

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 340
PROPOSED COMMITTEE SUBSTITUTE H340-PCS90051-TD-11

Short Title: Utilities Commission/Criminal Records Check.

(Public)

Sponsors:

Referred to:

March 15, 2011

1 A BILL TO BE ENTITLED
2 AN ACT AUTHORIZING THE UTILITIES COMMISSION TO OBTAIN CRIMINAL
3 HISTORY RECORD CHECKS OF APPLICANTS FOR AND CURRENT HOLDERS OF
4 A CERTIFICATE TO TRANSPORT HOUSEHOLD GOODS.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. Article 12 of Chapter 62 of the General Statutes is amended by
7 adding a new section to read as follows:

8 **"§ 62-273.1. Criminal history record checks of applicants for and current holders of**
9 **certificate to transport household goods.**

10 (a) The following definitions apply in this section:

11 (1) Applicant. – An individual, partnership, limited liability corporation, or
12 corporation who applies for certification as a common carrier of household
13 goods in the State of North Carolina.

14 (2) Certificate. – A certificate of exemption or a certificate of public
15 convenience and necessity issued by the Utilities Commission to authorize
16 the holder to engage in the intrastate transportation of household goods for
17 compensation in the State of North Carolina.

18 (3) Criminal history. – A State or federal history of conviction of a crime,
19 whether a misdemeanor or felony, that bears upon an applicant's or current
20 holder's fitness to possess a certificate.

21 (4) Current holder. – An individual, partnership, limited liability corporation, or
22 corporation who has been certified as a common carrier of household goods
23 in the State of North Carolina.

24 (b) The Commission shall conduct a criminal history record check of applicants and
25 current holders of certificate to transport household goods. An applicant for or current holder of
26 certificate to transport household goods must furnish the Commission with a complete set of
27 the applicant's fingerprints in a manner prescribed by the Commission. In those instances where
28 the quality characteristic of an applicant's or current holder's fingerprints is determined to be
29 too low or otherwise inadequate for processing by the FBI, the applicant or current holder shall
30 comply with the Commission's criminal history record check requirement pursuant to the
31 Commission's alternate name-based records check procedure.

32 (c) If the applicant's or current holder's verified criminal history record check reveals
33 one or more convictions, the convictions shall not automatically constitute cause for denying an
34 application or revoking a certificate. However, all of the following factors shall be considered



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1 by the Commission in determining whether the application should be denied or the certificate
2 revoked:

- 3 (1) The level and seriousness of the crime.
- 4 (2) The date of the crime.
- 5 (3) The age of the person at the time of the conviction.
- 6 (4) The nature of the crime as it relates to the duties and responsibilities of a
7 common carrier of household goods.
- 8 (5) The employment history of the person after the date the crime was
9 committed.
- 10 (6) Any evidence of rehabilitation of the person after the date the crime was
11 committed.

12 (d) The Commission may deny an application or revoke a certificate if the applicant or
13 current holder refuses to consent to a criminal history record check or use of fingerprints or
14 other identifying information required by the State or National Repositories of Criminal
15 Histories."

16 **SECTION 2.** Article 4 of Chapter 114 of the General Statutes is amended by
17 adding a new section to read:

18 "**§ 114-19.28 Criminal history record checks of applicants for and current holders of**
19 **certificate to transport household goods.**

20 The Department of Justice may provide to the Utilities Commission from the State and
21 National Repositories of Criminal Histories the criminal history of any applicant for or current
22 holder of a certificate to transport household goods. Along with the request, the Commission
23 shall provide to the Department of Justice the fingerprints of the applicant or current holder, a
24 form signed by the applicant or current holder consenting to the criminal history record check
25 and use of fingerprints and other identifying information required by the State and National
26 Repositories of Criminal Histories, and any additional information required by the Department
27 of Justice. The applicant's or current holder's fingerprints shall be forwarded to the State Bureau
28 of Investigation for a search of the State's criminal history record file, and the State Bureau of
29 Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a
30 national criminal history record check. The Utilities Commission shall keep all information
31 obtained pursuant to this section confidential. The Department of Justice may charge a fee to
32 offset the cost incurred by it to conduct a criminal history record check under this section. The
33 fee shall not exceed the actual cost of locating, editing, researching, and retrieving the
34 information. The Department of Justice shall send a copy of the results of the criminal history
35 record checks directly to the Utilities Commission Chief Clerk."

36 **SECTION 3.** This act is effective when it becomes law and applies to all persons
37 holding a current certificate of exemption or a certificate of public convenience and necessity
38 on or after that date and to all applications for a certification of exemption or a certificate of
39 public convenience and necessity received by the Commission on or after that date.