

Amendment to HB 207-FN

1 Amend the bill by replacing all after the enacting clause with the following:

2

3 1 New Chapter; Carriage of Household Goods for Hire by Motor Vehicle. Amend RSA by
4 inserting after chapter 359-S the following new chapter:

5

CHAPTER 359-T

6

CARRIAGE OF HOUSEHOLD GOODS FOR HIRE BY MOTOR VEHICLE

7

359-T:1 Definitions. In this chapter, the following words shall have the following meanings:

8

I. "Department" shall mean the department of safety.

9

II. "Household goods carrier" shall mean a common or contract carrier which transports for
10 hire by motor vehicle between points in this state:

11

(a) Personal effects and property used or to be used in a dwelling as a part of the
12 equipment or supply of the dwelling;

13

(b) Furniture, fixtures, equipment and property of any establishment, which are a part
14 of the stock, equipment or supply of the establishment;

15

(c) Articles, including objects of art, displays and exhibits with an unusual nature or
16 value, which require specialized handling and equipment usually used in moving household goods.

17

III. "Household goods carrier" does not include any person who transports his own goods for
18 the purpose of sale or delivery, or in the furtherance of a trade or business other than transportation.

19

IV. "Commissioner" shall mean the commissioner of the department of safety.

20

V. "Common carrier" means a person holding itself out to the general public to provide motor
21 vehicle transportation for compensation over regular or irregular routes, or both.

22

VI. "Contract carrier" means a person providing motor vehicle transportation for
23 compensation under continuing agreements with one or more persons:

24

(a) By assigning motor vehicles for a continuing period of time for the exclusive use of
25 each 1 such person; or

26

(b) Designed to meet the distinct needs of each such person.

27

359-T:2 Certificate Required. No household goods carrier, as defined herein, shall engage in the
28 business of transporting household goods, as defined by the department, between points in this
29 state, unless the carrier holds a certificate issued by the department authorizing such operations.
30 The application for such certificate shall be in accordance with the procedure provided for in RSA
31 359-T:3 and such certificate shall be issued or denied accordingly.

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1 359-T:3 Issuance. A certificate shall be issued to any qualified applicant therefor, if it is found
2 that the applicant is willing and able properly to perform the service proposed and to conform to the
3 provisions of this chapter and the requirements, rules and regulations issued by the commissioner
4 thereunder; otherwise, such application shall be denied.

5 359-T:4 Issuance of Contract Carrier Permits. A contract carrier permit shall be issued to any
6 qualified applicant, if it appears from the application, that the applicant is willing and able to
7 properly perform the service of a contract carrier by motor vehicle, and to conform to the provisions
8 of this chapter and any rules adopted by the commissioner, otherwise, such application shall be
9 denied.

10 359-T:5 Applications for Certificates. Application for certificates required in RSA 359-T:2 shall
11 be:

- 12 I. Made in writing to the department;
- 13 II. Signed under the penalties of unsworn falsification pursuant to RSA 541:3;
- 14 III. Accompanied by the fee specified in RSA 359-T:18;
- 15 IV. In the form specified in rules adopted by the commissioner; and
- 16 V. With the information specified in rules adopted by the commissioner.

17 359-T:6 Suspension, Change and Revocation of Certificates and Permits. Certificates and
18 permits issued under the provisions of this chapter authorizing operations as a household goods
19 carrier shall be effective from the date specified therein and shall remain in effect until suspended,
20 revoked or terminated as herein provided. The department may, after notice and hearing, upon
21 application or upon its own initiative, amend, suspend, or revoke any such certificate or permit in
22 whole or in part, for willful failure to comply with any provision of this chapter or with any lawful
23 order or rule issued or adopted by the department.

24 359-T:7 Transfer of Certificates and Permits. No certificate or permit, nor any rights
25 thereunder, shall be transferred without the approval of the department.

26 359-T:8 Security for the Protection of Property. No certificate or permit issued to a carrier
27 under the provisions of this chapter shall remain in effect unless such carrier shall file with the
28 department and keep in force a certificate of insurance in such form and in such reasonable amount
29 as the department may require to adequately provide for the reasonable protection of the owner or
30 owners of the property transported. This certificate of insurance shall be submitted on an annual
31 basis with the annual report required by RSA 359-T:13, I(a).

32 359-T:9 Written Estimates of Cost. Upon the request of any customer, a household goods carrier
33 shall provide a written estimate of cost to the customer in advance of performing any service. The
34 written estimate shall include:

- 35 I. An itemization of the service to be performed;
- 36 II. An estimated completion date;

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1 III. A statement that the carrier shall notify the customer of the estimated cost of any
2 additional services of an unrelated and different nature from the work originally itemized in the
3 written estimate and shall receive the customer's written or oral permission to proceed before
4 performing the work; and

5 IV. A statement that the carrier shall not charge the customer any amount which exceeds
6 the written estimate by 10 percent without the customer's written consent.

7 359-T:10 Discrimination Prohibited. It shall be unlawful for any household goods carrier by
8 motor vehicle engaged in transportation between points in this state to make, give, or cause any
9 undue or unreasonable preference or advantage to any particular person or locality in any respect
10 whatsoever or to subject any particular person or locality to any unjust discrimination or any undue
11 or unreasonable prejudice or disadvantage in any respect whatsoever.

12 359-T:11 Additional Service. If additional service of an unrelated and different nature from the
13 work originally itemized in the written estimate becomes necessary, a household goods carrier shall
14 notify the customer of the estimated cost of such additional service and receive his written or oral
15 permission to proceed before performing the work.

16 359-T:12 Effect of Exceeding the Estimate. Upon the completion of any service for which an
17 estimate has been given, a household goods carrier shall not charge the customer any amount which
18 exceeds the estimate by 10 percent without the customer's written consent.

19 359-T:13 Accounts, Records and Reports.

20 I. The department may require:

21 (a) Annual reports from all household goods carriers. The department shall require
22 reports to be signed under the penalties of unsworn falsification pursuant to RSA 541:3; and

23 (b) Specific answers to any questions deemed necessary by the department.

24 II. The commissioner may adopt rules, pursuant to RSA 541-A, relative to the form of
25 annual reports.

26 III. The department or its authorized representative shall have access, at reasonable times,
27 to all accounts, records and other documents of a carrier which relate to RSA 359-T.

28 359-T:14 Rulemaking; General Duties and Powers of the Commissioner.

29 I. The commissioner shall regulate household goods carriers by motor vehicle.

30 II. The commissioner may adopt rules relative to:

31 (a) Reasonable and adequate service.

32 (b) Adequate levels of insurance.

33 (c) Complaints and hearings, including the suspension or revocation of certificates or
34 permits.

35 (d) Any other requirements deemed necessary to regulate household goods carriers in
36 accordance with this chapter.

37 359-T:15 Complaints; Hearings.

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1 I. The department may investigate, upon written complaint or on its own initiative, or hold a
2 hearing, after notice, to determine whether any household goods carrier has failed to comply with
3 RSA 359-T or rules adopted by the commissioner relative to RSA 359-T.

4 II. If the department finds, after a hearing, that a carrier has failed to comply with RSA 359-
5 T, the department may issue an appropriate order to compel compliance.

6 III. The department may dismiss any complaint which does not state reasonable grounds for
7 investigation and action by the department.

8 359-T:16 Examination of Vehicles; Inspectors; Penalty.

9 I. Any person who operates a motor vehicle for a household goods carrier doing business in
10 this state shall stop his motor vehicle and permit any inspector authorized by the department or
11 state police trooper to examine the vehicle. The inspector or state police trooper may examine the
12 vehicle as necessary to determine its compliance with the provisions of this chapter and with rules
13 adopted under this chapter.

14 II. Inspectors authorized by the department shall have authority as peace officers as
15 provided by RSA 594 to enforce this chapter and rules adopted by the commissioner relative to this
16 chapter. An inspector shall display the proper insignia of his office when stopping and examining a
17 motor vehicle.

18 III. Any person who violates RSA 359-T:16 shall be guilty of a violation.

19 359-T:17 Vehicles to be Registered. Each household goods carrier holding a certificate or permit
20 under the provisions of this chapter shall annually apply to the department of safety, division of
21 motor vehicles, on blanks to be furnished by it, for the registration of each vehicle operated under
22 the provisions of such certificate or permit and pay to said department fees as provided for in RSA
23 359-T:18. Upon receipt of such application and fee, a distinguishing number plate or plates and
24 registration certificate shall be furnished by the division for such vehicle applied for, and said plates
25 shall be prominently displayed on the vehicle in such manner as the director of the division shall
26 prescribe. Registration certificates and number plates issued under the provisions of this section
27 shall be used coincidental with, and shall expire with, the corresponding registration certificate and
28 number plates issued by the division of motor vehicles, department of safety, of this state.

29 359-T:18 Fees. The following fees shall be paid:

30 I. To the department:

31 (a) For each application for a common or contract carrier of household goods certificate
32 under RSA 359-T:3 or permit under RSA 359-T:4-a, \$50.

33 (b) For the annual registration of each vehicle used in the carriage of household goods,
34 \$10.

35 (c) For each transfer of a registration certificate, \$1.

36 II. The department of safety, division of motor vehicles, shall deduct from the fees received
37 under subparagraphs I(b) and (c) the actual cost of issuing such registration certificates and number

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1 plates and shall forward the balance to the department to be used by it in the administration of this
2 chapter.

3 359-T:19 Penalty.

4 I. Except as provided in paragraph II, any person violating any provision of this chapter, or
5 any rule or order adopted or issued under this chapter, or any term or condition of any certificate,
6 permit or license shall:

7 (a) For a first offense, be guilty of a violation and shall be fined not less than \$100.

8 (b) For a second offense, within a 12-month period preceding the date of the second
9 offense, be guilty of a violation and shall be fined not less than \$250.

10 II. Any person found guilty of operating after suspension or revocation of rights, for a first
11 offense, shall be guilty of a violation and shall be fined not less than \$250. For a second such offense,
12 within a 12-month period, such person shall be guilty of a violation and shall be fined not less than
13 \$500.

14 III. Any person found guilty of a third and subsequent offense as described under paragraph
15 I, paragraph II, or paragraphs I and II combined, in a 12-month period preceding a third or
16 subsequent offense, shall be guilty of a misdemeanor and shall be fined not less than \$500.

17 2 Repeal. RSA 375-A, relative to carriage of household goods for hire by motor vehicle, is
18 repealed.

19 3 Reference Deleted. Amend RSA 21-P:4, IV(c) to read as follows:

20 (c) Power to enforce the provisions of RSA ~~[375-A and]~~ 376 **and RSA 359-T**.

21 4 Reference Deleted. Amend RSA 228:92, II to read as follows:

22 II. Any common carrier which is subject to ~~[RSA 375-A or]~~ **RSA 359-T or** RSA 376 shall not
23 be subject to the provisions of this subdivision.

24 5 Reference Deleted. Amend RSA 374-A:6, I(a)(1) to read as follows:

25 (1) The provisions of RSA **359-T**, 367, 368, 372, 373, ~~[375-A,]~~ 376, 377, 379, 380, 381,
26 and 382 and all sections in RSA Title XXXIV relating solely to public utilities other than electric
27 utilities shall not apply to any such municipal utility;

28 6 Rulemaking Authority; Commissioner of Safety. RSA 21-P:14, II(u)-(w) are repealed and
29 reenacted to read as follows:

30 (u) Application for and issuance of household goods carrier certificates, including all
31 necessary forms, as authorized by RSA 359-T.

32 (v) Annual reporting requirements, as authorized by RSA 359-T.

33 (w) Regulating household goods carriers, as authorized by RSA 359-T.

34 7 Effective Date. This act shall take effect January 1, 2023.

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2021-2193h

AMENDED ANALYSIS

This bill amends the licensure of carriage of household goods for hire by eliminating public utility requirements no longer applicable and updating provisions for consumer protection.