

LEGISLATURE OF NEBRASKA  
 ONE HUNDREDTH LEGISLATURE  
 FIRST SESSION  
**LEGISLATIVE BILL 358**

FINAL READING

Introduced by Hudkins, 21

Read first time January 12, 2007

Committee: Transportation and Telecommunications

A BILL

1 FOR AN ACT relating to motor carriers; to amend section 75-307,  
 2 Reissue Revised Statutes of Nebraska, and sections  
 3 60-3,137, 60-3,205, 66-1406.02, 75-302, 75-369.03,  
 4 75-370, 75-371, and 75-386, Revised Statutes Cumulative  
 5 Supplement, 2006; to authorize registration under the  
 6 unified carrier registration plan and agreement; to  
 7 provide powers and duties for the Director of Motor  
 8 Vehicles and the Division of Motor Carrier Services; to  
 9 provide a penalty; to change and eliminate certain motor  
 10 carrier provisions; to harmonize provisions; to repeal  
 11 the original sections; and to outright repeal sections  
 12 75-307.01, 75-307.02, 75-307.03, and 75-352, Reissue  
 13 Revised Statutes of Nebraska.

LB 358

LB 358

1 Be it enacted by the people of the State of Nebraska,

1           Section 1. For purposes of sections 1 to 8 of this act:  
2           (1) Director means the Director of Motor Vehicles;  
3           (2) Division means the Division of Motor Carrier Services  
4 of the Department of Motor Vehicles; and  
5           (3) Unified carrier registration plan and agreement means  
6 the plan and agreement established and authorized pursuant to 49  
7 U.S.C. 14504, as such section existed on January 1, 2007.

8           Sec. 2. (1) On and after the date the United States  
9 Secretary of Transportation establishes the Unified Carrier  
10 Registration System in accordance with the Unified Carrier  
11 Registration Act of 2005, 49 U.S.C. 13908, as such act existed  
12 on January 1, 2007, the director may designate a date to begin  
13 enforcement of such act in this state.

14           (2) The director may participate in the unified carrier  
15 registration plan and agreement and may file on behalf of this  
16 state the plan required by such plan and agreement.

17           Sec. 3. (1) On and after the date designated by the  
18 director pursuant to section 2 of this act, no foreign or domestic  
19 motor carrier, private carrier, leasing company, broker, or freight  
20 forwarder shall operate any motor vehicle on a highway of this  
21 state or in interstate commerce without first being registered  
22 in this state or another jurisdiction pursuant to the unified  
23 carrier registration plan and agreement and having paid all fees  
24 required under the unified carrier registration plan and agreement  
25 for such registration. A motor carrier, private carrier, leasing

1 company, broker, or freight forwarder with its principal place of  
2 business in this state shall register in this state with and pay  
3 its required registration fees to the division. The division shall  
4 remit the fees to the State Treasurer for credit to the General  
5 Fund.

6 (2) On and after the date designated by the director  
7 pursuant to section 2 of this act, the division may accept the  
8 registration of and fees required from a foreign or domestic  
9 motor carrier, private carrier, leasing company, broker, or freight  
10 forwarder that maintains an office in this state but does not  
11 have its principal place of business in the United States or that  
12 maintains an office in this state but has its principal place of  
13 business in another jurisdiction that does not participate in the  
14 unified carrier registration plan and agreement. The division shall  
15 remit the fees to the State Treasurer for credit to the General  
16 Fund.

17 Sec. 4. The single state insurance registration system,  
18 the previous registration system for common, contract, and private  
19 carriers, and sections 75-348 to 75-358 shall terminate on the date  
20 designated by the director pursuant to section 2 of this act.

21 Sec. 5. On and after the date designated by the director  
22 pursuant to section 2 of this act, the director may adopt and  
23 promulgate rules and regulations to carry out the unified carrier  
24 registration plan and agreement.

25 Sec. 6. On and after the date designated by the director

1 pursuant to section 2 of this act, the director may prescribe the  
2 appropriate forms and implement the appropriate electronic systems  
3 to allow filings with the division pursuant to the unified carrier  
4 registration plan and agreement.

5           Sec. 7. On and after the date designated by the director  
6 pursuant to section 2 of this act, any foreign or domestic motor  
7 carrier, private carrier, leasing company, broker, or freight  
8 forwarder operating any motor vehicle in violation of sections 1  
9 to 8 of this act, any rule or regulation adopted and promulgated  
10 pursuant to such sections, or any order of the division issued  
11 pursuant to such sections is guilty of a Class IV misdemeanor  
12 and shall also be subject to section 75-369.03. Each day of the  
13 violation constitutes a separate offense.

14           Sec. 8. Sections 1 to 8 of this act do not apply to  
15 a foreign or domestic motor carrier, private carrier, leasing  
16 company, broker, or freight forwarder, including a transporter of  
17 waste or recyclable materials, engaged exclusively in intrastate  
18 commerce.

19           Sec. 9. Section 60-3,137, Revised Statutes Cumulative  
20 Supplement, 2006, is amended to read:

21           60-3,137 Each insurance company doing business in this  
22 state shall provide information shown on each automobile liability  
23 policy issued in this state as required by the department pursuant  
24 to sections 60-3,136 to 60-3,139 for inclusion in the motor  
25 vehicle insurance data base in a form and manner acceptable to

1 the department. Any person who qualifies as a self-insurer under  
2 sections 60-562 to 60-564 or any person who provides financial  
3 responsibility under sections 75-348 to 75-358 or sections 1 to 8  
4 of this act shall not be required to provide information to the  
5 department for inclusion in the motor vehicle insurance data base.

6 Sec. 10. Section 60-3,205, Revised Statutes Cumulative  
7 Supplement, 2006, is amended to read:

8 60-3,205 (1) (a) The director may suspend, revoke, cancel,  
9 or refuse to issue or renew a registration certificate under the  
10 International Registration Plan Act:

11 (i) If the applicant or certificate holder has had his or  
12 her license issued under the International Fuel Tax Agreement Act  
13 revoked or the director refused to issue or refused to renew such  
14 license; or

15 (ii) If the applicant or certificate holder is in  
16 violation of sections 75-348 to 75-358 or sections 1 to 8 of  
17 this act.

18 (b) Prior to taking action under this section, the  
19 director shall notify and advise the applicant or certificate  
20 holder of the proposed action and the reasons for such action in  
21 writing, by registered or certified mail, to his or her last-known  
22 business address as shown on the application for the certificate  
23 or renewal. The notice shall also include an advisement of the  
24 procedures in subdivision (c) of this subsection.

25 (c) The applicant or certificate holder may, within

1 thirty days after the date of the mailing of the notice,  
2 petition the director for a hearing to contest the proposed  
3 action. The hearing shall be commenced in accordance with the rules  
4 and regulations adopted and promulgated by the department. If a  
5 petition is filed, the director shall, within twenty days after  
6 receipt of the petition, set a hearing date at which the applicant  
7 or certificate holder may show cause why the proposed action should  
8 not be taken. The director shall give the applicant or certificate  
9 holder reasonable notice of the time and place of the hearing. If  
10 the director's decision is adverse to the applicant or certificate  
11 holder, the applicant or certificate holder may appeal the decision  
12 in accordance with the Administrative Procedure Act.

13 (d) Except as provided in subsections (2) and (3) of this  
14 section, the filing of the petition shall stay any action by the  
15 director until a hearing is held and a final decision and order is  
16 issued.

17 (e) Except as provided in subsections (2) and (3) of this  
18 section, if no petition is filed at the expiration of thirty days  
19 after the date on which the notification was mailed, the director  
20 may take the proposed action described in the notice.

21 (f) If, in the judgment of the director, the applicant or  
22 certificate holder has complied with or is no longer in violation  
23 of the provisions for which the director took action under this  
24 subsection, the director may reinstate the registration certificate  
25 without delay.

1           (2) (a) The director may suspend, revoke, cancel, or  
2 refuse to issue or renew a registration certificate under the  
3 International Registration Plan Act or a license under the  
4 International Fuel Tax Agreement Act if the applicant, licensee, or  
5 certificate holder has issued to the department a check or draft  
6 which has been returned because of insufficient funds, no funds, or  
7 a stop-payment order. The director may take such action no sooner  
8 than seven days after the written notice required in subdivision  
9 (1) (b) of this section has been provided. Any petition to contest  
10 such action filed pursuant to subdivision (1) (c) of this section  
11 shall not stay such action of the director.

12           (b) If the director takes an action pursuant to  
13 this subsection, the director shall reinstate the registration  
14 certificate or license without delay upon the payment of certified  
15 funds by the applicant, licensee, or certificate holder for  
16 any fees due and reasonable administrative costs, not to exceed  
17 twenty-five dollars, incurred in taking such action.

18           (c) The rules, regulations, and orders of the director  
19 and the department that pertain to hearings commenced in accordance  
20 with this section and that are in effect prior to March 17,  
21 2006, shall remain in effect, unless changed or eliminated by the  
22 director or the department, except for those portions involving a  
23 stay upon the filing of a petition to contest any action taken  
24 pursuant to this subsection, in which case this subsection shall  
25 supersede those provisions.

1           (3) Any person who receives notice from the director  
2 of action taken pursuant to subsection (1) or (2) of this  
3 section shall, within three business days, return such registration  
4 certificate and license plates to the department as provided in  
5 this section. If any person fails to return the registration  
6 certificate and license plates to the department, the department  
7 shall notify the Nebraska State Patrol that any such person is in  
8 violation of this section.

9           Sec. 11. Section 66-1406.02, Revised Statutes Cumulative  
10 Supplement, 2006, is amended to read:

11           66-1406.02 (1) The director may suspend, revoke, cancel,  
12 or refuse to issue or renew a license under the International Fuel  
13 Tax Agreement Act:

14           (a) If the applicant's or licensee's registration  
15 certificate issued pursuant to the International Registration Plan  
16 Act has been suspended, revoked, or canceled or the director  
17 refused to issue or renew such certificate;

18           (b) If the applicant or licensee is in violation of  
19 sections 75-348 to 75-358 or sections 1 to 8 of this act;

20           (c) If the applicant's or licensee's security has been  
21 canceled;

22           (d) If the applicant or licensee failed to provide  
23 additional security as required;

24           (e) If the applicant or licensee failed to file any  
25 report or return required by the motor fuel laws, filed an

1 incomplete report or return required by the motor fuel laws, did  
2 not file any report or return required by the motor fuel laws  
3 electronically, or did not file a report or return required by the  
4 motor fuel laws on time;

5 (f) If the applicant or licensee failed to pay taxes  
6 required by the motor fuel laws due within the time provided;

7 (g) If the applicant or licensee filed any false report,  
8 return, statement, or affidavit, required by the motor fuel laws,  
9 knowing it to be false;

10 (h) If the applicant or licensee would no longer be  
11 eligible to obtain a license; or

12 (i) If the applicant or licensee committed any other  
13 violation of the International Fuel Tax Agreement Act or the rules  
14 and regulations adopted and promulgated under the act.

15 (2) Prior to taking any action pursuant to subsection  
16 (1) of this section, the director shall notify and advise the  
17 applicant or licensee of the proposed action and the reasons for  
18 such action in writing, by registered or certified mail, to his  
19 or her last-known business address as shown on the application  
20 or license. The notice shall also include an advisement of the  
21 procedures in subsection (3) of this section.

22 (3) The applicant or licensee may, within thirty days  
23 after the mailing of the notice, petition the director in writing  
24 for a hearing to contest the proposed action. The hearing shall be  
25 commenced in accordance with the rules and regulations adopted and

1 promulgated by the Department of Motor Vehicles. If a petition is  
2 filed, the director shall, within twenty days after receipt of the  
3 petition, set a hearing date at which the applicant or licensee  
4 may show cause why the proposed action should not be taken. The  
5 director shall give the applicant or licensee reasonable notice of  
6 the time and place of the hearing. If the director's decision is  
7 adverse to the applicant or licensee, the applicant or licensee may  
8 appeal the decision in accordance with the Administrative Procedure  
9 Act.

10 (4) Except as provided in subsection (2) of section  
11 60-3,205 and subsection (8) of this section, the filing of the  
12 petition shall stay any action by the director until a hearing is  
13 held and a final decision and order is issued.

14 (5) Except as provided in subsection (2) of section  
15 60-3,205 and subsection (8) of this section, if no petition is  
16 filed at the expiration of thirty days after the date on which the  
17 notification was mailed, the director may take the proposed action  
18 described in the notice.

19 (6) Except as provided in subsection (2) of section  
20 60-3,205 and subsection (8) of this section, if, in the judgment of  
21 the director, the applicant or licensee has complied with or is no  
22 longer in violation of the provisions for which the director took  
23 action under this section, the director may reinstate the license  
24 without delay. An applicant for reinstatement, issuance, or renewal  
25 of a license within three years after the date of suspension,

1 revocation, cancellation, or refusal to issue or renew shall submit  
2 a fee of one hundred dollars to the director. The director shall  
3 remit the fee to the State Treasurer for credit to the Highway Cash  
4 Fund.

5 (7) Suspension of, revocation of, cancellation of, or  
6 refusal to issue or renew a license by the director shall not  
7 relieve any person from making or filing the reports or returns  
8 required by the motor fuel laws in the manner or within the time  
9 required.

10 (8) Any person who receives notice from the director of  
11 action taken pursuant to subsection (1) of this section shall,  
12 within three business days, return such registration certificate  
13 and license plates issued pursuant to section 60-3,198 to the  
14 department. If any person fails to return the registration  
15 certificate and license plates to the department, the department  
16 shall notify the Nebraska State Patrol that any such person is in  
17 violation of this section.

18 Sec. 12. Section 75-302, Revised Statutes Cumulative  
19 Supplement, 2006, is amended to read:

20 75-302 For purposes of sections 75-301 to 75-322 and in  
21 all rules and regulations adopted and promulgated by the commission  
22 pursuant to such sections, unless the context otherwise requires:

23 (1) Carrier enforcement division means the carrier  
24 enforcement division of the Nebraska State Patrol or the Nebraska  
25 State Patrol;

1           (2) Certificate means a certificate of public convenience  
2 and necessity issued under Chapter 75, article 3, to common  
3 carriers by motor vehicle;

4           (3) Civil penalty means any monetary penalty assessed by  
5 the commission or carrier enforcement division due to a violation  
6 of Chapter 75, article 3, or section 75-126 as such section applies  
7 to any person or carrier specified in Chapter 75, article 3; any  
8 term, condition, or limitation of any certificate or permit issued  
9 pursuant to Chapter 75, article 3; or any rule, regulation, or  
10 order of the commission, the Division of Motor Carrier Services,  
11 or the carrier enforcement division issued pursuant to Chapter 75,  
12 article 3;

13           (4) Commission means the Public Service Commission;

14           (5) Common carrier means any person who or which  
15 undertakes to transport passengers or household goods for the  
16 general public in intrastate commerce by motor vehicle for hire,  
17 whether over regular or irregular routes, upon the highways of this  
18 state;

19           (6) Contract carrier means any motor carrier which  
20 transports passengers or household goods for hire other than  
21 as a common carrier designed to meet the distinct needs of each  
22 individual customer or a specifically designated class of customers  
23 without any limitation as to the number of customers it can serve  
24 within the class;

25           (7) Division of Motor Carrier Services means the Division

1 of Motor Carrier Services of the Department of Motor Vehicles;

2 (8) Escort services means an attendant or caregiver  
3 accompanying a minor or persons who are physically, mentally,  
4 or developmentally disabled and unable to travel or wait without  
5 assistance or supervision;

6 (9) Highway means the roads, highways, streets, and ways  
7 in this state;

8 (10) Household goods means personal effects and property  
9 used or to be used in a dwelling, when a part of the equipment  
10 or supply of such dwelling, and similar property as the commission  
11 may provide by regulation if the transportation of such effects or  
12 property, is:

13 (a) Arranged and paid for by the householder, including  
14 transportation of property from a factory or store when the  
15 property is purchased by the householder with the intent to use in  
16 his or her dwelling; or

17 (b) Arranged and paid for by another party;

18 (11) Intrastate commerce means commerce between any place  
19 in this state and any other place in this state and not in part  
20 through any other state;

21 (12) Motor carrier means any person other than a  
22 regulated motor carrier who or which owns, controls, manages,  
23 operates, or causes to be operated any motor vehicle used to  
24 transport passengers or property over any public highway in this  
25 state;

1           (13) Motor vehicle means any vehicle, machine, tractor,  
2 trailer, or semitrailer propelled or drawn by mechanical power  
3 and used upon the highways in the transportation of passengers  
4 or property but does not include any vehicle, locomotive, or car  
5 operated exclusively on a rail or rails;

6           (14) Permit means a permit issued under Chapter 75,  
7 article 3, to contract carriers by motor vehicle;

8           (15) Person means any individual, firm, partnership,  
9 limited liability company, corporation, company, association,  
10 or joint-stock association and includes any trustee, receiver,  
11 assignee, or personal representative thereof;

12           (16) Private carrier means any motor carrier which  
13 owns, controls, manages, operates, or causes to be operated a  
14 motor vehicle to transport passengers or property to or from  
15 its facility, plant, or place of business or to deliver to  
16 purchasers its products, supplies, or raw materials (a) when such  
17 transportation is within the scope of and furthers a primary  
18 business of the carrier other than transportation and (b) when  
19 not for hire. Nothing in sections 75-301 to 75-322 shall apply to  
20 private carriers; and except sections 75-307 to 75-307.03 as they  
21 apply to private carriers, and

22           (17) Regulated motor carrier means any person who or  
23 which owns, controls, manages, operates, or causes to be operated  
24 any motor vehicle used to transport passengers, other than those  
25 excepted under section 75-303, or household goods over any public

1 highway in this state.

2           Sec. 13. Section 75-307, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           75-307 (1) ~~Intrastate~~ Certificated intrastate motor  
5 carriers, including common~~7~~ and contract~~7~~ and ~~private~~ carriers,  
6 shall comply with reasonable rules and regulations prescribed  
7 by the commission governing the filing with the commission, the  
8 approval of the filings, and the maintenance of proof at such  
9 carrier's principal place of business of surety bonds, policies of  
10 insurance, qualifications as a self-insurer, or other securities  
11 or agreements, in such reasonable amount as required by the  
12 commission, conditioned to pay, within the amount of such surety  
13 bonds, policies of insurance, qualifications as a self-insurer,  
14 or other securities or agreements, any final judgment recovered  
15 against such motor carrier for bodily injuries to or the death of  
16 any person resulting from the negligent operation, maintenance,  
17 or use of motor vehicles under such certificate or permit or for  
18 loss or damage to property of others. No certificate or permit  
19 shall be issued to a common or contract carrier or remain in force  
20 unless such carrier complies with this section and the rules and  
21 regulations prescribed by the commission pursuant to this section.

22           (2) The commission may, in its discretion and under  
23 its rules and regulations, require any certificated carrier to  
24 file a surety bond, policies of insurance, qualifications as a  
25 self-insurer, or other securities or agreements, in a sum to be

1 determined by the commission, to be conditioned upon such carrier  
2 making compensation to shippers or consignees for all property  
3 belonging to shippers or consignees and coming into the possession  
4 of such carrier in connection with its transportation service. Any  
5 carrier which may be required by law to compensate a shipper or  
6 consignee for any loss, damage, or default for which a connecting  
7 motor common carrier is legally responsible shall be subrogated  
8 to the rights of such shipper or consignee under any such bond,  
9 policies of insurance, or other securities or agreements to the  
10 extent of the sum so paid.

11 (3) In carrying out this section, the commission may  
12 classify motor carriers and regulated motor carriers taking into  
13 consideration the hazards of the operations of such carriers and  
14 the value of the household goods carried. Nothing contained in this  
15 section shall be construed to authorize the commission to compel  
16 motor carriers other than common carriers of household goods to  
17 carry cargo insurance.

18 Sec. 14. Section 75-369.03, Revised Statutes Cumulative  
19 Supplement, 2006, is amended to read:

20 75-369.03 The Superintendent of Law Enforcement and  
21 Public Safety may issue an order imposing a civil penalty against  
22 a motor carrier transporting persons or property in interstate  
23 commerce for a violation of sections 75-348 to 75-358 or sections  
24 1 to 8 of this act or against a motor carrier transporting persons  
25 or property in intrastate commerce for a violation or violations

1 of section 75-363 or 75-364 based upon an inspection conducted  
2 pursuant to section 75-366 in an amount which shall not exceed  
3 five hundred dollars for any single violation in any proceeding or  
4 series of related proceedings against any person or motor carrier  
5 as defined in 49 C.F.R. part 390.5 as adopted in section 75-363.  
6 The superintendent shall issue an order imposing a civil penalty  
7 in an amount not to exceed ten thousand dollars against a motor  
8 carrier transporting persons or property in interstate commerce for  
9 a violation of subsection (3) of section 60-4,162 based upon a  
10 conviction of such a violation. Upon the discovery of any violation  
11 by a motor carrier transporting persons or property in interstate  
12 commerce of section 75-307, ~~75-352~~, 75-363, or 75-364 or sections  
13 1 to 8 of this act based upon an inspection conducted pursuant  
14 to section 75-366, the superintendent shall immediately refer such  
15 violation to the appropriate federal agency for disposition, and  
16 upon the discovery of any violation by a motor carrier transporting  
17 persons or property in intrastate commerce of section 75-307 based  
18 upon such inspection, the superintendent shall refer such violation  
19 to the Public Service Commission for disposition.

20           Sec. 15. Section 75-370, Revised Statutes Cumulative  
21 Supplement, 2006, is amended to read:

22           75-370 Enforcement of sections 75-307 ~~to 75-307.03~~ and  
23 75-309 shall be carried out by the carrier enforcement division of  
24 the Nebraska State Patrol or the Nebraska State Patrol pursuant to  
25 the rules and regulations adopted and promulgated by the commission

1 to enforce such sections. Any violation of such sections by any  
2 regulated motor carrier, motor carrier, or private carrier shall be  
3 referred to the commission for disposition under section 75-156,  
4 and the commission may take any other action provided by section  
5 75-133.

6 Sec. 16. Section 75-371, Revised Statutes Cumulative  
7 Supplement, 2006, is amended to read:

8 75-371 Any person, private carrier, common carrier, or  
9 contract carrier which operates any motor vehicle in violation of  
10 section 75-307, ~~75-307.01, 75-307.02, or 75-307.03~~ or any rule,  
11 regulation, or order of the commission pertaining to ~~any of such~~  
12 ~~sections~~ such section shall be guilty of a Class IV misdemeanor.  
13 Each day of such violation shall constitute a separate offense.

14 Sec. 17. Section 75-386, Revised Statutes Cumulative  
15 Supplement, 2006, is amended to read:

16 75-386 The Division of Motor Carrier Services shall:

17 (1) Foster, promote, and preserve the motor carrier  
18 industry of the State of Nebraska;

19 (2) Protect and promote the public health and welfare  
20 of the citizens of the state by ensuring that the motor carrier  
21 industry is operated in an efficient and safe manner;

22 (3) Promote and provide for efficient and uniform  
23 governmental oversight of the motor carrier industry;

24 (4) Promote financial responsibility on the part of motor  
25 carriers operating in and through the State of Nebraska;

1           (5) Administer all provisions of the International Fuel  
2 Tax Agreement Act, the International Registration Plan Act, and  
3 the single state insurance registration system pursuant to sections  
4 75-348 to 75-358 or sections 1 to 8 of this act;

5           (6) Provide for the issuance of certificates of title to  
6 apportioned registered motor vehicles as provided for by subsection  
7 (6) of section 60-144; and

8           ~~(7) Serve as the agent of the Public Service Commission~~  
9 ~~in the filing of proof of insurance by intrastate common, contract,~~  
10 ~~and private motor carriers as prescribed by sections 75-307 to~~  
11 ~~75-307.03; and~~

12           ~~(8) (7)~~ Carry out such other duties and responsibilities  
13 as directed by the Legislature.

14           Sec. 18. Original section 75-307, Reissue Revised  
15 Statutes of Nebraska, and sections 60-3,137, 60-3,205, 66-1406.02,  
16 75-302, 75-369.03, 75-370, 75-371, and 75-386, Revised Statutes  
17 Cumulative Supplement, 2006, are repealed.

18           Sec. 19. The following sections are outright repealed:  
19 Sections 75-307.01, 75-307.02, 75-307.03, and 75-352, Reissue  
20 Revised Statutes of Nebraska.