

Testimony of J.R. Kelly
Florida Department of Agriculture and Consumer Services
U. S. Senate Committee on Commerce, Science and Transportation
Subcommittee on Surface Transportation and Merchant Marine

Hearing on Fraudulent Practices in the Moving Industry
Washington, D.C.
May 4, 2006

Chairman Lott, Senator Inouye and members of the Committee: Good Morning and thank you for the opportunity to present Florida's perspective on the moving industry. My name is J.R. Kelly and I am the Director of the Division of Consumer Services at the Florida Department of Agriculture and Consumer Services (FDACS). The mission of the Division of Consumer Services is to protect, inform and empower Florida's consumers and businesses, while promoting a positive business environment in the state. FDACS has regulatory responsibility over Business Opportunities, Motor Vehicle Repair Shops, Charitable Organizations, Florida Do Not Call Program, Dance Studios, Pawnbrokers, Health Studios, Sellers of Travel, Intrastate Movers, Sweepstakes/Game Promotions, Lemon Law and Telemarketing; however, we serve as the state clearinghouse for all consumer complaints, regardless of whether we regulate that particular industry. We also function as the U.S. Consumer Product Safety Commission's agent in Florida when it comes to product recalls, inspections and investigations. We make every possible effort to assist consumers by directing them to the appropriate federal, state or county agency.

FDACS began regulating **intrastate** moving companies on July 1, 2002 pursuant to a Florida Legislative mandate. Under Florida law, all persons engaged in the intrastate transportation or shipment of household goods for compensation must register with FDACS, provide proof of liability insurance and provide a signed written estimate of the cost of the

move to the shipper. All complaints related to intrastate movers are handled by FDACS. State law is enforced through both administrative and civil actions in state courts. In addition to having the ability to assess administrative and civil monetary penalties, under Florida law, if a mover fails to deliver a shipper's goods after a shipper has paid, or attempted to pay, the amount of the written estimate, it is considered a third degree felony.

While FDACS does process all consumer complaints related to interstate moves, our ability to assist consumers is somewhat limited given that the companies are not required to respond to our inquiries. When an interstate moving complaint is received by FDACS, we use informal mediation to attempt to resolve the dispute while, at the same time, forwarding a copy of the complaint to the Federal Motor Carrier Safety Administration (FMCSA). On average, about half of the consumer complaints FDACS receives related to intrastate moving are resolved by Department employees and the case is "closed satisfactorily", indicating that a company has satisfactorily responded to a consumer complaint. Only 30% of the interstate moving complaints are resolved with this outcome. Whether the move is intrastate or interstate, complaints relating to either fall into three common categories:

1. Damaged or lost goods with denied insurance claims;
2. Contract or end of move costs differ from written estimate;
3. Late arrival of mover for pick up or delivery. Late delivery often results in consumers thinking their items are being held hostage.

Each complaint is unique but generally they relate in some way to one of these three broad categories.

The Household Goods Mover Oversight Enforcement and Reform Act of 2005 (P.L. 109-59) and its subsequent modification in P.L. 109-115, provided authority for state entities that regulate intrastate moving to enforce provisions of federal law regulating interstate movers in federal court. Under the legislation, states are limited to bringing an action on behalf of an individual shipper to enforce applicable consumer protection provisions of the Federal law. States may seek either an injunction or impose civil penalties but such actions must be brought in Federal District Court. As the legislation passed a few short months ago, it is difficult to say with any certainty how beneficial these additional enforcement authorities will be to states. While some of the bill's provisions could serve as impediments to its widespread use, passage of the bill will likely mean that many companies who otherwise would not engage in mediation with a state pursuant to a consumer complaint, may now do so given that an enforcement provisions is now available to us.

Mr. Chairman and Members of the Committee, in closing, let me again thank you for the invitation to appear here today and for the leadership you are providing on this issue. Florida recognizes that given the diversity of our population, the potential is there for unscrupulous businesses to take advantage of our consumers. Working with the tools given to us by our Legislature, we are doing everything we can to create a favorable business climate while at the same time protecting our citizens. I think we are succeeding. I would be happy to answer any questions you or Members of the Committee may have.