

DEPARTMENT OF CONSUMER AFFAIRS
Title 16. Professional and Vocational Regulations
Division 27. Bureau of Household Goods and Services

PROPOSED REGULATORY LANGUAGE

Household Movers Enforcement Regulations

Legend:	Added text is indicated with an <u>underline</u> . Omitted text is indicated by (* * * *) Deleted text is indicated by strikeout .
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Amend and Retitle Division 27 of Title 16 of the California Code of Regulations to read as follows:

Division 27.
Bureau of ~~Electronic and Appliance Repair~~ Household Goods and Services

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Adopt new Chapter 1 and title in Division 27 of Title 16 of the California Code of Regulations to read as follows before Article 1 (that commences with Section 2700) (no existing regulations are proposed to be amended in existing Articles 1-7 of Division 27 (Sections 2700-2775):

Chapter 1. Electronic and Appliance Repair Dealer Registration Law Regulations

Adopt Chapter 2 with title in Division 27 of Title 16 of the California Code of Regulations to read as follows:

Chapter 2. Household Movers Act Regulations

Adopt Section 2800 and 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 to read as follows:

Article 1. General Provisions

§ 2800 Definitions

The definitions in this section shall govern the construction of this chapter unless otherwise indicated.

- (a) “Act” means the Household Movers Act, as enacted in Chapter 3.1 of Division 8 of the Business and Professions Code (beginning with Section 19225).
- (b) “Advertising,” as used in the Act and in this Chapter, means any form of oral or written communication that solicits or offers to provide any consumer the services of a household mover as defined in Section 19225.5 of the Code by any means, media or form of advertisement, including: any card, estimate, bill of lading, agreement for moving services, sign, billboard, lettering on vehicles, brochure, pamphlet, circular, stationery, newspaper, magazine, newsletter, printed or published advertisement online or in any other electronic medium, including via an application or software or via access through data-enabled device, such as a computer, tablet, or cellular phone, and any form of directory under any listing for a household mover or any word or words intended to engage, solicit, arrange or offer work for which a permit is required by Section 19237 of the Act.
- (c) “Chief” has the meaning set forth in Section 19225.5 of the Code.
- (d) “Code” means the Business and Professions Code, unless otherwise specified.
- (e) “Household Goods” or “Personal Effects,” as used in the Act and in this Chapter, mean personal property other than real estate, belonging to an individual or their immediate family, customarily found in the home and used in connection with the maintenance, use, and occupancy of the premises as a home.

Note: Authority cited: Stats. 2017, Ch. 421, Section 8 (SB 19); Section 19228, Business and Professions Code. Reference: Stats. 2017, Ch. 421, Section 8 (SB 19); Sections 19228, 19225 and 19225.5, Business and Professions Code.

Article 2. Enforcement

§ 2940. Administrative Citations

- (a) The Chief or their designee is authorized to determine when and against whom a citation will be issued and to issue citations containing orders of abatement and fines against any permitted household mover (“permitholder”) and any officer, director, agent or employee of any permitholder for any violation of the provisions of the Act and any regulations adopted pursuant thereto.
- (b) In addition to subsection (a), the Chief or their designee is authorized to determine when and against whom a citation will be issued and to issue citations containing orders of abatement and fines against persons, as defined in Section 302(d) of the Code, who engage or attempt to engage in any activity including advertising for which a permit is required under the Act (“unlicensed activity”).

- (1) Any sanction authorized for the unlicensed activity under this section shall be separate from and in addition to any other civil or criminal remedies authorized under the Act.

(c) Each citation:

- (1) Shall be in writing and shall describe with particularity the nature of the violation, including a specific reference to the provision of law determined to have been violated.
- (2) Shall be served upon the cited party personally or by registered mail pursuant to Section 11505(c) of the Government Code.
- (3) Shall contain an order of abatement fixing a reasonable time for abatement of the violation.
- (4) May contain a fine not to exceed the amounts specified in Section 125.9 of the Code and, where applicable, issued and assessed in accordance with Section 2943.
- (5) Shall inform the cited party of the opportunity to request an informal conference or an administrative hearing, or both, to contest the citation pursuant to Section 2941.
- (6) If the citation is issued for acts other than unlicensed activity as provided in subsection (b), shall inform the permitholder that failure of the permitholder or cited party to pay a fine or comply with an order of abatement, or both, within 30 days of the date of assessment or order, unless the citation is being appealed, may result in disciplinary action being taken by the Bureau. The permitholder or cited party shall be informed that if a citation is not contested and a fine is not paid, the full amount of the assessed fine shall be added to the fee for renewal of the permitholder's permit and the permit will not be renewed without payment of the renewal fee and fine.
- (7) If the citation is issued pursuant to Section 19279.1 of the Code, shall include an order to cease all advertising for household moving services.

Note: Authority cited: Stats. 2017, Ch. 421, Section 8 (SB 19); Sections 125.9, 148, and 19228, Business and Professions Code. Reference: Sections 10, 125.9, 148, 149, 9810, 19239.4, 19279, 19279.1, 19279.2, 19280, 19281, 19282, and 19283, Business and Professions Code.

§ 2941. Contest of Citations – Citation Review Conference

- (a) In addition to requesting a hearing provided for in subdivision (b)(4) of Section 125.9 of the Code, the cited party may, within ten (10) days after service of the citation,

notify the Chief or their designee in writing of a request for a citation review conference regarding the acts charged in the citation.

- (b) The Chief or their designee shall hold, within 30 days from the date of receipt of the request, a citation review conference with the cited party or with the cited party's designated legal counsel or authorized representative. At the conclusion of the citation review conference the Chief or their designee may affirm, modify, or dismiss the citation, including any fine levied or order of abatement issued. The Chief or their designee shall state in writing the reasons for the action to affirm, modify, or dismiss the citation and transmit a copy of the findings and decision to the cited party within 20 days from the date of the informal office conference. If the decision is not contested as provided in subsection (c), the informal citation review decision shall be deemed to be a final order with regard to the citation issued, including any fine amount levied or any order of abatement issued. A cited party may not request an informal conference for a citation that has been affirmed or modified following an informal conference.
- (c) The cited party does not waive any right to request a hearing to contest a citation by requesting a citation review conference as provided in this section. If the citation, including any fine levied or order of abatement, is modified, the citation originally issued shall be considered withdrawn and a new citation issued. If a hearing is requested for the new citation, it shall be requested within 30 days of the date of the issuance of the new citation in accordance with subdivision (b)(4) of Section 125.9 of the Code.

Note: Authority cited: Stats. 2017, Ch. 421, Section 8 (SB 19); Sections 125.9, 148, and 19228, Business and Professions Code; Reference: Sections 10, 125.9, 148, 9810 and 19268, Business and Professions Code.

§ 2942. Citation Compliance

- (a) An assessed fine shall be paid within 30 days of the date of the fine assessment issued pursuant to a citation, or as applicable, a final affirmed or modified citation as provided in Section 2941. If a fine is not paid after a citation has become final, the fine shall be added to any cited party's permit renewal fee, if the fine was issued against a person associated with a permit. A permit shall not be renewed without payment of the renewal fee and fine. "Final" for the purposes of this section shall mean: the Bureau's decision has become effective, the cited person did not submit a written request to contest the citation as required by Section 2941, and the timeframe for submitting such a request under Section 2941 has passed.
- (b) The time to abate or correct a violation as provided for in an order of abatement may be extended for good cause. If a cited party who has been issued an order of abatement is unable to complete the correction within the time set forth in the citation because of conditions beyond the cited party's control after the exercise of reasonable diligence, the cited party may request an extension of time from the

Bureau in which to complete the correction. Such request shall be in writing and shall be made within the time set forth for abatement.

- (c) When a citation is not contested, or if it is appealed and the cited party does not prevail, failure to abate the violation or to pay the assessed fine within the time allowed shall constitute a violation and a failure to comply with the citation or order of abatement.
- (d) A permitholder's failure to timely comply with an order of abatement or pay an assessed fine may result in further disciplinary action being taken by the Bureau including suspension or revocation of a permit, or placement of the permit on probation.

Note: Authority cited: Stats. 2017, Ch. 421, Section 8 (SB 19); Section 19228, Business and Professions Code. Reference: Sections 125.9, 148, 19228, and 19283 Business and Professions Code.

§ 2943. Assessments of Fines

- (a) In addition to meeting the requirements of Section 2940, citations issued in accordance with Sections 19279, 19279.1, 19279.2, 19279.3 and 19280 of the Code shall contain a fine that shall be assessed in accordance with the following ranges of penalties.

<u>Code Section</u>	<u>Description of Violation</u>	<u>Minimum Penalty</u>	<u>Maximum Penalty</u>
<u>19279</u>	<u>Violation of any rule, regulation, or requirement or aiding and abetting a violation of any rule, regulation, or requirement by a household mover</u>	<u>\$250</u>	<u>\$500 for each offense*</u>
<u>19279.1</u>	<u>Operating as a household mover as specified in the Act without a valid permit</u>	<u>\$250</u>	<u>\$5,000 for each offense*</u>
<u>19279.2</u>	<u>Corporation or person (other than household mover) who knowingly and willfully violates the Act, or fails to comply with any order, decision, rule, regulation, direction, demand, or requirement administered by the Bureau, or who procures, aids, or abets any household mover in its violation of the Act or in its failure to obey, observe, or comply with any such order, decision, rule, regulation, direction, demand, or requirement by the Bureau</u>	<u>\$250</u>	<u>\$500 for each offense*</u>
<u>19279.3</u>	<u>Knowingly and willfully advertising as a household mover without having a valid permit</u>	<u>\$250</u>	<u>\$5,000 for each offense*</u>

<u>19280</u>	<u>Household mover falsifying permit status, membership in an association, or location</u>	<u>\$250</u>	<u>\$2,500 for each offense*</u>
<u>* Every violation is a separate and distinct offense, and in each case of a continuing violation, each day's continuance thereof is a separate and distinct offense pursuant to Section 19281 of the Code.</u>			

(b) In determining whether or not to issue a citation and the amount of the administrative fine, if issued, the Bureau shall take into consideration the following criteria, as applicable:

- (1) The good or bad faith exhibited by the cited party.
- (2) The nature and severity of the violation.
- (3) Evidence that the violation was willful.
- (4) History of previous violations.
- (5) The extent to which the cited party has cooperated with the Bureau's investigation.
- (6) The extent to which the cited party has mitigated or attempted to mitigate any loss caused by their violation.
- (7) The extent of consumer injury, which is a direct and proximate result of the violation.

(c) Where a citation lists more than one occurrence of the same violation, the amount of the assessed fine shall be cumulative and stated separately for each violation.

(d) Fines not paid to the Bureau within 30 days of the date of a fine assessment issued pursuant to a citation shall be grounds to suspend, revoke, place on probation, or deny renewal of a permit.

(e) Fines assessed for citations issued in accordance with Section 19279.1 of the Code shall be paid to the Bureau before a permit may be issued under Section 19237 of the Code. Failure to pay the fine within 30 days of the date of a fine assessment issued pursuant to a citation shall be grounds for denial of a permit pursuant to

Section 19239 of the Code.

Note: Authority cited: Stats. 2017, Ch. 421, Section 8 (SB 19); Sections 125.9, 148, and 19228, Business and Professions Code. Reference: Sections 125.9, 148, 19239, 19277, 19277.1, 19278, 19281, 19282, 19283, and 19283.1, Business and Professions Code.

Article 3. Miscellaneous

§ 2970. Substantial Relationship Criteria

- (a) For the purposes of denial, suspension, or revocation of the permit of a household mover pursuant to Section 141, Division 1.5 (commencing with Section 475), or subdivision (f) of Section 19239 of the Code, a crime, professional misconduct, or act shall be considered to be substantially related to the qualifications, functions, or duties of a household mover if to a substantial degree it evidences present or potential unfitness of a household mover to perform the functions authorized by the permit in a manner consistent with the public health, safety, or welfare.
- (b) In making the substantial relationship determination required under subsection (a) for a crime, the Bureau shall consider all of the following criteria:
 - (1) The nature and gravity of the offense.
 - (2) The number of years elapsed since the date of the offense.
 - (3) The nature and duties of a household mover.
- (c) For the purposes of subsection (a), substantially related crimes, professional misconduct, or acts shall include, but are not limited to, the following:
 - (1) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of Chapter 3.1, Division 8 of the Code.
 - (2) Crimes, professional misconduct, or acts involving dishonesty, fraud, deceit, or theft with the intent to benefit oneself or another or to harm another. These include, but are not limited to:
 - (A) Crimes, professional misconduct, or acts involving the acquisition or provision of false, altered, forged, counterfeit, or fraudulent statements or documents.
 - (B) Crimes, professional misconduct, or acts involving robbery, burglary, any form of theft, any form of fraud, extortion, embezzlement, money laundering, forgery, false statements, or an attempt to commit any of those offenses.

- (3) Crimes, professional misconduct, or acts involving an attempt or conspiracy to commit such crimes listed in (c)(1) or (c)(2).
- (4) Serious felonies, as defined in Section 1192.7 of the Penal Code or a crime for which registration is required pursuant to paragraph (2) or (3) of subdivision (d) of Section 290 of the Penal Code.
- (5) Crimes, professional misconduct, or acts involving physical violence against others.
- (6) Crimes, professional misconduct, or acts that indicate a substantial or repeated disregard for the health, safety, or welfare of the public.
- (d) If an applicant or permitholder wishes to contest a permit denial, suspension, or revocation based on a substantially related conviction, professional misconduct, or act, the applicant or permitholder may request a hearing pursuant to subdivision Sections 19239 or 19268 of the Code to determine if the permit should be denied, suspended, or revoked.

Note: Authority cited: Stats. 2017, Ch. 421, Section 8 (SB 19); Sections 19228, 19239, and 19268, Business and Professions Code. Reference: Sections 141, 480, 481, 485, 490, 493, 19239, 19268, 19275, and 19277, Business and Professions Code.

§ 2971. Rehabilitation Criteria

- (a) When considering the denial, suspension, or revocation of a permit pursuant to Division 1.5 (commencing with Section 475) of the Code on the grounds that the applicant or permitholder has been convicted of a crime, the Bureau shall consider whether the applicant or permitholder made a showing of rehabilitation if the applicant or permitholder completed the criminal sentence at issue without a violation of parole or probation. In making this determination, the Bureau shall consider the following criteria:
 - (1) The nature and gravity of the crime(s).
 - (2) The length(s) of the applicable parole or probation period(s).
 - (3) The extent to which the applicable parole or probation period was shortened or lengthened and the reason(s) the period was modified.
 - (4) The terms or conditions of parole or probation and the extent to which they bear on the applicant's or permitholder's rehabilitation.
 - (5) The extent to which the terms or conditions of parole or probation were modified and the reason(s) for modification.

(b) If the applicant has not completed the criminal sentence at issue without a violation of probation, the Bureau determines that the applicant did not make the showing of rehabilitation based on the criteria in subsection (a), the denial, suspension, or revocation is based on professional misconduct, the suspension or revocation is based on a disciplinary action as described in Section 141 of the Code, or the denial, suspension, or revocation is based on one or more grounds specified in Section 19239 of the Code, the Bureau shall apply the following criteria in evaluating an applicant's or permitholder's rehabilitation.

(1) The nature and severity of the act(s), professional misconduct, disciplinary action(s), or crime(s) under consideration.

(2) The total criminal record and evidence of any act(s), professional misconduct, disciplinary action(s), or crime(s) committed subsequent to the act(s), professional misconduct, disciplinary action(s), or crime(s) under consideration as grounds for denial, suspension, or revocation.

(3) The time that has elapsed since commission of the act(s), professional misconduct, disciplinary action(s), or crime(s) under consideration.

(4) Whether the applicant or permitholder has complied with any terms of parole, probations, restitution, or any other sanctions lawfully imposed against the applicant or permitholder.

(5) The criteria in subsections (a)(1) through (a)(5), as applicable.

(6) If applicable, evidence that the conviction has been dismissed pursuant to Sections 1203.4, 1203.4a, 1203.41, 1203.42, or 1203.425 of the Penal Code, or a comparable dismissal or expungement.

(7) The applicant or permitholder has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code.

(8) Evidence, if any, of rehabilitation submitted by the applicant or permitholder.

(c) When considering a petition for reinstatement of a permit under the provisions of Section 11522 of the Government Code, the Bureau shall evaluate evidence of rehabilitation submitted by the petitioner considering those criteria specified in this section.

Note: Authority cited: Stats. 2017, Ch. 421, Section 8 (SB 19); Sections 482, 19228, and 19239, Business and Professions Code. Reference: Sections 480, 481, 482, 493, and 19239, Business and Professions Code.

§ 2972. Advertising

- (a) A household mover shall include their name and Bureau-issued permit number in all forms of advertising, solicitation, or other presentments made to the public in connection with the rendition of household mover services for which a permit is required by the Act.
- (b) In addition to the requirements of subsection (a), any advertisement by a broker shall communicate that the broker does not take possession of the cargo or assume responsibility for the cargo and is not party to the agreement for moving services.
- (c) Household movers who engage in transportation of household goods or personal effects shall display the Bureau-issued permit number on every vehicle operated by the household mover and shall comply with the requirements of Section 19236 of the Code. The permit number must be legible and not less than 1 ½ inches in height.

Note: Authority cited: Stats. 2017, Ch. 421, Section 8 (SB 19); Section 137 and 19228, Business and Professions Code. Reference: 19236, 19237, 19253.1, 19275, 19277, 19279, 19279.3, and 19281, Business and Professions Code.