

By the Council for Smarter Government and Representative Johnson

1                                   A bill to be entitled  
2           An act relating to regulation of movers;  
3           providing definitions; providing construction,  
4           intent, and application; providing for  
5           registration with the Department of Agriculture  
6           and Consumer Services; authorizing the  
7           department to adopt rules; providing for fees;  
8           providing for display of certain information;  
9           providing for local registration; providing  
10          requirements, procedures, criteria, and  
11          limitations; authorizing the department to  
12          charge certain fees; providing for denial of or  
13          refusal to renew registration; providing  
14          security requirements and procedures; requiring  
15          estimates of moving costs; providing  
16          requirements and criteria; providing for  
17          delivery and storage of household goods;  
18          specifying violations; providing that certain  
19          violations constitute deceptive and unfair  
20          trade practices; providing penalties; providing  
21          for relief; providing for deposit of funds;  
22          providing intent regarding preemption of local  
23          laws; providing for enforcement by the  
24          department under cooperative agreements with  
25          local governments; providing an effective date.

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

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29           Section 1. Definitions.--For the purposes of this act,  
30 the term:  
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1           (1) "Accessorial services" means any service performed  
2 by a mover which results in a charge to the shipper and is  
3 incidental to the transportation service, including, but not  
4 limited to, valuation coverage; preparation of written  
5 inventory; storage, packing, unpacking, or crating of  
6 articles; hoisting or lowering; waiting time; long carry,  
7 which is defined as carrying articles excessive distances  
8 between the mover's vehicle and the residence; overtime  
9 loading and unloading; reweighing; disassembly or reassembly;  
10 elevator or stair carrying; boxing or servicing of appliances;  
11 and furnishing of packing or crating materials. Accessorial  
12 services also include services not performed by the mover but  
13 by a third party at the request of the shipper or mover, if  
14 the charges for such services are to be paid to the mover by  
15 the shipper at or prior to the time of delivery.

16           (2) "Compensation" means money, fee, emolument, quid  
17 pro quo, barter, remuneration, pay, reward, indemnification,  
18 or satisfaction.

19           (3) "Contract for service" or "bill of lading" means a  
20 written document which authorizes services from the named  
21 mover and lists the services and all costs associated with the  
22 transportation of household goods and accessorial services to  
23 be performed.

24           (4) "Department" means the Department of Agriculture  
25 and Consumer Services.

26           (5) "Estimate" means a written document which sets  
27 forth the total cost and the basis of such costs related to a  
28 shipper's move, which shall include, but not be limited to,  
29 transportation or accessorial services.

30           (6) "Household goods" means personal effects or other  
31 personal property found in a home, personal residence, storage

1 facility, or other location, including property in a  
2 storehouse or warehouse facility that is owned or rented by a  
3 shipper or shipper's agent, but does not include freight or  
4 personal property moving to or from a factory, store, or other  
5 place of business.

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

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

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

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

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

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

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

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

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

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

8           Section 3. Registration.--

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

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

29       (3) Registration fees shall be \$300 per year per  
30 mover. All amounts collected shall be deposited by the  
31 Treasurer to the credit of the General Inspection Trust Fund

1 of the department for the sole purpose of administration of  
2 this act.

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

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

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

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

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

- 1       (a) Has failed to meet the requirements for  
2 registration as provided in this act;
- 3       (b) Has been convicted of a crime involving fraud,  
4 dishonest dealing, or any other act of moral turpitude;
- 5       (c) Has not satisfied a civil fine or penalty arising  
6 out of any administrative or enforcement action brought by any  
7 governmental agency or private person based upon conduct  
8 involving fraud, dishonest dealing, or any violation of this  
9 act;
- 10       (d) Has pending against him or her any criminal,  
11 administrative, or enforcement proceedings in any  
12 jurisdiction, based upon conduct involving fraud, dishonest  
13 dealing, or any other act of moral turpitude; or
- 14       (e) Has had a judgment entered against him or her in  
15 any action brought by the department or the Department of  
16 Legal Affairs pursuant to this act or ss. 501.201-501.213,  
17 Florida Statutes, the Florida Deceptive and Unfair Trade  
18 Practices Act.
- 19       Section 4. Security requirements.--
- 20       (1) An application must be accompanied by a  
21 performance bond in the amount of \$25,000, otherwise the mover  
22 shall be subject to the forfeiture and restitution  
23 requirements under subsection (6). The surety on such bond  
24 shall be a surety company authorized to do business in the  
25 state.
- 26       (2) In lieu of the performance bond required in  
27 subsection (1), an applicant for registration may establish a  
28 certificate of deposit or an irrevocable letter of credit in a  
29 Florida banking institution in the amount of \$25,000. The  
30 department shall be the beneficiary to this certificate of  
31 deposit, and the original shall be filed with the department.

1 Any such letter of credit shall provide that the issuer will  
2 give the department not less than 120 days' written notice  
3 prior to terminating or refusing to renew the letter of  
4 credit.

5 (3) The performance bond, letter of credit, or  
6 certificate of deposit shall be in favor of the department for  
7 the use and benefit of any customer who is injured by the  
8 fraud, misrepresentation, breach of contract, financial  
9 failure, or violation of any provision of this act by the  
10 mover. Such liability may be enforced either by proceeding in  
11 an administrative action as specified in subsection (4) or by  
12 filing a judicial suit at law in a court of competent  
13 jurisdiction. However, in such court suit the performance  
14 bond, letter of credit, or certificate of deposit posted with  
15 the department shall not be amenable or subject to any  
16 judgment or other legal process issuing out of or from such  
17 court in connection with such lawsuit, but such performance  
18 bond, letter of credit, or certificate of deposit shall be  
19 amenable to and enforceable only by and through administrative  
20 proceedings before the department. It is the intent of the  
21 Legislature that such performance bond, letter of credit, or  
22 certificate of deposit shall be applicable and liable only for  
23 the payment of claims duly adjudicated by order of the  
24 department. The performance bond, letter of credit, or  
25 certificate of deposit shall be open to successive claims, but  
26 the aggregate amount may not exceed the amount of the  
27 performance bond, letter of credit, or certificate of deposit.

28 (4) Any shipper may file a claim against the  
29 performance bond, letter of credit, or certificate of deposit  
30 which shall be made in writing to the department within 180  
31 days after an alleged violation has occurred or is discovered

1 to have occurred. The proceedings shall be held in accordance  
2 with chapter 120, Florida Statutes.

3 (5) The department may waive the performance bond,  
4 letter of credit, or certificate of deposit requirement on an  
5 annual basis if the mover has had 5 or more consecutive years  
6 of experience as a mover in Florida in compliance with this  
7 act; has not had any civil, criminal, or administrative action  
8 instituted against the mover by any governmental agency or any  
9 action involving fraud, theft, misappropriation of property,  
10 or moral turpitude; and has a satisfactory consumer complaint  
11 history with the department. Such waiver may be revoked if the  
12 mover violates any provision of this act.

13 (6) Any mover who does not acquire a performance bond,  
14 letter of credit, or certificate of deposit pursuant to this  
15 section and who is found in violation of section 11(1) is  
16 subject to forfeiture and seizure of any equipment used in the  
17 transportation or storage of a shipper's household goods and  
18 financial restitution equal to the cost of the goods withheld.

19 Section 5. Estimates and contracts for service.--A  
20 contract and estimate provided to a prospective shipper must  
21 be in writing and include:

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

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

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

30 (4) The name, telephone number, and physical address  
31 of any location where the goods will be held pending further



1 transportation, including situations where the mover retains  
2 possession of goods pending resolution of a fee dispute with  
3 the shipper.

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

8 (6) The accepted methods of payment.

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

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

18 (2) A mover may not refuse to relinquish household  
19 goods to a shipper or fail to place the goods inside a  
20 shipper's dwelling based on the mover's refusal to accept a  
21 particular form of payment, including cash, cashier's check,  
22 money order, traveler's check, personal check, credit card,  
23 charge card, or debit card, unless the mover clearly and  
24 conspicuously discloses the accepted methods of payment in a  
25 written contract or estimate signed and dated by the shipper.

26 (3) A mover that lawfully fails to relinquish a  
27 shipper's household goods may place the goods in storage until  
28 payment is tendered. However, the mover must inform the  
29 shipper promptly in writing where the goods are located and  
30 the amount due. A mover may not require a prospective shipper  
31 to waive any rights or requirements under this section.

- 1           Section 7. Violations.--It is a violation of this act  
2 to:
- 3           (1) Conduct business as a mover without first being  
4 registered annually with the department.
- 5           (2) Conduct business as a mover without a performance  
6 bond, a letter of credit, or a certificate of deposit.
- 7           (3) Knowingly make any false statement,  
8 representation, or certification in any application, document,  
9 or record required to be submitted or retained under this act.
- 10          (4) Knowingly require, request, encourage, or suggest,  
11 directly or indirectly, that payment for the right to obtain a  
12 contract for moving services or accessorial services must be  
13 by credit card authorization or to otherwise announce a  
14 preference for that method of payment over any other method  
15 when no correct and true explanation for such preference is  
16 stated.
- 17          (5) Misrepresent in any manner the shipper's right to  
18 cancel and to receive an appropriate refund for services  
19 provided by the mover.
- 20          (6) 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.  
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- 1       (7) Fail to inform a purchaser of a nonrefundable  
2 cancellation policy prior to the mover accepting any  
3 compensation, commission, or other valuable consideration.
- 4       (8) Fail to honor and comply with all provisions of  
5 the contract for services or bill of lading regarding the  
6 purchaser's rights, benefits, and privileges thereunder.
- 7       (9) Charge more than 10 percent above the cost of the  
8 estimate of the contract unless authorized by the shipper  
9 prior to pickup and transportation of the household goods. The  
10 mover shall provide written justification for any amount  
11 charged above the original estimate.
- 12       (10) Withhold delivery of household goods or in any  
13 way hold goods in storage against the expressed wishes of the  
14 shipper as delineated in the contract for services.
- 15       (11)(a) Include in any contract any provision  
16 purporting to waive or limit any right or benefit provided to  
17 shippers under this act.
- 18       (b) Seek or solicit such waiver or acceptance of  
19 limitation from a shipper concerning rights or benefits  
20 provided under this act.
- 21       (c) Use a local mailing address, registration  
22 facility, drop box, or answering service in the promotion,  
23 advertising, solicitation, or sale of contracts, unless the  
24 mover's fixed business address is clearly disclosed during any  
25 telephone solicitation and is prominently and conspicuously  
26 disclosed on all solicitation materials and on the contract.
- 27       (d) Do any other act which constitutes fraud,  
28 misrepresentation, or failure to disclose a material fact.
- 29       (e) Refuse or fail, or for any of the mover's  
30 principal officers to refuse or fail, after notice, to produce  
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1 any document or record or disclose any information required to  
2 be produced or disclosed.

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

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

13 Section 9. Administrative remedies; penalties.--

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

19 (a) Issuing a notice of noncompliance pursuant to s.  
20 120.695, Florida Statutes.

21 (b) Imposing an administrative fine not to exceed  
22 \$5,000 for each act or omission.

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

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

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

30 (2) The administrative proceedings which could result  
31 in the entry of an order imposing any of the penalties

1 specified in subsection (1) are governed by chapter 120,  
2 Florida Statutes.

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

6 Section 10. Civil penalties; remedies.--

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

11 (2) The department may seek a civil penalty of up to  
12 \$5,000 for each violation of this act.

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

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

21 (5) The remedies provided in this act are in addition  
22 to any other remedies available for the same conduct.

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

30 Section 11. Criminal penalties.--  
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1       (1) The refusal of a mover or a mover's employee,  
2 agent, or contractor to comply with an order from a law  
3 enforcement officer to relinquish a shipper's household goods  
4 after the officer determines that the shipper has tendered  
5 payment of the amount of a written estimate or contract, or  
6 after the officer determines that the mover did not produce a  
7 signed estimate or contract upon which demand is being made  
8 for payment, is a felony of the third degree, punishable as  
9 provided in s. 775.082, s. 775.083, or s. 775.084, Florida  
10 Statutes. A mover's compliance with an order from a law  
11 enforcement officer to relinquish goods to a shipper is not a  
12 waiver or finding of fact regarding any right to seek further  
13 payment from the shipper.

14       (2) Except as provided in subsection (1), any person  
15 or business that violates this act commits a misdemeanor of  
16 the first degree, punishable as provided in s. 775.082 or s.  
17 775.083, Florida Statutes.

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

22       Section 13. Local preemption.--The provisions of this  
23 act are not intended to preempt local ordinances or  
24 regulations of a county or municipality that regulate  
25 transactions relating to movers of household goods or to limit  
26 the authority of such county or municipality to require, levy,  
27 or collect any registration fee or tax or to require the  
28 registration or bonding in any manner of any mover. The  
29 department may enter into a cooperative agreement with any  
30 county or municipality that provides for the referral,  
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1 investigation, and prosecution of consumer complaints alleging  
2 violations of this act.

3           Section 14. This act shall take effect July 1, 2002.  
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