

LEGISLATIVE BILL 45

Approved by the Governor March 12, 2015

Introduced by Coash, 27.

A BILL FOR AN ACT relating to the Motor Vehicle Registration Act; to amend sections 60-366 and 60-3,104, Revised Statutes Cumulative Supplement, 2014; to change and eliminate provisions regarding film vehicles; to harmonize provisions; to repeal the original sections; and to outright repeal section 60-383, Reissue Revised Statutes of Nebraska.
Be it enacted by the people of the State of Nebraska,

Section 1. Section 60-366, Revised Statutes Cumulative Supplement, 2014, is amended to read:

60-366 (1) Any nonresident owner who desires to register a motor vehicle or trailer in this state shall register in the county where the motor vehicle or trailer is domiciled or where the owner conducts a bona fide business.

(2) A nonresident owner, except as provided in subsections (3) and (4) of this section, owning any motor vehicle or trailer which has been properly registered in the state, country, or other place of which the owner is a resident, and which at all times, when operated or towed in this state, has displayed upon it the license plate or plates issued for such motor vehicle or trailer in the place of residence of such owner, may operate or permit the operation or tow or permit the towing of such motor vehicle or trailer within the state without registering such motor vehicle or trailer or paying any fees to this state.

(3)(a) Except as otherwise provided in subdivision (c) of this subsection, any Any nonresident owner gainfully employed or present in this state, operating a motor vehicle or towing a trailer in this state, shall register such motor vehicle or trailer in the same manner as a Nebraska resident, after thirty days of continuous employment or presence in this state, unless the state of his or her legal residence grants immunity from such requirements to residents of this state operating a motor vehicle or towing a trailer in that state.

(b) Except as otherwise provided in subdivision (c) of this subsection, any Any nonresident owner who operates a motor vehicle or tows a trailer in this state for thirty or more continuous days shall register such motor vehicle or trailer in the same manner as a Nebraska resident unless the state of his or her legal residence grants immunity from such requirements to residents of this state operating a motor vehicle or towing a trailer in that state.

(c) Any nonresident owner of a film vehicle may operate the film vehicle for up to one year without registering the vehicle in this state.

(4)(a) The Department of Motor Vehicles or the Department of Revenue may determine (i) that a limited liability company, partnership, corporation, or other business entity that is organized under the laws of another state or country and that owns or holds title to a recreational vehicle is a shell company used to avoid proper registration of the recreational vehicle in this state and (ii) that the recreational vehicle is controlled by a Nebraska resident.

(b) Factors that the Department of Motor Vehicles or the Department of Revenue may consider to determine that the limited liability company, partnership, corporation, or other business entity is a shell company used to avoid proper registration of the recreational vehicle in this state include, but are not limited to:

(i) The limited liability company, partnership, corporation, or other business entity lacks a business activity or purpose;

(ii) The limited liability company, partnership, corporation, or other business entity does not maintain a physical location in this state;

(iii) The limited liability company, partnership, corporation, or other business entity does not employ individual persons and provide those persons with Internal Revenue Service Form W-2 wage and tax statements; or

(iv) The limited liability company, partnership, corporation, or other business entity fails to file federal tax returns or fails to file a state tax return in this state.

(c) Factors that the Department of Motor Vehicles or the Department of Revenue may consider to determine that the recreational vehicle is controlled by a Nebraska resident include, but are not limited to:

(i) A Nebraska resident was the initial purchaser of the recreational vehicle;

(ii) A Nebraska resident operated or stored the recreational vehicle in this state for any period of time;

(iii) A Nebraska resident is a member, partner, or shareholder or is otherwise affiliated with the limited liability company, partnership, corporation, or other business entity purported to own the recreational vehicle; or

(iv) A Nebraska resident is insured to operate the recreational vehicle.

(d) If the Department of Motor Vehicles or the Department of Revenue makes the determinations described in subdivision (4)(a) of this section, there is a

rebuttable presumption that:

(i) The Nebraska resident in control of the recreational vehicle is the actual owner of the recreational vehicle;

(ii) Such Nebraska resident is required to register the recreational vehicle in this state and is liable for all motor vehicle taxes, motor vehicle fees, and registration fees as provided in the Motor Vehicle Registration Act; and

(iii) The purchase of the recreational vehicle is subject to sales or use tax under section 77-2703.

(e) The Department of Motor Vehicles or the Department of Revenue shall notify the Nebraska resident who is presumed to be the owner of the recreational vehicle that he or she is required to register the recreational vehicle in this state, pay any applicable taxes and fees for proper registration of the recreational vehicle under the Motor Vehicle Registration Act, and pay any applicable sales or use tax due on the purchase under the Nebraska Revenue Act of 1967 no later than thirty days after the date of the notice.

(f)(i) For a determination made by the Department of Motor Vehicles under this subsection, the Nebraska resident who is presumed to be the owner of the recreational vehicle may accept the determination and pay the county treasurer as shown in the notice, or he or she may dispute the determination and appeal the matter. Such appeal shall be filed with the Director of Motor Vehicles within thirty days after the date of the notice or the determination will be final. The director shall appoint a hearing officer who shall hear the appeal and issue a written decision. Such appeal shall be in accordance with the Administrative Procedure Act. Following a final determination in the appeal in favor of the Department of Motor Vehicles or if no further appeal is filed, the Nebraska resident shall owe the taxes and fees determined to be due, together with any costs for the appeal assessed against the owner.

(ii) For a determination made by the Department of Revenue under this subsection, the Nebraska resident who is presumed to be the owner of the recreational vehicle may appeal the determination made by the Department of Revenue, and such appeal shall be in accordance with section 77-2709.

(g) If the Nebraska resident who is presumed to be the owner of the recreational vehicle fails to pay the motor vehicle taxes, motor vehicle fees, registration fees, or sales or use tax required to be paid under this subsection, he or she shall be assessed a penalty of fifty percent of such unpaid taxes and fees. Such penalty shall be remitted by the county treasurer or the Department of Revenue to the State Treasurer for credit to the Highway Trust Fund.

Sec. 2. Section 60-3,104, Revised Statutes Cumulative Supplement, 2014, is amended to read:

60-3,104 The department shall issue the following types of license plates:

(1) Amateur radio station license plates issued pursuant to section 60-3,126;

(2) Apportionable vehicle license plates issued pursuant to section 60-3,203;

(3) Boat dealer license plates issued pursuant to section 60-379;

(4) Bus license plates issued pursuant to section 60-3,144;

(5) Commercial motor vehicle license plates issued pursuant to section 60-3,147;

(6) Dealer or manufacturer license plates issued pursuant to sections 60-3,114 and 60-3,115;

(7) Disabled veteran license plates issued pursuant to section 60-3,124;

(8) Farm trailer license plates issued pursuant to section 60-3,151;

(9) Farm truck license plates issued pursuant to section 60-3,146;

(10) Farm trucks with a gross weight of over sixteen tons license plates issued pursuant to section 60-3,146;

(11) Fertilizer trailer license plates issued pursuant to section 60-3,151;

~~(12) Film vehicle license plates issued pursuant to section 60-383;~~

~~(12~~ 13) Gold Star Family license plates issued pursuant to sections 60-3,122.01 and 60-3,122.02;

~~(13~~ 14) Handicapped or disabled person license plates issued pursuant to section 60-3,113;

~~(14~~ 15) Historical vehicle license plates issued pursuant to sections 60-3,130 to 60-3,134;

~~(15~~ 16) Local truck license plates issued pursuant to section 60-3,145;

~~(16~~ 17) Military Honor Plates issued pursuant to sections 60-3,122.03 and 60-3,122.04;

~~(17~~ 18) Minitruck license plates issued pursuant to section 60-3,100;

~~(18~~ 19) Motor vehicle license plates for motor vehicles owned or operated by the state, counties, municipalities, or school districts issued pursuant to section 60-3,105;

~~(19~~ 20) Motor vehicles exempt pursuant to section 60-3,107;

~~(20~~ 21) Motorcycle license plates issued pursuant to section 60-3,100;

~~(21~~ 22) Nebraska Cornhusker Spirit Plates issued pursuant to sections 60-3,127 to 60-3,129;

~~(22~~ 23) Nonresident owner thirty-day license plates issued pursuant to section 60-382;

~~(23~~ 24) Passenger car having a seating capacity of ten persons or less and not used for hire issued pursuant to section 60-3,143;

~~(24~~ 25) Passenger car having a seating capacity of ten persons or less and

used for hire issued pursuant to section 60-3,143;

(~~25~~ ~~26~~) Pearl Harbor license plates issued pursuant to section 60-3,122;

(~~26~~ ~~27~~) Personal-use dealer license plates issued pursuant to section 60-3,116;

(~~27~~ ~~28~~) Personalized message license plates for motor vehicles and cabin trailers, except commercial motor vehicles registered for over ten tons gross weight, issued pursuant to sections 60-3,118 to 60-3,121;

(~~28~~ ~~29~~) Prisoner-of-war license plates issued pursuant to section 60-3,123;

(~~29~~ ~~30~~) Purple Heart license plates issued pursuant to section 60-3,125;

(~~30~~ ~~31~~) Recreational vehicle license plates issued pursuant to section 60-3,151;

(~~31~~ ~~32~~) Repossession license plates issued pursuant to section 60-375;

(~~32~~ ~~33~~) Special interest motor vehicle license plates issued pursuant to section 60-3,135.01;

(~~33~~ ~~34~~) Specialty license plates issued pursuant to sections 60-3,104.01 and 60-3,104.02;

(~~34~~ ~~35~~) Trailer license plates issued for trailers owned or operated by the state, counties, municipalities, or school districts issued pursuant to section 60-3,106;

(~~35~~ ~~36~~) Trailer license plates issued pursuant to section 60-3,100;

(~~36~~ ~~37~~) Trailers exempt pursuant to section 60-3,108;

(~~37~~ ~~38~~) Transporter license plates issued pursuant to section 60-378;

(~~38~~ ~~39~~) Trucks or combinations of trucks, truck-tractors, or trailers which are not for hire and engaged in soil and water conservation work and used for the purpose of transporting pipe and equipment exclusively used by such contractors for soil and water conservation construction license plates issued pursuant to section 60-3,149;

(~~39~~ ~~40~~) Utility trailer license plates issued pursuant to section 60-3,151; and

(~~40~~ ~~41~~) Well-boring apparatus and well-servicing equipment license plates issued pursuant to section 60-3,109.

Sec. 3. Original sections 60-366 and 60-3,104, Revised Statutes Cumulative Supplement, 2014, are repealed.

Sec. 4. The following section is outright repealed: Section 60-383, Reissue Revised Statutes of Nebraska.