

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 358**

Introduced by Hudkins, 21

Read first time January 12, 2007

Committee: Transportation and Telecommunications

A BILL

1 FOR AN ACT relating to interstate motor carriers; to amend  
2 section 75-390, Reissue Revised Statutes of Nebraska,  
3 and sections 60-3,137, 60-3,205, 66-1406.02, 75-307.01,  
4 75-369.03, and 75-386, Revised Statutes Cumulative  
5 Supplement, 2006; to authorize participation in and  
6 enforcement of federal carrier registration provisions;  
7 to eliminate certain interstate motor carrier provisions;  
8 to change and provide penalties; to harmonize provisions;  
9 to provide operative dates; to repeal the original  
10 section; and to outright repeal sections 75-348, 75-349,  
11 75-350, 75-351, 75-352, 75-353, 75-354, 75-355, 75-356,  
12 75-357, and 75-358, Reissue Revised Statutes of Nebraska.  
13 Be it enacted by the people of the State of Nebraska,

1           Section 1. (1) On and after the date the United States  
2 Secretary of Transportation establishes the Unified Carrier  
3 Registration System in accordance with the Unified Carrier  
4 Registration Act of 2005, 49 U.S.C. 13908, as amended, the Director  
5 of Motor Vehicles may designate a date to begin enforcement of such  
6 law in this state.

7           (2) The director is authorized to participate in the  
8 unified carrier registration plan and agreement, established  
9 pursuant to 49 U.S.C. 14504, as amended, and to file on behalf of  
10 this state the plan required by such section.

11           Sec. 2. (1) On and after the date designated by the  
12 Director of Motor Vehicles pursuant to section 1 of this act,  
13 no foreign or domestic motor carrier, private carrier, leasing  
14 company, broker, or freight forwarder, as such terms are defined in  
15 Title 49 of the United States Code, shall operate any motor vehicle  
16 on a highway of this state or in interstate commerce without first  
17 being registered in this state with the Division of Motor Carrier  
18 Services or another jurisdiction pursuant to the unified carrier  
19 registration plan and agreement and having paid all fees required  
20 under the unified carrier registration plan and agreement for such  
21 registration. A motor carrier, private carrier, leasing company,  
22 broker, or freight forwarder with its principal place of business  
23 in this state shall register in this state and pay its required  
24 registration fees to the Division of Motor Carrier Services. The  
25 division shall remit the fees to the State Treasurer for credit to

1 the General Fund.

2 (2) On and after the date designated by the Director of  
3 Motor Vehicles pursuant to section 1 of this act, the Division  
4 of Motor Carrier Services may accept the registration of and fees  
5 required from a foreign or domestic motor carrier, private carrier,  
6 leasing company, broker, or freight forwarder, as such terms are  
7 defined in Title 49 of the United States Code, that maintains  
8 an office in this state but does not have its principal place  
9 of business in the United States or that maintains an office in  
10 this state but has its principal place of business in another  
11 jurisdiction that does not participate in the unified carrier  
12 registration plan and agreement. The division shall remit the fees  
13 to the State Treasurer for credit to the General Fund.

14 Sec. 3. On and after January 1, 2007, the single state  
15 insurance registration system and the previous registration system  
16 for common, contract, and private carriers terminates.

17 Sec. 4. On and after the date designated by the Director  
18 of Motor Vehicles pursuant to section 1 of this act, the director  
19 is authorized to adopt and promulgate rules and regulations to  
20 carry out the unified carrier registration plan and agreement.

21 Sec. 5. On and after the date designated by the Director  
22 of Motor Vehicles pursuant to section 1 of this act, the director  
23 is authorized to prescribe the appropriate forms and implement  
24 the appropriate electronic systems to allow filings with the  
25 Division of Motor Carrier Services pursuant to the unified carrier

1 registration plan and agreement.

2           Sec. 6. On and after the date designated by the Director  
3 of Motor Vehicles pursuant to section 1 of this act, any foreign or  
4 domestic motor carrier, private carrier, leasing company, broker,  
5 or freight forwarder, as such terms are defined in Title 49 of the  
6 United States Code, operating any motor vehicle in violation of  
7 sections 1 to 7 of this act or any rule or regulation adopted or  
8 promulgated pursuant to such sections, operating any motor vehicle  
9 in violation of any registration provision of such sections of this  
10 act or any rule or regulation adopted or promulgated pursuant to  
11 such sections, or operating any motor vehicle in violation of any  
12 order of the Division of Motor Carrier Services issued pursuant  
13 to such sections, is guilty of a Class IV misdemeanor and shall  
14 also be subject to section 75-369.03. Each day of the violation  
15 constitutes a separate offense.

16           Sec. 7. Sections 1 to 7 of this act shall not apply  
17 to a foreign or domestic motor carrier, private carrier, leasing  
18 company, broker, or freight forwarder, as such terms are defined  
19 in Title 49 of the United States Code, including a transporter of  
20 waste or recyclable materials, engaged exclusively in intrastate  
21 commerce.

22           Sec. 8. Section 60-3,137, Revised Statutes Cumulative  
23 Supplement, 2006, is amended to read:

24           60-3,137 Each insurance company doing business in this  
25 state shall provide information shown on each automobile liability

1 policy issued in this state as required by the department pursuant  
2 to sections 60-3,136 to 60-3,139 for inclusion in the motor  
3 vehicle insurance data base in a form and manner acceptable to  
4 the department. Any person who qualifies as a self-insurer under  
5 sections 60-562 to 60-564 or any person who provides financial  
6 responsibility under sections ~~75-348 to 75-358~~ 1 to 7 of this act  
7 shall not be required to provide information to the department for  
8 inclusion in the motor vehicle insurance data base.

9           Sec. 9. Section 60-3,205, Revised Statutes Cumulative  
10 Supplement, 2006, is amended to read:

11           60-3,205 (1) (a) The director may suspend, revoke, cancel,  
12 or refuse to issue or renew a registration certificate under the  
13 International Registration Plan Act:

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

18           (ii) If the applicant or certificate holder is in  
19 violation of sections ~~75-348 to 75-358~~. 1 to 7 of this act.

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

1 procedures in subdivision (c) of this subsection.

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

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

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

23 (f) If, in the judgment of the director, the applicant or  
24 certificate holder has complied with or is no longer in violation  
25 of the provisions for which the director took action under this

1 subsection, the director may reinstate the registration certificate  
2 without delay.

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

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

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

1 pursuant to this subsection, in which case this subsection shall  
2 supersede those provisions.

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

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

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

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

20 (b) If the applicant or licensee is in violation of  
21 sections ~~75-348 to 75-358~~, 1 to 7 of this act;

22 (c) If the applicant's or licensee's security has been  
23 canceled;

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

1           (e) If the applicant or licensee failed to file any  
2 report or return required by the motor fuel laws, filed an  
3 incomplete report or return required by the motor fuel laws, did  
4 not file any report or return required by the motor fuel laws  
5 electronically, or did not file a report or return required by the  
6 motor fuel laws on time;

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

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

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

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

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

24           (3) The applicant or licensee may, within thirty days  
25 after the mailing of the notice, petition the director in writing

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

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

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

21 (6) Except as provided in subsection (2) of section  
22 60-3,205 and subsection (8) of this section, if, in the judgment of  
23 the director, the applicant or licensee has complied with or is no  
24 longer in violation of the provisions for which the director took  
25 action under this section, the director may reinstate the license

1 without delay. An applicant for reinstatement, issuance, or renewal  
2 of a license within three years after the date of suspension,  
3 revocation, cancellation, or refusal to issue or renew shall submit  
4 a fee of one hundred dollars to the director. The director shall  
5 remit the fee to the State Treasurer for credit to the Highway Cash  
6 Fund.

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

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

20 Sec. 11. Section 75-307.01, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 75-307.01 A motor carrier of property and a private  
23 carrier of property in intrastate commerce which operates a  
24 commercially licensed motor vehicle with a gross vehicle weight  
25 rating over ten thousand pounds which are not otherwise required

1 to register with the commission pursuant to sections ~~75-348~~ ~~to~~  
2 ~~75-358~~ 1 to 7 of this act shall conform to the filing and  
3 approval requirements provided under section 75-307. To sustain  
4 the administration and enforcement of this section, each motor  
5 carrier and private carrier subject to this section shall pay an  
6 annual registration fee established by the commission not to exceed  
7 seventy-five dollars at the time the initial insurance filing  
8 is made and shall renew the registration annually. The annual  
9 registration period expires on the first day of the month one year  
10 from the month of issuance, and renewal becomes delinquent on the  
11 first day of the following month. The commission shall collect  
12 the fees and remit them to the State Treasurer within thirty days  
13 after receipt for credit to the General Fund. A motor carrier of  
14 household goods which pays annual fees under section 75-305 and  
15 which holds a certificate of public convenience and necessity or  
16 a permit issued by the commission pursuant to sections 75-301 to  
17 75-322 shall not be required to register under this section.

18           Sec. 12. 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~~ 1 to 7  
24 of this act or against a motor carrier transporting persons or  
25 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 7 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. 13. Section 75-386, Revised Statutes Cumulative  
21 Supplement, 2006, is amended to read:

22           75-386 The Division of Motor Carrier Services shall:

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

25           (2) Protect and promote the public health and welfare

1 of the citizens of the state by ensuring that the motor carrier  
2 industry is operated in an efficient and safe manner;

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

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

7 (5) Administer all provisions of the International Fuel  
8 Tax Agreement Act, the International Registration Plan Act, ~~and the~~  
9 ~~single state insurance registration system or the Unified Carrier~~  
10 ~~Registration System~~ pursuant to sections ~~75-348 to 75-358,~~ 1 to 7  
11 of this act;

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

15 (7) Serve as the agent of the Public Service Commission  
16 in the filing of proof of insurance by intrastate common, contract,  
17 and private motor carriers as prescribed by sections 75-307 to  
18 75-307.03; and

19 (8) Carry out such other duties and responsibilities as  
20 directed by the Legislature.

21 Sec. 14. Section 75-390, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 75-390 Beginning on July 1, 1996, the Division of Motor  
24 Carrier Services of the Department of Motor Vehicles shall be  
25 responsible for the powers and duties as they existed prior to

1 such date of the Department of Revenue under the International  
2 Fuel Tax Agreement Act and the Public Service Commission under  
3 sections ~~75-348 to 75-358.~~ 1 to 7 of this act. The furniture,  
4 equipment, books, files, records, and other property used by the  
5 Department of Revenue and the Public Service Commission in carrying  
6 out such powers and duties shall be transferred and delivered to  
7 the Division of Motor Carrier Services of the Department of Motor  
8 Vehicles on such date. The rules, regulations, and orders of the  
9 Department of Revenue and the Public Service Commission under the  
10 provisions of law listed in this section shall remain in effect  
11 unless changed or eliminated by the division.

12           Sec. 15. Sections 1 to 7 of this act become operative  
13 three calendar months after the adjournment of this legislative  
14 session. The other sections of this act become operative on the  
15 date designated by the Director of Motor Vehicles pursuant to  
16 section 1 of this act.

17           Sec. 16. Original section 75-390, Reissue Revised  
18 Statutes of Nebraska, and sections 60-3,137, 60-3,205, 66-1406.02,  
19 75-307.01, 75-369.03, and 75-386, Revised Statutes Cumulative  
20 Supplement, 2006, are repealed.

21           Sec. 17. The following sections are outright repealed:  
22 Sections 75-348, 75-349, 75-350, 75-351, 75-352, 75-353, 75-354,  
23 75-355, 75-356, 75-357, and 75-358, Reissue Revised Statutes of  
24 Nebraska.