

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 891 Household Moving Services
SPONSOR(S): Agriculture & Natural Resources Policy Committee, Weinstein
TIED BILLS: **IDEN./SIM. BILLS:** SB 1570

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	<u>Agriculture & Natural Resources Policy Committee</u>	<u>12 Y, 0 N, As CS</u>	<u>Thompson</u>	<u>Reese</u>
2)	<u>General Government Policy Council</u>	<u></u>	<u>Thompson</u>	<u>Hamby</u>
3)	<u>Natural Resources Appropriations Committee</u>	<u></u>	<u></u>	<u></u>
4)	<u>Full Appropriations Council on General Government & Health Care</u>	<u></u>	<u></u>	<u></u>
5)	<u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

Current Florida law¹ does not preempt local ordinances or regulations that regulate movers of household goods or moving brokers. Consequently, if a mover's principal place of business is located in a county or municipality that requires a mover to be licensed or registered, he or she is required to obtain such registration in addition to registering with the state through the Florida Department of Agriculture and Consumer Services (DOACS).

The bill preempts the regulation of movers of household goods and moving brokers to the state. The bill grandfathers local ordinances or regulations that were originally enacted before January 1, 2009, or subsequent amendments to such ordinances or regulations and requires related fees and taxes to be reasonable and not to exceed the cost of administering such regulations. The bill authorizes local ordinances to only require registration and bonding of a mover and moving broker when the principle place of business is located within that jurisdiction. The bill clarifies that the preemption does not apply to a local government's authority to levy a local business tax, pursuant to ch. 205, F.S.

Also, the bill:

- Revises 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;
- Changes the registration requirement for movers and moving brokers from an annual to a biennial registration and requires the annual registration fee to be calculated at the current rate of \$300 per year;
- Allows a mover to refuse to transport certain items and exclude liability for certain household goods under specified situations;
- Requires annual calculations of the registration fee; and
- Authorizes the DOACS to extend the expiration date of registration for a period of up to 12 months in order to establish staggered expiration dates.

The preemption of county and municipal ordinances or regulations that might include the levy of fees and taxes by local governments, and the limitations placed on fees and taxes associated with ordinances and regulations not preempted could result in an indeterminate loss of current as well as potential revenue to local governments. The DOACS indicates the bill will not have a fiscal impact on the agency. 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.

This bill's effective date is July 1, 2009.

¹ s. 507.13, F.S.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

An intrastate mover is defined as any person who engages in the transportation or shipment of household goods for compensation.² During the 2002 Regular Session, the Legislature enacted laws³ regulating the intrastate moving industry in Florida. The law requires any mover wishing to do business in the state to register annually with the Department of Agriculture and Consumer Services (DOACS). To obtain a registration certificate, the mover must file an application, pay a registration fee in the amount of \$300, and meet statutory qualifications.

The law requires a mover 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. 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

Chapter 507, F.S., provides for contract, delivery and storage requirements and provides specific prohibited acts that may result in administrative, civil or criminal penalties. Such violations may also be considered unfair or deceptive acts or practices or unfair methods of competition in violation of the Florida Deceptive and Unfair Trade Practices Act.⁵

If the DOACS finds a mover in violation of any provisions of the law, rules or orders, the DOACS is authorized 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 the department may specify.⁶

² s. 507.01(9), F.S.

³ Ch. 2002-53, Laws of Florida

⁴ s. 507.04(2)(a)-(c), F.S.

⁵ Ch. 501, Part II, F.S.

⁶ s. 507.09(1)(a)-(e), F.S.

The 2006 Legislature amended Chapter 507, F.S., to:

- Change the title of the chapter from “Intrastate Moving Law” to “Household Moving Services”.
- Expand and clarify certain existing definitions and to add definitions for the terms “household move”, “moving broker”, and “moving container”.
- Require moving brokers to register with the DOACS and post specific financial security. A mover that operates two or fewer vehicles may, and moving brokers must, post a performance bond or certificate of deposit in the amount of \$25,000 in lieu of the cargo legal liability coverage.
- Specify that making certain false statements is a violation, regardless of whether the statements are material.
- Require movers’ vehicle display signage to have a minimum letter height of 1.5 inches.
- Authorize additional insurance valuation coverage requirements for coverage of a consumer’s goods.
- Require the mover to disclose the cost and rate of the coverage in writing at the time the estimate and contract for services is executed.
- Provide that the DOACS may suspend registration and seek civil penalties for failure to carry valid liability insurance.
- Prohibit certain limits of liability for a mover’s loss of or damage to a shipper’s goods.
- Require disclosure of liability limitations to the consumer.
- Provide that any liability may be enforced either by an administrative action or by filing an action in a court of competent jurisdiction.
- Provide that a county or municipality may not issue an occupational license unless the mover or broker has a current registration with the DOACS.
- Amend the definition of “self-contained storage unit” in Chapter 83, F.S., as any unit not less than 200 cubic feet.

Current Florida law⁷ does not preempt local ordinances or regulations that regulate transactions relating to movers of household goods or moving brokers. Any mover whose principal place of business is located in a county or municipality that requires local licensing or registration is required to obtain such registration in addition to registering with the state. In addition, Florida law allows for local taxes, fees, and bonding related to movers and moving brokers.

Proposed Changes

The bill revises 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.

The bill changes the registration requirement for movers and moving brokers from an annual to a biennial renewal and requires the registration fee for such businesses to continue to be calculated at an annual rate of \$300 per year. Also, based upon this change, and to stagger registration expiration dates, the bill authorizes DOACS to extend by one year, the expiration date of a registration.

The bill allows movers to exclude liability for household goods packed by the shipper if the exclusion is declared and the shipper declines, in writing, to allow the mover to open and inspect the box or crate in which the goods were packed by the shipper. Movers also are authorized to refuse to transport or ship any of the goods if the mover notifies the shipper and the shipper acknowledges the refusal in writing.

Finally, the bill preempts the regulation of movers of household goods and moving brokers to the state. Broward, Miami-Dade, Palm Beach, and Pinellas Counties currently have ordinances regulating household moving. The bill grandfathers local ordinances or regulations that were originally enacted before January 1, 2009, or subsequent amendments to such ordinances or regulations and requires related fees and taxes to be reasonable and not to exceed the cost of administering such regulations. The bill authorizes local ordinances to only require registration and bonding of a mover and moving broker when the principle place of business is located within that jurisdiction. The bill clarifies that the

⁷ s. 507.13, F.S.

preemption does not apply to a local government's authority to levy a local business tax, pursuant to ch. 205, F.S.

B. SECTION DIRECTORY:

Section 1. Amends s. 507.01, F.S.; changing the definition of the term "storage".

Section 2. Amends s. 507.03, F.S.; providing for biennial renewal of mover and moving broker registrations, authorizing DOACS to extend registration expiration dates one year, requiring the calculation of biennial registration fees based on an annual rate of \$300 per year, deleting the provision requiring certain movers and moving brokers to pay for local and state registration fees.

Section 3. Amends s. 507.04, F.S.; allowing a mover to exclude liability for certain goods packed by the shipper.

Section 4. Amends s. 507.06, F.S.; allowing a mover to refuse the transport or shipment of household goods under certain conditions.

Section 5. Amends s. 507.07, F.S.; conforming to the change from an annual to a biennial registration requirement.

Section 6. Amends s. 507.13, F.S.; preempting local moving ordinances and regulations except those originally adopted prior to January 1, 2009, providing for local registration and bonding, exempting local business taxes.

Section 7. Provides an effective date of July 1, 2009.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments section.

2. Expenditures:

See Fiscal Comments section.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill grandfathers local ordinances and regulations of movers and moving brokers enacted before January 1, 2009, and limits fees and taxes to reasonable ones not exceeding the cost of administering the regulation or ordinance. This provision may reduce existing local revenues.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

In its statement of support for the bill, the household moving industry states that, "*By preempting local moving ordinances, you remove an unnecessary and duplicative financial and administrative burden from reputable movers.*"

D. FISCAL COMMENTS:

The bill changes the registration requirement for movers and moving brokers from an annual to a biennial renewal but provides for the registration fee to be calculated at the current annual rate of \$300 per year. Changing the registration requirement from an annual to a biennial renewal requires movers and moving brokers to pay \$600 every other year.

The bill authorizes the DOACS to stagger registration expiration dates to implement the biennial registration requirement. Staggering registration expiration dates should prevent the DOACS from receiving an influx of registration renewals, allowing for more efficient processing of renewals.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

According to the DOACS, the preemption as framed in the bill does not expand the duties or responsibilities of the DOACS. Additionally, it is the contention of the household moving industry that, *“local regulation confuses and misleads consumers who need a single set of laws and point of contact, not multiple license numbers, puzzling disclosures that appear to conflict with state law, and consumer affairs departments that have been shown to be inconsistent in their complaint policies.”*⁸

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On March 24, 2009, the Agriculture and Natural Resources Policy Committee adopted one amendment to this bill. The amendment clarifies the limitations on local ordinances or regulations enacted before January 1, 2009, and clarifies that such limitations do not apply to a local government's authority to levy a local business tax, pursuant to ch. 205, F.S.

⁸ 2008 Florida Movers and Warehousemen's Association (FMWA) Fact Packet; The Facts: 2.