

Bill No. CS for CS for SB 2006

Amendment No. Barcode 820342

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Senator Campbell moved the following amendment:

Senate Amendment (with title amendment)
Delete everything after the enacting clause

and insert:

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

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1 by a third party at the request of the shipper or mover, if
2 the charges for such services are to be paid to the mover by
3 the shipper at or prior to the time of delivery.

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

11 (3) "Compensation" means money, fee, emolument, quid
12 pro quo, barter, remuneration, pay, reward, indemnification,
13 or satisfaction.

14 (4) "Contract for service" or "bill of lading" means a
15 written document approved by the shipper in writing prior to
16 the performance of any service which authorizes services from
17 the named mover and lists the services and all costs
18 associated with the transportation of household goods and
19 accessorial services to be performed.

20 (5) "Department" means the Department of Agriculture
21 and Consumer Services.

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

26 (7) "Household goods" means personal effects or other
27 personal property found in a home, personal residence, storage
28 facility, or other location, including property in a
29 storehouse or warehouse facility that is owned or rented by a
30 shipper or shipper's agent, but does not include freight or
31 personal property moving to or from a factory, store, or other

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1 place of business.

2 (8) "Mover" means any person who engages in the
3 transportation or shipment of household goods for
4 compensation.

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

7 (10) "Storage" means warehousing of the shipper's
8 goods while under the care, custody, and control of the mover.

9 Section 2. Construction; intent; application.--

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

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

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

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

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

29 (4) Nothing in this act shall be construed to remove
30 the authority or jurisdiction of any federal agency with
31 respect to goods or services regulated or controlled under

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1 other provisions of law.

2 Section 3. Registration.--

3 (1) Each mover shall annually register with the
4 department, providing its legal business and trade name,
5 mailing address, and business locations; the full names,
6 addresses, telephone numbers, and social security numbers of
7 its owners or corporate officers and directors and the Florida
8 agent of the corporation; a statement whether it is a domestic
9 or foreign corporation, its state and date of incorporation,
10 its charter number, and, if a foreign corporation, the date it
11 registered with the State of Florida, and occupational license
12 where applicable; the date on which a mover registered its
13 fictitious name if the mover is operating under a fictitious
14 or trade name; the name of all other corporations, business
15 entities, and trade names through which each owner of the
16 mover operated, was known, or did business as a mover within
17 the preceding 5 years; and proof of purchase of adequate bond
18 or establishment of a letter of credit or certificate of
19 deposit as required in this act.

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

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

28 (4) Any mover whose principal place of business is
29 located in a county or municipality that requires, by local
30 ordinance, a local license or registration to engage in the
31 business of moving and storage of household goods shall obtain

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1 the license or registration from such county or municipality.
2 A mover that obtains such local license or registration shall
3 also be required to pay the state registration fee under
4 subsection (3) and the department shall issue the mover a
5 state certificate of registration upon submission of proof of
6 the local license or registration by the mover.

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

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

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

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

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

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

30 (c) Has not satisfied a civil fine or penalty arising
31 out of any administrative or enforcement action brought by any

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1 governmental agency or private person based upon conduct
2 involving fraud, dishonest dealing, or any violation of this
3 act;

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

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

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

15 Section 4. Cargo legal liability valuation and
16 insurance coverage.--

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

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

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

27 1. \$50,000 per occurrence for a commercial motor
28 vehicle with a gross weight of less than 35,000 pounds.

29 2. \$100,000 per occurrence for a commercial motor
30 vehicle with a gross weight of more than 35,000 pounds, but
31 less than 44,000 pounds.

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1 3. \$300,000 per occurrence for a commercial motor
2 vehicle with a gross weight of 44,000 pounds or more.

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

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

18 Section 5. Estimates and contracts for service.--Prior
19 to providing any moving or accessorial services, a contract
20 and estimate must be provided to a prospective shipper in
21 writing, must be signed and dated by the shipper and the
22 mover, and must include:

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

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

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

31 (4) The name, telephone number, and physical address

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1 of any location where the goods will be held pending further
2 transportation, including situations where the mover retains
3 possession of goods pending resolution of a fee dispute with
4 the shipper.

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

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

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

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

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

18
19 A mover shall clearly and conspicuously disclose to the
20 shipper in the estimate and contract for services the forms of
21 payments the mover it will accept from those categories
22 described in paragraphs (a)-(c).

23 Section 6. Delivery and storage of household goods.--

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

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

5 (3) A mover that lawfully fails to relinquish a
6 shipper's household goods may place the goods in storage until
7 payment is tendered; however, the mover must notify the
8 shipper of the location where the goods are stored and the
9 amount due within 5 days after receipt of a written request
10 for that information from the shipper, which request must
11 include the address where the shipper may receive notice.

12 Section 7. Violations.--It is a violation of this act
13 to:

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

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

20 (3) Misrepresent or deceptively represent:

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

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

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

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

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

30 (4) Fail to honor and comply with all provisions of
31 the contract for services or bill of lading regarding the

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1 purchaser's rights, benefits, and privileges thereunder.

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

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

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

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

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

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

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

27 Section 8. Deceptive and unfair trade practice.--Acts,
28 conduct, practices, omissions, failings, misrepresentations,
29 or nondisclosures which constitute a violation of this act
30 also constitute a deceptive and unfair trade practice for the
31 purpose of ss. 501.201-501.213, Florida Statutes, the Florida

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1 Deceptive and Unfair Trade Practices Act, and administrative
2 rules adopted thereunder.

3 Section 9. Administrative remedies; penalties.--

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

9 (a) Issuing a notice of noncompliance pursuant to s.
10 120.695, Florida Statutes.

11 (b) Imposing an administrative fine not to exceed
12 \$5,000 for each act or omission.

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

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

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

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

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

27 Section 10. Civil penalties; remedies.--

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

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

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

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

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

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

21 Section 11. Criminal penalties.--

22 (1) The refusal of a mover or a mover's employee,
23 agent, or contractor to comply with an order from a law
24 enforcement officer to relinquish a shipper's household goods
25 after the officer determines that the shipper has tendered
26 payment of the amount of a written estimate or contract, or
27 after the officer determines that the mover did not produce a
28 signed estimate or contract upon which demand is being made
29 for payment, is a felony of the third degree, punishable as
30 provided in s. 775.082, s. 775.083, or s. 775.084, Florida
31 Statutes. A mover's compliance with an order from a law

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1 enforcement officer to relinquish goods to a shipper is not a
 2 waiver or finding of fact regarding any right to seek further
 3 payment from the shipper.

4 (2) Except as provided in subsection (1), any person
 5 or business that violates this act commits a misdemeanor of
 6 the first degree, punishable as provided in s. 775.082 or s.
 7 775.083, Florida Statutes.

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

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

23 Section 14. There is hereby appropriated six full time
 24 equivalent positions and \$200,000 from General Revenue and
 25 \$200,000 from the General Inspection Trust Fund in the
 26 Department of Agriculture to implement the provisions of this
 27 act.

28 Section 15. This act shall take effect July 1, 2002.
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1 ===== T I T L E A M E N D M E N T =====

2 And the title is amended as follows:

3 Delete everything before the enacting clause

4

5 and insert:

6 A bill to be entitled

7 An act relating to regulation of movers;
8 providing definitions; providing construction,
9 intent, and application; providing for
10 registration with the Department of Agriculture
11 and Consumer Services; authorizing the
12 department to adopt rules; providing for fees;
13 providing for display of certain information;
14 providing for local registration; providing
15 requirements, procedures, criteria, and
16 limitations; authorizing the department to
17 charge certain fees; providing for denial of or
18 refusal to renew registration; requiring cargo
19 legal liability valuation and insurance
20 coverage; requiring estimates of moving costs;
21 providing requirements and criteria; providing
22 for delivery and storage of household goods;
23 specifying violations; providing that certain
24 violations constitute deceptive and unfair
25 trade practices; providing penalties; providing
26 for relief; providing for deposit of funds;
27 providing for local regulation; providing for
28 enforcement by the department under cooperative
29 agreements with local governments; providing an
30 appropriation; providing an effective date.

31