

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 86th General Assembly
3 Regular Session, 2007
4

As Engrossed: S2/20/07

A Bill

SENATE BILL 278

5 By: Senator Glover
6 By: Representative Overbey
7

For An Act To Be Entitled

10 AN ACT TO IMPLEMENT THE FEDERAL UNIFIED CARRIER
11 REGISTRATION ACT OF 2005 PERTAINING TO THE
12 REGISTRATION OF MOTOR CARRIERS ENGAGED IN
13 INTERSTATE COMMERCE; AND FOR OTHER PURPOSES.
14

Subtitle

15 TO IMPLEMENT THE FEDERAL UNIFIED CARRIER
16 REGISTRATION ACT OF 2005 PERTAINING TO
17 THE REGISTRATION OF MOTOR CARRIERS
18 ENGAGED IN INTERSTATE COMMERCE.
19
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
23

24 SECTION 1. FINDINGS. It is found by the General Assembly that the
25 United States Congress has enacted the Unified Carrier Registration Act of
26 2005, Pub. L. No. 109-59, §§ 4301 et seq., replacing the single state
27 registration system with the Unified Carrier Registration Agreement. In
28 order to fully implement the requirements of the Unified Carrier Registration
29 Act of 2005 the amendments to the Arkansas Code in this act are necessary.
30

31 SECTION 2. Arkansas Code Title 23, Chapter 13, is amended to add an
32 additional subchapter to read as follows:

33 23-13-601. Definitions.

34 As used in this subchapter:

35 (1) "Broker" means a person, other than a motor carrier or an
36 employee or agent of a motor carrier that as a principal or an agent sells,



1 offers for sale, negotiates for, or holds itself out by solicitation,
2 advertisement, or otherwise as selling, providing, or arranging for
3 transportation by motor carrier for compensation;

4 (2) "Commercial motor vehicle" means a self-propelled or towed
5 vehicle used on the highways in commerce principally to transport passengers
6 or cargo if the vehicle:

7 (A) Has a gross vehicle weight rating or gross vehicle
8 weight of at least ten thousand one pounds (10,001 lbs), whichever is
9 greater;

10 (B) Is designed to transport more than ten (10) passengers
11 including the driver; or

12 (C) Is used in transporting material found by the
13 Secretary of Transportation to be hazardous under 49 U.S.C. § 5103, as it
14 existed on January 1, 2007, and transported in a quantity requiring
15 placarding under regulations prescribed by the secretary under 49 U.S.C. §
16 5103, as it existed on January 1, 2007;

17 (3) "Freight forwarder" means a person holding itself out to the
18 general public other than as a pipeline, rail, motor, or water carrier to
19 provide transportation of property for compensation and in the ordinary
20 course of its business:

21 (A) Assembles and consolidates, or provides for assembling
22 and consolidating, shipments and performs or provides for breakbulk and
23 distribution operations of the shipments;

24 (B) Assumes responsibility for the transportation from the
25 place of receipt to the place of destination; and

26 (C)(i) Uses for any part of the transportation a carrier
27 subject to jurisdiction under 49 U.S.C. § 10101 et seq., as it existed on
28 January 1, 2007.

29 (ii) "Freight forwarder" does not include a person
30 using transportation of an air carrier subject to 49 U.S.C. § 40101 et seq.,
31 as it existed on January 1, 2007.

32 (4) "Leasing company" means a lessor that is engaged in the
33 business of leasing or renting for compensation motor vehicles without
34 drivers to a motor carrier, motor private carrier, or freight forwarder;

35 (5) "Motor carrier" means a person providing commercial motor
36 vehicle transportation for compensation; and

1
2 (6) "Motor private carrier" means a person other than a motor
3 carrier transporting property by commercial motor vehicle when:

4 (A) The transportation is interstate commerce as provided
5 in 49 U.S.C. 13501, § as it existed on January 1, 2007;

6 (B) The person is the owner, lessee, or bailee of the
7 property being transported; and

8 (C) The property is being transported for sale, lease,
9 rent, or bailment or to further a commercial enterprise.

10
11 23-13-602. Registration with a base state required.

12 Foreign and domestic motor carriers, motor private carriers, leasing
13 companies, brokers, and freight forwarders shall not operate in interstate
14 commerce in this state without being registered with a base state and paying
15 all fees as required under the Unified Carrier Registration Act of 2005, Pub.
16 L. No. 109-59, §§ 4301 et seq., as in effect on January 1, 2007.

17
18 23-13-603. Implementation and administration duties.

19 (a) The Director of the Department of Finance and Administration has
20 oversight over the implementation and administration of the Unified Carrier
21 Registration Act of 2005, Pub. L. No. 109-59, §§ 4301 et seq.

22 (b) The director is vested with the following powers and has the
23 following duties:

24 (1) To promulgate such regulations as are necessary to
25 participate in the Unified Carrier Registration Agreement;

26 (2) To collect and remit such fees as determined by the Unified
27 Carrier Registration Plan Board of Directors;

28 (3) To cooperate with the various law enforcement agencies to
29 ensure compliance with and enforcement of the provisions of the Unified
30 Carrier Registration Act of 2005, Pub. L. No. 109-59, §§ 4301 et seq., as in
31 effect on January 1, 2007, and regulations; and

32 (4) To do all things necessary, pursuant to the state and
33 federal law, to enable this state to participate in the Unified Carrier
34 Registration Agreement.

35
36 23-13-604. Registration fees.

1 (a) Any fees collected by the Director of the Department of Finance
2 and Administration under this section shall be classified as special revenues
3 and shall be deposited into the State Treasury.

4 (b) Upon receipt of the funds, and if not prohibited by the Unified
5 Carrier Registration Act of 2005, Pub. L. No. 109-59, §§ 4301 et seq., as in
6 effect on January 1, 2007, the Treasurer of State shall deduct three percent
7 (3%) of the funds as a charge by the state for its services as specified in
8 this section and shall credit the three percent (3%) to the Constitutional
9 Officers Fund and the State Central Services Fund, as defined in the Revenue
10 Classification Law of Arkansas, § 19-6-101 et seq., or to any successor State
11 Treasury fund or funds established by law to replace the Constitutional
12 Officers Fund and the State Central Services Fund.

13 (c) The net amount of the fees collected by the director under this
14 section shall be transferred by the Treasurer of State on the last business
15 day of each month to the State Highway and Transportation Department Fund and
16 shall be distributed and expended in the manner directed by the Unified
17 Carrier Registration Act of 2005, Pub. L. No. 109-59, as it existed on
18 January 1, 2007, for the payment of expenses incurred by the Arkansas State
19 Highway and Transportation Department for motor carrier law enforcement and
20 safety operations.

21
22 23-13-605. Violation – Enforcement – Penalties.

23 (a) A person who is subject to the Unified Carrier Registration Act of
24 2005, Pub. L. No. 109-59, §§ 4301 et seq., as in effect on January 1, 2007,
25 and who uses the highways of this state without first registering in
26 accordance with this subchapter is guilty of a violation.

27 (b) The Department of Arkansas State Police, the Arkansas Highway
28 Police Division of the Arkansas State Highway and Transportation Department,
29 and local authorities may enforce subsection (a) of this section.

30 (c) A person who is found guilty or enters a plea of guilty or nolo
31 contendere under this section shall be ordered to pay a fine of:

32 (1) For a first offense, not less than one hundred dollars
33 (\$100) or more than five hundred dollars (\$500).

34 (2) For a second or subsequent offense, not less than one
35 hundred dollars (\$100) or more than one thousand dollars (\$1,000).

36 (d)(1) Fifty percent (50%) of the amount of the fines imposed and

1 collected under this section shall be remitted by the tenth day of each month
2 to the Administration of Justice Fund Section of the Office of Administrative
3 Services of the Department of Finance and Administration on a form provided
4 by that office for deposit in the General Revenue Fund Account of the State
5 Apportionment Fund.

6 (2) Fifty percent (50%) of the amount of the fines imposed and
7 collected under this section shall remain in the jurisdiction in which the
8 violation occurred.

9
10 SECTION 3. Arkansas Code § 23-13-228 is amended to read as follows:

11 23-13-228. Certificate or permit for interstate or foreign commerce -
12 Disposition of funds.

13 ~~(a) It is declared unlawful for any motor carrier to use any of the~~
14 ~~public highways of this state for the transportation of persons or property~~
15 ~~in interstate commerce unless there is in force with respect to the carrier~~
16 ~~adequate surety for the protection of the public on file with the State~~
17 ~~Highway Commission or the base state of the motor carrier.~~

18 ~~(b) Each carrier engaged in interstate commerce for which the State of~~
19 ~~Arkansas serves as the base registration state shall file an application,~~
20 ~~verified under oath, accompanied by the following:~~

21 ~~(1) A check made payable to the Arkansas State Highway and~~
22 ~~Transportation Department in an amount sufficient to qualify the total number~~
23 ~~of motor vehicles, as the term "motor vehicle" is defined by rules and~~
24 ~~regulations of the Interstate Commerce Commission [abolished], operating in~~
25 ~~interstate commerce in all participating states. The fee shall conform to the~~
26 ~~fee requirements of each state in which the carrier wishes to travel;~~

27 ~~(2) A copy of the applicant's authority granted by the~~
28 ~~Interstate Commerce Commission [abolished];~~

29 ~~(3) Evidence of security for the protection of the public in an~~
30 ~~amount required by the rules and regulations of the Interstate Commerce~~
31 ~~Commission [abolished]; and~~

32 ~~(4) The name of an agent for service of process for each of the~~
33 ~~jurisdictions in which travel is to be authorized.~~

34 ~~(c) Upon the filing of the application and the appropriate~~
35 ~~documentation fees, the State Highway Commission shall issue a receipt~~
36 ~~evidencing that adequate surety for the protection of the public is on file.~~

1 ~~The receipt shall authorize travel in the states for which fees have been~~
2 ~~paid for only the number of motor vehicles for which fees have been paid.~~
3 ~~The motor carrier may not operate more motor vehicles in a particular state~~
4 ~~than the number with respect to which it has paid fees.~~

5 ~~(d) The receipt evidencing adequate surety for the protection of the~~
6 ~~public shall be carried at all times in the motor vehicle and must be~~
7 ~~presented by the driver of the motor vehicle for inspection by any authorized~~
8 ~~government personnel. Failure to carry the receipt authorizing travel in the~~
9 ~~State of Arkansas shall subject the motor carrier to such civil and criminal~~
10 ~~penalties and fines as are authorized by this subchapter.~~

11 ~~(e) In addition to the terms and provisions of this section, all other~~
12 ~~terms and provisions of this subchapter shall be applicable to interstate~~
13 ~~motor carriers insofar as the terms and provisions of this subchapter are not~~
14 ~~prohibited under the provisions of the Constitution of the United States and~~
15 ~~acts of Congress.~~

16 ~~(f) The funds paid as provided in subdivision (b)(1) of this section~~
17 ~~or as provided in § 23-13-235 which remain, after payments are made to the~~
18 ~~other states participating in the base state registration program, with the~~
19 ~~Arkansas State Highway and Transportation Department or which are collected~~
20 ~~and forwarded to that department by other states participating in that~~
21 ~~program shall be deposited with the Treasurer of State and classified as~~
22 ~~general revenues for distribution and usage as provided by the laws of this~~
23 ~~state. Provided, one and one half percent (1.5%) of all such funds so~~
24 ~~deposited with the Treasurer of State shall be classified as special revenues~~
25 ~~and transferred by the Treasurer of State on the last business day of the~~
26 ~~month such funds are deposited to the State Highway and Transportation~~
27 ~~Department Fund, there, notwithstanding the provisions of any law to the~~
28 ~~contrary, to be utilized by the Arkansas State Highway and Transportation~~
29 ~~Department for the purposes of administering this subchapter.~~

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31 SECTION 4. EMERGENCY CLAUSE. It is found and determined by the
32 General Assembly of the State of Arkansas that in August 2005 the United
33 States Congress enacted the Uniform Carrier Registration Act of 2005; that
34 the Uniform Carrier Registration Act of 2005 is to replace the single state
35 registration program on or before January 1, 2007; that the deadline has
36 passed and Arkansas has not yet had an opportunity to respond to this law due

1 to its biennial legislative sessions; and that there is an immediate need for
2 implementation of the provisions of this act to ensure that Arkansas is in
3 compliance with the Uniform Carrier Registration Act of 2005 to prevent the
4 loss of funding. Therefore, an emergency is declared to exist and this act
5 being immediately necessary for the preservation of the public peace, health,
6 and safety shall become effective on:

7 (1) The date of its approval by the Governor;

8 (2) If the bill is neither approved nor vetoed by the Governor,
9 the expiration of the period of time during which the Governor may veto the
10 bill; or

11 (3) If the bill is vetoed by the Governor and the veto is
12 overridden, the date the last house overrides the veto.

13 */s/ Glover*

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