

SENATE BILL 578

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2002 Regular Session
2lr2201
CF 2lr2200

By: **Senators Bromwell and Della**
Introduced and read first time: February 1, 2002
Assigned to: Finance

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 28, 2002

CHAPTER _____

1 AN ACT concerning

2 **Maryland ~~Home~~ Household Goods Movers Act**

3 FOR the purpose of ~~requiring home movers to provide consumers with certain~~
4 ~~information under certain circumstances; requiring home movers to provide~~
5 ~~consumers with written estimates under certain circumstances; requiring a~~
6 ~~home mover's written estimate to contain certain information; prohibiting a~~
7 ~~home mover from exercising or threatening to exercise a warehouseman's lien or~~
8 ~~from refusing to deliver consumer goods~~ prohibiting a household goods mover
9 from enforcing a carrier's lien or refusing to deliver certain household goods
10 under certain circumstances; providing that a violation of this subtitle is an
11 unfair and deceptive trade practice subject to certain enforcement and penalty
12 provisions; providing that a household goods mover who violates this subtitle is
13 subject to certain civil and criminal penalties under certain circumstances;
14 making a certain conforming change; requiring the Division of Consumer
15 Protection of the Office of the Attorney General to report to certain committees
16 of the General Assembly on or before a certain date; providing for the application
17 of this Act establishing a certain short title; defining certain terms; and
18 generally relating to the Maryland ~~Home~~ Household Goods Movers Act.

19 BY repealing and reenacting, with amendments,
20 Article - Commercial Law
21 Section 7-308(1)
22 Annotated Code of Maryland
23 (1997 Replacement Volume and 2001 Supplement)

24 BY repealing and reenacting, with amendments,
25 Article - Commercial Law

1 Section 13-301(14)
 2 Annotated Code of Maryland
 3 (2000 Replacement Volume and 2001 Supplement)

4 BY adding to
 5 Article - Commercial Law
 6 Section 14-2901 through ~~14-2905~~ 14-2904, inclusive, to be under the new
 7 subtitle "Subtitle 29. Maryland ~~Home~~ Household Goods Movers Act"
 8 Annotated Code of Maryland
 9 (2000 Replacement Volume and 2001 Supplement)

10 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 11 MARYLAND, That the Laws of Maryland read as follows:

12 **Article - Commercial Law**

13 7-308.

14 (1) [A] EXCEPT AS PROVIDED IN § 14-2902 OF THIS ARTICLE, A carrier's lien
 15 may be enforced by public or private sale of the goods, in bloc or in parcels, at any
 16 time or place and on any terms which are commercially reasonable, after notifying all
 17 persons known to claim an interest in the goods. Such notification must include a
 18 statement of the amount due, the nature of the proposed sale and the time and place
 19 of any public sale. The fact that a better price could have been obtained by a sale at a
 20 different time or in a different method from that selected by the carrier is not of itself
 21 sufficient to establish that the sale was not made in a commercially reasonable
 22 manner. If the carrier either sells the goods in the usual manner in any recognized
 23 market therefor or if he sells at the price current in such market at the time of his
 24 sale or if he has otherwise sold in conformity with commercially reasonable practices
 25 among dealers in the type of goods sold he has sold in a commercially reasonable
 26 manner. A sale of more goods than apparently necessary to be offered to ensure
 27 satisfaction of the obligation is not commercially reasonable except in cases covered
 28 by the preceding sentence.

29 13-301.

30 Unfair or deceptive trade practices include any:

31 (14) Violation of a provision of:

32 (i) This title;

33 (ii) An order of the Attorney General or agreement of a party
 34 relating to unit pricing under Title 14, Subtitle 1 of this article;

35 (iii) Title 14, Subtitle 2 of this article, the Maryland Consumer Debt
 36 Collection Act;

- 1 (iv) Title 14, Subtitle 3 of this article, the Maryland Door-to-Door
2 Sales Act;
- 3 (v) Title 14, Subtitle 9 of this article, Kosher Products;
- 4 (vi) Title 14, Subtitle 10 of this article, Automotive Repair Facilities;
- 5 (vii) Section 14-1302 of this article;
- 6 (viii) Title 14, Subtitle 11 of this article, Maryland Layaway Sales
7 Act;
- 8 (ix) Section 22-415 of the Transportation Article;
- 9 (x) Title 14, Subtitle 20 of this article;
- 10 (xi) Title 14, Subtitle 15 of this article, the Automotive Warranty
11 Enforcement Act;
- 12 (xii) Title 14, Subtitle 21 of this article;
- 13 (xiii) Section 18-107 of the Transportation Article;
- 14 (xiv) Title 14, Subtitle 22 of this article, the Maryland Telephone
15 Solicitations Act;
- 16 (xv) Title 14, Subtitle 23 of this article, the Automotive Crash Parts
17 Act;
- 18 (xvi) Title 10, Subtitle 6 of the Real Property Article;
- 19 (xvii) Title 10, Subtitle 8 of the Real Property Article;
- 20 (xviii) Title 14, Subtitle 25 of this article, the Hearing Aid Sales Act;
21 or
- 22 (xix) Title 14, Subtitle 26 of this article, the Maryland Door-to-Door
23 Solicitations Act; [or]
- 24 (XX) TITLE 14, SUBTITLE 29 OF THIS ARTICLE, THE MARYLAND ~~HOME~~
25 HOUSEHOLD GOODS MOVERS ACT; OR
- 26 SUBTITLE 29. MARYLAND ~~HOME~~ HOUSEHOLD GOODS MOVERS ACT.
- 27 14-2901.
- 28 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
29 INDICATED.
- 30 (B) "CARRIER'S LIEN" MEANS A LIEN ESTABLISHED UNDER § 7-307 OF THIS
31 ARTICLE.

1 ~~(B)~~ (C) "CONSUMER" HAS THE SAME MEANING AS PROVIDED IN TITLE 13
2 STATED IN § 13-101 OF THIS ARTICLE.

3 ~~(C)~~ (D) "~~CONSUMER GOODS~~ HOUSEHOLD GOODS" ~~HAS THE SAME MEANING~~
4 ~~AS PROVIDED IN TITLE 13 OF THIS ARTICLE~~ MEANS GOODS USED PRIMARILY FOR
5 PERSONAL, FAMILY, OR HOUSEHOLD PURPOSES.

6 ~~(D)~~ (E) "~~HOME~~ HOUSEHOLD GOODS MOVER" MEANS A PERSON WHO
7 PROVIDES HOME MOVING SERVICES.

8 ~~(E)~~ (F) (1) "~~HOME~~ HOUSEHOLD GOODS MOVING SERVICES" MEANS THE
9 LOADING, PACKING, MOVING, TRANSPORTING, STORING WHILE IN TRANSIT,
10 UNLOADING, OR OTHERWISE TAKING POSSESSION OR CONTROL FROM A CONSUMER
11 OF ~~CONSUMER GOODS~~ HOUSEHOLD GOODS FOR THE PURPOSE OF MOVING THEM TO
12 ANOTHER LOCATION AT THE DIRECTION OF THE CONSUMER FOR A ~~TOTAL CHARGE~~
13 OF \$250 OR MORE FEE.

14 (2) "~~HOME~~ HOUSEHOLD GOODS MOVING SERVICES" DOES NOT INCLUDE
15 MOVING ~~CONSUMER~~ HOUSEHOLD GOODS FOR DISPOSAL OR DESTRUCTION.

16 ~~(F)~~ "~~WAREHOUSEMAN'S LIEN~~" ~~HAS THE SAME MEANING AS PROVIDED IN §~~
17 ~~7-209 OF THIS ARTICLE.~~

18 14-2902.

19 ~~(A)~~ A HOME MOVER SHALL PROVIDE AN ESTIMATE TO A CONSUMER IN
20 ACCORDANCE WITH THIS SECTION.

21 ~~(B)~~ A HOME MOVER MAY PROVIDE PRICE INFORMATION ORALLY OR IN
22 WRITING PRIOR TO AGREEING TO PROVIDE HOME MOVING SERVICES.

23 ~~(C)~~ IF A HOME MOVER AGREES TO PROVIDE HOME MOVING SERVICES TO A
24 CONSUMER, THE HOME MOVER SHALL PROVIDE THE CONSUMER WITH A WRITTEN
25 ESTIMATE PRIOR TO THE SCHEDULING OF THE MOVE.

26 ~~(D)~~ A WRITTEN ESTIMATE SHALL:

27 (1) SEPARATELY IDENTIFY EACH MOVING SERVICE THAT THE HOME
28 MOVER IS OFFERING TO THE CONSUMER, THE PRICE OF THE SERVICE, AND THE
29 METHOD OF CALCULATING THE PRICE OF THE SERVICE;

30 (2) SEPARATELY IDENTIFY ANY FEE THAT THE CONSUMER WILL OR MAY
31 BE REQUIRED TO PAY;

32 (3) STATE THE ESTIMATED TOTAL PRICE;

33 (4) CONTAIN, IN CLOSE PROXIMITY TO THE ESTIMATED TOTAL PRICE, A
34 CONSPICUOUS NOTICE STATING:

35 "A HOME MOVER MAY NOT REFUSE TO DELIVER A CONSUMER'S GOODS IF THE
36 CONSUMER OFFERS TO PAY THE LESSER OF:

1 (4) ~~THE OUTSTANDING BALANCE OF THE FINAL TOTAL PRICE~~
2 ~~DEMANDED BY THE HOME MOVER; OR~~

3 (II) ~~THE OUTSTANDING BALANCE OF 110 PERCENT OF THE~~
4 ~~ESTIMATED TOTAL PRICE STATED IN THE WRITTEN ESTIMATE.";~~

5 (5) ~~STATE THE TIME AND METHOD OF PAYMENT REQUIRED OR~~
6 ~~ALLOWED;~~

7 (6) ~~STATE THE SCHEDULED DATES OF PICKUP AND DELIVERY;~~

8 (7) ~~DESCRIBE THE COMPENSATION A CONSUMER WILL RECEIVE FOR~~
9 ~~ANY LOSS OR DAMAGE TO THE CONSUMER'S GOODS;~~

10 (8) ~~STATE THAT ANY CLAIM MADE BY A CONSUMER AGAINST A HOME~~
11 ~~MOVER FOR LOSS OR DAMAGE TO THE CONSUMER'S GOODS MAY BE FILED UP TO~~
12 ~~NINE MONTHS FROM THE DELIVERY OF THE GOODS; AND~~

13 (9) ~~HAVE ATTACHED A COPY OF ANY CONTRACT, ORDER FOR SERVICE,~~
14 ~~OR OTHER DOCUMENT THAT THE CONSUMER WILL BE ASKED TO SIGN OR THAT~~
15 ~~DESCRIBES THE TERMS AND CONDITIONS OF THE MOVE.~~

16 ~~14-2903.~~

17 ~~A HOME MOVER MAY NOT EXERCISE OR THREATEN TO EXERCISE A~~
18 ~~WAREHOUSEMAN'S LIEN OR OTHERWISE REFUSE TO DELIVER A CONSUMER'S~~
19 ~~GOODS, UNLESS:~~

20 (1) ~~A WRITTEN ESTIMATE WAS PROVIDED TO THE CONSUMER IN~~
21 ~~ACCORDANCE WITH THIS SUBTITLE; AND~~

22 (2) ~~THE CONSUMER FAILS TO TENDER TO THE HOME MOVER THE~~
23 ~~LESSER OF:~~

24 (4) ~~THE OUTSTANDING BALANCE OF THE FINAL TOTAL PRICE~~
25 ~~DEMANDED BY THE HOME MOVER; OR~~

26 (II) ~~THE OUTSTANDING BALANCE OF 110 PERCENT OF THE~~
27 ~~ESTIMATED TOTAL PRICE STATED IN THE WRITTEN ESTIMATE.~~

28 A HOUSEHOLD GOODS MOVER MAY NOT ENFORCE OR THREATEN TO ENFORCE
29 A CARRIER'S LIEN AGAINST, OR REFUSE TO DELIVER, A CONSUMER'S HOUSEHOLD
30 GOODS WHEN PROVIDING HOUSEHOLD GOODS MOVING SERVICES FOR AN
31 INTRASTATE MOVE.

32 ~~14-2904. 14-2903.~~

33 (A) A VIOLATION OF ANY ~~PROVISION OF THIS SUBTITLE IS AN UNFAIR OR~~
34 ~~DECEPTIVE TRADE PRACTICE WITHIN THE MEANING OF TITLE 13 OF THIS ARTICLE~~
35 ~~AND IS SUBJECT TO THE ENFORCEMENT AND PENALTY PROVISIONS CONTAINED IN~~
36 ~~TITLE 13 OF THIS ARTICLE.~~

1 (B) IN ADDITION TO BEING SUBJECT TO THE ENFORCEMENT AND PENALTY
2 PROVISIONS CONTAINED IN TITLE 13 OF THIS ARTICLE, A HOUSEHOLD GOODS
3 MOVER THAT VIOLATES THIS SUBTITLE IS SUBJECT TO ANY OTHER CIVIL OR
4 CRIMINAL ACTION PROVIDED BY LAW.

5 ~~14-2905-~~ 14-2904.

6 THIS SUBTITLE MAY BE CITED AS THE MARYLAND ~~HOME~~ HOUSEHOLD GOODS
7 MOVERS ACT.

8 SECTION 2. AND BE IT FURTHER ENACTED, That on or before December 1,
9 2003, the Division of Consumer Protection of the Office of the Attorney General shall
10 report, in accordance with § 2-1246 of the State Government Article, to the Senate
11 Finance Committee and the House Economic Matters Committee on:

12 (a) the need for a registration process for household goods movers, including
13 the persons subject to registration;

14 (b) the number of complaints received under this Act; and

15 (c) any enforcement action taken under this Act.

16 ~~SECTION 2-3.~~ AND BE IT FURTHER ENACTED, That this Act shall take
17 effect October 1, 2002.