

## Senate Bill No. 1086

### CHAPTER 45

An act to amend Section 21701 of, and to add Section 21701.1 to, the Business and Professions Code, relating to self-service storage facilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 28, 1998. Filed with  
Secretary of State May 29, 1998.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 1086, Schiff. Self-service storage facilities: containers.

The California Self-Service Storage Facility Act defines self-service storage facilities and regulates rental agreements and the imposition of liens on personal property located at a self-service storage facility.

This bill would revise the definition of self-service storage facility and provide that the owner or operator of a self-service storage facility or a household goods carrier may transport and store individual storage containers, as defined, subject to certain restrictions.

The bill would make a statement of legislative intent.

The bill would declare that it is to take effect immediately as an urgency statute.

*The people of the State of California do enact as follows:*

SECTION 1. Section 21701 of the Business and Professions Code is amended to read:

21701. For the purposes of this chapter, the following terms shall have the following meanings:

(a) "Self-service storage facility" means real property designed and used for the purpose of renting or leasing individual storage space to occupants who are to have access to the space for the purpose of storing and removing personal property or for storing individual storage containers provided to occupants who have exclusive use of the container for the purpose of storing and removing personal property, whether or not the individual storage containers are transported pursuant to Section 21701.1. Self-service storage facility does not include a garage or other storage area in a private residence. No occupant may use a self-service storage facility for residential purposes. A self-service storage facility is not a warehouse, nor a public utility, as defined in Section 216 of the Public Utilities Code. If an owner issues a warehouse receipt, bill of lading, or other document of title for the personal property stored, the owner

and the occupant are subject to the provisions of Division 7 (commencing with Section 7101) of the Commercial Code, and the provisions of this chapter do not apply.

(b) “Owner” means the owner, operator, lessor, or sublessor of a self-service storage facility, his or her agent, or any other person authorized by him or her to manage the facility, or to receive rent from an occupant under a rental agreement, and no real estate license is required.

(c) “Occupant” means a person, or his or her sublessee, successor, or assign, who is entitled to the use of the storage space at a self-service storage facility under a rental agreement, to the exclusion of others.

(d) “Rental agreement” means any written agreement or lease which establishes or modifies the terms, conditions, rules, or any other provision concerning the use and occupancy of a self-service storage facility.

(e) “Personal property” means movable property not affixed to land, and includes, but is not limited to, goods, merchandise, furniture, and household items.

(f) “Last known address” means that address provided by the occupant in the latest rental agreement, or the address provided by the occupant in a subsequent written notice of a change of address.

SEC. 2. Section 21701.1 is added to the Business and Professions Code, to read:

21701.1. (a) The owner or operator of a self-service storage facility, or a household goods carrier, may, for a fee, transport individual storage containers to and from a self-service storage facility that he or she owns or operates. This transportation activity whether performed by an owner, operator, or carrier, shall not be deemed transportation for compensation or hire as a business of used household goods and is not subject to regulation under Chapter 7 (commencing with Section 5101) of Division 2 of the Public Utilities Code, provided all of the following requirements are met:

(1) The fee charged (A) to deliver an empty individual storage container to a customer and to transport the loaded container to a self-service storage facility, or (B) to return a loaded individual storage container from a self-service storage facility to the customer does not exceed one hundred dollars (\$100).

(2) The owner, operator, or carrier, or any affiliate of the owner, operator, or carrier, does not load, pack, or otherwise handle the contents of the container.

(3) The owner, operator, or carrier is registered under Chapter 2 (commencing with Section 34620) of Division 14.85 of the Vehicle Code or holds a permit under Chapter 7 (commencing with Section 5101) of Division 2 of the Public Utilities Code.

(4) The owner, operator, or carrier has procured and maintained cargo insurance in the amount of at least twenty thousand dollars

(\$20,000) per shipment. Proof of cargo insurance coverage shall be maintained on file and presented to the Department of Motor Vehicles or Public Utilities Commission upon written request.

(5) The owner, operator, or carrier shall disclose to the customer in advance the following information regarding the container transfer service offered, in a written document separate from others furnished at the time of disclosure:

(A) A detailed description of the transfer service, including a commitment to use its best efforts to place the container in an appropriate location designated by the customer.

(B) The dimensions and construction of the individual storage containers used.

(C) The unit charge, if any, for the container transfer service, in addition to the storage charge or any other fees under the rental agreement.

(D) The availability of delivery or pickup by the customer of his or her goods at the self-service storage facility.

(E) The maximum allowable distance, measured from the self-service storage facility, for the initial pickup and final delivery of the loaded container.

(F) The precise terms of the company's right to move a container from the initial storage location at its own discretion, and a statement that the customer will not be required to pay additional charges with respect to that transfer.

(G) Conspicuous disclosure in bold text of the allocation of responsibility for the risk of loss or damage to the customer's goods, including any disclaimer of the company's liability, and the procedure for presenting any claim regarding loss or damage to the company.

The disclosure of terms and conditions required by this subdivision, and the rental agreement, shall be received by the customer a minimum of 72 hours prior to delivery of the empty individual storage container; however, the customer may, in writing, knowingly and voluntarily waive that receipt. The company shall record in writing and retain for a period of at least six months after the end of the rental the time and method of delivery of the information, any waiver made by the customer, and the times and dates of initial pickup and redelivery of the containerized goods.

(6) No later than the time the empty individual storage container is delivered to the customer, the company shall provide the customer with an informational brochure containing the following information about loading the container:

(A) Packing and loading tips to minimize damage in transit.

(B) A suggestion that the customer make an inventory of the items as they are loaded, and keep any other record (for example, photographs, videotape) that may assist in any subsequent claims processing.



(C) A list of items that are impermissible to pack in the container (for example, flammable items).

(D) A list of items that are not recommended to be packed in light of foreseeable hazards inherent in the company's handling of the containers, and in light of any limitation of liability contained in the rental agreement.

(b) Pickup and delivery of the individual storage containers shall be on a date agreed upon between the customer and the company. If the company requires the customer to be physically present at the time of pickup, the company shall in fact be at the customer's premises prepared to perform the service not more than four hours later than the scheduled time agreed to by the customer and company, and in the event of a preventable breach of that obligation by the company, the customer shall be entitled to receive a penalty of fifty dollars (\$50) from the company and to elect rescission of the rental agreement without liability.

(c) No charge shall be assessed with respect to any movement of the container between self-service storage facilities by the company at its own discretion, nor for the delivery of a container to a customer's premises if the customer advises the company, at least 24 hours before the agreed time of container drop off, orally or in writing, that he or she is rescinding the request for service.

(d) For purposes of this chapter, "individual storage container" means a container that meets all of the following requirements:

(1) It shall be fully enclosed and locked.

(2) It contains not less than 100 and not more than 1,100 cubic feet.

(3) It is constructed out of a durable material appropriate for repeated use. A box constructed out of cardboard or a similar material shall not constitute an individual storage container for purposes of this section.

(e) Nothing in this section shall be construed to limit the authority of the Public Utilities Commission to investigate and commence an appropriate enforcement action pursuant to Chapter 7 (commencing with Section 5101) of Division 2 of the Public Utilities Code against any person transporting household goods in individual storage containers in a manner other than that described in this section.

SEC. 3. The amendment to Section 21701 of the Business and Professions Code contained in Section 1 of this act is intended to extend the coverage of the California Self-Service Storage Facility Act to real property designed to store individual storage containers. In making this change, it is not the intent of the Legislature to modify the landlord-tenant relationship that exists under current law between self-service storage facility owners and occupants. An owner of a self-service storage facility when renting or leasing individual storage spaces to occupants, who are to have access to the space for the purpose of storing or removing personal property, is a

commercial landlord and does not have care, custody, or control of the occupants' stored personal property. Further, by adding Section 21701.1 to the Business and Professions Code, which describes the transportation activities that may be provided without a household goods carrier permit, the Legislature does not intend to limit the ability of an owner or operator of a self-service storage facility to otherwise transport household goods under the authority of a household goods carrier permit.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to clarify the application of the Household Goods Carriers Act, and to ensure appropriate protections for customers transporting goods in individual storage containers, it is necessary that this act take effect immediately.

