

ONE HUNDRED FIRST LEGISLATURE - SECOND SESSION - 2010
COMMITTEE STATEMENT
LB352

Hearing Date: Thursday February 05, 2009
Committee On: Judiciary
Introducer: Lautenbaugh
One Liner: Change civil procedure service of summons provisions

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:

Aye:	7	Senators Ashford, Christensen, Coash, Lathrop, Lautenbaugh, McGill, Rogert
Nay:		
Absent:	1	Senator Council
Present Not Voting:		

Proponents:

Sen. Scott Lautenbaugh
William Mueller

Representing:

Introducer
NE State Bar Assoc.

Opponents:

Representing:

Neutral:

Representing:

Summary of purpose and/or changes:

Legislative Bill 352 amends Sec. 25-505.01 to allow for delivery of a summons by a commercial courier such as FedEx or UPS. Under current law, certified mail service is allowed if done by certified mail through the U.S. Postal Service.

An amended version of this bill was passed in LB 35 during the 2009 legislative session. The amendment clarified the intent of the bill by placing the commercial courier provision into a sub-section separate from the certified mail provision in sub-section (c) and referring to a federal statute that authorizes commercial courier companies which are referred to as designated delivery services in federal law. The companies currently authorized under 26 U.S.C. Sec. 7502(f)(2) include DHL Express, Federal Express and United Parcel Service. The 2009 bill defined these commercial couriers as designated delivery service providers, but the new type of service may not have authorized.

The original bill was not advanced by the Committee during the 2009 session and was carried over to the 2010 legislative session. This session, the Committee advanced an amended version of LB 352 to address any concerns about whether the Legislature authorized the use of the designated delivery service method.

Explanation of amendments:

Committee Amendment 1799 would amend the law to authorize the use of the new method of service that was defined under LB 35 and to clarify the designated delivery service method. Under the amendment, service by designated delivery service must be made within ten days of issuance, which is consistent with the certified mail service method. In addition, designated delivery service requires the filing of proof of service with the court including a copy of the signed delivery receipt. The amendment would also require the State Court Administrator to maintain a list of designated

delivery services on the Supreme Court website.

Brad Ashford, Chairperson