

House Bill 3254
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SECTION 1. Section 171.1011(g-7), Tax Code, is amended to read as follows:

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

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

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

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

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

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

(3) maintains an automobile liability insurance policy covering individuals operating vehicles owned, hired, or

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otherwise used in the taxable entity's business, with a combined single limit for each occurrence of at least \$1 million;

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

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

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

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

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

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

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

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

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

(a-3) The department may deny a registration if the applicant is owned, [~~a motor carrier whose business is~~] operated, managed, or otherwise controlled by or affiliated with a

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person, including a ~~[an owner, relative,]~~ family member, corporate officer, entity, or shareholder, ~~that [whom the Department of Public Safety has determined has]~~:

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

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

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

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

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

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

(e) The department may deny a motor carrier's application to renew a registration if the motor carrier is owned, operated,

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managed, or otherwise controlled by or affiliated with a person, including a family member, corporate officer, entity, or shareholder, that:

(1) the Department of Public Safety has determined has:

(A) an unsatisfactory safety rating under 49 C.F.R. Part 385;

or

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

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

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

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

Sec. 643.0585. REREGISTRATION. (a) If a motor carrier's registration has been revoked, the motor carrier may apply to the department for reregistration not later than the 180th day after the date the registration was revoked.

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

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

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

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

(c) The department may deny a motor carrier's application for reregistration if the motor carrier is owned, operated,

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managed, or otherwise controlled by or affiliated with a person, including a family member, corporate officer, entity, or shareholder, that:

(1) the Department of Public Safety has determined has:

(A) an unsatisfactory safety rating under 49 C.F.R. Part 385;

or

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

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

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

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

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

SECTION 7. Section 643.252(a), Transportation Code, is

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amended to read as follows:

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

(1) fails to maintain insurance or evidence of financial responsibility as required by Section 643.101(a), (b), or (c); ~~or (d)~~;

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

(3) fails to register a vehicle requiring registration;

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

(5) knowingly provides false information on any form filed with the department under this chapter or Chapter 621, 622, or 623; ~~or~~

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

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

(A) whose registration has previously been revoked or denied; or

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

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

(c) If not later than the 26th day after the date the notice is mailed the department receives a written request for a hearing, the department shall set a hearing and provide the carrier

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[give] notice of the hearing and the opportunity to present evidence at the hearing [~~to the carrier~~]. The hearing shall be conducted by an administrative law judge of the State Office of Administrative Hearings.

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

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

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

SECTION 9. The heading to Section 643.2526, Transportation Code, is amended to read as follows:
Sec. 643.2526. APPEAL OF DENIAL OF REGISTRATION, RENEWAL, OR REREGISTRATION [~~REINSTATEMENT~~].

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

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

No equivalent provision.

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SECTION __. Section 644.151, Transportation Code, is amended by amending Subsections (a) and (b) and adding Subsection (b-1) to read as follows:

- (a) A person commits an offense if the person:
 - (1) violates a rule adopted under this chapter; ~~[or]~~
 - (2) does not permit an inspection authorized under Section 644.104; or
 - (3) knowingly operates a commercial motor vehicle in violation of an out-of-service order issued under 49 C.F.R. Section 385.13(d)(1) or owns, leases, or assigns a person to drive a commercial motor vehicle that is knowingly operated in violation of an out-of-service order issued under 49 C.F.R. Section 385.13(d)(1).
- (b) An offense under Subsection (a)(1) or (2) [this section] is a Class C misdemeanor.
- (b-1) An offense under Subsection (a)(3) is a Class A misdemeanor, except that the offense is:
 - (1) a state jail felony if it is shown on the trial of the offense that at the time of the offense the commercial motor vehicle was involved in a motor vehicle accident that resulted in bodily injury; or
 - (2) a felony of the second degree if it is shown on the trial of the offense that at the time of the offense the commercial motor vehicle was involved in a motor vehicle accident that resulted in the death of a person. [FA1]

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

CHAPTER 645. UNIFIED CARRIER [~~SINGLE STATE~~]
REGISTRATION

SECTION 12. Section 645.001, Transportation Code, is amended to read as follows:

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

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

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

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

(1) authorize the use of an escrow account described by Subsection (c), an electronic funds transfer, or a valid credit card issued by a financial institution chartered by a state or the United States or by a nationally recognized credit organization

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approved by the department; and

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

SECTION 14. Section 645.003, Transportation Code, is amended to read as follows:

Sec. 645.003. ENFORCEMENT RULES. (a) The department may ~~shall~~ adopt rules ~~[that are consistent with federal law]~~ providing for administrative penalties ~~[and sanctions]~~ for a failure to register or submit information and documents under ~~[as required by]~~ the unified carrier registration plan and agreement ~~[system or single state registration system]~~ or for a violation of the unified carrier registration plan and agreement ~~[this chapter or a rule adopted under this chapter in the same manner as Subchapter F, Chapter 643].~~

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

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

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

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

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

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

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

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

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

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

SECTION 18. This Act takes effect **September 1, 2017**.

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SECTION 16. Same as House version.

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SECTION 18. This Act takes effect **January 1, 2018**.

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