

[Fourth Reprint]

SENATE, No. 781

STATE OF NEW JERSEY
218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

Sponsored by:

Senator PAUL A. SARLO

District 36 (Bergen and Passaic)

Senator DECLAN J. O'SCANLON, JR.

District 13 (Monmouth)

Assemblyman THOMAS P. GIBLIN

District 34 (Essex and Passaic)

Assemblywoman SERENA DIMASO

District 13 (Monmouth)

Assemblywoman AMY H. HANDLIN

District 13 (Monmouth)

Co-Sponsored by:

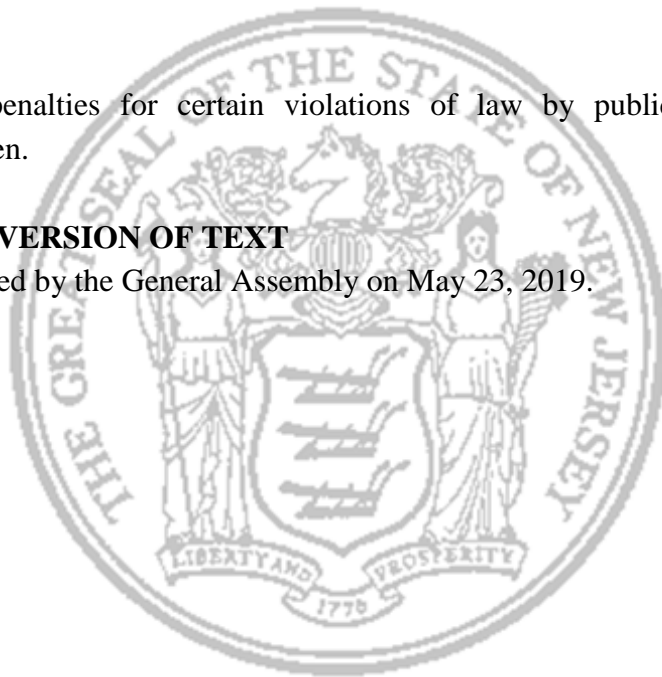
Senator Diegnan and Assemblyman Mejia

SYNOPSIS

Revises penalties for certain violations of law by public movers and warehousemen.

CURRENT VERSION OF TEXT

As amended by the General Assembly on May 23, 2019.



(Sponsorship Updated As Of: 6/21/2019)

1 AN ACT concerning public movers and warehousemen, and
2 amending ²and supplementing² P.L.1981, c.311.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 6 of P.L.1981, c.311 (C.45:14D-6) is amended to
8 read as follows:

9 6. The director shall, in addition to such other powers and
10 duties as the director may possess by law:

11 a. Administer and enforce the provisions of **[this act]**
12 P.L.1981, c.311 (C.45:14D-1 et seq.);

13 b. Adopt and promulgate rules and regulations, pursuant to the
14 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
15 1 et seq.), to effectuate the purposes of **[this act]** P.L.1981,
16 c.311 (C.45:14D-1 et seq.);

17 c. Examine and pass on the qualifications of all applicants for
18 license under **[this act]** P.L.1981, c.311 (C.45:14D-1 et seq.), and
19 issue a license to each qualified applicant;

20 d. Establish professional standards for persons licensed under
21 **[this act]** P.L.1981, c.311 (C.45:14D-1 et seq.);

22 e. Conduct hearings pursuant to the "Administrative Procedure
23 Act," P.L.1968, c.410 (C.52:14B-1 et seq.); except that the director
24 shall have the right to administer oaths to witnesses, and shall have
25 the power to issue subpoenas for the compulsory attendance of
26 witnesses and the production of pertinent books, papers, or records;

27 f. Conduct proceedings before any board, agency or court of
28 competent jurisdiction for the enforcement of the provisions of
29 **[this act]** P.L.1981, c.311 (C.45:14D-1 et seq.);

30 g. Annually publish a list of the names, addresses and tariffs of
31 all persons who are licensed under **[this act]** P.L.1981,
32 c.311 (C.45:14D-1 et seq.);

33 h. Establish reasonable requirements with respect to proper and
34 adequate movers' and warehousemen's services and the furnishing
35 of estimates, and prescribe a uniform system of accounts, records
36 and reports;

37 i. Adopt and promulgate rules and regulations to protect the
38 interests of the consumer, including, but not limited to, regulations
39 concerning the contents of information brochures which a mover or
40 warehouseman shall give to a customer¹, in either a written or
41 digital format,¹ prior to the signing of a contract for moving or
42 storage services; and

43 j. ¹**[Promulgate rules and regulations authorizing]**
44 ⁴**[Authorize]**¹ a regular police officer to issue a summons and

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined **thus** is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate floor amendments adopted June 7, 2018.

²Assembly ARP committee amendments adopted January 24, 2019.

³Assembly AAP committee amendments adopted March 18, 2019.

⁴Assembly floor amendments adopted May 23, 2019.

1 impound a motor vehicle for a violation of P.L.1981, c.311
2 (C.45:14D-1 et seq.). A summons and impoundment shall be issued
3 in accordance with subsections b., c., and d. of section 16 of
4 P.L.1981, c.311 (C.45:14D-16)] Coordinate division enforcement
5 efforts with State and local law enforcement agencies as may be
6 appropriate, including but not limited to, exercising authority to
7 impound a motor vehicle for a violation of P.L.1981, c.311
8 (C.45:14D-1 et seq.)⁴.

9
10 2. Section 16 of P.L.1981, c.311 (C.45:14D-16) is amended to
11 read as follows:

12 16. a. Any person ¹**['willfully']** violating any provision of
13 P.L.1981, c.311 (C.45:14D-1 et seq.) shall, in addition to any other
14 sanctions provided herein, be liable to a civil penalty of not more
15 than **['\$2,500.00']** \$5,000 for the first offense and not more than
16 **['\$5,000.00']** \$20,000 for the second and each subsequent offense , a
17 portion of which shall be dedicated to cover the administrative costs
18 of the ¹**['municipality and']** Division of Consumer Affairs in the
19 Department of Law and Public Safety, as determined by the
20 director. Any person engaging in the unlicensed practice of
21 activities regulated by P.L.1981, c.311 (C.45:14D-1 et seq.) who
22 violates a provision of P.L.1981, c.311 (C.45:14D-1 et seq.) shall be
23 ordered, after a first offense, to delete or block access to any
24 Internet website maintained by the person that advertises the
25 person's unlicensed practice of activities regulated by P.L.1981,
26 c.311 (C.45:14D-1 et seq.). The person shall be liable for an
27 additional penalty of up to \$1,000 each day that the website remains
28 viewable to the public. For the purpose of this section, each
29 transaction or violation shall constitute a separate offense; except a
30 second or subsequent offense shall not be deemed to exist unless an
31 administrative or court order has been entered in a prior, separate
32 and independent proceeding. In lieu of an administrative proceeding
33 or an action in the Superior Court, the Attorney General may bring
34 an action in the name of the director for the collection or
35 enforcement civil penalties for the violation of any provision of that
36 act. The action may be brought in a summary manner pursuant to
37 the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-
38 10 et seq.), and the rules of court governing actions for the
39 collection of civil penalties in the municipal or Special Civil Part of
40 the Law Division of the Superior Court where the offense occurred.
41 Process in the action may be by summons or warrant and if the
42 defendant in the action fails to answer the action, the court shall,
43 upon finding an unlawful act or practice to have been committed by
44 the defendant, issue a warrant for the defendant's arrest in order to
45 bring the person before the court to satisfy the civil penalties
46 imposed. In an action commenced pursuant to this section, the
47 court may order restored to any person in interest any moneys or

1 property acquired by means of an unlawful act or practice. Any
2 action alleging the unlicensed practice of the activities regulated by
3 P.L.1981, c.311 (C.45:14D-1 et seq.) shall be brought pursuant to
4 this section or, where injunctive relief is sought, by an action
5 commenced in the Superior Court. In an action brought pursuant to
6 that act, the director or the court may order the payment of costs for
7 the use of the State.

8 b. Any person ¹willfully violating any provision of
9 ⁴advertising or engaging in the business of public moving or
10 storage without a license issued pursuant to¹ P.L.1981, c.311
11 (C.45:14D-1 et seq.) shall be guilty of a disorderly persons offense
12 and shall, upon conviction, be punished by a fine of up to ¹[\$5,000]
13 \$1,000¹, or by imprisonment for up to six months, or by both fine
14 and imprisonment] found to have engaged in the unlicensed
15 practice of activities regulated by P.L.1981, c.311 (C.45:14D-1 et
16 seq.) shall be ordered, after a first violation, to remove or cause to
17 be removed from public view on any Internet website maintained by
18 or on behalf of the person any information that a reasonable person
19 would construe as an offer to perform in this State activities or
20 services subject to regulation under P.L.1981, c.311 (C.45:14D-1 et
21 seq.) and any advertising that suggests that the person is licensed to
22 perform such activities or services in this State. In addition to any
23 other penalties, a person who violates an order entered in
24 accordance with this subsection shall be liable for an additional
25 penalty of up to \$1,000 each day that information on the website is
26 viewable to the public.⁴ ³Nothing in ⁴[P.L.1981, c.311 (C.45:14D-
27 1 et seq.)] this section⁴ shall be construed to impose liability on
28 news media that accept ⁴, publish, or accept and publish⁴
29 advertising ⁴provided by or on behalf of a third party unrelated to
30 the news media entity⁴ that may fall within the scope of P.L.1981,
31 c.311 (C.45:14D-1 et seq.) ⁴[, or publish advertising that may fall
32 within the scope of P.L.1981, c.311 (C.45:14D-1 et seq.), or
33 both]⁴ .³

34 ⁴[c. Any person engaging in the business of public moving
35 without a license issued pursuant to P.L.1981, c.311 (C.45:14D-1 et
36 seq.) may be subject to a suspension, for a period of no more than
37 three months, of a driver's license issued pursuant to R.S.39:3-10 or
38 commercial driver license issued pursuant to P.L.1990,
39 c.103 (C.39:3-10.9 et seq.), and the impoundment of the motor
40 vehicle used to engage in the unlicensed practice of public moving.

41 d. In addition to any penalty provided for in this section or the
42 penalty established pursuant to subsection d. of section 6 of
43 P.L.1998, c.60 (C.45:14D-29), a public mover, warehouseman, or
44 any other person who engages in the business of public moving or
45 storage and who knows, or reasonably should have known, that
46 payment for the lawfully agreed charges for the mover's services,

1 storage services, or other person's services has been ¹**【tendered】**
2 paid in full ¹ by a consumer, shall release the consumer's property to
3 the consumer. If the mover, warehouseman, or other person fails to
4 release the consumer's property to the consumer, then the mover,
5 warehouseman, or other person shall be guilty of a crime of the
6 fourth degree and shall, upon conviction, be punished by a fine of
7 up to \$10,000, or by imprisonment for up to 18 months, or by both
8 fine and imprisonment. If the mover, warehouseman, or other
9 person fails to release the consumer's property to the consumer, any
10 regular police officer may take custody of the consumer's property
11 and release the property to the consumer. ⁴

12
13 ⁴3. (New section) It shall be an unlawful practice for a person
14 who
15 does not hold a license to engage in the business of public moving or
16 storage issued pursuant to section 9 of P.L.1981, c.311 (C.45:14D-9) to
17 offer to perform activities or services subject to regulation under
18 P.L.1981, c.311 (C.45:14D-1 et seq.) or advertise or cause to be
19 advertised, via an Internet website or by any other means, that the
20 person may perform such activities or services in this State. Nothing
21 in this section shall be construed to impose liability on any news media
22 for accepting or publishing advertising that may fall within the scope
23 of P.L.1981, c.311 (C.45:14D-1 et seq.) if that advertising is provided
24 by or on behalf of a third party unrelated to the news media entity. ⁴

25
26 ⁴4. (New section) It shall be an unlawful practice for a public
27 mover, warehouseman, or any other person, whether or not holding a
28 license issued pursuant to section 9 of P.L.1981, c.311 (C.45:14D-9),
29 who engages in the business of public moving or storage who knows,
30 or reasonably should know, that the lawfully agreed charges for the
31 moving or storage services have been paid in full by a consumer, to
32 withhold or fail to timely release the consumer's property to the
33 consumer, or to threaten to withhold or fail to timely release the
34 consumer's property to the consumer, or to demand payment beyond
35 or in addition to the lawfully agreed charges for the moving or storage
36 services. Nothing in this section shall be construed to preclude or limit
37 the prosecution or conviction of any person for theft by failure to make
38 required disposition of property in violation of N.J.S.2C:20-9, or any
39 other applicable criminal offense enumerated in chapter 20 of Title
40 2C. ⁴

41
42 ⁴5. (New section) a. A person owning or operating a motor
43 vehicle who shall use or direct another person to use his motor vehicle
44 for engaging in the business of public moving without having a license
45 as provided for in section 9 of P.L.1981, c.311 (C.45:14D-9), commits
46 a disorderly persons offense. The first offense is punishable by a fine

1 of \$500, and the motor vehicle so used may be impounded; the second
2 or any subsequent offense is punishable by a fine of \$1,000, and the
3 motor vehicle so used may be impounded. In the event of such an
4 impoundment, the person owning or operating the motor vehicle shall
5 notify any consumer whose property is contained in the motor vehicle
6 and shall arrange for the expeditious return of the property to the
7 consumer at the expense of the person owning or operating the motor
8 vehicle.

9 b. Any law enforcement officer is authorized to remove any
10 motor vehicle used to engage in the business of public moving without
11 having a license as provided for in section 9 of P.L.1981, c.311
12 (C.45:14D-9) from the public highway to a storage space or garage,
13 and the expense involved in such removal and storing of the vehicle
14 shall be borne by the owner of the vehicle, except that the expense
15 shall be borne by the lessee of a leased vehicle.⁴

16
17 ⁴6. (New section) Any person who does not hold a license to
18 engage in the business of public moving or storage issued pursuant to
19 section 9 of P.L.1981, c.311 (C.45:14D-9), who holds himself out as a
20 public mover or warehouseman or as providing mover's services or
21 storage services as defined in section 2 of P.L.1981, c.11 (C.45:12D-2)
22 and engages in the business of public moving or storage shall be guilty
23 of a disorderly persons offense and shall, upon conviction, be punished
24 by a fine of up to \$1,000, or by imprisonment for up to six months, or
25 by both fine and imprisonment. A motor vehicle used to commit a
26 violation of P.L.1981, c.311 (C.45:14D-1 et seq.) may be impounded,
27 and may be held as collateral to secure payment of any fines or towing
28 and storage costs related to the violation and impoundment.⁴

29
30 ⁴[²3.] ⁴7.⁴ (New section) The Division of Consumer Affairs
31 shall annually submit a report to the Legislature, pursuant to section
32 2 of P.L.1991, c.164 (C.52:14-19.1), which provides information on
33 the enforcement and violations of P.L.1981, c.311 (C.45:14D-1 et
34 seq.). The report shall include a description of all enforcement
35 proceedings undertaken at the State and local levels and violations
36 of P.L.1981, c.311 (C.45:14D-1 et seq.) in the preceding year and
37 may include recommendations to improve enforcement of P.L.1981,
38 c.311 (C.45:14D-1 et seq.).²

39
40 ¹[3.] ⁴[4.]¹ 8.⁴ This act shall take effect ⁴[immediately] on
41 the first day of the fourth month next following enactment, except
42 that the director may take any anticipatory administrative action in
43 advance as shall be necessary for the implementation of this act⁴.