

AMENDMENTS TO LB45

Introduced by Transportation and Telecommunications.

1 1. Strike original sections 2 and 3 and insert the following new
2 sections:

3 Section 1. Section 60-366, Revised Statutes Cumulative Supplement,
4 2014, is amended to read:

5 60-366 (1) Any nonresident owner who desires to register a motor
6 vehicle or trailer in this state shall register in the county where the
7 motor vehicle or trailer is domiciled or where the owner conducts a bona
8 fide business.

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

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

26 (b) Except as otherwise provided in subdivision (c) of this
27 subsection, any Any nonresident owner who operates a motor vehicle or

1 tows a trailer in this state for thirty or more continuous days shall
2 register such motor vehicle or trailer in the same manner as a Nebraska
3 resident unless the state of his or her legal residence grants immunity
4 from such requirements to residents of this state operating a motor
5 vehicle or towing a trailer in that state.

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

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

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

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

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

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

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

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

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

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

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

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

14 (d) If the Department of Motor Vehicles or the Department of Revenue
15 makes the determinations described in subdivision (4)(a) of this section,
16 there is a rebuttable presumption that:

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

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

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

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

1 after the date of the notice.

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

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

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

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

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

31 2. Renumber the remaining section accordingly.