

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 994

Introduced by Davis, 43.

Read first time January 15, 2016

Committee: Transportation and Telecommunications

- 1 A BILL FOR AN ACT relating to the Motor Vehicle Registration Act; to
- 2 amend section 60-3,167, Reissue Revised Statutes of Nebraska, and
- 3 section 60-366, Revised Statutes Supplement, 2015; to change
- 4 provisions relating to financial responsibility as applied to
- 5 nonresident owners; and to repeal the original section.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 60-366, Revised Statutes Supplement, 2015, is
2 amended to read:

3 60-366 (1) Any nonresident owner who desires to register a motor
4 vehicle or trailer in this state shall register in the county where the
5 motor vehicle or trailer is domiciled or where the owner conducts a bona
6 fide business.

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

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

28 (b) Except as otherwise provided in subdivision (c) of this
29 subsection, any nonresident owner who operates a motor vehicle or tows a
30 trailer in this state for thirty or more continuous days shall register
31 such motor vehicle or trailer in the same manner as a Nebraska resident

1 unless the state of his or her legal residence grants immunity from such
2 requirements to residents of this state operating a motor vehicle or
3 towing a trailer in that state.

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

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

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

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

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

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

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

30 (c) Factors that the Department of Motor Vehicles or the Department
31 of Revenue may consider to determine that the recreational vehicle is

1 controlled by a Nebraska resident include, but are not limited to:

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

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

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

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

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

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

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

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

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

31 (f)(i) For a determination made by the Department of Motor Vehicles

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

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

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

25 Sec. 2. Section 60-3,167, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 60-3,167 (1) It shall be unlawful for any owner of a motor vehicle
28 or trailer which is being operated or towed with In Transit stickers
29 pursuant to section 60-376, which is being operated or towed pursuant to
30 section 60-365 or 60-369, or which is required to be registered ~~in this~~
31 ~~state~~ and which is operated or towed on a public highway of this state to

1 allow the operation or towing of the motor vehicle or trailer on a public
2 highway of this state without having a current and effective automobile
3 liability policy, evidence of insurance, or proof of financial
4 responsibility, as required under the laws of this state or the state in
5 which the motor vehicle or trailer is otherwise required to be
6 registered. The owner shall be presumed to know of the operation or
7 towing of his or her motor vehicle or trailer on a highway of this state
8 in violation of this section when the motor vehicle or trailer is being
9 operated or towed by a person other than the owner. An owner of a motor
10 vehicle or trailer who operates or tows the motor vehicle or trailer or
11 allows the operation or towing of the motor vehicle or trailer in
12 violation of this section shall be guilty of a Class II misdemeanor and,
13 if the owner is a resident of this state, shall be advised by the court
14 that his or her motor vehicle operator's license, motor vehicle
15 certificate of registration, and license plates will be suspended by the
16 department until he or she complies with sections 60-505.02 and 60-528.
17 Upon conviction the owner shall have his or her motor vehicle operator's
18 license, motor vehicle certificate of registration, and license plates
19 suspended by the department until he or she complies with sections
20 60-505.02 and 60-528. The owner shall also be required to comply with
21 section 60-528 for a continuous period of three years after the
22 violation. ~~This subsection shall not apply to motor vehicles or trailers~~
23 ~~registered in another state.~~

24 (2) An owner who is unable to produce a current and effective
25 automobile liability policy, evidence of insurance, or proof of financial
26 responsibility upon the request of a law enforcement officer shall be
27 allowed ten days after the date of the request to produce proof to the
28 appropriate prosecutor or county attorney that a current and effective
29 automobile liability policy or proof of financial responsibility was in
30 existence for the motor vehicle or trailer at the time of such request.
31 Upon presentation of such proof, the citation shall be dismissed by the

1 prosecutor or county attorney without cost to the owner and no
2 prosecution for the offense cited shall occur.

3 (3) The department shall, for any person convicted for a violation
4 of this section, reinstate such person's operator's license, motor
5 vehicle certificate of registration, and license plates, if the owner is
6 a resident of this state, and rescind any order requiring such person to
7 comply with section 60-528 without cost to such person upon presentation
8 to the director that, at the time such person was cited for a violation
9 of this section, a current and effective automobile liability policy or
10 proof of financial responsibility was in existence for the motor vehicle
11 or trailer at the time the citation was issued.

12 Sec. 3. Original section 60-3,167, Reissue Revised Statutes of
13 Nebraska, and section 60-366, Revised Statutes Supplement, 2015, are
14 repealed.