

# One Hundred Third Legislature - First Session - 2013

## Introducer's Statement of Intent

### LB398

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**Chairperson: Senator Annette Dubas**

**Committee: Transportation and Telecommunications**

**Date of Hearing: February 04, 2013**

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

LB 398 is introduced at the request of the Nebraska State Patrol to clarify Nebraska Revised Statute 60-6,300 as a response to the 2011 Nebraska Supreme Court case State v. Halverstadt, 282 Neb. 736, 745, 809 N.W. 2d 480, 487 (2011).

This proposal clarifies the statutory authority for a person operating a truck, truck-tractor, or trailer in violation of the overweight capacity plate statute to be responsible for such violation. It also establishes a provision that in lieu of the operator being legally responsible, the owner could have a civil penalty assessed in the same manner as provided for in Nebraska Revised Statute 75-369.04.

Under current statute, the only time enforcement action may be taken is when the owner is operating the vehicle at the time it is found to be in violation. As such, there is no incentive for the owner to be compliant with the overweight capacity plate registration provision of law, as they are not statutorily responsible unless they are operating the vehicle. This statutory construction significantly disadvantages the owner-operator as they are held responsible as an owner, but an owner not operating the vehicle is not responsible for a vehicle on the roadway with more weight than allowed under the provisions of the vehicle registration.

The proposed in lieu of provision would allow in those rare cases where an owner is known to law enforcement or has demonstrated by past practice to condone, encourage or by practice have a business model which violates the vehicle registration provisions required by law and allow a civil action as outlined in 75-369.04 and utilizing the Administrative Procedure Act as outlined in 75-369.07.

**Principal Introducer:** \_\_\_\_\_

**Senator Lydia Brasch**