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January 21, 2004

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via facsimile (202) 408-6999- 8 pages

Representative Thomas E. Petri
2462 Rayburn House Office Building
Washington, DC 20515

Re: Securing Consumers' Assurance in Moving Act of 2003 - H.R. 1070

Honorable Thomas Petri:

We, the undersigned Attorneys General, are writing to express our support for H.R. 1070, which would authorize State Attorneys General to enforce our state laws to protect consumers who are victims of deceptive practices by interstate movers.

Currently, consumers are extremely vulnerable to unscrupulous interstate movers. Since the termination of the Interstate Commerce Commission in 1996, there has been virtually no oversight of interstate movers at the federal level. At the same time, many state and federal courts, interpreting the Carmack Amendment, have held that the Amendment precludes state agencies, including State Attorneys General, from enforcing state consumer protection laws when interstate movers harm consumers.

The results have been disastrous for many consumers. From 1996 to 1999, consumer complaints against interstate movers received by the federal Department of Transportation rose 107%. During that same period, interstate moving complaints to the Better Business Bureau rose 72%. From 1996 to 2000, consumer requests for arbitration to the American Moving and Storage Association (the moving industry's trade association) rose 750%.

Consumers have been defenseless against a variety of deceptive or fraudulent behaviors including, but not limited to:

- Movers have tripled estimates for a move after they have possession of the consumer's goods. If the consumer refuses to pay the inflated bill, the mover holds the consumer's goods hostage until it receives the money.
- Consumers, who have tried to insure themselves against loss and damage by purchasing "valuation" through their movers, have complained that either the protection was worthless, or that the mover pocketed the money rather than purchasing the promised coverage.
- Consumers have discovered charges on their credit cards for moving services that they neither received nor authorized.

Although State Attorneys General have been able to address these types of complaints against intrastate movers through our state consumer protection laws, there is often very little that we, in the state law enforcement community, can do to protect our citizens against these and other consumer fraud problems in interstate moving.

H.R. 1070 provides a sensible and workable solution to this problem. It explicitly gives States the authority to pursue rogue interstate movers under state consumer protection laws. We have used these laws to great effect in combating fraud in other interstate industries. In fact, interstate movers are one of the only industries arguably exempt from consumer protection laws. Given the record of fraud and abuse in this area, it is time to eliminate this exemption.

The moving industry opposes H.R. 1070 for several reasons, each of which is without merit. The moving industry has protested that H.R. 1070 will hurt legitimate movers - not rogue movers. This is not true. This new law should not affect legitimate movers at all. Consumer protection laws require only that movers not defraud their customers. They are generally enforced by Attorneys General only when the State finds that a mover has engaged in a pattern of fraud or deception. Further, to the extent that interstate movers are also engaged in intrastate moves, they are already subject to these laws.

The moving industry claims that it will face speculative liability risks, such as damages for emotional distress. Consumer protection laws typically allow the Attorney General to seek consumer restitution, injunctive relief, and penalties against businesses that engage in deceptive practices. Penalties generally are capped by statute, at a set amount per violation. This is not the unlimited liability suggested by the movers. While some States allow claims for emotional distress, they must be related to what common law permits and will generally be sought only in actions by individual consumers, not the States. In these situations, the standard is quite high and often not easily attainable by victims of consumer fraud. Typically, these laws are used to redress physical injuries that are caused intentionally and are due to gross negligence.

Meanwhile, the moving industry has proffered several unacceptable suggestions for enforcement. One suggestion has been to provide States with the ability to enforce the federal regulations that govern interstate moves. These are not consumer protection laws. The current federal regulations cover primarily the resolution of loss and damage claims. They do not address fraud and deception. They are not designed to make the consumer whole or to provide injunctive relief against future deceptive practices by unscrupulous movers. They do not adequately protect consumers, and therefore provide little incentive for state enforcement.

An additional industry proposal would impose the requirement that a State prove that a carrier's violation of the regulations is "knowing and persistent." This unreasonably high standard is not imposed upon States in any other consumer protection laws, which generally require only that the deceptive practices have the capacity and tendency to deceive consumers. Further, the moving industry seeks to preclude effective or meaningful litigation enforcement by State Attorneys General by limiting state recovery in any enforcement action only to an individual consumer rather than all consumers affected by violations.

The movers support the proposal to add \$1 million and seven full-time employees to the Federal Motor Carrier Safety Administration (FMCSA) to handle consumer fraud complaints in interstate moving across the country. Although the State Attorneys General welcome increased federal enforcement to protect consumers, FMCSA has gone on record stating that they do not want this responsibility. Further, given the magnitude of the problem, we believe that seven people would be woefully inadequate to provide effective protection across the country. Instead, we should be utilizing the resources of state and local government consumer protection agencies across the country to complement enforcement at the federal level. Federal funds could be much more wisely used as proposed under H.R. 1070 - to coordinate enforcement by state and federal agencies and to provide information to the public through a database of complaints about interstate movers.

We applaud you and your colleagues for proposing this important piece of legislation. We look forward to the day when consumers can move their household goods confidently around the country without fear of fraud and abuse.

Sincerely,



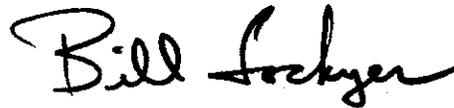
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Attorney General of Alaska



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Attorney General of Arizona



Attorney General Mike Beebe
Attorney General of Arkansas



Attorney General Bill Lockyer
Attorney General of California



Attorney General Ken Salazar
Attorney General of Colorado



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Attorney General of Connecticut



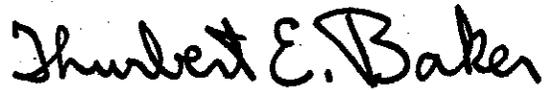
Attorney General M. Jane Brady
Attorney General of Delaware



Corporation Counsel Robert J. Spagnoletti
Corporation Counsel of D.C.



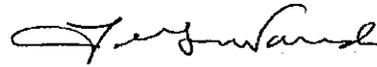
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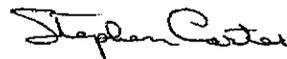
Director Mark Recktenwald¹
Office of Consumer Protection of Hawaii



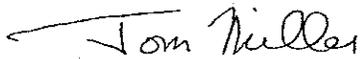
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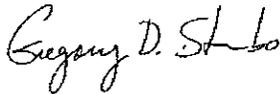
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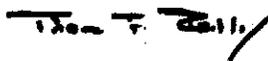
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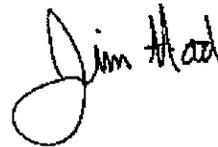
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Attorney General Michael A. Cox
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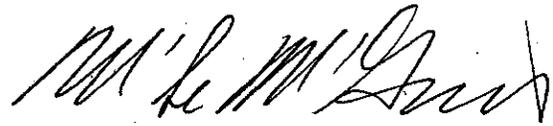
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Attorney General Jeremiah W. Nixon
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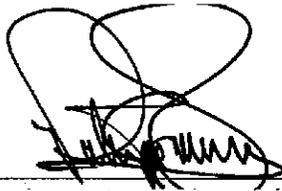
Attorney General Mike McGrath
Attorney General of Montana



Attorney General Brian Sandoval
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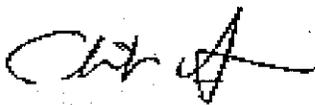
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cc: Co-Sponsors of H.R. 1070

Representatives:

- | | | |
|----------------------|-------------------------|----------------------|
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| Baird (D-Wash.) | Doyle (D-Pa.) | Lofgren (D-Calif.) |
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| Beauprez (R-Colo.) | Honda (D-Calif.) | Mica (R-Fla.) |
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| Burgess (R-Texas) | LaTourette (R-Ohio) | Rehberg (R-Mont.) |
| Calvert (R-Calif.) | Lee (D-Calif.) | Watson (D-Calif.) |

1. Of the states listed, Hawaii is not represented by its Attorney General. Hawaii is represented by its Office of Consumer Protection, an agency which is not a part of the state Attorney General's Office, but which is statutorily authorized to represent the State of Hawaii in consumer protection actions. For the sake of simplicity, the entire group will be referred to as the "Attorneys General," and such designation as it pertains to Hawaii, refers to the Executive Director of the State of Hawaii Office of Consumer Protection.