

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared by: Community Affairs Committee

BILL: CS/CS for SB 1788

INTRODUCER: Community Affairs Committee, Commerce Committee and Senator Saunders

SUBJECT: Household Moving Services

DATE: April 24, 2007

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hinely/Earlywine</u>	<u>Cooper</u>	<u>CM</u>	<u>Fav/CS</u>
2.	<u>Herrin</u>	<u>Yeatman</u>	<u>CA</u>	<u>Fav/CS</u>
3.	_____	_____	<u>GA</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This committee substitute for committee substitute (CS) revises the definition of “storage” in ch. 507, F.S., which relates to Household Moving Services. The CS changes the registration requirement from an annual requirement to a biennial requirement. It allows an exclusion from liability for items packed by a shipper if the mover is not given an opportunity to inspect the boxes. It prohibits a mover and shipper from waiving the requirement for a written estimate. The CS specifies additional information that must be included in a written estimate and contract, including a notice to the shipper that must be in the same form as provided in the CS.

This CS requires a mover to offer to prepare, at an additional cost to the shipper, a written inventory of all items to be moved by the shipper. It also makes the failure to provide a shipper with: a written estimate of moving and accessorial services, a disclosure statement required by s. 507.05, F.S.; or an offer to prepare a written inventory a violation of ch. 507, F.S., which subjects the mover to administrative fines and penalties. Finally, this CS preempts county and municipal regulation of intrastate household moving services to the state.

This CS creates section 507.055 of the Florida Statutes. It also substantially amends the following sections of the Florida Statutes: 507.01, 507.02, 507.03, 507.04, 507.05, 507.07, and 507.13.

II. Present Situation:

Current law requires any mover wishing to do business in the state to register annually with the Department of Agriculture and Consumer Services (DACS).¹ To obtain a registration certificate, the mover must file an application, pay a registration fee in the amount of \$300, and meet statutory qualifications.² A mover is required to maintain cargo liability insurance coverage in the amount of \$10,000 per shipment and limits the mover's liability to not less than 60 cents per pound of cargo.³ Minimum limits of motor vehicle coverage are also specified in the amounts of \$50,000, \$100,000, and \$300,000 per occurrence, based on gross weight categories.⁴

If DACS finds a mover in violation of any provisions of the law, rules or orders, DACS may do one or more of the following:

- Issue a notice of noncompliance under s. 120.695, F.S.;
- Impose an administrative fine not to exceed \$5,000 for each act or omission;
- Direct the person to cease and desist specified activities;
- Refuse to register, revoke, or suspend a registration; or
- Place the registrant on probation for a period of time, subject to such conditions as DACS may specify.⁵

DACS may also institute a civil action to recover any penalties or damages authorized in ch. 507, F.S., and for injunctive relief to enforce compliance with ch. 507, F.S.⁶ DACS may seek a civil penalty of up to \$5,000 for each violation.⁷ Further, DACS may seek restitution for, and on behalf of, any shipper aggrieved or injured by a violation.⁸

Currently, ch. 507, F.S., does not preempt local ordinances or regulations of a county or municipality which regulate transactions relating to movers of household goods or moving brokers.⁹ Furthermore, s. 507.03(4), F.S., requires any mover whose principal place of business is located in a county or municipality that requires local licensing or registration to obtain such registration in addition to registering with the state. In addition, s. 507.13(1), F.S., provides that ch. 507, F.S., does not preempt local regulation of movers or moving brokers and allows for local taxes, fees, and bonding related to movers and moving brokers.

Chapter 205, F.S., authorizes a local government to levy a business tax for the privilege of engaging in or managing any business, profession, or occupation within its jurisdiction. Local business taxes were previously known as local occupational license taxes.

¹ Section 507.03, F.S.

² *Id.*

³ Section 507.04, F.S.

⁴ *Id.*

⁵ Section 507.09(1), F.S.

⁶ Section 507.10(1), F.S.

⁷ Section 507.10(2), F.S.

⁸ Section 507.10(3), F.S.

⁹ Section 507.13(1), F.S.

III. Effect of Proposed Changes:

Section 1 amends s. 507.01, F.S., to revise the existing definition of the term “storage” by narrowing it to mean the temporary warehousing of a shipper’s goods while under the care, custody, and control of a mover.

Section 2 amends s. 507.02, F.S., to provide that ch. 507, F.S., does not supersede the mover’s rights to refuse to transport certain items if the terms are included in the estimate and the contract.¹⁰

Section 3 amends s. 507.03, F.S., to change the registration requirement from an annual requirement to a biennial requirement. Also, this section grants DACS rulemaking authority to stagger the registration process. This rulemaking authority expires on June 30, 2009.

This section is amended to remove the requirement that movers and brokers obtain a local license or registration.

Section 4 amends s. 507.04, F.S., to allow a mover to exclude liability for items packed by the shipper which the shipper declines, in writing, to allow the mover to inspect.

Section 5 amends s. 507.05, F.S., to prohibit a mover from requiring the waiver of written estimate. Also, the shipper may not waive a written estimate. The required information in a written estimate and contract is revised to include:

- Contact information for any person authorized by the shipper to direct the pickup or delivery of items to be transported.
- Procedures for shipper inquiries and the handling of complaints.
- Statement that the shipper may observe the weighing of items if the cost for services is based on weight.
- A statement of acknowledgement to be signed by the shipper verifying the shipper received a copy of the bill of rights that is established by DACS’ rule.
- Notice to the shipper of the opportunity to request a written inventory for an additional cost.
- A provision in the contract for service that is in the same form as provided for in the CS, relating to terms of the contract, shipper’s disclosures, and possession of the shippers’ goods.

Section 6 creates s. 507.055, F.S., to require a mover to prepare a written inventory of all items to be moved by the shipper at an additional cost to the shipper. The shipper may waive the preparation of a written inventory. If the shipper requests an inventory, both the shipper and the mover must sign the inventory prior to the departure of the mover’s vehicle from the shipper’s pickup point. A mover may not require a shipper to waive the inventory.

¹⁰ Communication with the moving industry indicated that this provision relates to industry concerns regarding the liability for extremely valuable items such as antiques, fine art, or jewelry and the safety issues related to moving dangerous items such as firearms, fuels, or chemicals.

Section 7 amends s. 507.07, F.S., to make the failure to provide a shipper with: a written estimate of moving and accessorial services; a disclosure statement required by s. 507.05, F.S.; or an offer to prepare a written inventory a violation of ch. 507, F.S., which subjects the mover to administrative fines and penalties.

Section 8 amends s. 507.13, F.S., to provide that ch. 507, F.S., preempts local ordinances and regulations that regulate household good movers and brokers. However, the section also explicitly states that the preemption does not extend to local business taxes established in ch. 205, F.S.

Section 9 provides the CS takes effect July 1, 2007.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Due to the preemption of local ordinances and regulation, the household moving industry may see an increase in revenue by removing the potential for local government fees or taxes.

C. Government Sector Impact:

Due to the preemption of local ordinances and regulation, there is likely to be a reduction in responsibilities for those counties and municipalities that regulate or levy the local business tax against household movers and moving brokers. A local government may also experience a loss in revenue because it can no longer charge movers for a local license or registration.

Also, DACS is required to adopt rules to stagger the registration process and specify the contents of a consumer's bill of rights that must be given to a shipper at the time of an estimate.

VI. Technical Deficiencies:

None.

VII. Related Issues

None.

This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

VIII. Summary of Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
