

VOLUME 49, ISSUE 21
ISSUE DATE: **NOVEMBER 6, 2017**
RULE ADOPTIONS
LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
OFFICE OF THE DIRECTOR

Readoption with Amendments: N.J.A.C. 13:44D

Adopted New Rule: N.J.A.C. 13:44D-4.5A

Public Movers and Warehousemen

Proposed: May 1, 2017, at 49 N.J.R. 994(a).

Adopted: July 26, 2017, by the **Division of Consumer Affairs**, Steve C. Lee, Director.

Filed: October 4, 2017, as R.2017 d.194, **with non-substantial changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 45:14D-6.

Effective Dates: October 4, 2017, Readoption;
November 6, 2017, Amendments and New Rule.

Expiration Date: October 4, 2024.

Summary of Public Comments and Agency Responses:

The official comment period ended June 30, 2017. The Division received four comments from the following individuals:

1. Charles Cedervall, Able Metro Moving and Storage;
2. Robert Russo, Executive Director, New Jersey Warehousemen and Movers Association;
3. Peter Ferraro, Peter Ferraro and Sons Moving and Storage; and
4. Robert B. Kandetzke, President, Simonik Transportation & Warehousing Group, LLC.

1. COMMENT: A commenter contends that the Economic Impact statement in the notice of proposal failed to identify that amendments to N.J.A.C. 13:44D will require licensees to revise forms provided to consumers and that these revisions will impose costs on licensees. The commenter recommends that the Division permit licensees to use these old forms for one year from the effective date of the amendments, so that they will not need to dispose of hundreds of thousands of pages of paper. The commenter also contends that the Division failed to discuss costs incurred through the increase of the amount that licensees may limit legal liability for lost or damaged consumer goods.

RESPONSE: The commenter is correct that licensees will need to revise forms to comply with the amended rules, but the benefit to consumers of receiving forms that accurately reflect a licensee's responsibilities outweigh the possible costs of revising forms. The Division will not allow licensees to use outdated forms as the commenter requests. The Division points out that the Economic Impact statement did identify that licensees would incur costs due to the increase in the amount to which licensees may limit legal liability.

2. COMMENT: A commenter opposes the deletion of N.J.A.C. 13:44D-2.1(g), which would end the requirement that licensees display a decal issued by the Director on vehicles used to provide moving services. The commenter contends that truck decals verify licensure, which ensures that consumers are aware that the entity providing moving services is properly licensed. The commenter also contends that truck decals benefit law enforcement in that it allows for an easy verification of licensure. Ending the decal requirement would make it easier for unlicensed movers to provide moving services. The commenter recommends that, as an alternative to ending the truck decal requirement, the Division delete the requirement that licensees maintain a copy of their licenses on every moving vehicle.

RESPONSE: The Division does not believe that the truck decal provides the protections alleged by the commenter. Very few, if any, consumers or law enforcement officers know about the decal requirement and would not be aware that the absence of a decal indicates a moving company is not properly licensed. Issuing decals is a time-consuming process for the Division and significantly delays the issuance of initial and renewed licenses. As this requirement does not provide significant consumer protection and its deletion will speed up the licensure process, the Division believes it is appropriate to delete N.J.A.C. 13:44D-2.1(g)

3. COMMENT: The commenters oppose increasing liability for lost or damaged consumer goods from \$.60 per pound to \$ 1.00 per pound. One of the commenters contends that this will increase costs for licensees and that this increase will be passed on to consumers. The commenter points out that consumers can choose to pay for coverage that is greater than the amount set forth in the regulation and contends that no other state has increased liability to \$ 1.00 per pound. Another commenter recommends that an increase to liability should be incremental.

RESPONSE: Legal liability of \$.60 per pound has been in effect since prior to 1989. It is appropriate to raise this amount given inflation over the last 30 years. The Division also believes that it will be easier for licensees and consumers to calculate total liability when it is set at \$ 1.00 per pound. Incremental increases would be inappropriate as it would entail repeated amendments to N.J.A.C. 13:44D and continual revisions to moving forms.

4. COMMENT: A commenter contends that there are some states that impose a legal liability of \$.30 per pound and that the Federal requirement is set at \$.60 per pound. The commenter recommends that the Director should not increase legal liability and should instead amend the regulations to require that all licensed movers offer consumers the option to purchase full value coverage for goods being shipped.

RESPONSE: As discussed in the Response to Comment 3, legal liability has been \$.60 per pound for decades and it is appropriate to raise this amount regardless of other state or Federal requirements. The Director does not believe it is appropriate to dictate business practices to the extent of requiring every licensed public mover to offer increased valuation for loss or damage of consumer goods.

Summary of Agency Initiated Changes:

Adopted amendments to N.J.A.C. 13:44D-4.6 and 4.7 increase the amount to which licensed public movers and/or warehousemen may limit liability for loss or damage to consumer goods from \$.60 per pound to \$ 1.00 per pound. References to the pre-amendment amount (\$.60) also appear in N.J.A.C. 13:44D-4.2 and 4.3 and 13:44D Appendix. To eliminate confusion, the Director is also changing these rules upon adoption to reflect throughout, the increase of the rate from \$.60 to \$ 1.00. Additional public notice of this change is not required.

Federal Standards Statement

As the rules readopted with amendments and new rule apply solely to intra-State moves, a Federal standards analysis is not required because there are no Federal laws or standards applicable.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 13:44D.

Full text of the adopted amendments and new rule follows (additions to proposal indicated in boldface with asterisks ***thus***; deletions from proposal indicated in brackets with asterisks *[thus]*):

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.

...

"Consumer" means the person contracting with a public mover and/or warehouseman for moving and/or storage services.

...

"Order for Service" means the contract that the consumer must receive from a public mover and/or warehouseman at least 24 hours prior to the move.

...

"Tariff" means a schedule of rates and charges for the storage or transportation of property in intrastate commerce on file with the Director, which shall be used, except in the use of binding estimates by movers, in computing all charges on the storage or transportation of property as of the date of the time in storage or transportation.

...

[page=3544] SUBCHAPTER 2. GENERAL LICENSE REQUIREMENTS

13:44D-2.1 License to engage in the business of public moving and/or storage

(a) (No change.)

(b) An applicant for licensure as a public mover and/or warehouseman shall submit to the Director:

1.-2. (No change.)

3. (No change in text.)

4. A copy of all vehicle registration(s) issued to the applicant by the New Jersey Motor Vehicle Commission or, in the case of vehicles subject to a long-term lease, a copy of the signed lease agreement.

(c)-(d) (No change.)

(e) The original license shall be prominently displayed by the public mover or warehouseman at the principal place of business with copies displayed at all other such offices, warehouses, and/or facilities maintained by the licensee within this State.

(f) (No change.)

Recodify existing (h)-(j) as (g)-(i) (No change in text.)

13:44D-2.3 Designation of agent

(a) No public mover and/or warehouseman shall operate under a license until he or she has designated an agent and provided a street address and municipality upon which service of process, notices, and/or orders may be made pursuant to N.J.S.A. 45:14D-1 et seq.

(b) The designated agent shall be an individual, who is neither the owner, director, or principal of the company and who is a resident of the State of New Jersey.

(c) The Director shall be notified, in writing, within 30 days of a change of designated agent.

(d) (No change.)

13:44D-2.5 Advertising

(a) All advertising by licensees shall include the licensee's:

1.-2. (No change.)

3. Permanent place of business in New Jersey and a New Jersey telephone number.

(b)-(c) (No change.)

13:44D-2.6 Place of business

(a) (No change.)

(b) A licensee shall conspicuously post a notice on the premises of his or her permanent place of business that includes:

1. The telephone number of a representative available to handle consumer inquiries for a minimum of 20 hours per week; and

2. (No change.)

(c) (No change.)

(d) For the purpose of this section, "conspicuously post" shall mean a placement location that will permit the average consumer to read the notice required in this section without having to enter the premises of the licensee's place of business.

SUBCHAPTER 3. TARIFFS

13:44D-3.1 Tariffs

(a) (No change.)

(b) The tariff shall be filed with the Director no more often than on a semiannual basis, with the first filing to be received by the Director no later than April 1 and the second no later than October 1. Filings accepted by the Director will become effective as of May 1 and November 1, respectively. If a mover chooses not to change his or her tariff at any given filing period, the previously filed tariff shall remain in effect. All tariffs shall conform to the following requirements:

1. Tariff format shall be eight and one-half inches wide and 11 inches long with a one and one-half inch margin on the left-hand side;

2. The printing shall be of a legible size not less than eight points and must use paper and ink;

Recodify existing 7.-8. as 3.-4. (No change in text.)

(c) Each tariff shall consist of the following:

1.-2. (No change.)

3. Each tariff shall contain a definition section for all term abbreviations, and reference marks used in the tariff;

4. Standard terms and conditions shall indicate in clear and concise language all services and privileges covered by the rates. These standard terms and conditions shall be a separate and distinct part of the tariff; and

5. Rate schedule shall include, but not be limited to, the following:

i.-ii. (No change.)

iii. The rates for each separate and distinct class of service rendered shall be filed as a separate schedule and shall begin on a separate sheet. The schedule of rates for each class of service shall have assigned to it a page or section number.

(d) Corrections in the filed tariff shall only be permitted during the period between the filing

date and the effective date and shall be subject to the written approval of the Director. The Director has the right to review any filed tariff with respect to any inconsistencies or unclear or contradictory language or terms and conditions and order the deletion or amendment of the same.

(e) (No change.)

SUBCHAPTER 4. GENERAL PROVISIONS

13:44D-4.2 Moving contract: non-binding estimate

(a) (No change.)

(b) The written estimate required by (a) above shall include:

1.-15. (No change.)

16. The type, amount*,* and cost of shipment coverage for loss or damage to consumer's goods, which shall be one of the following:

i. Standard valuation of *[\$.60]* ***\$ 1.00*** per pound;

ii.-iii. (No change.)

17.-18. (No change.)

(c) The public mover and the consumer shall enter into a contract at least 24 hours prior to the move by completing an order for service form. The order for service form, entitled "Order for Service with Non-Binding Estimate," shall include:

1.-7. (No change.)

8. The following information, in boldface and at least 10 point font size, with an indication as to which option the consumer has chosen:

i.-ii. (No change.)

iii. The statement: "The public mover offers the following options in the event of loss or damage to your shipment. These options are described in the "Mover's Responsibility for Loss and Damages" section of the brochure entitled "Important Notice to Consumers Using Public Movers and Warehousemen." You must select one of the following options:

Option 1: The consumer declines insurance and/or increased valuation. Any damages will be reimbursed at a value of *[\$.60]* ***\$ 1.00*** per pound per article.

Option 2-Option 3 (No change.)

9.-10. (No change.)

(d)-(h) (No change.)

13:44D-4.3 Moving contract: binding estimate

(a)-(b) (No change.)

(c) The order for service required by (b)3 above shall contain:

1.-6. (No change.)

7. The following information, in boldface and at least 10 point font size, with an indication as to which option the consumer has chosen:

i.-ii. (No change.)

iii. The statement: "The public mover offers the following options in the event of loss or damage to your shipment. These options are described in the "Mover's Responsibility for Loss and Damages" section of the brochure entitled "Important Notice to Consumers Using Public Movers." You must select one of the following options:

Option 1: The consumer declines insurance and/or increased valuation. Any damages will be reimbursed at a value of *[\$.60]* ***\$ 1.00*** per pound per article.

Option 2-Option 3 (No change.)

8.-9. (No change.)

(d)-(f) (No change.)

[page=3545] 13:44D-4.5A Auditing bill of lading

(a) A bill of lading shall be audited by a licensee within seven days of the completion of a move.

(b) A bill of lading employed in the storage of property shall be audited by a licensee within seven days of release of the property.

13:44D-4.6 Legal liability

(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 to which a public mover and/or warehouseman may limit liability is \$ 1.00 per pound per article.

(b)-(d) (No change.)

13:44D-4.7 Insurance

(a) (No change.)

(b) The minimum amounts of coverage a public mover shall secure and maintain are:

1. Cargo liability coverage at the rate of \$ 1.00 per pound per article, which, at a minimum, covers:

i.-ii. (No change.)

2. (No change.)

(c) The minimum amounts of coverage for warehousemen are:

1. Warehousemen liability coverage at the rate of \$ 1.00 per pound per article.

(d)-(j) (No change.)

13:44D-4.16 Claims procedures

(a)-(c) (No change.)

(d) (No change in text.)

APPENDIX

IMPORTANT NOTICE TO CONSUMERS USING PUBLIC MOVERS AND WAREHOUSEMEN

...

MOVER'S RESPONSIBILITY FOR LOSS AND DAMAGE

The mover's liability for items is limited to the type of shipment protection plan you select on the order for service, regardless of the value of an item. If you decide to select increased valuation or insurance directly from your mover, in most cases, you must agree to or declare the total value of everything that will be moved. That value would be the maximum you would be paid in the event of a total loss of all items.

OPTION 1: There is no charge for this coverage, but in most cases, it will not provide sufficient coverage. Unless you have additional insurance, the mover is, in most cases, only required to reimburse you for any damage to your belongings at the rate of *[\$.60]* ***\$ 1.00*** per pound. For example, if you have a vase valued at \$ 1,000 but it only weighs two pounds, the mover is, in most cases, only required to reimburse you the sum of *[\$ 1.20]* ***\$ 2.00***.

OPTION 2: Increased valuation: A mover may contract with you for increased valuation by agreeing to increase his legal liability limit for loss or damage, replacing the *[\$.60]* ***\$ 1.00*** per pound option. No insurance policy will be issued since, under increased valuation, a mover agrees to increase his liability limit in the event of loss or damage. The mover is able to secure the proper limits of coverage through his cargo liability insurance carrier to support the increased valuation agreement. Obtaining a certificate of insurance from the mover indicating an adequate cargo liability limit of coverage prior to the move is recommended.

Option 3: (No change.)

...

TARIFFS

...

Public Movers and Warehousemen are regulated by the Office of Consumer

Protection, 124 Halsey Street, PO Box 45028, Newark, NJ 07101. If you have a question concerning the mover or warehouseman, or wish to lodge a complaint, please call 1 (973) 504-6200. You may also visit The Office of Consumer Protection's website at www.njconsumeraffairs.gov/pmw/Pages/default.aspx.

...