
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair
2019 - 2020 Regular

Bill No: SB 391 **Hearing Date:** April 23, 2019
Author: Monning
Version: February 20, 2019
Urgency: No **Fiscal:** Yes
Consultant: GC

Subject: *Household Movers Act: Enforcement: Special Investigators and Supervising
Special Investigators*

HISTORY

Source: California Department of Consumer Affairs

Prior Legislation: SB 19 (Hill), Ch. 421, Stats. of 2017
SB 560 (Monning) Ch. 389, Stats. of 2015

Support: Unknown

Opposition: None known

PURPOSE

The purpose of this legislation is to authorize a person employed as a special investigator by the bureau and designated by the Director of Consumer Affairs (DCA) to issue a written notice to appear in court for specified violations.

Existing law establishes the Bureau of Household Goods and Service (BHGS) under the jurisdiction of the Department of Consumer Affairs to license and regulate electronic and appliance repair dealers, home furnishings, and household movers pursuant to the Household Movers Act (Act). (Bus. & Prof. Code, §§ 9800 *et seq.* and 19000 -19293.)

Existing law defines a “household mover” to include every corporation or person, their lessees, trustee, receivers, or trustees appointed by a court, engaged in the transportation for compensation or hire as a business by means of a motor vehicle used in the transportation of used household goods and personal effects over any public highway in this state. (Bus. & Prof. Code, § 19225.5(h).)

Existing law provides penalties for every household mover and every officer, director, agent or employees, for a violation of any rule or regulation administered by the BHGS or the Act, as specified. (Bus. & Prof. Code, § 19277.)

Existing law provides penalties for a corporation or person other than a household mover for a violation of any rule or regulation administered by the BHGS or the Act, as specified. (Bus. & Prof. Code, § 19278.)

Existing law prohibits a household mover from engaging in the business of transporting used household goods and services in this state without a valid permit issued by the BHGS, as specified. (Bus. & Prof. Code, § 19237.)

Existing law requires the BHGS to ensure that the Act is enforced and obeyed and that any money due to the state is recovered and collected. (Bus. & Prof. Code, §19283.1(a).)

Existing law defines a “peace officer” for purposes of enforcement to mean a person designated as a peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code. (Bus. & Prof. Code, § 19283.1(b).)

Existing law authorizes a peace officer to enforce and assist in specified violations of the Act. (Bus. & Prof. Code, § 19283.1(c).)

This bill permits a person employed as a special investigator or supervising special investigator by the bureau and designated by the director to have the authority to issue a written notice to appear in court for a violation of a provision for which a peace officer may enforce or assist in the enforcement pursuant to household moving provisions.

This bill specifies that an employee so designated is not a peace officer, is not entitled to safety member retirement benefits as a result of the designation, and does not have the power of arrest.

COMMENTS

1. Need for This Bill

According to the author:

In 2017, SB 19 (Chapter 421, Statutes of 2017) transferred oversight of Household Movers from the California Public Utilities Commission (PUC) to the Bureau of Household Goods and Services (BHGS) under the California Department of Consumer Affairs (DCA).

When household movers were regulated by the PUC, investigators employed by the PUC were granted the powers of arrest in connection with misdemeanor violations. However, when SB 19 transferred oversight of household movers from the PUC to BHGS, the bill did not expressly transfer authority to BHGS’s Special Investigators due to a technical oversight.

SB 391 authorizes Bureau of Household Goods and Services (BHGS) Special Investigators to issue a notice to appear in court. The notice to appear is a legal obligation for the alleged violator to appear before a court to address the citation. The ability to issue notices to appear is imperative because it enables BHGS to reach unlicensed actors who may not otherwise be motivated by mere administrative actions or citations.

2. Transfer of Authority Over Household Movers from the PUC to the BHGS

Under SB 19 (Hill) Ch. 421, Stats. of 2017, the BHGS assumed the licensing and enforcement duties for household movers, which were previously regulated by the Public Utilities Commission (PUC).

The BHGS also registers and regulates electronic and appliance repair businesses; has jurisdiction over the sale and administration of service contracts on various consumer products; and licenses and regulates the manufacture and sale (retail, wholesale, and import) of upholstered furniture and bedding, supply dealers, custom upholsterers, bedding sanitizers thermal insulation products; and tests for flammability and sanitation. A household mover is prohibited from transporting used household goods and personal effects within California without first obtaining the appropriate permit from the BHGS as specified in BPC § 19237 and meeting both workers' compensation and liability insurance requirements as specified in BPC §§ 19239.1 and 19248.

As part of the BHGS's regulatory oversight, it takes actions against persons or businesses who violate the Act, including individuals who operate unlicensed. A recent news report from San Francisco KPIX 5, titled *State Task Force Investigating Shady Moving Companies*, reported on the challenges for consumers who may unknowingly hire an unlicensed moving company. The Bureau Chief of the BHGS was quoted in the news story stating that "he has caught at least 50 moving companies holding people's belonging's hostage just since the task force started enforcement." According to the BHGS, the increased authority proposed in this bill would help with enforcement of the current prohibition on unlicensed activity.

According to the BHGS, when the regulation of household movers transferred from the PUC to the BHGS, most of the regulatory framework remained intact, including the provisions of law related to violations of law and the assessment of penalties. However, the authority requested under this bill, was not included in the transfer of duties.

3. Special Investigators are not Peace Officers and are not Granted Peace Officer Status under the Provisions of This Bill

The DCA and some boards under the jurisdiction of the DCA employ peace officers to aid in the investigation and enforcement of their respective licensing and regulatory entities. The DCA employs a number of peace officers as part of its enforcement program under the Division of Investigation, which is a law enforcement agency that protects California consumers and licensees by investigating violations of California's laws, regulations and professional standards. SB 560 (Monning) Ch. 389, Stats. of 2015 provided the Contractors State License Board with similar enforcement authority by authorizing enforcement representatives to issue a written notice to appear before a court to unlicensed individuals who fail to secure workers' compensation insurance. In addition, the Board of Barbering and Cosmetology has similar authority to under BPC § 7414.3 for a violation of the Filante Tanning Facility Act of 1988. Currently, the BHGS does not employ peace officers.

It does not appear the provisions of this bill are intended to apply to investigators or special investigators for the electronic and appliance repair division or the home furnishings divisions of BHGS. However, given that the BHGS has three separate regulatory programs within its jurisdiction, clarification may be warranted. The investigators under the BHGS are cross-trained and provide investigatory work across the BHGS's licensing landscape. Currently, the BHGS employs 10 special investigators and 1 supervising special investigator.

Under current law, a peace officer may enforce and assist the BHGS with enforcement of certain sections of the Act. Violations for which a peace officer may assist with enforcement include failure to display the proper identification symbol on a vehicle; not having the required permits for in state and out-of-state moving services; unlicensed/unpermitted activity; operating without a new permit after permit cancellation or revocation; and unlicensed advertising, as specified under current law. This bill seeks to clarify that an investigator or special investigation employed by the BHGS is authorized to provide a written notice to appear in court for any violation for which a peace officer may assist the BHGS with enforcement, including unlicensed activity. This bill does not grant the special investigators the power to arrest, ability to use force, or the other powers granted to peace officers.

-- END --