this act, relating to the regulation
7 of movers, if the violation is punishable as a felony.

8 Section 3. If any provision of this act or its
9 application to any person or circumstance is held invalid, the
10 invalidity does not affect other provisions or applications of
11 the act which can be given effect without the invalid
12 provision or application, and to this end the provisions of
13 this act are severable.

14 Section 4. This act shall take effect July 1, 2001.
15

16 *****

17 SENATE SUMMARY

18 Creates the "Movers Regulation Act." Provides for the
19 Department of Agriculture and Consumer Services to
20 regulate the intrastate transportation of household goods
21 under the act. Prohibits a person from engaging in
22 business as a mover without obtaining an annual operating
23 permit from the department. Requires that a mover obtain
24 a bond or establish financial security of \$50,000.
25 Authorizes the department to bring an action to recover
26 against a mover's bond or financial security. Provides
27 for an appeal of a denial or revocation of an operating
28 permit. Requires that a mover provide certain disclosures
29 and prepare a written estimate and a written contract
30 before loading household goods. Limits the circumstances
31 under which a mover may charge a fee in excess of the
written contract. Provides for enforcement of the act.
Authorizes the Department of Legal Affairs to prosecute
violations of the act under the Florida Deceptive and
Unfair Trade Practices Act. Provides that the act
preempts conflicting local laws or ordinances. Provides
that any violation of the act which is a felony is
racketeering activity under the Florida RICO Act. (See
bill for details.)