
**SENATE COMMITTEE ON
BUSINESS, PROFESSIONS AND ECONOMIC DEVELOPMENT**
Senator Richard Roth, Chair
2021 - 2022 Regular

Bill No: AB 224
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Urgency: Yes
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Fiscal: Yes

Subject: Department of Consumer Affairs: Bureau of Household Goods and Services:
household movers

SUMMARY: An urgency measure that exempts specified motor carriers and brokers from the Household Movers Act.

Existing law:

- 1) Establishes the Bureau of Household Goods and Services (Bureau) within the Department of Consumer Affairs to administer and enforce the Electronic and Appliance Repair Dealer Registration Law, the Home Furnishings and Thermal Insulation Act, and the Household Movers Act, (Business and Professions Code (BPC) §§ 9810-9814.5, 19030-19034.5, 19225.5-19234.1)
- 2) States that protection of the public is the highest priority for the Bureau in exercising its licensing, regulatory, and disciplinary functions, and whenever the protection of the public is inconsistent with other interests sought to be promoted, protection of the public is paramount. (BPC § 19234.1)
- 3) Prohibits a household mover from engaging in the business of transportation of used household goods and personal effects for compensation by motor vehicle over any public highway in California, except in accordance with the provisions of the household movers act, as specified. (BPC § 19235)
- 4) Requires each household mover to display on each vehicle operated by it an identification symbol in the form and in accordance with rules and regulations prescribed by the Bureau, as specified. (BPC § 19236)
- 5) Defines “broker” to mean a person engaged by others in the act of arranging, for compensation, the interstate transportation of used household goods by a motor vehicle over the highways of this state for, or on behalf of, a shipper, a consignor, or a consignee. (BPC § 19225.5(a))
- 6) Defines “household mover” to include every corporation or person, their lessees, trustee, receivers, or trustees appointed by any court whatsoever, engaged in the permitted or unpermitted transportation for compensation or hire as business by means of a motor vehicle or motor vehicles being in the transportation of used household goods and personal effects over any public highway in this state,

including a broker as defined in 5) above. (BPC § 19225.5(h))

- 7) Defines “motor vehicle” to mean every motor truck, tractor, or other self-proclaimed vehicle used for transportation of any property over the public highways, other than upon fixed rails or tracks, and any trailer, semitrailer, dolly, or other vehicle drawn thereby. (BPC § 19225.5(j))

This bill:

- 1) Specifies that a motor carrier registered under the federal Unified Carrier Registration Act is not a “household mover” for purposes of regulation by the Bureau if:
 - a) the motor carrier only provides transportation of household good and containers or trailers when the household goods are entirely loaded and unloaded by an individual who is not an employee or agent of the motor carrier.
 - b) the motor carrier does not otherwise advertise as a household mover, although they can advertise or offer services when the motor carrier only provides the transportation of household good entirely loaded and unloaded by an individual who is not an employee or agent of the motor carrier.
- 2) Specifies that a broker, as defined in federal regulations, is also not a “household mover” for purposes of regulation by the Bureau, if the broker, pursuant to a broker registration issued by the USDT:
 - a) only utilizes the services of a motor only utilizes the services of a motor carrier according to a) and b) above
 - b) does not otherwise advertise as a permitted household mover
 - c) does not otherwise advertise as a household mover, although they can advertise or offer services when the motor carrier only provides the transportation of household good entirely loaded and unloaded by an individual who is not an employee or agent of the motor carrier.
- 3) Declares this bill is necessary for the immediate preservation of the public peace, health, or safety in order to protect more Californians from losing their jobs during a pandemic and preserve an industry that promotes social distancing options for California consumers.

FISCAL EFFECT: This bill is keyed fiscal by Legislative Counsel. According to the Assembly Committee on Appropriations, this bill will result in estimated ongoing annual costs of \$583,000 (special funds) to the Bureau for additional staff to investigate consumer complaints regarding unlicensed activity. The Bureau believes this exemption will encourage other noncompliant entities, such as interstate moving companies, to contract with storage container delivery companies so the noncompliant entities are not required to become licensed themselves. This would result in an increase of unlicensed household mover activity in the state, and therefore an increase

in enforcement actions needed to be taken by the Bureau by an estimated 33%. Anticipated revenue loss of \$286,000 to \$541,000 annually to the Bureau is also anticipated due to storage delivery companies no longer needing to be permitted, as well as a decrease in citations issued to unlicensed movers.

COMMENTS:

1. **Purpose.** This bill is an urgency measure and is co-sponsored by the California Teamsters and the California Trucking Association.

According to the Author, “moving services have grown over the decades to differ significantly from traditional full-service movers and target a different segment of the consumer market. The primary distinction between these two types of service involves whether service features are offered inside the residence (as is the case with traditional full-service moves) or whether the motor carrier is merely offering the availability of its equipment and transportation service (as is the case with LSE providers).

The federal definition of a “household goods motor carrier” contains a carve-out for limited service exclusion (LSE) operations, exempting this segment of the industry from certain regulatory requirements, such as motor carrier registration requirements and cargo insurance.

California’s definition of a “household goods motor carrier” does not include the carve-out for LSE operations; however, until recently, California has not required motor carriers that fall under this exclusion to obtain household goods permits and operate as household goods movers.

This conflict between state and federal statute requires LSE’s to comply with extensive and (due to the self-service nature of these operations) unrelated regulatory requirements imposed on traditional full-service movers. “

2. **Background.**

The Bureau of Household Goods and Services. The Bureau is within the DCA, and was previously known as the Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation (BEARHFTI). The Bureau oversees the regulation of household movers along with electronic and appliance repair dealers, service contractors, and those licensed under the home furnishing and thermal insulation act. As a result of SB 19 (Hill, Chapter, 421 Statutes of 2017), the regulatory oversight for household movers was transferred from the Public Utilities Commission to the BEARHFTI- and in 2018, the name of BEARHFTI was changed to the Bureau’s current name to more accurately reflect all of the licensees under its jurisdiction.

Administration of the Household Movers Act. The Household Movers Act (Act) regulates businesses that transport used household goods and personal effects via motor vehicles. The Act aims to ensure protections for consumers that pay for the transportation of personal property that would ordinarily be kept at home or moved from home to a new home. A household mover is prohibited from transporting used

household goods and personal effects within California without first obtaining the appropriate permit from the Bureau as specified in BPC § 19237 and meeting both workers' compensation and liability insurance requirements as specified in BPC §§ 19239.1 and 19248. "Moving companies" are distinguished from motor carriers of property not associated with the home, such as office furniture, commercial goods, or other property not originating from a personal residence. Those businesses do not fall under the jurisdiction of the Bureau or the Act.

Moving entities regulated by the Bureau are required to obtain liability insurance, submit fingerprints for background check and subsequent arrest notification, report and pay specified fees to the Bureau based on revenue including a fee to the California Highway Patrol for safety and a uniform business tax based. Entities that this bill seeks to exempt would not be subject to Bureau background checks, fee payments or liability insurance requirements.

In addition to operational requirements for licensure, moving entities are also required to comply with the requirements specified in the Maximum Rates and Rules for the Transportation of Used Property commonly referred to as the MAX 4 rate tariff. The Max 4 tariff which includes regulations surrounding estimates, notices to consumers, rates, charges, collections, claims, valuation, and numerous other requirements and forms.

This bill seeks to exempt entities that moves consumer goods from a point in California to another point in California where the load is entirely loaded and unloaded by an individual other than an employee or agent of the entity without utilizing the services of a *mover* who might offer additional services such as packing, loading, binding, storage, or other services traditionally associated with a *full service mover*. Currently, there is not a definition of a *full service mover* under the ACT so it is difficult to determine what specific types of "moving" services this bill seeks to exempt.

Federal Regulation of Household Movers. The federal Safe, Accountable, Flexible, Efficient Transportation Equity Act established, among other things, regulation for the interstate transport of household goods. While similar to the state requirements discussed under this bill, it provides a limited services exemption, which excludes motor carriers that do not include a motor carrier when the motor carrier provides transportation of household goods in containers or trailers that are entirely loaded and unloaded by an individual (other than an employee or agent of the motor carrier). The goal of the exemption is likely to exclude companies that offer containers and transport of goods but do not provide any moving services related to that transport.

3. **Arguments in Support.** The sponsors write in support and note, "This measure will update California's outdated definition of "household goods mover" to recognize the intent of Congress to exclude motor carriers in the self-moving industry operating under a "limited services exclusion" (LSE) from that definition. The self-moving industry provides Californians with a Congressionally authorized, socially distanced moving option that is approximately 25-50% cheaper than a full-service move.

California has never required motor carriers who fall under this exclusion to obtain household goods permits and operate as household goods movers; however, recently, the Bureau has notified our members that they must obtain these permits. In doing so, the clear conflict between State and Federal statute has come to light.

According to the Federal Motor Carrier Safety Administration (FMCSA), the Congressional intent of this provision was to distinguish traditional, full service moving companies from “a motor carrier solely providing transportation of household goods entirely packed in, or unpacked from, one or more containers....” Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, § 4202(b), Public Law 109-59, Conf. Rep. No. 109-203.

4. **Arguments in Opposition.** The California Moving & Storage Association writes in opposition, “For traditional moving companies, consumer protection is enhanced by consistent contracts and forms set out in both the Business and Professions Code and the MAX 4 Tariff (which regulates household movers in California). This paperwork sets out, among many things, the estimated cost, a “not-to-exceed” price, details the labor and equipment to be used, provides dates of service, provides for storage-in-transit charges at the customer’s request, clearly explains the responsibilities of the mover, and is clear about payment for services. A company exempted by this bill, but still essentially providing or arranging moving services, would not be subject to any of these requirements. Finally, it is worth noting that the BHGS permit applies to the company, and not the individual employees. In the above example, PODS would hold the BHGS permit and it would cover all employees. The permit costs \$500, requires knowledge of the Max 4 Tariff, participation in the DMV Employer Pull-Notice System (if required), information to show that vehicles will be maintained and operated in safe condition, fingerprinting for a criminal background check and evidence of insurance coverage. AB 224 is a step in the wrong direction and sends the wrong message to those seeking to skirt the permitting process.”
5. **Related Legislation.** AB 2460 (Daly of 2020) was almost identical to this bill. (*Status: The measure did not advance due to impacts on the Legislative session stemming from the COVID-19 pandemic.*)

SB 391 (Monning, Chapter 210, Statutes of 2019), Authorizes a person employed as a special investigator or supervising special investigator by the Bureau to issue a written notice to appear in court, as specified.

SB 1483 (Hill, Chapter 578, Statutes of 2018), extends the authority of the Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation (Bureau or BEARHFTI) to administer and enforce the Electronic and Appliance Repair Dealer Registration Law (Law) and Home Furnishings and Thermal Insulation Act (Act) to January 1, 2023, and makes changes intended to improve oversight over the regulated practices.

SB 19 (Hill, Chapter 421, Statutes of 2017), provided a suite of reforms for operations at the PUC, including: the transfer, by July 1, 2018, of four transportation-related functions from the PUC to other agencies or jurisdictions; clarified and, in some cases, codified the responsibilities and oversight of various

positions; and, clarified PUC notification requirements for contracting of outside legal services; and others.

6. Policy Issues for Consideration.

Definition of Full Service Mover. This bill would exempt brokers that utilize motor carriers that meet the requirements under this bill but do not advertise for the “full service moving” of household goods. However, “full service moving” is not currently defined under the Act – it is unclear the types of companies that this bill then would apply to. Certain companies rely on consumers to be in control of the items that they intend to move and may be the sole individuals who handle household goods but they still rely on a company to transport those goods, by various means and through various options. Could the provisions of this bill be overly broad and provide exemptions from regulation for companies that provide moving services, but simply don’t advertise as “full service movers”? The bill may result in an unfair playing field by requiring some to go through the process of licensure and oversight by the Bureau but others offering the same services, albeit through innovative or more convenient processes, would not be subject to the same requirements.

Household Mover Scope of Practice. While not established by this bill, the current scope of practice of household movers includes any transportation of used household goods over a state highway for compensation. As a result, there is no basis to include or exclude the ancillary services associated with the transportation of household goods, such as packing, loading, providing estimates, or entry into a home.

Limits Consumer Protection. By exempting certain motor carriers that transport used household goods from the oversight of the Bureau’s jurisdiction, could this bill have the unintended consequence of limited consumer protection and recourse? Those motor carriers not subject to Bureau’s oversight and the laws and regulations of the Act would not have to abide by the specifications in the Max 4 tariff, which includes regulations surrounding estimates, notices to consumers, information about rates, charges, collections, and claims, among others. In addition, it is unclear how a consumer would seek recourse in the event of damages, lost, or undelivered household goods.

Unlicensed Activity. Due to the insufficiency of the PUC’s licensing and enforcement activities, it is unclear how many non-compliant household movers were in business prior to the oversight of household movers transitioning to the Bureau. The Bureau reports a total of 180 “hold hostage” cases since it began regulating the household goods moving industry. These are cases related to goods that are being transported but are held hostage for ransom or additional fees from consumers beyond what was specified in the contract. If not registered with the Bureau, there would be no enforcement tools available to the Bureau to help retrieve a person’s property that has been taken and not returned or to hold those responsible accountable. As a number of these types of cases are unlicensed or unpermitted companies, it is unknown if any of those seeking this exemption, have been included in any of these cases.

New Permit? Given that the companies seeking an exemption in this bill, likely have a different business model for purposes of moving consumer goods. Instead of a full exemption, would it be more appropriate to require the Bureau to establish a new permit or registration for these types companies that provide moving services ancillary to other operations?

SUPPORT AND OPPOSITION:

Support:

California Teamsters Public Affairs Council (co-sponsor)
California Trucking Association (co-sponsor)

Opposition:

California Moving & Storage Association

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