

1-1 By: Phillips (Senate Sponsor - Nichols) H.B. No. 3254
 1-2 (In the Senate - Received from the House May 10, 2017;
 1-3 May 10, 2017, read first time and referred to Committee on
 1-4 Transportation; May 18, 2017, reported adversely, with favorable
 1-5 Committee Substitute by the following vote: Yeas 9, Nays 0;
 1-6 May 18, 2017, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR H.B. No. 3254 By: Nichols

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to the regulation of a motor carrier and the enforcement of
 1-22 motor carrier regulations; authorizing the imposition of a fee.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Section [171.1011\(g-7\)](#), Tax Code, is amended to
 1-25 read as follows:

1-26 (g-7) A taxable entity that is a qualified courier and
 1-27 logistics company shall exclude from its total revenue, to the
 1-28 extent included under Subsection (c)(1)(A), (c)(2)(A), or (c)(3),
 1-29 subcontracting payments made by the taxable entity to nonemployee
 1-30 agents for the performance of delivery services on behalf of the
 1-31 taxable entity. For purposes of this subsection, "qualified
 1-32 courier and logistics company" means a taxable entity that:

1-33 (1) receives at least 80 percent of the taxable
 1-34 entity's annual total revenue from its entire business from a
 1-35 combination of at least two of the following courier and logistics
 1-36 services:

1-37 (A) expedited same-day delivery of an envelope,
 1-38 package, parcel, roll of architectural drawings, box, or pallet;

1-39 (B) temporary storage and delivery of the
 1-40 property of another entity, including an envelope, package, parcel,
 1-41 roll of architectural drawings, box, or pallet; and

1-42 (C) brokerage of same-day or expedited courier
 1-43 and logistics services to be completed by a person or entity under a
 1-44 contract that includes a contractual obligation by the taxable
 1-45 entity to make payments to the person or entity for those services;

1-46 (2) during the period on which margin is based, is
 1-47 registered as a motor carrier under Chapter [643](#), Transportation
 1-48 Code, and if the taxable entity operates on an interstate basis, is
 1-49 registered as a motor carrier or broker under the motor vehicle
 1-50 registration system established under 49 U.S.C. Section 14504a or a
 1-51 similar federal registration program that replaces that system
 1-52 [unified carrier registration system, as defined by Section
 1-53 [643.001](#), Transportation Code,] during that period;

1-54 (3) maintains an automobile liability insurance
 1-55 policy covering individuals operating vehicles owned, hired, or
 1-56 otherwise used in the taxable entity's business, with a combined
 1-57 single limit for each occurrence of at least \$1 million;

1-58 (4) maintains at least \$25,000 of cargo insurance;

1-59 (5) maintains a permanent nonresidential office from
 1-60 which the courier and logistics services are provided or arranged;

2-1 (6) has at least five full-time employees during the
 2-2 period on which margin is based;

2-3 (7) is not doing business as a livery service, floral
 2-4 delivery service, motor coach service, taxicab service, building
 2-5 supply delivery service, water supply service, fuel or energy
 2-6 supply service, restaurant supply service, commercial moving and
 2-7 storage company, or overnight delivery service; and

2-8 (8) is not delivering items that the taxable entity or
 2-9 an affiliated entity sold.

2-10 SECTION 2. Sections 643.054(a-2) and (a-3), Transportation
 2-11 Code, are amended to read as follows:

2-12 (a-2) The department may deny a registration if the
 2-13 applicant [~~applicant's business~~] is owned, operated, managed, or
 2-14 otherwise controlled by or affiliated with a person, including [~~the~~
 2-15 ~~applicant,~~] a [~~relative,~~] family member, corporate officer,
 2-16 entity, or shareholder, that [~~whom~~] the Department of Public Safety
 2-17 has determined has:

2-18 (1) an unsatisfactory safety rating under 49 C.F.R.
 2-19 Part 385; or

2-20 (2) multiple violations of Chapter 644, a rule adopted
 2-21 under that chapter, or Subtitle C.

2-22 (a-3) The department may deny a registration if the
 2-23 applicant is owned, [~~a motor carrier whose business is~~] operated,
 2-24 managed, or otherwise controlled by or affiliated with a person,
 2-25 including a [~~an owner, relative,~~] family member, corporate officer,
 2-26 entity, or shareholder, that [~~whom the Department of Public Safety~~
 2-27 ~~has determined has~~]:

2-28 (1) owned, operated, managed, or otherwise controlled
 2-29 a motor carrier that the Federal Motor Carrier Safety
 2-30 Administration has placed out of service for unacceptable safety
 2-31 compliance [~~an unsatisfactory safety rating under 49 C.F.R. Part~~
 2-32 ~~385~~]; or

2-33 (2) has unpaid administrative penalties assessed
 2-34 under this chapter or Subtitle E [~~multiple violations of Chapter~~
 2-35 ~~644, a rule adopted under that chapter, or Subtitle C~~].

2-36 SECTION 3. Section 643.056, Transportation Code, is amended
 2-37 by adding Subsection (c) to read as follows:

2-38 (c) The department may deny a supplement to a motor
 2-39 carrier's application for registration if the motor carrier is
 2-40 owned, operated, managed, or otherwise controlled by or affiliated
 2-41 with a person, including a family member, corporate officer,
 2-42 entity, or shareholder, that has unpaid administrative penalties
 2-43 assessed under this chapter or Subtitle E.

2-44 SECTION 4. Section 643.058, Transportation Code, is amended
 2-45 by adding Subsections (d) and (e) to read as follows:

2-46 (d) A motor carrier may not renew a registration that has
 2-47 been expired for more than 180 days. The motor carrier may obtain a
 2-48 new registration by complying with the requirements and procedures
 2-49 for obtaining an original registration under this chapter.

2-50 (e) The department may deny a motor carrier's application to
 2-51 renew a registration if the motor carrier is owned, operated,
 2-52 managed, or otherwise controlled by or affiliated with a person,
 2-53 including a family member, corporate officer, entity, or
 2-54 shareholder, that:

2-55 (1) the Department of Public Safety has determined
 2-56 has:

2-57 (A) an unsatisfactory safety rating under 49
 2-58 C.F.R. Part 385; or

2-59 (B) multiple violations of Chapter 644, a rule
 2-60 adopted under that chapter, or Subtitle C;

2-61 (2) owned, operated, managed, or otherwise controlled
 2-62 a motor carrier that the Federal Motor Carrier Safety
 2-63 Administration has placed out of service for unacceptable safety
 2-64 compliance; or

2-65 (3) has unpaid administrative penalties assessed
 2-66 under this chapter or Subtitle E.

2-67 SECTION 5. Subchapter B, Chapter 643, Transportation Code,
 2-68 is amended by adding Section 643.0585 to read as follows:

2-69 Sec. 643.0585. REREGISTRATION. (a) If a motor carrier's

3-1 registration has been revoked, the motor carrier may apply to the
 3-2 department for reregistration not later than the 180th day after
 3-3 the date the registration was revoked.

3-4 (b) An application for reregistration must be submitted on a
 3-5 form prescribed by the department and accompanied by:

3-6 (1) a \$10 fee for each vehicle requiring registration;

3-7 (2) evidence of insurance or financial responsibility
 3-8 as required by Section 643.103(a); and

3-9 (3) any insurance filing fee required under Section
 3-10 643.103(c).

3-11 (c) The department may deny a motor carrier's application
 3-12 for reregistration if the motor carrier is owned, operated,
 3-13 managed, or otherwise controlled by or affiliated with a person,
 3-14 including a family member, corporate officer, entity, or
 3-15 shareholder, that:

3-16 (1) the Department of Public Safety has determined
 3-17 has:

3-18 (A) an unsatisfactory safety rating under 49
 3-19 C.F.R. Part 385; or

3-20 (B) multiple violations of Chapter 644, a rule
 3-21 adopted under that chapter, or Subtitle C;

3-22 (2) owned, operated, managed, or otherwise controlled
 3-23 a motor carrier that the Federal Motor Carrier Safety
 3-24 Administration has placed out of service for unacceptable safety
 3-25 compliance; or

3-26 (3) has unpaid administrative penalties assessed
 3-27 under this chapter or Subtitle E.

3-28 SECTION 6. Section 643.153(d), Transportation Code, is
 3-29 amended to read as follows:

3-30 (d) A motor carrier that is required to register under
 3-31 Subchapter B and that transports household goods shall file a
 3-32 tariff with the department that establishes maximum charges for all
 3-33 transportation services [~~between two or more municipalities~~]. A
 3-34 motor carrier may comply with this requirement by filing, in a
 3-35 manner determined by the department, a copy of the carrier's tariff
 3-36 governing interstate transportation services [~~on a highway between~~
 3-37 ~~two or more municipalities~~]. The department shall make tariffs
 3-38 filed under this subsection available for public inspection [~~at the~~
 3-39 ~~department~~].

3-40 SECTION 7. Section 643.252(a), Transportation Code, is
 3-41 amended to read as follows:

3-42 (a) The department may suspend, revoke, or deny a
 3-43 registration issued under this chapter or place on probation a
 3-44 motor carrier whose registration is suspended if a motor carrier:

3-45 (1) fails to maintain insurance or evidence of
 3-46 financial responsibility as required by Section 643.101(a), (b), or
 3-47 (c) [~~, or (d)~~];

3-48 (2) fails to keep evidence of insurance in the cab of
 3-49 each vehicle as required by Section 643.103(b);

3-50 (3) fails to register a vehicle requiring
 3-51 registration;

3-52 (4) violates any other provision of this chapter or
 3-53 Chapter 621, 622, or 623;

3-54 (5) knowingly provides false information on any form
 3-55 filed with the department under this chapter or Chapter 621, 622, or
 3-56 623; [~~or~~]

3-57 (6) violates a rule or order adopted under this
 3-58 chapter or Chapter 621, 622, or 623; or

3-59 (7) is owned, operated, managed, or otherwise
 3-60 controlled by or affiliated with a person, including a family
 3-61 member, corporate officer, entity, or shareholder:

3-62 (A) whose registration has previously been
 3-63 revoked or denied; or

3-64 (B) that has unpaid administrative penalties
 3-65 assessed under this chapter or Subtitle E.

3-66 SECTION 8. Sections 643.2525(c), (e), (k), and (l),
 3-67 Transportation Code, are amended to read as follows:

3-68 (c) If not later than the 26th day after the date the notice
 3-69 is mailed the department receives a written request for a hearing,

4-1 the department shall set a hearing and provide the carrier [give]
 4-2 notice of the hearing and the opportunity to present evidence at the
 4-3 hearing [to the carrier]. The hearing shall be conducted by an
 4-4 administrative law judge of the State Office of Administrative
 4-5 Hearings.

4-6 (e) If a hearing set under Subsection (c) is held and
 4-7 evidence is presented at the hearing, the [The] administrative law
 4-8 judge shall make findings of fact and conclusions of law and
 4-9 promptly issue to the director a proposal for a decision as to the
 4-10 occurrence of the violation and the administrative penalties or
 4-11 sanctions.

4-12 (k) If the motor carrier is required to pay a penalty or cost
 4-13 under Subsection (f), failure to pay the penalty or cost before the
 4-14 61st day after the date the requirement becomes final is a violation
 4-15 of this chapter and may result in an additional penalty, revocation
 4-16 or suspension of a motor carrier registration, or denial [~~of~~
 4-17 ~~renewal~~] of a motor carrier registration renewal or reregistration.

4-18 (1) A motor carrier that is required to pay a penalty, cost,
 4-19 fee, or expense under this section or Section 643.251 is not
 4-20 eligible for a registration, reregistration, [reinstatement] or
 4-21 registration renewal [of a registration] under this chapter until
 4-22 all required amounts have been paid to the department.

4-23 SECTION 9. The heading to Section 643.2526, Transportation
 4-24 Code, is amended to read as follows:

4-25 Sec. 643.2526. APPEAL OF DENIAL OF REGISTRATION, RENEWAL,
 4-26 OR REREGISTRATION [~~REINSTATEMENT~~].

4-27 SECTION 10. Section 643.2526(a), Transportation Code, is
 4-28 amended to read as follows:

4-29 (a) Notwithstanding any other law, a denial of an
 4-30 application for registration, renewal of registration, or
 4-31 reregistration [reinstatement of registration] under this chapter
 4-32 is not required to be preceded by notice and an opportunity for
 4-33 hearing.

4-34 SECTION 11. The heading to Chapter 645, Transportation
 4-35 Code, is amended to read as follows:

4-36 CHAPTER 645. UNIFIED CARRIER [SINGLE STATE] REGISTRATION

4-37 SECTION 12. Section 645.001, Transportation Code, is
 4-38 amended to read as follows:

4-39 Sec. 645.001. FEDERAL UNIFIED [~~MOTOR~~] CARRIER
 4-40 REGISTRATION; DEFINITION. (a) In this chapter, "unified carrier
 4-41 registration plan and agreement" means the federal unified carrier
 4-42 registration plan and agreement provided by 49 U.S.C. Section
 4-43 14504a.

4-44 (b) The Texas Department of Motor Vehicles may, to the
 4-45 fullest extent practicable, participate in [~~a federal motor carrier~~
 4-46 ~~registration program under~~] the unified carrier registration plan
 4-47 and agreement [~~system as defined by Section 643.001 or a single~~
 4-48 ~~state registration system established under federal law~~].

4-49 SECTION 13. Section 645.002(b), Transportation Code, is
 4-50 amended to read as follows:

4-51 (b) The department may adopt rules regarding the method of
 4-52 payment of a fee required under the unified carrier registration
 4-53 plan and agreement [this chapter]. The rules may:

4-54 (1) authorize the use of an escrow account described
 4-55 by Subsection (c), an electronic funds transfer, or a valid credit
 4-56 card issued by a financial institution chartered by a state or the
 4-57 United States or by a nationally recognized credit organization
 4-58 approved by the department; and

4-59 (2) require the payment of a discount or service
 4-60 charge for a credit card payment in addition to the fee.

4-61 SECTION 14. Section 645.003, Transportation Code, is
 4-62 amended to read as follows:

4-63 Sec. 645.003. ENFORCEMENT RULES. (a) The department may
 4-64 [~~shall~~] adopt rules [~~that are consistent with federal law~~]
 4-65 providing for administrative penalties [~~and sanctions~~] for a
 4-66 failure to register or submit information and documents under [~~as~~
 4-67 ~~required by~~] the unified carrier registration plan and agreement
 4-68 [~~system or single state registration system~~] or for a violation of
 4-69 the unified carrier registration plan and agreement [~~this chapter~~]

5-1 ~~or a rule adopted under this chapter in the same manner as~~
5-2 ~~Subchapter F, Chapter 643].~~

5-3 (b) The notice, hearing, and other procedural requirements
5-4 of Section 643.2525 apply to the imposition of an administrative
5-5 penalty under this section as if the action were being taken under
5-6 that section.

5-7 (c) The amount of an administrative penalty imposed under
5-8 this section is calculated in the same manner as the amount of an
5-9 administrative penalty imposed under Section 643.251.

5-10 SECTION 15. Sections 645.004(a) and (c), Transportation
5-11 Code, are amended to read as follows:

5-12 (a) A person commits an offense if the person fails to:

5-13 (1) ~~[violates a rule adopted under this chapter, or~~
5-14 ~~[(2) fails to]~~ register as required by the unified
5-15 carrier registration plan and agreement; or

5-16 (2) submit information and documents as required by
5-17 the unified carrier registration plan and agreement ~~[a vehicle~~
5-18 ~~required to be registered under this chapter].~~

5-19 (c) Each day a violation ~~[of a rule]~~ occurs is a separate
5-20 offense under this section.

5-21 SECTION 16. Sections 643.001(7-a), 643.064(a), and
5-22 645.002(a), Transportation Code, are repealed.

5-23 SECTION 17. (a) The changes in law made by this Act apply
5-24 only to an offense or violation committed on or after the effective
5-25 date of this Act. An offense or violation committed before the
5-26 effective date of this Act is governed by the law in effect on the
5-27 date the offense or violation was committed, and the former law is
5-28 continued in effect for that purpose. For purposes of this section,
5-29 an offense or violation was committed before the effective date of
5-30 this Act if any element of the offense or violation occurred before
5-31 that date.

5-32 (b) The change in law made by this Act relating to an
5-33 application filed under Chapter 643, Transportation Code, applies
5-34 only to an application filed under that chapter on or after the
5-35 effective date of this Act. An application filed before that date
5-36 is governed by the law in effect on the date the application was
5-37 filed, and the former law is continued in effect for that purpose.

5-38 SECTION 18. This Act takes effect January 1, 2018.

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