

DEPARTMENT OF CONSUMER AFFAIRS
BUREAU OF HOUSEHOLD GOODS AND SERVICES

NOTICE OF PROPOSED REGULATORY ACTION CONCERNING:
HOUSEHOLD MOVER ENFORCEMENT REGULATIONS

NOTICE IS HEREBY GIVEN that the Bureau of Household Goods and Services (Bureau) is proposing to take the action described in the Informative Digest below, after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The Bureau has not scheduled a public hearing on this proposed action. However, the Bureau will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days prior to the close of the written comment period. A hearing may be requested by making such request in writing addressed to the individuals listed under “Contact Person” in this notice.

WRITTEN COMMENT PERIOD

Written comments relevant to the action proposed, including those sent by mail, facsimile, or e-mail to the addresses listed under “Contact Person” in this Notice, must be **received by the Bureau at its office no later than by Monday, November 25, 2024**, or must be received by the Bureau at the hearing, should one be scheduled.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by Stats. 2017, Ch. 421, Section 8 (SB 19) and, sections 125.9, 137, 148, 482, 19228, 19239, and 19268 of the Business and Professions Code (BPC), to implement, interpret, or make specific Stats. 2017, Ch. 421, Section 8 (SB 19) and, BPC section(s) 10, 125.9, 141, 148, 149, 480, 481, 482, 485, 490, 493, 9810, 19225, 19225.5, 19228, 19236, 19237, 19239, 19239.4, 19268, 19275, 19277, 19277.1, 19278, 19279, 19279.1, 19279.2, 19280, 19281, 19282, 19283, 19283.1, and sections 11505(c) and 11522 of the Government Code, the Bureau is considering amending Division 27, and adopting Chapters 1 and 2 with titles, Section 2800 in Article 1 with titles, Sections 2940, 2941, 2942, and 2943 in Article 2 with titles, and Sections 2970, 2971, and 2972 in Article 3 with titles in Chapter 2 of Division 27 of Title 16 of the California Code of Regulations (CCR).

INFORMATIVE DIGEST / POLICY STATEMENT OVERVIEW

The Department of Consumer Affairs (DCA), Bureau of Household Goods and Services (Bureau), is the state agency charged with licensing, regulating, and investigating complaints against 17 different license categories in California, totaling approximately 41,285 licensees pursuant to Business and Professions Code section 9810. These licensing categories include Appliance Service Dealers, Electronic Service Dealers, Furniture and Bedding Manufacturers, Custom Upholsterers, Thermal Insulation Manufacturers, and Service Contract Sellers and Obligors. It is the Bureau's duty to enforce and administer various sections of the Business and Professions Code (BPC), including Chapter 20 of Division 3 (commencing with Section 9800), and Chapter 3 (commencing with Section 19000) and Chapter 3.1 (commencing with Section 19225) of Division 8.

In 2018, the Legislature passed Senate Bill (SB) 19 (Hill, Chapter 421, Statutes of 2017), which transferred the authority to regulate household movers from the Public Utilities Commission (Commission) to the Bureau. Specifically, SB 19 transferred administration of the Household Goods Carriers Act to the Bureau by renaming the Household Goods Carriers Act to the Household Movers Act and moving the Household Movers Act (Act) to Chapter 3.1 of Division 8 of the BPC, section 19225, *et seq.*

Section 19234.1 of the Act states: "Protection of the public shall be the highest priority for the bureau in exercising its licensing, regulatory, and disciplinary functions under this chapter. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount."¹ In transferring authority to the Bureau, the Legislature found and declared in Section 3 of SB 19 (enacted as described below as the "CPUC Oversight Act") that the Bureau succeeds to and is vested "with all the authority, duties, powers, purposes, functions, responsibilities, and jurisdiction of the Public Utilities Commission, its predecessors, and its officers for the purposes of [the transfer]," including the authority to "prescribe reasonable rules and regulations as may be necessary to implement, administer, and enforce" the Bureau's duties in addition to rules and regulations specifically authorized by the California Public Utilities Commission Governance, Accountability, Training, and Transportation Oversight Act of 2017 ("CPUC Oversight Act" -- Stats. 2017, Ch. 421, § 8) or any other provision of law.

Likewise, BPC section 19228 states:

- (a) Notwithstanding any other law, and until the time the director adopts regulations implementing this chapter, powers granted to, or duties imposed on, the Public Utilities Commission pursuant to the former Chapter 7 (commencing with Section 5101) of Division 2 of the Public Utilities Code are transferred to, and may be

¹ "License" and "permit" will be used interchangeably throughout this document in accordance with BPC section 23.8, which defines "licensee" as any person authorized by a license, certificate, registration, or other means to engage in a business or profession regulated by the BPC.

exercised by, the director in administering this chapter.

- (b) All rules, regulations, general orders, forms, and Maximum Rate Tariff 4, as most recently amended as of July 1, 2018, by the Public Utilities Commission, adopted, administered, or enforced by the Public Utilities Commission for purposes of implementing and administering the former Chapter 7 (commencing with Section 5101) of Division 2 of the Public Utilities Code, that are in effect immediately preceding July 1, 2018, shall remain in effect and shall be administered and enforced by the director, until the operative date of regulations adopted by the director to implement this chapter.
- (c) Until the operative date of regulations implementing this chapter, household movers shall observe the rules, regulations, general orders, and Maximum Rate Tariff 4, as most recently amended as of July 1, 2018, by the Public Utilities Commission, that are administered and enforced by the director pursuant to this chapter. A violation of those rules, regulations, general orders, or tariff may be grounds for discipline.

Currently, the Bureau has no division in the California Code of Regulations that pertain to household movers and the Bureau's regulation in accordance with the Act or that contain all rules necessary for the performance of the Bureau's duties as authorized by the CPUC Oversight Act and the Act. Thus, to implement the Act and pursuant to the Bureau's authority described above, the Bureau seeks to amend Division 27 to rename it from the Bureau of Electronic and Appliance Repair to the "Bureau of Household Goods and Services" along with new chapters and articles in Title 16 of the California Code of Regulations (CCR), for the placement of all rules and regulations described in this proposal regarding definitions for the new Chapter in Division 27, administrative citations, the contest of citations, citation compliance, assessment of fines, substantial relationship criteria, rehabilitation criteria, and advertising, and all future household mover rules and regulations prescribed by the Bureau. These rules and regulations are necessary to help empower the Bureau to act "with all the authority, duties, powers, purposes, functions, responsibilities, and jurisdiction of the Public Utilities Commission, its predecessors, and its officers" and to ensure that protection of the public shall be the Bureau's highest priority.

Additionally, consumer protection is best achieved when members of a regulated industry are compliant with all rules, regulations, and laws. As BPC section 19228 shows, various authorities govern household movers, potentially creating confusion or difficulty within the industry in reconciling which statutory or regulatory requirements apply. Therefore, proposed revisions to Division 27 will also be used to consolidate certain authorities, thereby further encouraging clarity, understanding, and compliance by the industry and strengthening consumer protection.

Additionally, beginning in 2020, in accordance with the statutory amendments implemented by Assembly Bill (AB) 2138 (Chiu, Chapter 995, Statutes of 2018), BPC

section 481 requires boards within the DCA to develop criteria for use when considering the denial, suspension, or revocation of a license, to determine whether a crime is substantially related to the qualifications, functions, or duties of the professions it regulates. Further, BPC section 493 requires the boards to determine whether a crime is substantially related to the qualifications, functions, or duties of the professions it regulates by using criteria, including the nature and gravity of the offense, the number of years elapsed since the date of the offense, and the nature and duties of the profession. In addition, BPC section 482 requires boards to develop criteria to evaluate the rehabilitation of a person when considering the denial, suspension, or revocation of a license. Specifically, the amendments of BPC section 482 through AB 2138 requires boards to consider whether an applicant has completed the criminal sentence at issue without a violation of parole or probation in addition to the board's applied criteria.

To satisfy these statutory mandates, the Bureau is proposing to include proposed sections and new chapters in Division 27 that will specify the "Substantial Relationship Criteria" and the "Rehabilitation Criteria." To promote fairness in all application reviews, these sections will also establish and clarify that the Bureau will use the same criteria when deciding whether to deny, suspend, or revoke a household mover permit based on "professional conduct" or an "act" that resulted in disciplinary action, in accordance with, respectively, BPC sections 480 and 141.

Finally, BPC section 137 authorizes the Bureau to promulgate regulations requiring licensees to include their license numbers in any advertising, soliciting, or other presentments to the public. Household movers are not currently required to provide their license numbers to the public on advertisements and presentments. This omission makes it more difficult for consumers to ascertain if an individual is licensed or qualified to perform that particular work. Accordingly, the proposal would resolve the problem of insufficient license information provided to the public by requiring all public presentments and advertisements in connection with the rendition of household mover services to include the household mover's name and Bureau-issued permit number along with other disclosure requirements for brokers and vehicles operated by a household mover, as specified.

In this rulemaking proposal, the Bureau proposes to establish minimum standards for its enforcement program, including the following:

- Article 1, "General Provisions," for regulations that have general applicability. CCR Section 2800 will create definitions for certain commonly used terms in the proposed new sections, as specified.
- Article 2, "Enforcement," for regulations that will implement the Bureau's enforcement program for violations of the Act. CCR Section 2940 will clarify the Bureau's authority to determine when and against whom a citation will be issued and to issue citations containing orders of abatement and fines. CCR Section 2940 will also implement the Bureau's citation program, in accordance with BPC

sections 125.9 and 148, including by specifying the required contents of citations. CCR Section 2941 will establish how a cited party may contest citations and request an informal citation review conference and the informal citation review conference process. CCR Section 2942 will establish the process for how a cited party may comply with citations and orders of abatement. CCR Section 2943 will implement when and how a fine may be assessed, including the amount thereof if a fine is issued, compliance requirements, consequences for nonpayment, and the factors the Bureau will consider when issuing an administrative fine.

- Article 3, “Miscellaneous,” for regulations that do not fit in other articles that serve specific purposes. CCR Section 2970 will implement the “Substantial Relationship Criteria” and CCR Section 2971 will implement the “Rehabilitation Criteria” the Bureau will use when considering whether to deny, suspend, or revoke a license based on a criminal conviction, professional misconduct, or an act that is grounds for disciplinary action per section 141, Division 1.5 (commencing with Section 475), and section 19239 of the BPC. CCR Section 2972 will establish certain advertising requirements for household movers, including requiring household movers to include their name and Bureau-issued permit number in all advertisements and set other disclosure requirements for brokers and vehicles operated by a household mover, as specified.

Anticipated Benefits of Proposal

The proposed regulatory language will implement the CPUC Oversight Act and help empower the Bureau to exercise its licensing, regulatory, and disciplinary functions under the Act. The benefits of proposed amendments to Division 27 to adopt new chapters, articles and regulatory sections include:

- Proposed Article 1, “General Provisions,” will clarify the meaning of certain terms and provide how they will be construed universally among various authorities that govern the household mover industry. This will create uniformity among those sources and promote greater compliance by the industry. A “General Provisions” article will also support Chapter 2 of Division 27’s overall organization to promote easy identification of the Bureau’s regulations. Specifically, by housing regulations that are general in nature, other articles that serve a specific purpose can be labeled and arranged accordingly, allowing for information to be easily found.
- Proposed Article 2, “Enforcement,” will clarify the Bureau’s authority to enforce the Act and implement the Bureau’s enforcement program for violations of the Act—significant steps toward helping curtail illegal activity within the household mover industry and advancing the Bureau’s mission to make “the protection of the public . . . paramount.” The proposed regulations will create an incentive to comply by: establishing the Bureau’s citation program; specifying what a cited party must do after receiving a citation; and

making clear the consequences of a violation. A household mover will either elect to follow regulations or be subject to fines, permit suspension or revocation, or more severe penalties, including criminal prosecution. The establishment of an informal citation conference review process will add a second layer of review for citations, allowing cited parties to pursue a simpler and more expeditious way to challenge citations and potentially eliminate unnecessary administrative appeals. Finally, many of the procedures proposed in Article 2 mirror and substantially replicate procedures the Bureau uses for its other programs, thus promoting uniformity, consistency, and fairness among all programs.

- Proposed Article 3, “Miscellaneous,” will be used to place regulations that do not fit in other articles that serve specific purposes and, thus, will function similarly to other “Miscellaneous” articles the Bureau uses for its other programs. This will promote uniformity, consistency, and fairness among all the Bureau’s programs and will likewise support the organization of proposed Chapter 2 of Division 27, to allow for the easy identification of regulations. For this regulatory package, the Bureau is proposing to include sections that will clarify the Bureau’s statutory authority to deny, suspend, or revoke a household mover permit based on a conviction of a crime, professional misconduct, or an act that resulted in disciplinary action. More importantly, as mandated by AB 2138, these proposed sections will establish the “Substantial Relationship Criteria” and the “Rehabilitation Criteria” the Bureau must consider when making these decisions. By implementing these criteria, the Bureau will advance AB 2138’s goal to reduce barriers to licensing, promote reduction of recidivism, and provide economic opportunity to individuals otherwise disadvantaged by past misconduct.

Proposed Article 3 will also include a section specifying “Advertising” requirements, including that a household mover’s advertisements must include the household mover’s name and Bureau-issued permit number, advertisements by brokers must include a disclaimer that brokers do not take possession of or participate in the transportation of consumers’ belongings and vehicles used by household movers who engage in transportation of household goods or personal effects must display certain information as specified. The Board anticipates that consumers will benefit from the proposal, including by being better informed of who is and who is not a licensed household mover and making more informed decisions about with whom they choose to do business and thereby enabling consumers to be better protected from fraudulent or misleading claims about a household mover’s license status.

Finally, in its entirety, proposed changes to Division 27 will provide greater clarity to the household mover industry about its rights and responsibilities. It will also inform the larger community of the same, including consumers, representatives for the household

mover industry, such as business associations, business leaders, and attorneys, and government actors involved in an enforcement or judicial action, including Deputy Attorneys General and Administrative Law Judges.

This regulatory proposal will have a positive impact on the health and welfare of California citizens to the extent the prospect of being cited for violations promotes compliance by the household mover industry, thereby strengthening consumer protection. This regulatory proposal would also increase access to licensed businesses, which will allow for greater consumer choice and create a more competitive market.

Evaluation of Consistency and Compatibility with Existing State Regulations

During the process of developing this regulatory proposal, the Bureau has conducted a search of any similar regulations on these topics and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

DISCLOSURES REGARDING THIS PROPOSED ACTION

FISCAL IMPACT ESTIMATES

The Bureau anticipates absorbable workload and costs related to the issuance of citations and fines. Total workload and costs are estimated to range from approximately \$254,000 to \$320,000 per year and up to \$2.9 million over a ten-year period including:

Citation and Fines: The Bureau estimates 100 citations and fines will be issued per year and anticipates workload costs of approximately \$2,100 per citation, which results in absorbable workload costs ranging from approximately \$210,000 to \$274,000 per year and up to \$2.4 million over a ten-year period.

Citation Appeals: The Bureau estimates 5 percent (5) of citations issued per year will be appealed. The Bureau anticipates workload costs of approximately \$1,300 per appeal, plus estimated Attorney General and Office of Administrative Hearing costs of \$7,500, which results in absorbable workload costs ranging from approximately \$44,000 to \$46,000 per year and up to \$450,000 over a ten-year period.

Revenues: The Bureau estimates up to 100 citations will be issued to household movers per year with an average fine amount of \$500, which would result in penalty revenues of \$50,000 per year and up to \$500,000 over a ten-year period.

Please see the Initial Statement of Reasons for further detail regarding the above fiscal impact estimates.

The regulations do not result in costs or savings in federal funding to the state.

Nondiscretionary Costs/Savings to Local Agencies: None

Cost to any Local Agency or School District for which Government Code Sections 17500 - 17630 Require Reimbursement: None

Mandate Imposed on Local Agencies or School Districts: None

Significant Effect on Housing Costs: None

BUSINESS IMPACT ESTIMATES

The Bureau has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This initial determination is based on the following facts.

These proposed regulations establish minimum standards for an enforcement program for household movers. In the event a licensee violates the Bureau's laws and regulations in a manner that warrants a citation, the citation and fine issued is not sufficient to eliminate a particular job or household mover's business. The fine issued is avoidable, should the licensee comply with the laws and regulations of the Bureau.

The Bureau estimates up to 100 citations will be issued to household movers per year with an average fine amount of \$500, which would result in penalty payments of \$50,000 per year and up to \$500,000 over a ten-year period. Please see the Initial Statement of Reasons for further detail.

Additionally, AB 2138 is intended to reduce barriers to licensure for applicants with criminal histories or prior discipline; however, the Bureau has been complying with the provisions under current law since AB 2138 became operative on July 1, 2020. As a result, the Bureau does not anticipate any businesses to be significantly impacted by the regulations.

Cost Impact on Representative Private Person or Business

The proposed regulations establish minimum standards for an enforcement program for household movers. In the event a licensee violates the laws and regulations of the Bureau that warrants a citation, the citation and fine issued is not sufficient to eliminate a particular job or household mover's business. The fine issued is avoidable, should the licensee comply with the laws and regulations of the Bureau.

It is paramount household movers follow the appropriate procedures and business processes in accordance with the law and the Bureau's regulations. The purpose of the proposed regulations is to ensure household movers are compliant and promote best

business practices for California consumers. The Bureau estimates up to 100 citations will be issued to household movers per year with an average fine amount of \$500, which would result in an economic impact of approximately \$50,000 per year and up to \$500,000 over a ten-year period. Please see the Initial Statement of Reasons for further detail.

RESULTS OF ECONOMIC IMPACT ASSESSMENT / ANALYSIS

Impact on Jobs / Businesses

The Bureau has determined that this regulatory proposal will not have a significant impact on the following:

- 1) the creation or elimination of jobs within the state,
- 2) the creation of new businesses or the elimination of existing businesses within the state, or,
- 3) the expansion of businesses currently doing business within the state.

As specified above in the “Business Impact Estimates” section, individuals in compliance with the Bureau’s laws and associated regulations will not be affected by the proposed regulations. Additionally, while AB 2138 is intended to reduce barriers to licensure, the Bureau has been complying with the provisions under current law since July 1, 2020. As a result, the Bureau does not anticipate any additional jobs or businesses to be significantly impacted by these regulations.

Benefits of Regulation:

This regulatory proposal will have a positive impact on the health and welfare of California citizens to the extent the prospect of being cited for violations promotes compliance by the household mover industry, thereby strengthening consumer protection. This regulatory proposal would also increase access to licensed businesses, which will allow for greater consumer choice and create a more competitive market.

This regulatory proposal does not affect worker safety because it does not propose regulations that impact worker safety.

This regulatory proposal has no effect on the environment because it does not involve the environment.

Business Reporting Requirements

The regulatory action does not require businesses to file a report with the Bureau.

Effect on Small Business

The Bureau has determined that the proposed regulations will not have a significant effect on small businesses. Although small businesses owned by licensees of the Bureau may be impacted, the Bureau does not maintain data relating to the number or percentage of licensees who own a small business. However, in the event a licensee violates the laws and regulations of the Bureau that warrants a citation, the citation and fine issued is not sufficient to eliminate a particular job or household mover's business. The fine issued is also avoidable, should the licensee comply with the laws and regulations of the Bureau.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Bureau must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed; would be as effective and less burdensome to affected private persons than the proposal described in this Notice; or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may submit comments to the Bureau in writing relevant to the above determinations at 4244 South Market Court, Suite D, Sacramento, CA 95834-1243 during the written comment period, or at the hearing if one is scheduled or requested.

AVAILABILITY OF STATEMENT OF REASONS AND RULEMAKING FILE

The Bureau has compiled a record for this regulatory action, which includes the Initial Statement of Reasons (ISOR), proposed regulatory text, and all the information on which this proposal is based. This material is contained in the rulemaking file and is available for public inspection upon request to the contact persons named in this notice.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the Initial Statement of Reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Bureau, at 4244 South Market Court, Suite D, Sacramento, CA 95834-1243.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments, the Bureau, upon its own motion or at the request of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the

full text of any modified proposal, with the modifications clearly indicated, will be available for review and written comment for 15 days prior to its adoption from the persons designated in this Notice as the Contact Persons and will be mailed to those persons who submit written comments or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the persons named below.

You may obtain a copy of the Final Statement of Reasons once it has been prepared by making a written request to the Contact Persons named below or by accessing the website listed below.

CONTACT PERSONS

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Eileen J. H. Yap
Bureau of Household Goods and Services
4244 South Market Court, Suite D
Sacramento, CA 95834-1243
Telephone: (279) 224-0694
E-Mail: Eileen.yap@dca.ca.gov

The backup contact person is:

Justin Paddock
Bureau of Household Goods and Services
4244 South Market Court, Suite D
Sacramento, CA 95834-1243
Telephone: (279) 895-1431
E-Mail Address: Justin.paddock@dca.ca.gov

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations with modifications noted, as well as the Final Statement of Reasons when completed, and modified text, if any, can be accessed through the Bureau's website at https://bhgs.dca.ca.gov/forms_pubs/index.shtml.