

CHAPTER 216

AN ACT concerning public movers and warehousemen, and amending and supplementing P.L.1981, c.311.

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

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

C.45:14D-6 Powers and duties of director.

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

- a. Administer and enforce the provisions of P.L.1981, c.311 (C.45:14D-1 et seq.);
- b. Adopt and promulgate rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the purposes of P.L.1981, c.311 (C.45:14D-1 et seq.);
- c. Examine and pass on the qualifications of all applicants for license under P.L.1981, c.311 (C.45:14D-1 et seq.), and issue a license to each qualified applicant;
- d. Establish professional standards for persons licensed under P.L.1981, c.311 (C.45:14D-1 et seq.);
- e. Conduct hearings pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.); except that the director shall have the right to administer oaths to witnesses, and shall have the power to issue subpoenas for the compulsory attendance of witnesses and the production of pertinent books, papers, or records;
- f. Conduct proceedings before any board, agency or court of competent jurisdiction for the enforcement of the provisions of P.L.1981, c.311 (C.45:14D-1 et seq.);
- g. Annually publish a list of the names, addresses and tariffs of all persons who are licensed under P.L.1981, c.311 (C.45:14D-1 et seq.);
- h. Establish reasonable requirements with respect to proper and adequate movers' and warehousemen's services and the furnishing of estimates, and prescribe a uniform system of accounts, records and reports;
- i. Adopt and promulgate rules and regulations to protect the interests of the consumer, including, but not limited to, regulations concerning the contents of information brochures which a mover or warehouseman shall give to a customer, in either a written or digital format, prior to the signing of a contract for moving or storage services; and
- j. Coordinate division enforcement efforts with State and local law enforcement agencies as may be appropriate, including but not limited to, exercising authority to impound a motor vehicle for a violation of P.L.1981, c.311 (C.45:14D-1 et seq.).

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

C.45:14D-16 Violations, penalties.

16. a. Any person violating any provision of P.L.1981, c.311 (C.45:14D-1 et seq.) shall, in addition to any other sanctions provided herein, be liable to a civil penalty of not more than \$5,000 for the first offense and not more than \$20,000 for the second and each subsequent offense, a portion of which shall be dedicated to cover the administrative costs of the municipality and Division of Consumer Affairs in the Department of Law and Public Safety, as determined by the director. Any person engaging in the unlicensed practice of activities regulated by P.L.1981, c.311 (C.45:14D-1 et seq.) who violates a provision of P.L.1981,

c.311 (C.45:14D-1 et seq.) shall be ordered, after a first offense, to delete or block access to any Internet website maintained by the person that advertises the person's unlicensed practice of activities regulated by P.L.1981, c.311 (C.45:14D-1 et seq.). The person shall be liable for an additional penalty of up to \$1,000 each day that the website remains viewable to the public. For the purpose of this section, each transaction or violation shall constitute a separate offense; except a second or subsequent offense shall not be deemed to exist unless an administrative or court order has been entered in a prior, separate and independent proceeding. In lieu of an administrative proceeding or an action in the Superior Court, the Attorney General may bring an action in the name of the director for the collection or enforcement civil penalties for the violation of any provision of that act. The action may be brought in a summary manner pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), and the rules of court governing actions for the collection of civil penalties in the municipal or Special Civil Part of the Law Division of the Superior Court where the offense occurred. Process in the action may be by summons or warrant and if the defendant in the action fails to answer the action, the court shall, upon finding an unlawful act or practice to have been committed by the defendant, issue a warrant for the defendant's arrest in order to bring the person before the court to satisfy the civil penalties imposed. In an action commenced pursuant to this section, the court may order restored to any person in interest any moneys or property acquired by means of an unlawful act or practice. Any action alleging the unlicensed practice of the activities regulated by P.L.1981, c.311 (C.45:14D-1 et seq.) shall be brought pursuant to this section or, where injunctive relief is sought, by an action commenced in the Superior Court. In an action brought pursuant to that act, the director or the court may order the payment of costs for the use of the State.

b. Any person found to have engaged in the unlicensed practice of activities regulated by P.L.1981, c.311 (C.45:14D-1 et seq.) shall be ordered, after a first violation, to remove or cause to be removed from public view on any Internet website maintained by or on behalf of the person any information that a reasonable person would construe as an offer to perform in this State activities or services subject to regulation under P.L.1981, c.311 (C.45:14D-1 et seq.) and any advertising that suggests that the person is licensed to perform such activities or services in this State. In addition to any other penalties, a person who violates an order entered in accordance with this subsection shall be liable for an additional penalty of up to \$1,000 each day that information on the website is viewable to the public. Nothing in this section shall be construed to impose liability on news media that accept, publish, or accept and publish advertising provided by or on behalf of a third party unrelated to the news media entity that may fall within the scope of P.L.1981, c.311 (C.45:14D-1 et seq.).

C.45:14D-16a License required.

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

C.45:14D-16b Unlawful practice regarding consumer property.

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

C.45:14D-16c License required for use of motor vehicle in business of public moving.

5. a. A person owning or operating a motor vehicle who shall use or direct another person to use his motor vehicle for engaging in the business of public moving without having a license as provided for in section 9 of P.L.1981, c.311 (C.45:14D-9), commits a disorderly persons offense. The first offense is punishable by a fine of \$500, and the motor vehicle so used may be impounded; the second or any subsequent offense is punishable by a fine of \$1,000, and the motor vehicle so used may be impounded. In the event of such an impoundment, the person owning or operating the motor vehicle shall notify any consumer whose property is contained in the motor vehicle and shall arrange for the expeditious return of the property to the consumer at the expense of the person owning or operating the motor vehicle.

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

C.45:14D-16d Unlicensed person engaging in public moving, storage; crime, penalties.

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

C.45:14D-30 Annual report.

7. The Division of Consumer Affairs shall annually submit a report to the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), which provides information on the enforcement and violations of P.L.1981, c.311 (C.45:14D-1 et seq.). The report shall include a description of all enforcement proceedings undertaken at the State and local levels and violations of P.L.1981, c.311 (C.45:14D-1 et seq.) in the preceding year and may include recommendations to improve enforcement of P.L.1981, c.311 (C.45:14D-1 et seq.).

8. This act shall take effect on the first day of the fourth month next following enactment, except that the director may take any anticipatory administrative action in advance as shall be necessary for the implementation of this act.

Approved August 9, 2019.