

LEGISLATIVE BILL 94

Approved by the Governor April 2, 1985

Introduced by Rupp, 22

AN ACT relating to motor vehicles; to amend sections 39-6,104, 39-6,104.04, 60-303, 60-305.09, 60-505, and 60-507, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to the reporting of accidents; to require proof of payment of certain federal taxes; to harmonize provisions; to provide an operative date; and to repeal the original sections.

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

Section 1. That section 39-6,104, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

39-6,104. It shall be the duty of any sheriff, constable, ~~police~~ ~~man~~ ~~police~~ officer, or any other peace officer in this state, other than members of the Nebraska State Patrol, who shall investigate any traffic accident in the performance of his or her official duties, in all instances of an accident resulting in injury or death to any person or in which estimated damage exceeds five hundred two hundred fifty dollars to the property of any one person, to submit a an original report of such investigation to the Accident Records Bureau accident record bureau of the Department of Roads within ten days after each such accident. Such report shall be on forms to be prescribed and furnished by the The Department of Roads shall have authority to collect accident information it deems necessary and shall prescribe and furnish appropriate forms for reporting.

Sec. 2. That section 39-6,104.04, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

39-6,104.04. The operator of any vehicle involved in an accident resulting in injuries or death to any person or damage to the property of any one person, including such operator, to an apparent extent of more than two hundred and fifty five hundred dollars shall within ten days, as provided by subsection (1) of section 60-505, forward a report of such accident to the Department of Motor Vehicles. The Department of Roads or Department of Motor Vehicles may require operators involved in accidents to file supplemental reports of accidents upon forms furnished by it whenever the original report is insufficient in the opinion of the department.

Such reports shall be without prejudice. All 7

PROVIDED, that all reports made by an officer of the Nebraska State Patrol, sheriffs or their deputies, police officers, and village marshals, or made to or filed with such officers in their respective offices or departments, or with, by, or to any other law enforcement agency of the state shall be open to public inspection, but accident reports filed pursuant to section 60-505 shall not be open to public inspection. The fact that such reports have been so made shall be admissible in evidence solely to prove a compliance with this section, but no such report or any part thereof or statement contained therein shall be admissible in evidence for any other purpose in any trial, civil or criminal, arising out of such accidents.

Sec. 3. That section 60-303, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-303. In registering motor vehicles, the county treasurer shall neither receive nor accept such application nor registration fee nor issue any registration certificate for any motor vehicle, unless the applicant shall first exhibit proof by tax receipt or otherwise that he or she has paid all personal taxes upon such motor vehicle or, if applicable, has furnished proof of payment, in the form prescribed by the Director of Motor Vehicles as directed by the United States Secretary of the Treasury, of the federal heavy vehicle use tax imposed by the Internal Revenue Code, 26 U.S.C. section 4481.

Sec. 4. That section 60-305.09, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-305.09. (1) Any owner engaged in operating a fleet of apportionable vehicles in this state in interstate commerce may, in lieu of registration of such vehicles under the general provisions of sections 60-301 to 60-344, register and license such fleet for operation in this state by filing a sworn statement with the Department of Motor Vehicles, which shall be in such form and contain such information as the department shall require, declaring the total mileage operated by such vehicles in all states and in this state during the preceding year and describing and identifying each such vehicle to be operated in this state during the ensuing license year. The application shall be accompanied by payment of the registration fee determined as provided in this section. Upon receipt of such statement, the department shall determine the total fee payment which shall be equal to the amount obtained by applying the proportion of in-state fleet miles to total fleet miles, as reported in said such states, to a fee of thirty-two dollars per ton based upon gross vehicle weight of the empty weights of a truck or truck-tractor and the empty weights of any trailer, semitrailer, or combination thereof with which it is to be operated in combination at any one time, plus the weight of the maximum load to be carried thereon at any one time, and shall notify the applicant of the amount of any additional

payment required to be made. Mileage operated in noncontracting reciprocity states by vehicles based in Nebraska shall be applied to the portion of the formula for determining the Nebraska in-state fleet miles.

Temporary authority which shall permit the operation of a fleet or an addition to a fleet in this state while the application is being processed may be issued upon application to the department if necessary to complete processing of the application.

Upon completion of such processing and receipt of the appropriate fees, the department shall issue to the applicant a sufficient number of distinctive registration certificates and such other evidence of registration for display on the vehicle as the department determines appropriate for each of the vehicles of his or her fleet, identifying it as a part of an interstate fleet proportionately registered. All fees received as provided in this section shall be credited to the International Registration Plan Distributive Fund, which fund is hereby created. Such fund shall be disbursed to carry out the provisions of the International Registration Plan.

The vehicles so registered shall be exempt from all further registration and license fees under sections 60-301 to 60-344 for movement or operation in the State of Nebraska. The proportional registration and licensing provision of this section shall apply to vehicles added to ~~and~~ such fleets and operated in this state during the license year.

The right of applicants to proportional registration hereunder shall be subject to the terms and conditions of any reciprocity agreement, contract, or consent made by the Department of Motor Vehicles.

When a nonresident fleet owner has registered his or her vehicles on an apportionment basis, his or her vehicles shall be considered as fully registered for both interstate and intrastate commerce when the state of base registration for such fleet accords the same consideration for fleets with a base registration in Nebraska. Each vehicle of a fleet registered by a resident of Nebraska on an apportionment basis shall be considered as fully registered for both interstate and intrastate commerce.

(2) Mileage proportions for interstate fleets not operated in this state during the preceding year shall be determined by the department upon the sworn application of the applicant on forms to be supplied by the department which shall show the operations of the preceding year in other states and estimated operations in Nebraska, or if no operations were conducted the previous year, a full statement of the proposed method of operation.

(3) Any owner complying with and being granted proportional registration shall preserve the records on which the application is made for a period of three years following the current registration year. Upon request of

the department, the owner shall make such records available to the department at its office for audit as to accuracy of computation and payments, or pay the costs of an audit at the home office of the owner by a duly appointed representative of the department if the office where the records are maintained is not within the State of Nebraska. The department may enter into agreements with agencies of other states administering motor vehicle registration laws for joint audits of any such owner. All payments received to cover the costs of an audit shall be paid by the department into the state treasury and the State Treasurer shall credit the same to the state General Fund. No deficiency shall be assessed nor any claim for credit allowed for any license registration year for which records on which the application was made are no longer required to be maintained.

(4) If it is claimed by the Department of Motor Vehicles that the owner should have paid a greater amount of fee under ~~the provisions of~~ this act than was paid, the department shall notify the owner of the additional amount claimed to be due. The owner may accept such claim and pay the amount due, or he or she may dispute the claim and submit to the department any information which he or she may have in support of his or her position. If the dispute cannot otherwise be resolved within the department, the entire matter shall be submitted to the director for his or her final departmental determination thereof. The director shall incorporate his or her determination into a written order. Such order may be appealed to the district court in the manner provided in section 60-420, except that the bond shall be filed with the clerk of the district court and shall be a surety bond or a cash bond equal to the amount claimed to be due plus two hundred dollars as security for costs that might be assessed against the owner and a certified copy of the director's order shall be filed in lieu of a transcript. Upon expiration of the time for perfecting an appeal, if no appeal is taken, or upon final judicial determination, if an appeal is taken, the department shall deny the owner the right to further registration for a fleet license until the amount finally determined to be due, together with any costs assessed against the owner, has been paid. This subsection shall apply to all disputes which have not been processed to final determination as of September 2, 1977.

(5) Every applicant who shall license any vehicles under ~~the provisions of~~ this act shall have ~~their~~ his or her registration certificates issued only after all fees are paid and, if applicable, proof has been furnished of payment, in the form prescribed by the Director of Motor Vehicles as directed by the United States Secretary of the Treasury, of the federal heavy vehicle use tax imposed by the Internal Revenue Code, 26 U.S.C. section 4481.

(6) In the event of the transfer of ownership of

any registered motor vehicle, or in the case of loss of possession because of fire or theft or because the motor vehicle was wrecked, junked, or dismantled, its registration shall expire, except that the registered owner, if he or she applies to the department after such transfer or loss of possession and accompanies the application with the fee of one dollar and fifty cents, may have assigned to another motor vehicle the registration identification of the motor vehicle so transferred or lost. If the assigned motor vehicle has a greater gross weight than the transferred or lost motor vehicle, the owner of the assigned motor vehicle shall additionally pay only the registration fee for the increased gross weight for the remaining months of the registration year based on the factors determined by the department in the original fleet application.

(7) Whenever a Nebraska-based fleet owner files an application with the department to delete a registered motor vehicle from a fleet of registered motor vehicles because of (a) the transfer of ownership, or (b) the loss of possession due to fire or theft or because the motor vehicle was wrecked, junked, or dismantled, the registered owner may, by returning the registration certificate or certificates and such other evidence of registration used by the department or, if such certificate or certificates or such other evidence of registration is unavailable, then by making an affidavit to the department of such transfer or loss, receive a refund of the registration fee based upon the number of unexpired months remaining in the registration year. When such motor vehicle is transferred or lost within the same month as acquired, no refund shall be allowed for such month. Such refund may be in the form of a credit against any registration fees that have been incurred or are, at the time of the refund, being incurred by the registered motor vehicle owner.

(8) Whenever a Nebraska-based fleet owner files an application with the department to delete a registered motor vehicle from a fleet of registered motor vehicles because the vehicle is disabled and has been removed from service, the registered owner may, by returning the registration certificate or certificates and such other evidence of registration used by the department or, in the case of the unavailability of such certificate or certificates or such other evidence of registration, then by making an affidavit to the department of such disablement and removal from service, receive a credit for that portion of the registration fee deposited in the Highway Trust Fund based upon the number of unexpired months remaining in the registration year. When such motor vehicle is removed from service within the same month in which it was registered, no credit shall be allowed for such month. Such credit may be applied against registration fees for new or replacement vehicles incurred

within one year after cancellation of registration of the motor vehicle for which the credit was allowed. When any such vehicle is reregistered within the same registration year in which its registration has been canceled, the fee shall be that portion of the registration fee provided to be deposited in the Highway Trust Fund for the remainder of the registration year.

(9) In case of addition to the registered fleet during the registration year, the owner engaged in operating the fleet shall pay the proportionate registration fee from the date of the application for the remaining balance of the registration year.

(10) In lieu of registration under subsections (1) to (9) of this section, the title holder of record may apply to the department for special registration, to be known as an unladen-weight registration, for any commercial vehicle or combination of vehicles. Such registration shall be valid only for a period of thirty days and shall give no authority to operate the vehicle except when empty. The fee for such registration shall be twenty dollars for each vehicle, which fee shall be remitted to the State Treasurer for deposit in the Highway Trust Fund. The issuance of such permits shall be governed by subsection (1) of section 60-305.03.

Sec. 5. That section 60-505, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-505. The operator of every motor vehicle which is in any manner involved in an accident within this state, in which any person is killed or injured or in which damage to an apparent extent in excess of ~~two hundred and fifty~~ five hundred dollars is sustained to the property of any one person, including such operator, shall within ten days report the matter in writing to the Department of Motor Vehicles. If such operator ~~be~~ is physically incapable of making such report, the owner of the motor vehicle involved in such accident shall, within ten days from the time he or she learns of the accident, report the matter in writing to the department. The operator or the owner shall make such other and additional reports relating to such accident as the Department of Roads or Department of Motor Vehicles shall require. Such records shall be retained for the period of time specified by the State Records Board pursuant to sections 84-1201 to ~~84-1220~~ 84-1226.

Sec. 6. That section 60-507, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-507. (1) Within ninety days after the receipt by the Department of Roads of a report of a motor vehicle accident within this state which has resulted in bodily injury or death, or damage to the property of any one person, including such operator, to an apparent extent in excess of ~~two hundred~~ five hundred dollars, the Department of Motor Vehicles shall suspend (a) the license

of each operator of a motor vehicle in any manner involved in such accident; and (b) the privilege, if such operator is a nonresident, of operating a motor vehicle within this state, unless such operator shall deposit security in a sum which shall be sufficient, in the judgment of the Department of Motor Vehicles, to satisfy any judgment or judgments for damages resulting from such accident which may be recovered against such operator, and unless such operator shall give proof of financial responsibility. ~~Notice~~ ~~;~~ ~~Provided~~ ~~;~~ ~~notice~~ of such suspension shall be sent by the Department of Motor Vehicles by certified mail to such operator not less than twenty days prior to the effective date of such suspension and shall state the amount required as security and the requirement of proof of financial responsibility. ~~In~~ ~~;~~ ~~and~~ ~~provided~~ ~~further~~ ~~;~~ ~~that~~ ~~in~~ the event a person involved in a motor vehicle accident within this state fails to make a report to the Department of Motor Vehicles indicating the extent of his or her injuries or the damage to his or her property within thirty days after the accident, and the department does not have sufficient information on which to base an evaluation of such injury or damage, the department, after reasonable notice to such person, may not require any deposit of security for the benefit or protection of such person.

(2) The order of suspension provided for in subsection (1) of this section shall not be entered by the Department of Motor Vehicles if the department determines that in its judgment there is no reasonable possibility of a judgment being rendered against such operator.

(3) In determining whether there is a reasonable possibility of judgment being rendered against such operator, the department shall consider all reports and information filed in connection with the accident.

(4) The order of suspension provided for in subsection (1) of this section shall advise the operator that he or she has a right to appeal the order of suspension in accordance with the provisions set forth in section 60-503.

Sec. 7. This act shall become operative on January 1, 1986.

Sec. 8. That original sections 39-6,104, 39-6,104.04, 60-303, 60-305.09, 60-505, and 60-507, Reissue Revised Statutes of Nebraska, 1943, are repealed.