

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 760
94TH GENERAL ASSEMBLY

Reported from the Committee on Transportation, February 7, 2008, with recommendation that the Senate Committee Substitute do pass and be placed on the Consent Calendar.

3493S.03C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 390.071, 390.136, and 622.095, RSMo, and to enact in lieu thereof two new sections relating to implementing the unified carrier registration plan and agreement to conform with the Unified Carrier Registration Act of 2005, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 390.071, 390.136, and 622.095, RSMo, are repealed
2 and two new sections enacted in lieu thereof, to be known as sections 390.021 and
3 390.136, to read as follows:

**390.021. 1. The provisions of this section shall be applicable,
2 notwithstanding any provisions of section 390.030 to the contrary.**

**3 2. As used in chapter 622, RSMo, and in this section, except when
4 the context clearly requires otherwise, the following terms shall mean:**

**5 (1) "UCR implementing regulations", includes the regulations
6 issued by the United States Secretary of Transportation under 49
7 U.S.C.A. Section 13908, the rules and regulations issued by the board of
8 directors of the Unified Carrier Registration (UCR) plan under 49
9 U.S.C.A. Section 14504a, and the administrative rules adopted by the
10 state highways and transportation commission under this section;**

**11 (2) "Unified Carrier Registration Act", or "UCR Act", Sections 4301
12 to 4308 of the Unified Carrier Registration Act of 2005, within subtitle
13 C of title IV of the "Safe, Accountable, Flexible, Efficient Transportation
14 Equity Act: A Legacy For Users" or "SAFETEA-LU", Public Law 109-59
15 (119 Stat. 1761), as those sections have been and periodically may be**

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

16 amended.

17 3. Except when the context clearly requires otherwise, the
18 definitions of words in 49 U.S.C. Sections 13102, 13908, and 14504a shall
19 apply to and determine the meaning of those words as used in this
20 section.

21 4. In carrying out and being subject to the provisions of the UCR
22 Act, the Unified Carrier Registration (UCR) agreement, the UCR
23 implementing regulations, and this section, but notwithstanding any
24 other provisions of law to the contrary, the state highways and
25 transportation commission may:

26 (1) Submit to the proper federal authorities, amend and carry
27 out a state plan to qualify as a base-state and to participate in the UCR
28 plan and administer the UCR agreement, and take other necessary
29 actions as the designated representative of the state of Missouri so that:

30 (a) Missouri domiciled entities who must register and pay UCR
31 registration fees are not required to register and pay those fees in a
32 base-state other than the state of Missouri;

33 (b) The state of Missouri does not forfeit UCR registration fee
34 revenues; and

35 (c) The state of Missouri may maintain its eligibility to receive
36 the maximum allowable allocations of revenues derived under the UCR
37 agreement;

38 (2) Administer the UCR registration of Missouri domiciled motor
39 carriers, motor private carriers, brokers, freight forwarders and
40 leasing companies, and such persons domiciled in non-participating
41 states who have designated this state as their base-state under the UCR
42 Act;

43 (3) Receive, collect, process, deposit, transfer, distribute, and
44 refund UCR registration fees relating to any of the persons and
45 activities described in this section. Notwithstanding any provisions of
46 law to the contrary, these UCR registration fees collected by the
47 commission are hereby designated as "nonstate funds" within the
48 meaning of section 15, article IV, Constitution of Missouri, and the
49 commission shall transmit these funds to the state department of
50 revenue for deposit to the credit of the state highways and
51 transportation department fund. The commission shall, from time to
52 time, direct the payment of, and the director of revenue shall pay, the

53 fees so deposited, in accordance with the provisions of the UCR Act, the
54 UCR agreement, and the UCR implementing regulations. The director
55 of revenue shall credit all income derived from the investment of these
56 funds to the state highways and transportation department fund;

57 (4) Exercise all other powers, duties, and functions the UCR Act
58 requires of or allows a participating state or base-state;

59 (5) Promulgate administrative rules and issue specific orders
60 relating to any of the persons and activities described in this
61 section. Any rule or portion of a rule, as that term is defined in section
62 536.010, RSMo, that is created under the authority delegated in this
63 section shall become effective only if it complies with and is subject to
64 all of the provisions of chapter 536, RSMo, and, if applicable, section
65 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable
66 and if any of the powers vested with the general assembly pursuant to
67 chapter 536, RSMo, to review, to delay the effective date, or to
68 disapprove and annul a rule are subsequently held unconstitutional,
69 then the grant of rulemaking authority and any rule proposed or
70 adopted after August 28, 2008, shall be invalid and void;

71 (6) Enter into agreements with any agencies or officers of the
72 United States, or of any state that participates or intends to enter into
73 the UCR agreement; and

74 (7) Delegate any or all of the powers, duties, and functions of the
75 commission under this section to any agent or contractor.

76 5. After the commission has entered into the UCR plan on behalf
77 of this state, the requirements in the UCR agreement shall take
78 precedence over any conflicting requirements under chapter 622,
79 RSMo, or this chapter.

80 6. Notwithstanding any other provisions of law to the contrary,
81 every motor carrier, motor private carrier, broker, freight forwarder,
82 and leasing company that has its principal place of business within this
83 state, and every such person who has designated this state as the
84 person's base-state under the provisions of the UCR Act, shall timely
85 complete and file with the state highways and transportation
86 commission all the forms required by the UCR agreement and the UCR
87 implementing regulations, and shall pay the required UCR registration
88 fees to the commission.

89 7. All powers of the commission under section 226.008, RSMo, are

90 hereby made applicable to the enforcement of this section with
91 reference to any person subject to any provision of this section. The
92 chief counsel shall not be required to exhaust any administrative
93 remedies before commencing any enforcement actions under this
94 section. The provisions of chapter 622, RSMo, shall apply to and govern
95 the practice and procedures before the courts in those actions.

96 8. Except as required by the UCR Act, the UCR agreement, or the
97 UCR implementing regulations, the provisions of this section and the
98 rules adopted by the commission under this section shall not be
99 construed as exempting any motor carrier, or any person controlled by
100 a motor carrier, from any of the requirements of chapter 622, RSMo, or
101 this chapter, relating to the transportation of passengers or property
102 in intrastate commerce.

103 9. Notwithstanding any other provision of this section to the
104 contrary, Missouri elects to not apply the provisions of the UCR Act,
105 the UCR Agreement, and the UCR implementing regulations to motor
106 carriers and motor private carriers that operate solely in intrastate
107 commerce transporting farm or dairy products, including livestock,
108 from a farm, or property from farm to farm, or stocker and feeder
109 livestock from farm to farm, or from market to farm.

390.136. 1. No motor carrier, except as provided in section 390.030, shall
2 operate any motor vehicle unless such vehicle shall be accompanied by an annual
3 or seventy-two-hour regulatory license issued by the state highways and
4 transportation commission; provided that when a motor carrier uses a
5 truck-tractor for pulling trailers or semitrailers, such motor carrier may elect to
6 license either the truck-tractor, trailer or semitrailer. The fee for each such
7 regulatory license shall be ten dollars per year and shall be due and payable as
8 provided in this section. Such license shall be issued in such form and shall be
9 used pursuant to such reasonable rules and regulations as may be prescribed by
10 the commission.

11 2. Any regulatory license issued to a motor carrier for use in driveaway
12 operations, as defined in this section, shall be issued to such motor carrier
13 without reference to any particular vehicle and may be used interchangeably by
14 the holder thereof on any motor vehicle or combinations thereof moving in
15 driveaway operations under such carrier's property carrier registration,
16 certificate, or permit.

17 3. In case of emergency, temporary, unusual or a peak demand for
18 transportation, additional vehicles as described in subsection 1 of this section
19 may be operated upon issuance of a seventy-two-hour license for each vehicle so
20 operated. The license fee for each such additional vehicle shall be the sum of five
21 dollars for each seventy-two consecutive hours, or any portion thereof. Such
22 licenses shall be issued, renewed, and staggered in such form and shall be used
23 pursuant to such reasonable rules and regulations as the commission may
24 prescribe. No such additional vehicle which has been licensed pursuant to this
25 subsection shall be operated without being accompanied by such license.

26 4. The commission shall collect the applicable license fee prior to the
27 issuance of such license or licenses provided for in this section, and shall receive
28 the license fee or fees and immediately deposit the same to the credit of the state
29 highways and transportation department fund [except as otherwise provided in
30 section 622.095, RSMo,] or when an agreement has been negotiated with another
31 jurisdiction whereby prepayment is not required. In such cases, [section 622.095,
32 RSMo, if applicable, or] the terms of the agreement shall prevail.

33 5. Any person operating as a motor carrier who violates or fails to comply
34 with any of the provisions of this section shall be adjudged guilty of a
35 misdemeanor and, upon conviction thereof, shall be punished by a fine of not
36 more than one hundred dollars.

37 6. The regulatory license fee provided in this section may be paid at any
38 state weigh station.

39 7. The commission shall prescribe, for every regulatory license issued
40 pursuant to this section, an effective date and an expiration
41 date. Notwithstanding any provision of law to the contrary, the commission may
42 stagger the issuance of licenses pursuant to this section to begin at quarterly
43 intervals during any calendar year. Not later than the expiration date of the
44 current license, or as otherwise prescribed, each motor carrier shall pay the
45 regulatory license fee for each vehicle that the carrier will operate during the
46 next yearly period. The commission may issue partial or over one-year licenses
47 during the transition from an annual license, to accommodate motor carriers in
48 adding vehicles to their operations during the year, to coordinate the dates for a
49 single carrier's licensing of multiple licenses, or for such other reasons as
50 approved by the commission.

 [390.071. 1. No person shall engage in the business of a
2 motor carrier in interstate commerce on any public highway in this

3 state unless there is in force with respect to such carrier a permit
4 issued by the division of motor carrier and railroad safety
5 authorizing such operations.

6 2. Upon application to the division in writing, containing
7 such information as the division may by rule require, accompanied
8 by a copy of applicant's certificate of public convenience and
9 necessity or permit issued by the Interstate Commerce
10 Commission, the filing of such liability insurance policy or bond
11 and other formal documents as the division shall by rule require,
12 the division, if it finds applicant qualified, shall, with or without
13 hearing, issue a permit authorizing the proposed interstate
14 operations.]

[622.095. 1. In addition to its other powers, the state
2 highways and transportation commission may negotiate and enter
3 into fair and equitable cooperative agreements or contracts with
4 other states, the District of Columbia, territories and possessions
5 of the United States, foreign countries, and any of their officials,
6 agents or instrumentalities, to promote cooperative action and
7 mutual assistance between the participating jurisdictions with
8 regard to the uniform administration and registration, through a
9 single base jurisdiction for each registrant, of Federal Motor
10 Carrier Safety Administration operating authority and exempt
11 operations by motor vehicles operated in interstate
12 commerce. Notwithstanding any other provision of law to the
13 contrary, and in accordance with the provisions of such agreements
14 or contracts between participating jurisdictions, the commission
15 may:

16 (1) Delegate to other participating jurisdictions the
17 authority and responsibility to collect and pay over statutory
18 registration, administration or license fees; to receive, approve and
19 maintain the required proof of public liability insurance coverage;
20 to receive, process, maintain and transmit registration information
21 and documentation; to issue evidence of proper registration in lieu
22 of certificates, licenses, or permits which the commission may issue
23 motor vehicle licenses or identifiers in lieu of regulatory licenses
24 under section 390.136, RSMo; and to suspend or revoke any

25 credential, approval, registration, certificate, permit, license, or
26 identifier referred to in this section, as agents on behalf of the
27 commission with regard to motor vehicle operations by persons
28 having a base jurisdiction other than this state;

29 (2) Assume the authority and responsibility on behalf of
30 other jurisdictions participating in such agreements or contracts to
31 collect and direct the department of revenue to pay over to the
32 appropriate jurisdictions statutory registration, administration or
33 license fees, and to perform all other activities described in
34 subdivision (1) of this subsection, on its own behalf or as an agent
35 on behalf of other participating jurisdictions, with regard to motor
36 vehicle operations in interstate commerce by persons having this
37 state as their base jurisdiction;

38 (3) Establish or modify dates for the payment of fees and
39 the issuance of annual motor vehicle licenses or identifiers in
40 conformity with such agreements or contracts, notwithstanding any
41 provisions of section 390.136, RSMo, to the contrary; and

42 (4) Modify, cancel or terminate any of the agreements or
43 contracts.

44 2. Notwithstanding the provisions of section 390.136, RSMo,
45 statutory registration, administration or license fees collected by
46 the commission on behalf of other jurisdictions under such
47 agreements or contracts are hereby designated as "nonstate funds"
48 within the meaning of section 15, article IV, Constitution of
49 Missouri, and shall be immediately transmitted to the department
50 of revenue of the state for deposit to the credit of a special fund
51 which is hereby created and designated as the "Base State
52 Registration Fund". The commission shall direct the payment of,
53 and the director of revenue shall pay, the fees so collected to the
54 appropriate other jurisdictions. All income derived from the
55 investment of the base state registration fund by the director of
56 revenue shall be credited to the state highways and transportation
57 department fund.

58 3. "Base jurisdiction", as used in this section, means the
59 jurisdiction participating in such agreements or contracts where
60 the registrant has its principal place of business.

61 4. Every person who has properly registered his or her
62 interstate operating authority or exempt operations with his or her
63 base jurisdiction and maintains such registration in force in
64 accordance with such agreements or contracts is authorized to
65 operate in interstate commerce within this state any motor vehicle
66 which is accompanied by a valid annual license or identifier issued
67 by his base jurisdiction in accordance with such agreements or
68 contracts, notwithstanding any provision of section 390.071,
69 390.126 or 390.136, RSMo, or rules of the commission to the
70 contrary.

71 5. Notwithstanding any provision of law to the contrary, the
72 commission may stagger and prorate the payment and collection of
73 license fees pursuant to this section for the purposes of:

74 (1) Coordinating the issuance of regulatory licenses under
75 this section with the issuance of other motor carrier credentials;
76 and

77 (2) Complying with any federal law or regulation.]

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Bill ✓
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