

Rule Adoption
Volume 41, Issue 2
Issue Date: January 20, 2009
Law and Public Safety
DIVISION OF CONSUMER AFFAIRS
OFFICE OF THE DIRECTOR
PUBLIC MOVERS AND WAREHOUSEMEN

Adopted Amendments: *N.J.A.C. 13:44D-1.1, 4.5* and 13:44D Appendix A

Adopted Repeal and New Rule: *N.J.A.C. 13:44D-4.8*

Adopted New Rule: *N.J.A.C. 13:44D* Appendix

Words and Phrases Defined; Legal Liability and Insurance; Use of an Owner-Operator

Proposed: May 19, 2008 at *40 N.J.R. 2412(a)*.

Adopted: October 15, 2008 by David M. Szuchman, Director, Division of Consumer Affairs.

Filed: December 23, 2008 as R.2009 d.43, **without change**.

Authority: *N.J.S.A. 45:14D-6* and P.L. 2007, c. 50.

Effective Date: January 20, 2009.

Expiration Date: December 20, 2009 .

Federal Standards Statement

A Federal standards analysis is not required because the amendments and new rules are adopted pursuant to State statute and are not subject to any Federal requirements or standards.

Full text of the adoption follows:

SUBCHAPTER 1. DEFINITIONS

13:44D-1.1 Words and phrases defined

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

...

"Bill of lading" means a document evidencing the receipt of goods for shipment issued by a person engaged in the business of transporting or forwarding goods, and includes an airbill.

...

"Contracting public mover" means a licensed public mover who contracts with an owner-operator to provide any mover's service of the licensed public mover.

...

"Owner-operator" means a person who owns, leases or rents one or more motor vehicles and who uses the vehicles to provide mover's services for a contracting public mover.

...

[page=623] "Public mover" means any person who engages in or holds him or herself out to the general public as engaging in the transportation of household goods, as defined by *N.J.S.A. 45:14D-2(e)*; office goods, as defined by *N.J.S.A. 45:14D-2(k)*; or special commodities, as defined by *N.J.S.A. 45:14D-2(q)* by motor vehicle for compensation in intrastate commerce between points in this State, including the moving of household goods, office goods or special commodities from one location to another at a single address, and any person who engages in the performance of accessorial services as defined by *N.J.S.A. 45:14D-2(a)*. "Public mover" does not include an owner-operator.

...

SUBCHAPTER 4. GENERAL PROVISIONS

13:44 D-4.5 Legal liability and insurance

(a) The public mover and/or warehouseman may, by contract with the consumer, limit liability for loss or damage to goods in storage or in transit. The minimum amount, which a public mover and/or warehouseman may limit liability is \$.60 per pound per article. The order for service shall specifically state the public mover's and/or warehouseman's liability. Any limitation shall be null and void and the public mover and/or warehouseman shall be subject to full liability if any of the following occurs:

1. (No change.)
2. The public mover and/or warehouseman fails to provide the consumer with the brochure entitled "Important Notice to Consumers Utilizing Public Movers," in accordance with *N.J.A.C. 13:44D-4.1(a), 4.2(a) or 4.3(a)*;
3. A court or administrative finding has been made that the loss of or damage to the consumer's goods was the result of gross negligence and/or gross incompetence on the part of the mover and/or warehouseman and/or his or her agents or employees, whether as to the actual handling of goods or in the failure to provide appropriate security to prevent loss by theft; or
4. The public mover contracts with an owner-operator and does not provide written notice to the consumer as required by *N.J.A.C. 13:44D-4.8(d)*.

(b)-(j) (No change.)

13:44D-4.8 Use of an owner-operator

- (a) A public mover may enter into a written contract with an owner-operator for the owner-operator to provide moving services to a consumer with whom the public mover has contracted to perform moving services.
- (b) A contracting public mover shall be liable to the consumer for any service provided by the owner-operator.
- (c) A contracting public mover may permit an owner-operator to use the forms of the contracting public mover.
- (d) A contracting public mover shall provide written notice to the consumer if the contracting public mover is using an owner-operator to perform moving services for the consumer on behalf of the public mover. This written notice shall be provided to the consumer at least one business day prior to the provision of services, except as provided in (e) below. A sample written notice form is provided in chapter Appendix H, incorporated herein by reference. The public mover may adopt any form containing the same information outlined in chapter Appendix H; provided that the font size of the type in the public mover's form is the same as in chapter Appendix H, and any words in bold in chapter Appendix H are in bold on the public mover's form.
- (e) A public mover who is providing a short-notice move pursuant to *N.J.A.C. 13:44D-4.15* shall not be required to provide the written notice required by (d) above one business day prior to the provision of services. Such a public mover shall provide the written notice required by (d) above prior to the provision of moving services.

(f) A contracting public mover shall remain responsible under *N.J.A.C. 13:44D-4.1* or *4.2* and shall not permit an owner-operator to perform a physical survey or issue an estimate or order for service to a consumer.

(g) A public mover shall add any owner-operator who provides moving services for the public mover as an additional covered insured under the public mover's insurance policies which he or she is required to hold pursuant to *N.J.S.A. 45:14D-25* and *N.J.A.C. 13:44D-4.5(b)*.

(h) A public mover shall contract only with an owner-operator who presents the public mover with proof that the owner-operator has secured and maintained insurance coverage that covers him or her for property-casualty and workers' compensation liabilities pursuant to (i) below.

(i) The minimum amounts of insurance an owner-operator must secure and maintain are:

1. Legal liability coverage at the rate of \$.60 per pound per article;

2. Bodily injury liability, property damage liability:

i. Limit for bodily injuries to or death of one person: \$ 25,000;

ii. Limit for bodily injuries to or death of all persons injured or killed in any one accident: \$ 100,000, subject to a maximum of \$ 25,000 for bodily injuries to or death of one person; and

iii. Limit for loss or damage in any one accident to property of others (excluding cargo): \$ 10,000; and

3. Cargo liability:

i. For loss or damage to property being transported (cargo liability insurance) on any one vehicle: \$ 5,000 per accident; and

ii. For loss or damage to or aggregate of losses or damages of or to property occurring at any one time and place: \$ 10,000.

(j) A contracting public mover shall maintain as part of its records:

1. The contract between the public mover and the owner-operator, which includes a copy of documents indicating that the owner-operator owns, leases or rents one or more motor vehicles, which the owner-operator will use to provide moving services;

2. Proof that the public mover's insurance includes the owner-operator as an additional covered insured; and

3. A copy of the current insurance policies that the owner-operator maintains pursuant to (h) and (i) above.

APPENDIX A

IMPORTANT NOTICE TO CONSUMERS USING PUBLIC MOVERS AND WAREHOUSEMEN

FORWARD

Please read this brochure carefully. The public mover and/or warehouseman you have engaged is required by law to provide this brochure to you.

...

WEIGHT MOVES

If the public mover's transportation charges are determined on the basis of weight of your shipment and miles traveled,

the public mover will weigh its empty vehicle prior to the loading of your goods. This weight will be the TARE WEIGHT. After loading your goods, the vehicle will again be weighed and this is the GROSS WEIGHT. The difference between the GROSS WEIGHT and the TARE WEIGHT is the NET WEIGHT. The NET WEIGHT is the weight for which you will pay transportation charges. If your shipment weighs less than 1,000 pounds, the mover may weigh it prior to loading by using a portable scale or use an estimated weight based on cubic feet. Some movers may have minimum weight requirements. The weight tickets obtained by the mover must have a seal on them showing that the truck scale used is approved by the NJ Bureau of Weights and Measures. You are permitted to follow the loaded truck to the weigh station to view your weighing.

USE OF AN OWNER-OPERATOR

A public mover may arrange for an owner-operator to provide the moving services which the public mover has contracted to provide. The public mover is liable to the consumer for any services provided by the owner-operator. An owner-operator will use a public mover's forms. If the public mover arranges for an owner-operator to provide moving services, the public mover must advise the consumer in writing at least one business day prior to the day of the move. If the consumer has contracted for a short-notice move, the public mover is not required to provide this written notice one business day prior to the day of a move, but must provide the written notice prior to beginning the move.

A public mover may not use an owner-operator to perform an estimate.

...

GLOSSARY OF MOVING TERMINOLOGY

...

[page=624] "Owner-operator" means a person who owns, leases or rents one or more motor vehicles and who uses the vehicle to provide mover's services for a contracting public mover.

...

APPENDIX H

WRITTEN NOTICE TO CONSUMER OF USE OF AN OWNER/OPERATOR

Licensed Public Mover Name:
Licensed Public Mover Address:
Licensed Public Mover Phone Number:
Licensed Public Mover License Number:

Owner-Operator Name:
Owner-Operator Address:
Owner-Operator Phone Number:

_____ who has contracted with _____ to provide
(NAME OF MOVER) (NAME OF CONSUMER)

warehousing and/or moving services on _____ has contracted with _____
(DATE OF MOVE)

_____, an owner-operator, to provide those services to
(NAME OF OWNER-OPERATOR)

(NAME OF CONSUMER)

_____ shall be liable to _____ for any
(NAME OF MOVER) (NAME OF CONSUMER)

services provided by _____.
(NAME OF OWNER-OPERATOR)

_____ understands that the truck that arrives on _____
(NAME OF CONSUMER) (DATE OF MOVE)

to provide moving services may or may not have the name of
_____ on it, but _____

(NAME OF PUBLIC MOVER) (NAME OF PUBLIC MOVER)

remains responsible for the move and any losses incurred due to the
provision of moving services.

(SIGNATURE OF MOVER)

(SIGNATURE OF CONSUMER)

(NAME OF MOVER)

(NAME OF CONSUMER)

(DATE)

(DATE)