

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

SESSION LAW 2012-9
HOUSE BILL 340

AN ACT AUTHORIZING THE UTILITIES COMMISSION TO OBTAIN CRIMINAL HISTORY RECORD CHECKS OF APPLICANTS FOR AND CURRENT HOLDERS OF A CERTIFICATE TO TRANSPORT HOUSEHOLD GOODS.

The General Assembly of North Carolina enacts:

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

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

(a) The following definitions apply in this section:

- (1) Applicant. – An individual, partnership, limited liability corporation, or corporation who applies for certification as a common carrier of household goods in the State of North Carolina.
- (2) Certificate. – A certificate of exemption or a certificate of public convenience and necessity issued by the Utilities Commission to authorize the holder to engage in the intrastate transportation of household goods for compensation in the State of North Carolina.
- (3) Criminal history. – A State or federal history of conviction of a crime, whether a misdemeanor or felony, that bears upon an applicant's or current holder's fitness to possess a certificate.
- (4) Current holder. – An individual, partnership, limited liability corporation, or corporation who has been certified as a common carrier of household goods in the State of North Carolina.

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

(c) If the applicant's or current holder's verified criminal history record check reveals one or more convictions, the convictions shall not automatically constitute cause for denying an application or revoking a certificate. However, all of the following factors shall be considered by the Commission in determining whether the application should be denied or the certificate revoked:

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

(d) The Commission may deny an application or revoke a certificate if the applicant or current holder refuses to consent to a criminal history record check or use of fingerprints or



other identifying information required by the State or National Repositories of Criminal Histories."

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

"§ 114-19.31. Criminal history record checks of applicants for and current holders of certificate to transport household goods.

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

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

In the General Assembly read three times and ratified this the 31st day of May, 2012.

s/ Walter H. Dalton
President of the Senate

s/ Dale R. Folwell
Speaker Pro Tempore of the House of Representatives

s/ Beverly E. Perdue
Governor

Approved 9:27 a.m. this 7th day of June, 2012