

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

H

1

HOUSE BILL 340

Short Title: Utilities Commission/Criminal Records Check. (Public)

Sponsors: Representatives Steen and Hager (Primary Sponsors).  
For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to: Public Utilities, if favorable, Judiciary.

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 record checks of applicants for and current holders of certificate to**  
9 **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 Department of Justice may provide to the Utilities Commission from the State  
25 and National Repositories of Criminal Histories the criminal history of any applicant for or  
26 current holder of a certificate to transport household goods. Along with the request, the  
27 Commission shall provide to the Department of Justice the fingerprints of the applicant or  
28 current holder, a form signed by the applicant or current holder consenting to the criminal  
29 record check and use of fingerprints and other identifying information required by the State and  
30 National Repositories of Criminal Histories, and any additional information required by the  
31 Department of Justice. The applicant's or current holder's fingerprints shall be forwarded to the  
32 State Bureau of Investigation for a search of the State's criminal history record file and the State  
33 Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of  
34 Investigation for a national criminal history record check. The Utilities Commission shall keep  
35 all information obtained pursuant to this section confidential. The Department of Justice may



1 charge a fee to offset the cost incurred by it to conduct a criminal record check under this  
2 section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving  
3 the information. The Department of Justice shall send a copy of the results of the criminal  
4 record checks directly to the Utilities Commission Chief Clerk. In those instances where the  
5 quality characteristic of an applicant's or current holder's fingerprints is determined to be too  
6 low or otherwise inadequate for processing by the FBI, the applicant or current holder shall  
7 comply with the Commission's criminal history records check requirement pursuant to the  
8 Commission's alternate name-based records check procedure.

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

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

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

27 **SECTION 2.** This act is effective when it becomes law and applies to all persons  
28 holding a current certificate of exemption or a certificate of public convenience and necessity  
29 on or after that date and to all applications for a certification of exemption or a certificate of  
30 public convenience and necessity received by the Commission on or after that date.