



### 2007 DRAFTING REQUEST

#### Bill

Received: **03/30/2006**

Received By: **agary**

Wanted: **Soon**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Kornely**

This file may be shown to any legislator: **NO**

Drafter: **agary**

May Contact:

Addl. Drafters:

Subject: **Transportation - motor vehicles**

Extra Copies: **BAB**

Submit via email: **YES**

Requester's email:

Carbon copy (CC:) to: **aaron.gary@legis.wisconsin.gov**

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#### Pre Topic:

DOA:.....Kornely, BB0192 -

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#### Topic:

single state motor carrier registration; unified carrier registration act

---

#### Instructions:

See Attached

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#### Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	agary 08/28/2006	jdyer 09/07/2006		_____			State
/P1			pgreensl 09/07/2006	_____	sbasford 09/07/2006		State
/P2	agary 10/17/2006	jdyer 10/18/2006	rschluet 10/18/2006	_____	mbarman 10/18/2006		State
/P3	agary	jdyer	jfrantze	_____	sbasford		State

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	10/30/2006	10/31/2006	10/31/2006	_____	10/31/2006		
/1	agary 11/24/2006	jdye 11/27/2006	jfrantze 11/28/2006	_____	sbasford 11/28/2006		State
/2	agary 01/26/2007	jdye 01/26/2007	nnatzke 01/26/2007	_____	mbarman 01/26/2007		

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			nwn/jf 1/26				

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1 1/2 jld  
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For: **Transportation**

By/Representing: **Karen Baetsen**

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Drafter: **agary**

May Contact:

Addl. Drafters: **bbalinsk**

Subject: **Transportation - motor vehicles**

Extra Copies:

Submit via email: **YES**

Requester's email: **Karen.Baetsen@dot.state.wi.us**

Carbon copy (CC:) to: **Kristie.Nielson@dot.state.wi.us**  
**aaron.gary@legis.state.wi.us**

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*J. Zell*  
11/28  
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*Jb 10/31*      *Jb 10/31*

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For: Transportation

By/Representing: Karen Baetsen

This file may be shown to any legislator: NO

Drafter: agary

May Contact:

Addl. Drafters: bbalinsk

Subject: Transportation - motor vehicles

Extra Copies:

Submit via email: YES

Requester's email: Karen.Baetsen@dot.state.wi.us

Carbon copy (CC:) to: Kristie.Nielson@dot.state.wi.us

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Handwritten signature and date 10/18/06 with <END> text.

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agary

PI 9/7 JLD

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/7  
PES

9/1  
/7  
PSTB

FE Sent For:

<END>

## Gary, Aaron

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**From:** Baetsen, Karen  
**Sent:** Wednesday, March 29, 2006 1:36 PM  
**To:** Gary, Aaron  
**Cc:** Hammer, Paul; Newman, Kenneth; Nilsen, Paul  
**Subject:** New request for biennial budget draft

Along with the DLA and REAL ID drafts you're now working on for DOT, Paul Hammer and I identified another issue that we'd like you to start for us. Unfortunately, the federal rules, regulations, process and fees are not yet known. But we do know we'll need changes in WI statutes to adopt, etc.

### **Unified Carrier Registration (UCR)**

- mandated through SAFETEA-LU
- will now require private interstate carriers to participate (modification needed to statutes)
- fee will no longer be fixed \$5 per vehicle, it'll be tiered and based on size of carrier's fleet and established by a federal UCR Board of Directors. this will result in uniform fees for each state.
- I've made copies of the Act, background materials, Paul Nilsen's first thoughts, and will provide them to you today.

We'll talk more later, the program experts are DMV - Motor Carrier Services Section

### ***Karen Baetsen***

Department of Transportation  
Office of Policy, Budget and Finance  
Room 132B Hill Farms  
608/ 266-0179  
karen.baetsen@dot.state.wi.us

[Motor carriers and trucking](#)[Audit](#)[Commercial driver license \(CDL\)](#)[Heavy vehicle use tax \(HVUT\)](#)[Insurance](#)[International fuel tax agreement \(IFTA\)](#)[International registration plan \(IRP\)](#)[Motor carrier credentials](#)[Motor carrier fees](#)[Motor carrier forms and publications](#)[Operating authority](#)[Oversize and overweight permits](#)[Safety assistance \(MCSAP\)](#)[Seasonal weight restrictions](#)[Single state registration system \(SSRS\)](#)[Size and weight enforcement](#)[Trip permits](#)[Truck operator map](#)[Truck safety](#)[Doing Business](#) > [Rules, permits and licenses](#) > [Motor carriers and trucking](#) >

## Single state registration system (SSRS)

SSRS is a program in which for-hire carriers of passengers or property are required to register their Federal Highway Administration (FHWA) operating authority and proof of insurance with their base state. The base state is determined by the location of the carrier's principal place of business. If a carrier's principal place of business is maintained outside of a participating state, the carrier must select the state where the largest number of vehicles will be operated during the next registration year.

All fees required for states into which the carrier operates are paid to the base state, which then transmits the fees to the other states. The registration period runs from January 1 through December 31.

Carriers located in states not participating in the program and those carriers from Canadian provinces are required to register with the participating state where the greatest number of vehicles will operate in the upcoming year.

The base state will issue all registrants a receipt indicating the states in which the carrier may operate. The carrier is then required to make a copy for each vehicle for which fees have been paid (this receipt must be carried in the vehicle). Carriers that operate in a state for which fees haven't been paid are subject to law enforcement action.

To apply, complete the Single State Registration Application form T524  (249 KB).

Form T524 replaces form MV2837.

SSRS information may be obtained by contacting:

Wisconsin Department of Transportation  
Motor Carrier Services  
P.O. Box 7967  
Madison WI 53707-7967  
Telephone: (608) 266-1356

 [Return to top](#)

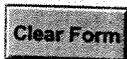
 You will need the Adobe Reader (provided free of charge) to view PDF files. For more information about getting your free copy of the Adobe Reader, visit [WisDOT's Software information page](#).

Questions about the content of this page:  
Bureau of Vehicle Services, [bur-veh-services.dmv@dot.state.wi.us](mailto:bur-veh-services.dmv@dot.state.wi.us)  
Last modified: September 15, 2004

**Related link:**[Weight restriction programs](#)

# SINGLE STATE REGISTRATION APPLICATION

For Motor Carriers Operating Under Authority Issued by the Federal Motor Carrier Safety Administration  
 Wisconsin Department of Transportation  
 T524 6/2005 P7313521 (Replaces MV2837) (T525=back)



If you reside in a non-participating state, you must obtain Single State Registration (SSR) through your nearest bordering/participating state.

**Applicant** - Information must be identical to FMCSA Safer System. Make corrections if necessary.

A principal place of business is a single location that serves as a motor carrier's headquarters and there it maintains, or can make available, its operational records.

Name and Mailing Address

Principal Place of Business Address - PO Box is NOT acceptable

Federal Employer Identification Number (FEIN)		IRP Number - If None, Check Below *	
FMCSA MC Number	WI ICX Number	US DOT Number	Account Number
		<input type="checkbox"/> Under 10,000 lbs.	
<b>Business Type</b> <input type="checkbox"/> Individual <input type="checkbox"/> Partnership <input type="checkbox"/> Corporation <input type="checkbox"/> LLC/LLP-State: _____			
List name of partner or officers		Title	

\* If you do not have an active WI IRP account, check all that apply:

- Under 26,001 lbs.  
  Bus/Limo  
  30-mile agreement  
  Base Plate  
  Logger  
  Transporter  
  HHG Move  
 Leased Vehicles to: \_\_\_\_\_ IRP Account #: \_\_\_\_\_

**Instructions - Check all that apply.**

- Cancel Account.**  
 **New Carrier** - "Regulated" carriers must have a BMC91X Federal Liability Certificate on file with the FMCSA. "Exempt only" carriers are required to have a Form E Certificate of Liability on file with our department.  
 **Renewal** - Year \_\_\_\_\_ Adding vehicles or states of travel after its annual registration.  
 **Registration State Selection** - The motor carrier has changed its principal place of business or its prior registration state has left the registration program. Identify the prior registration state: \_\_\_\_\_

**Make checks payable to:** Registration Fee Trust

**Mail to:** Wisconsin Department of Transportation, PO Box 7967, Madison, WI 53707-7967.

Fees will **NOT** be prorated for partial year operations. **NO REFUNDS** will be made after operations have begun. Registration period begins January 1 and expires on December 31. No grace periods are allowed. No temporary permits are issued for SSRS purposes. If you have questions, please contact us at 608-266-1356.

**Certification:** I, the undersigned, under penalty for false statement, certify that the information given on this application is true and correct and that I am authorized to execute and file this document on behalf of the applicant. Penalty provisions are subject to the laws of the registration state.

\_\_\_\_\_  
 (Service Company Area Code - Telephone Number)

\_\_\_\_\_  
 (Service Company Name)

\_\_\_\_\_  
 (Service Company Area Code - FAX Number)

\_\_\_\_\_  
 (Service Company Address)

\_\_\_\_\_  
 (Carrier Area Code - Telephone Number)

\_\_\_\_\_  
 (Name - Print)

\_\_\_\_\_  
 (Carrier Area Code - FAX Number)

\_\_\_\_\_  
 (Title)

\_\_\_\_\_  
 (Carrier E-mail Address)

\_\_\_\_\_  
 (Signature)

\_\_\_\_\_  
 (Date)

## WISCONSIN SINGLE STATE REGISTRATION FEE SCHEDULE

Wisconsin Department of Transportation  
49 USC 11506  
T525 10/2004

### Property

(A) PARTICIPATING STATES	(B) NUMBER OF VEHICLES TRANSPORTING PROPERTY	(C) PER VEHICLE FEE	(D) TOTAL VEHICLE FEES
			(B) x (C)
WI - Wisconsin		\$5.00	
AL - Alabama		6.00	
AR - Arkansas		5.00	
CA - California		5.00	
CO - Colorado		5.00	
CT - Connecticut		10.00	
DC - Washington DC		0.00	
GA - Georgia		5.00	
IA - Iowa		1.00	
ID - Idaho		2.00	
IL - Illinois		7.00	
IN - Indiana		5.00	
KS - Kansas		10.00	
KY - Kentucky		10.00	
LA - Louisiana		10.00	
MA - Massachusetts		10.00	
ME - Maine		8.00	
MI - Michigan		10.00	
MN - Minnesota		5.45	
MO - Missouri		0.00	
MS - Mississippi		10.00	
MT - Montana		5.00	
NC - North Carolina		1.00	
ND - North Dakota		10.00	
NE - Nebraska		3.50	
NH - New Hampshire		10.00	
NM - New Mexico		10.00	
NY - New York		10.00	
OH - Ohio		5.00	
OK - Oklahoma		7.00	
RI - Rhode Island		8.00	
SC - South Carolina		5.00	
SD - South Dakota		5.00	
TN - Tennessee		8.00	
TX - Texas		0.00	
UT - Utah		6.00	
VA - Virginia		10.00	
WA - Washington		10.00	
WV - West Virginia		3.00	
<b>TOTAL FEES \$</b>			

### Passengers Only

(E) VEHICLES TRANSPORTING PASSENGERS <small>Enter only If fee required</small>	(F) PER VEHICLE FEE		(G) TOTAL VEHICLE FEES  (E) x (F)
	REGULAR ROUTE	CHARTER	
	\$5.00	\$0.00	
	6.00	6.00	
	5.00	5.00	
	5.00	5.00	
	5.00	5.00	
	0.00	0.00	
	0.00	0.00	
	5.00	5.00	
	1.00	1.00	
	2.00	2.00	
	7.00	7.00	
	5.00	5.00	
	10.00	10.00	
	10.00	10.00	
	10.00	0.00	
	0.00	0.00	
	0.00	0.00	
	5.45	5.45	
	0.00	0.00	
	10.00	10.00	
	5.00	5.00	
	1.00	1.00	
	10.00	10.00	
	0.00	0.00	
	10.00	10.00	
	10.00	10.00	
	10.00	10.00	
	0.00	0.00	
	7.00	7.00	
	8.00	8.00	
	5.00	5.00	
	5.00	5.00	
	8.00	8.00	
	0.00	0.00	
	6.00	6.00	
	3.00	3.00	
	0.00	10.00	
	3.00	3.00	
<b>TOTAL FEES \$</b>			

Note: Carriers hauling only exempt commodities, such as grain, cattle, or produce apply for only Wisconsin, no other states.

# DOT

## 2007-09 BIENNIAL BUDGET ISSUE IDENTIFICATION

**Issue:** Unified Carrier Registration (UCR)

**Division:** Division of Motor Vehicles

**Program Name:** Motor Carrier Registration, Vehicle Titling and Registration Program

**Issue Number:** DMV - 6

**Division Priority:** Legislative / Mandate

Fiscal Estimate	2007-08	2008-09
<b>Seg. Funding</b>	?	?
<b>Federal Aid</b>		
<b>Other (Specify)</b>		
<b>Seg. Revenue</b>	Revenue-neutral if Wisconsin joins UCR. If Wisconsin fails to join UCR, revenue loss of over \$2 million per year.	Revenue-neutral if Wisconsin joins UCR. If Wisconsin fails to join UCR, revenue loss of over \$2 million per year.

**Description:**

Federal highway reauthorization SAFETEA-LU mandates that the Single State Insurance Registration System (SSRS) be replaced by the Unified Carrier Registration system (UCR), a base-state compact for insurance registration of interstate motor carriers.

If a state does not join UCR in the initial time period, the state is prohibited from joining at a later date. Also, a state is barred from charging insurance registration if the state does not join UCR. Thus, if Wisconsin does not join UCR timely, Wisconsin would lose over \$2 million annually in revenue. Also, under federal law, SSRS is repealed December 31, 2006 and UCR is effective January 1, 2007. While states have requested an extension for implementation, federal USDOT has not as yet granted an extension.

Under UCR, insurance registration will be required for private as well as for-hire interstate carriers. The UCR governing board will establish fees consistent throughout the country. A state that participated in SSRS will be able to receive an amount of revenue from UCR fees equal to the average of SSRS fees it received in the three years prior to UCR replacement of SSRS. The board will redistribute fees to assure that each state receive its share of the revenue. An unknown amount of money will be needed to reprogram DMV's SSRS processing system to take into account the new fees and the expanded registrant base associated with UCR.

S.194.405, which authorizes DOT to participate in SSRS, must be amended to refer to UCR, to reflect the changed fee structure under the UCR, and to give DOT statutory authorization to charge the new fees. Also, Ch. 194 will need to be updated to reflect that private as well as for-hire carriers file proof of insurance with DOT.

SAFETEA-LU

Public Law 109-59

119 Stat. 1144

August 10, 2005

H. R. 3-618

of allowing State attorneys general to apply State consumer protection laws to such transportation.

(b) **MATTERS TO BE CONSIDERED.**—In conducting the study, the Comptroller General shall consider, at a minimum—

(1) the level of consumer protection being provided to consumers through Federal household goods regulations and how household goods regulations relating to consumer protection compare to regulations relating to consumer protection for other modes of transportation regulated by the Department of Transportation;

(2) the history and background of State enforcement of State consumer protection laws on household goods carriers providing intrastate transportation and what effects such laws have on the ability of intrastate household goods carriers to operate;

(3) what operational impacts, if any, would result on household goods carriers engaged in interstate commerce being subject to the State consumer protection laws; and

(4) the potential for States to regulate rates or other business operations if State consumer protection laws applied to interstate household goods movements.

(c) **CONSULTATION.**—In conducting the study, the Comptroller General shall consult with the Secretary, State attorneys general, consumer protection agencies, and the household goods industry.

(d) **REPORT.**—Not later than 18 months after the date of enactment of this Act, the Comptroller General shall transmit to the Committee of Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science and Transportation of the Senate a report on the results of the study.

### **Subtitle C—Unified Carrier Registration Act of 2005**

#### **SEC. 4301. SHORT TITLE.**

This subtitle may be cited as the “Unified Carrier Registration Act of 2005”.

#### **SEC. 4302. RELATIONSHIP TO OTHER LAWS.**

Except as provided in section 14504 of title 49, United States Code, and sections 14504a and 14506 of title 49, United States Code, as added by this subtitle, this subtitle is not intended to prohibit any State or any political subdivision of any State from enacting, imposing, or enforcing any law or regulation with respect to a motor carrier, motor private carrier, broker, freight forwarder, or leasing company that is not otherwise prohibited by law.

#### **SEC. 4303. INCLUSION OF MOTOR PRIVATE AND EXEMPT CARRIERS.**

(a) **PERSONS REGISTERED TO PROVIDE TRANSPORTATION OR SERVICE AS A MOTOR CARRIER OR MOTOR PRIVATE CARRIER.**—Section 13905 of title 49, United States Code, is amended—

(1) by redesignating subsections (b), (c), (d), and (e) as subsections (c), (d), (e), and (f), respectively; and

(2) by inserting after subsection (a) the following:

“(b) **PERSON REGISTERED WITH SECRETARY.**—

“(1) **IN GENERAL.**—Except as provided in paragraph (2), any person having registered with the Secretary to provide

transportation or service as a motor carrier or motor private carrier under this title, as in effect on January 1, 2005, but not having registered pursuant to section 13902(a), shall be treated, for purposes of this part, to be registered to provide such transportation or service for purposes of sections 13908 and 14504a.

“(2) EXCLUSIVELY INTRASTATE OPERATORS.—Paragraph (1) does not apply to a motor carrier or motor private carrier (including a transporter of waste or recyclable materials) engaged exclusively in intrastate transportation operations.”.

(b) SECURITY REQUIREMENT.—Section 13906(a) of such title is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(2) by inserting after paragraph (1) the following:

“(2) SECURITY REQUIREMENT.—Not later than 120 days after the date of enactment of the Unified Carrier Registration Act of 2005, any person, other than a motor private carrier, registered with the Secretary to provide transportation or service as a motor carrier under section 13905(b) shall file with the Secretary a bond, insurance policy, or other type of security approved by the Secretary, in an amount not less than required by sections 31138 and 31139.”.

(c) TERMINATION OF TRANSITION RULE.—Section 13902 of such title is amended—

(1) by adding at the end of subsection (d) the following:

“(3) TERMINATION.—This subsection shall cease to be in effect on the transition termination date.”; and

(2) by redesignating subsection (f) as subsection (g), and inserting after subsection (e) the following:

“(f) MODIFICATION OF CARRIER REGISTRATION.—

“(1) IN GENERAL.—On and after the transition termination date, the Secretary—

“(A) may not register a motor carrier under this section as a motor common carrier or a motor contract carrier;

“(B) shall register applicants under this section as motor carriers; and

“(C) shall issue any motor carrier registered under this section after that date a motor carrier certificate of registration that specifies whether the holder of the certificate may provide transportation of persons, household goods, other property, or any combination thereof.

“(2) PRE-EXISTING CERTIFICATES AND PERMITS.—The Secretary shall redesignate any motor carrier certificate or permit issued before the transition termination date as a motor carrier certificate of registration. On and after the transition termination date, any person holding a motor carrier certificate of registration redesignated under this paragraph may provide both contract carriage (as defined in section 13102(4)(B)) and transportation under terms and conditions meeting the requirements of section 13710(a)(1). The Secretary may not, pursuant to any regulation or form issued before or after the transition termination date, make any distinction among holders of motor carrier certificates of registration on the basis of whether the holder would have been classified as a common carrier or as a contract carrier under—

motor carrier to correct erroneous information contained in any part of the Unified Carrier Registration System.

“(d) FEE SYSTEM.—The Secretary shall establish, under section 9701 of title 31, a fee system for the Unified Carrier Registration System according to the following guidelines:

“(1) REGISTRATION AND FILING EVIDENCE OF FINANCIAL RESPONSIBILITY.—The fee for new registrants shall as nearly as possible cover the costs of processing the registration but shall not exceed \$300.

“(2) EVIDENCE OF FINANCIAL RESPONSIBILITY.—The fee for filing evidence of financial responsibility pursuant to this section shall not exceed \$10 per filing. No fee shall be charged for a filing for purposes of designating an agent for service of process or the filing of other information relating to financial responsibility.

“(3) ACCESS AND RETRIEVAL FEES.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the fee system shall include a nominal fee for the access to or retrieval of information from the Unified Carrier Registration System to cover the costs of operating and upgrading the System, including the personnel costs incurred by the Department and the costs of administration of the unified carrier registration agreement.

“(B) EXCEPTIONS.—There shall be no fee charged under this paragraph—

“(i) to any agency of the Federal Government or a State government or any political subdivision of any such government for the access to or retrieval of information and data from the Unified Carrier Registration System for its own use; or

“(ii) to any representative of a motor carrier, motor private carrier, leasing company, broker, or freight forwarder (as each is defined in section 14504a) for the access to or retrieval of the individual information related to such entity from the Unified Carrier Registration System for the individual use of such entity.

“(e) APPLICATION TO CERTAIN INTRASTATE OPERATIONS.—Nothing in this section requires the registration of a motor carrier, a motor private carrier of property, or a transporter of waste or recyclable materials operating exclusively in intrastate transportation not otherwise required to register with the Secretary under another provision of this title.”

**SEC. 4305. REGISTRATION OF MOTOR CARRIERS BY STATES.**

(a) TERMINATION OF REGISTRATION PROVISIONS.—Section 14504, and the item relating to such section in the analysis for chapter 145, of title 49, United States Code, are repealed effective on the first January 1st occurring more than 12 months after the date of enactment of this Act.

(b) UNIFIED CARRIER REGISTRATION SYSTEM PLAN AND AGREEMENT.—Chapter 145 of title 49, United States Code, is amended by inserting after section 14504 the following:

**“§ 14504a. Unified Carrier Registration System plan and agreement**

“(a) DEFINITIONS.—In this section and section 14506, the following definitions apply:

"(8) UNIFIED CARRIER REGISTRATION AGREEMENT.—The terms 'unified carrier registration agreement' and 'UCR agreement' mean the interstate agreement developed under the unified carrier registration plan governing the collection and distribution of registration and financial responsibility information provided and fees paid by motor carriers, motor private carriers, brokers, freight forwarders, and leasing companies pursuant to this section.

"(9) UNIFIED CARRIER REGISTRATION PLAN.—The terms 'unified carrier registration plan' and 'UCR plan' mean the organization of State, Federal, and industry representatives responsible for developing, implementing, and administering the unified carrier registration agreement.

"(10) VEHICLE REGISTRATION.—The term 'vehicle registration' means the registration of any commercial motor vehicle under the International Registration Plan (as defined in section 31701) or any other registration law or regulation of a jurisdiction.

"(b) APPLICABILITY OF PROVISIONS TO FREIGHT FORWARDERS.—A freight forwarder that operates commercial motor vehicles and is not required to register as a carrier pursuant to section 13903(b) shall be subject to the provisions of this section as if the freight forwarder is a motor carrier.

"(c) UNREASONABLE BURDEN.—For purposes of this section, it shall be considered an unreasonable burden upon interstate commerce for any State or any political subdivision of a State, or any political authority of two or more States—

"(1) to enact, impose, or enforce any requirement or standards with respect to, or levy any fee or charge on, any motor carrier or motor private carrier providing transportation or service subject to jurisdiction under subchapter I of chapter 135 (in this section referred to as an 'interstate motor carrier' and an 'interstate motor private carrier', respectively) in connection with—

"(A) the registration with the State of the interstate operations of the motor carrier or motor private carrier;

"(B) the filing with the State of information relating to the financial responsibility of the a motor carrier or motor private carrier pursuant to sections 31138 or 31139;

"(C) the filing with the State of the name of the local agent for service of process of the motor carrier or motor private carrier pursuant to sections 503 or 13304; or

"(D) the annual renewal of the intrastate authority, or the insurance filings, of the motor carrier or motor private carrier, or other intrastate filing requirement necessary to operate within the State if the motor carrier or motor private carrier is—

"(i) registered under section 13902 or section 13905(b); and

"(ii) in compliance with the laws and regulations of the State authorizing the carrier to operate in the State in accordance with section 14501(c)(2)(A); except with respect to—

"(I) intrastate service provided by motor carriers of passengers that is not subject to the preemption provisions of section 14501(a);

directors for initial terms of 2 years, and 5 of the appointed directors for initial terms of 1 year.

“(ii) THEREAFTER.—After the initial term, all directors shall be appointed for terms of 3 years; except that the term of the Deputy Administrator or other individual designated by the Secretary under subparagraph (B)(iv) shall be at the discretion of the Secretary.

“(iii) SUCCESSION.—A director may be appointed to succeed himself or herself.

“(iv) END OF SERVICE.—A director may continue to serve on the board until his or her successor is appointed.

“(2) RULES AND REGULATIONS GOVERNING THE UCR AGREEMENT.—The board of directors shall issue rules and regulations to govern the UCR agreement. The rules and regulations shall—

“(A) prescribe uniform forms and formats, for—

“(i) the annual submission of the information required by a base-State of a motor carrier, motor private carrier, leasing company, broker, or freight forwarder;

“(ii) the transmission of information by a participating State to the Unified Carrier Registration System;

“(iii) the payment of excess fees by a State to the designated depository and the distribution of fees by the depository to those States so entitled; and

“(iv) the providing of notice by a motor carrier, motor private carrier, broker, freight forwarder, or leasing company to the board of the intent of such entity to change its base-State, and the procedures for a State to object to such a change under subparagraph (C);

“(B) provide for the administration of the unified carrier registration agreement, including procedures for amending the agreement and obtaining clarification of any provision of the Agreement;

“(C) provide procedures for dispute resolution under the agreement that provide due process for all involved parties; and

“(D) designate a depository.

“(3) COMPENSATION AND EXPENSES.—

“(A) IN GENERAL.—Except for the representative of the Department appointed under paragraph (1)(B)(iv), no director shall receive any compensation or other benefits from the Federal Government for serving on the board or be considered a Federal employee as a result of such service.

“(B) EXPENSES.—All directors shall be reimbursed for expenses they incur attending meetings of the board. In addition, the board may approve the reimbursement of expenses incurred by members of any subcommittee or task force appointed under paragraph (5) for carrying out the duties of the subcommittee or task force. The reimbursement of expenses to directors and subcommittee and task force members shall be under subchapter II of chapter 57 of title 5, United States Code, governing reimbursement of expenses for travel by Federal employees.

“(B) **SETTING FEES.**—The Secretary shall set the initial annual fees for the next agreement year and any subsequent adjustment of those fees—

“(i) within 90 days after receiving the board’s recommendation under subparagraph (A); and

“(ii) after notice and opportunity for public comment.

“(8) **LIABILITY PROTECTIONS FOR DIRECTORS.**—No individual appointed to serve on the board shall be liable to any other director or to any other party for harm, either economic or non-economic, caused by an act or omission of the individual arising from the individual’s service on the board if—

“(A) the individual was acting within the scope of his or her responsibilities as a director; and

“(B) the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the right or safety of the party harmed by the individual.

“(9) **INAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.**—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the unified carrier registration plan, the board, or its committees.

“(10) **CERTAIN FEES NOT AFFECTED.**—This section does not limit the amount of money a State may charge for vehicle registration or the amount of any fuel use tax a State may impose pursuant to the International Fuel Tax Agreement (as defined in section 31701).

“(e) **STATE PARTICIPATION.**—

“(1) **STATE PLAN.**—No State shall be eligible to participate in the unified carrier registration plan or to receive any revenues derived under the UCR agreement, unless the State submits to the Secretary, not later than 3 years after the date of enactment of the Unified Carrier Registration Act of 2005, a plan—

“(A) identifying the State agency that has or will have the legal authority, resources, and qualified personnel necessary to administer the agreement in accordance with the rules and regulations promulgated by the board of directors; and

“(B) demonstrating that an amount at least equal to the revenue derived by the State from the unified carrier registration agreement shall be used for motor carrier safety programs, enforcement, or the administration of the UCR plan and UCR agreement.

“(2) **AMENDED PLANS.**—A State that submits a plan under this subsection may change the agency designated in the plan by filing an amended plan with the Secretary and the chairperson of the board of directors.

“(3) **WITHDRAWAL OF PLAN.**—If a State withdraws, or notifies the Secretary that it is withdrawing, the plan it submitted under this subsection, the State may no longer participate in the unified carrier registration agreement or receive any portion of the revenues derived under the agreement. The Secretary shall notify the chairperson upon receiving notice from a State that it is withdrawing its plan or withdrawing from the agreement, or both.

paragraph (1) may elect not to include commercial motor vehicles used exclusively in the intrastate transportation of property, waste, or recyclable material.

“(4) PAYMENT OF FEES.—Motor carriers, motor private carriers, leasing companies, brokers, and freight forwarders shall pay all fees required under this section to their base-State pursuant to the UCR Agreement.

“(g) PAYMENT OF FEES.—Revenues derived under the UCR Agreement shall be allocated to participating States as follows:

“(1) A State that participated in the SSRS in the last registration year under the SSRS ending before the date of enactment of the Unified Carrier Registration Act of 2005 and complies with subsection (e) is entitled to receive under this section a portion of the revenues generated under the UCR agreement equivalent to the revenues it received under the SSRS in such last registration year, as long as the State continues to comply with subsection (e).

“(2) A State that collected intrastate registration fees from interstate motor carriers, interstate motor private carriers, or interstate exempt carriers and complies with subsection (e) is entitled to receive under this section an additional portion of the revenues generated under the UCR agreement equivalent to the revenues it received from such carriers in the last calendar year ending before the date of enactment of the Unified Carrier Registration Act of 2005, as long as the State continues to comply with subsection (e).

“(3) States that comply with subsection (e) but did not participate in SSRS during such last registration year shall be entitled under this section to an annual allotment not to exceed \$500,000 from the revenues generated under the UCR agreement, as long as the State continues to comply with the provisions of subsection (e).

“(4) The amount of revenues generated under the UCR agreement to which a State is entitled under this section shall be calculated by the board and approved by the Secretary.

“(h) DISTRIBUTION OF UCR AGREEMENT REVENUES.—

“(1) ELIGIBILITY.—Each State that is in compliance with subsection (e) shall be entitled under this section to a portion of the revenues derived from the UCR Agreement in accordance with subsection (g).

“(2) ENTITLEMENT TO REVENUES.—A State that is in compliance with subsection (e) may retain an amount of the gross revenues it collects from motor carriers, motor private carriers, brokers, freight forwarders and leasing companies under the UCR agreement equivalent to the portion of revenues to which the State is entitled under subsection (g). All revenues a participating State collects in excess of the amount to which the State is so entitled shall be forwarded to the depository designated by the board under subsection (d)(2)(D).

“(3) DISTRIBUTION OF FUNDS FROM DEPOSITORY.—The excess funds deposited in the depository shall be distributed by the board of directors as follows:

“(A) On a pro rata basis to each participating State that did not collect revenues under the UCR agreement equivalent to the amount such State is entitled under subsection (g), except that the sum of the gross revenues collected under the UCR agreement by a participating State

**“§ 14506. Identification of vehicles**

“(a) RESTRICTION ON REQUIREMENTS.—No State, political subdivision of a State, interstate agency, or other political agency of two or more States may enact or enforce any law, rule, regulation standard, or other provision having the force and effect of law that requires a motor carrier, motor private carrier, freight forwarder, or leasing company to display any form of identification on or in a commercial motor vehicle (as defined in section 14504a), other than forms of identification required by the Secretary of Transportation under section 390.21 of title 49, Code of Federal Regulations.

“(b) EXCEPTION.—Notwithstanding subsection (a), a State may continue to require display of credentials that are required—

“(1) under the International Registration Plan under section 31704;

“(2) under the International Fuel Tax Agreement under section 31705;

“(3) under a State law regarding motor vehicle license plates or other displays that the Secretary determines are appropriate;

“(4) in connection with Federal requirements for hazardous materials transportation under section 5103; or

“(5) in connection with the Federal vehicle inspection standards under section 31136.”

(b) CLERICAL AMENDMENT.—The analysis for such chapter is amended by inserting after the item relating to section 14505 the following:

“14506. Identification of vehicles.”

**SEC. 4307. USE OF UCR AGREEMENT REVENUES AS MATCHING FUNDS.**

(a) IN GENERAL.—Section 31103(a) of title 49, United States Code, is amended—

(1) by striking “31102(b)(1)(D)” inserting “31102(b)(1)(E)”; and

(2) by inserting “Amounts generated under the unified carrier registration agreement under section 14504a and received by a State and used for motor carrier safety purposes may be included as part of the State’s share not provided by the United States.” after “United States Government.”

(b) TECHNICAL CORRECTION.—Sections 31102(b)(3) of such title is amended by striking “paragraph (1)(D)” and inserting “paragraph (1)(E)”.

**SEC. 4308. REGULATIONS.**

The Secretary may issue such regulations as the Secretary determines are necessary to carry out this subtitle and the amendments made by this subtitle.

## **Subtitle D—Miscellaneous Provisions**

**SEC. 4401. TECHNICAL ADJUSTMENT.**

(a) DEFINITIONS.—In this section the following definitions:

(1) The term “Administrator” means the Administrator of General Services.

(2) The term “donee” means the corporation to which the Administrator donated the vessel.

This draft modifies fee authority required under Unified Motor Carrier Registration. There may be other provisions of state statutes that need to be updated to reflect that act, particularly as state law relates to private motor carriers, which are subject to UCRA as 'motor private carriers'

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Current federal law prohibits states from enacting or enforcing any requirements relating to registration of the operations or proof of financial responsibility of any interstate commercial motor carrier [119 Stats 1766; 49 USC 14504a(c)]. Instead, federal law creates a "Unified Carrier Registration System" by which motor carriers may register their operations with a single state (instead of with the various states in which they may operate) and pay progressive fees at rates determined by the federal Secretary of Transportation according to the administrative costs associated with the system and the comparative size of the motor carrier's fleet [119 Stats 1771; 49 USC 14504a(d)(7) and (f)(1)]. Under current law, this state registers motor carrier operations for a fee of \$5 per vehicle in a single state insurance registration system created under 49 USC 14504, which Congress repealed by the creation of the unified carrier registration system.

This bill authorizes the department to participate in the federal unified carrier registration system and to impose fees on commercial motor carriers consistent with fees determined by the federal Secretary of Transportation.

FE-S

SECTION #. AM; 194.406

194.405

194.405 ~~Single state insurance~~ Unified carrier registration system. The department may participate in and do all things necessary to implement and administer a ~~single state insurance~~ unified carrier registration system for motor carriers in accordance with 49 USC 13908 and 14504a. The annual fee required under this section for a motor vehicle that is operated in this state and which is subject to the ~~single state insurance~~ unified carrier registration system shall be ~~\$5~~ the amount determined by the federal Secretary of Transportation under 49 USC 14504(d)(7). Upon receiving notice of a change in fees under 49 USC 14504(d)(7), the department shall submit a written request to change fees consistent with that notice to the joint committee on finance and to the appropriate standing committees in the legislature. If the cochairpersons of the joint committee on finance do not notify the secretary within 14 working days after the date of the department's submittal that the joint committee on finance intends to schedule a meeting to review the request, the department shall change fees payable under this section as provided in the request. If, within 14 working days after the date of the department's submittal, the cochairpersons of the joint committee on finance notify the secretary that the joint committee on finance intends to schedule a meeting to review the request, the department shall change fees payable under this section only as approved by that committee.

194.405 - ANNOT.

History: 1993 a. 16; 1999 a. 139.

Initial applicability. The treatment of section 194.405 first applies to applications for registration submitted on the effective date of this subsection.

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Unified Carrier Registration System is created by SAFETEA-LU, PL 109-59, sections 4301-4308, available at <http://www.fhwa.dot.gov/safetealu/>

2007-09 Biennial Budget Issue  
Division of Motor Vehicles  
Implementation of Unified Carrier Registration law  
March 1, 2006

The federal highway reauthorization bill SAFETEA-LU, passed in August 2005, mandates that the Single State Insurance Registration System (SSRS) be replaced by the Unified Carrier Registration system (UCR), a base-state compact for insurance registration of interstate motor carriers.

Under the UCR, insurance registration will be required for private motor carriers operating interstate, as well as for-hire interstate carriers. A governing board of the UCR compact will establish fees that will be consistent throughout the country. A state that participated in SSRS will be able to receive an amount of revenue from UCR fees equal to the average of SSRS fees it received in the three years prior to UCR replacement of SSRS. The national governing board will redistribute fees nationally to assure that each state receive its share of the revenue.

Wisconsin state statute authorizes DOT to participate in the SSRS base state compact. The authorizing language will need to be updated to refer to the UCR. In addition, motor carrier statutes in Ch. 194 will need to be updated to reflect that private motor carriers as well as for hire carriers file proof of insurance with DOT. Finally, authorizing statute in Ch. 194 will need to be updated to reflect the changed fees and fee structure under the UCR, and to give DOT statutory authorization to charge the new fees.

## Gary, Aaron

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**From:** Baetsen, Karen  
**Sent:** Thursday, August 03, 2006 11:47 AM  
**To:** Gary, Aaron; Balinsky, Brett  
**Cc:** Newman, Kenneth; Hammer, Paul; Nilsen, Paul; Niva, Gregory; Galbraith, Timothy; Frazier, Carson; Swissler, John  
**Subject:** RE: update on UCR draft

Aaron, the consensus among DMV and OGC is -----

"If we are only regulating private motor carriers as required by UCR, we should not impose any additional, new requirements on them beyond those required by UCR."

If you have additional questions, please let us know!

-----Original Message-----

**From:** Gary, Aaron [mailto:Aaron.Gary@legis.state.wi.us]  
**Sent:** Tuesday, August 01, 2006 11:28 AM  
**To:** Baetsen, Karen  
**Cc:** Balinsky, Brett  
**Subject:** RE: update on UCR draft

Hi Karen,

The UCR draft is almost finished, but I'm not quite sure to what extent you want to impact private motor carriers. Did you want to simply bring them within the UCR under s. 194.405? Or did you want to require ALL private motor carriers to file proof of insurance, regardless of whether they are intrastate or interstate carriers or filing under UCR (for example, adding private motor carriers to s. 194.41 (1))? Thanks for any guidance you can provide. Aaron

Aaron R. Gary  
*Legislative Attorney*  
*Legislative Reference Bureau*  
608.261.6926 (voice)  
608.264.6948 (fax)  
aaron.gary@legis.state.wi.us

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**From:** Baetsen, Karen  
**Sent:** Friday, June 23, 2006 9:39 AM  
**To:** Gary, Aaron  
**Cc:** Egan, Erin; Frazier, Carson  
**Subject:** update on UCR draft

Hi Aaron,

We are reviewing the REAL ID draft (LRB 4307/1) and the DLA draft (LRB 4848/1). I expect Erin will forward along the team's comments soon.

While we still are waiting for further direction on implementation guidelines and fee structure for the Unified Carrier Registration (UCR) system, were you able to prepare a first draft of adopting UCR, based on the federal language and Paul Nilsen's comments?

We'd like to review that also over the next several months, if possible...Thanks! Karen

### ***Karen Baetsen***

Department of Transportation  
Office of Policy, Budget and Finance  
Room 132B Hill Farms  
608/ 266-0179  
karen.baetsen@dot.state.wi.us

USCS 4/06 supp.

2. **Liability of household goods agents.** (a) Property owner's action against moving company. (b) Alleging breach of contract, intentional misrepresentation, and violation of state consumer protection law. (c) Extension of large added payment from owner under contract, under which company alleged that it was household goods agents for motor carrier transporting Inc. (2005 ND III) 372 F Supp 2d 1076.

**§ 13908. Registration and other reforms.** (a) **Establishment of Unified Carrier Registration System.** The Secretary, in cooperation with the States, representatives of the motor carrier, motor private carrier, freight forwarder, and broker industries and after notice and opportunity for public comment, shall issue within 1 year after the date of enactment of the Unified Carrier Registration Act of 2005 [enacted Aug. 10, 2005] regulations to establish an online Federal registration system, to be named the "Unified Carrier Registration System", to replace—

- (1) the current Department of Transportation identification number system, the single State registration system under section 14504 [49 USCS § 14504];
- (2) the registration system contained in this chapter and the financial responsibility information system under section 13906 [49 USCS § 13906]; and
- (3) the service of process agent systems under sections 503 and 13304 [49 USCS §§ 503 and 13304].

(b) **Role as clearinghouse and depository of information.** The Unified Carrier Registration System shall serve as a clearinghouse and depository of information on, and identification of, all foreign and domestic motor carriers, motor private carriers, brokers, freight forwarders, and others required to register with the Department of Transportation, including information with respect to a carrier's safety rating, compliance with required levels of financial responsibility, and compliance with the provisions of section 14504a [49 USCS § 14504a]. The Secretary shall ensure that Federal agencies, States, representatives of the motor carrier industry, and the public have access to the Unified Carrier Registration System, including the records and information contained in the System.

(c) **Procedures for correcting information.** Not later than 60 days after the effective date of this section [effective Aug. 10, 2005], the Secretary shall prescribe regulations establishing procedures that enable a motor carrier to correct erroneous information contained in any part of the Unified Carrier Registration System.

(d) **Fee system.** The Secretary shall establish, under section 9701 of title 31 [31 USCS § 9701], a fee system for the Unified Carrier Registration System according to the following guidelines:

- (1) Registration and filing evidence of financial responsibility. The fee for new registrants shall be as nearly as possible cover the costs of processing the registration but shall not exceed \$300.
- (2) Evidence of financial responsibility. The fee for filing evidence of financial responsibility pursuant to this section shall not exceed \$10 per filing. No fee shall be charged for a filing for purposes of designating an agent for service of process or the filing of other information relating to financial responsibility.
- (3) Access and retrieval fees. (A) In general. Except as provided in subparagraph (B), the fee system shall include a nominal fee for the access to or retrieval of information from the Unified Carrier Registration System to cover the costs of operating and upgrading the System, including the personnel costs incurred by the Department and the costs of administration of the unified carrier registration agreement.
- (B) Exceptions. There shall be no fee charged under this paragraph—
  - (i) to any agency of the Federal Government or a State government or any political subdivision of any such government for the access to or retrieval of information and data from the Unified Carrier Registration System for its own use; or
  - (ii) to any representative of a motor carrier, motor private carrier, leasing company, broker, or freight forwarder (as each is defined in section 14504a [49 USCS § 14504a]) for the access to or retrieval of the individual information related to such entity from the Unified Carrier Registration System for the individual use of such entity.

(e) **Application to certain intrastate operations.** Nothing in this section requires the registration of a motor carrier, a motor private carrier of property, or a transporter of waste or recyclable materials operating exclusively in intrastate transportation not otherwise required to register with the Secretary under another provision of this title.

(As amended Aug. 10, 2005, P. L. 109-59, Title IV, Subtitle C, § 4304, 119 Stat. 1763.)

**HISTORY: ANCILLARY LAWS AND DIRECTIVES**  
 Amendments: 2005, Act Aug. 10, 2005, substituted this section for one which read:

§ 13908. Registration and other reforms. (a) Regulations replacing certain programs. The Secretary, in cooperation with the States, and after notice and opportunity for public comment, shall issue regulations to replace the current Department of Transportation identification number system, the single State registration system under section 14504, the registration system contained in this chapter, and the financial responsibility information system under section 13906 with a single, on-line, Federal system. The new system shall serve as a clearinghouse and depository of information on and identification of all foreign and domestic motor carriers, brokers, and freight forwarders, and others required to register with the Department as well as information on safety fitness and compliance with required levels of financial responsibility. In issuing the regulations, the Secretary shall consider whether or not to integrate the requirements of section 13304 into the new system and may integrate such requirements into the new system.

- “(b) Factors to be considered. In conducting the rulemaking under subsection (a), the Secretary shall, at a minimum, consider the following factors:
  - “(1) Funding for State enforcement of motor carrier safety regulations.
  - “(2) Whether the existing single State registration system is duplicative and burdensome.
  - “(3) The justification and need for collecting the statutory fee for such system under section 14504(c)(2)(B)(iv).
  - “(4) The public safety.
  - “(5) The efficient delivery of transportation services.
  - “(6) How, and under what conditions, to extend the registration system to motor private carriers and to carriers exempt under sections 13502, 13503, and 13506.

“(c) Fees system. The Secretary may establish, under section 9701 of title 31, a fee system for registration and filing evidence of financial responsibility under the new system under subsection (a). Fees collected under the fee system shall cover the costs of operating and upgrading the registration system, including all personnel costs associated with the system. Fees collected under this subsection may be credited to the Department of Transportation appropriations account for purposes for which such fees are collected, and shall be available for expenditure until expended.

(d) State registration programs. If the Secretary determines that no State should require insurance filings or collect fees for such filings (including filings and fees authorized under section 14504), the Secretary may prevent any State or political subdivision thereof, or any political authority of 2 or more States, from imposing any insurance filing requirements or fees that are for the same purposes as filings or fees the Secretary requires under the new system under subsection (a). The Secretary may not take any action pursuant to this subsection unless—

- “(1) fees that will be collected by the Secretary under subsection (c) and distributed in each fiscal year to the States will provide each State with at least as much revenue as that State received in fiscal year 1995 under section 11506, as in effect on December 31, 1995; and
- “(2) all States will receive from the distribution of such fees a minimum apportionment.

(e) Deadline for conclusion; modifications. Not later than 24 months after January 1, 1996, the Secretary—

- “(1) shall conclude the rulemaking under this section;
- “(2) may implement such changes under this section as the Secretary considers appropriate and in the public interest; and
- “(3) shall transmit to Congress a report on any findings of the rulemaking and the changes being implemented under this section, together with such recommendations for legislative language necessary to conform this part to such changes.”

**CHAPTER 141. OPERATIONS OF CARRIERS**

**SUBCHAPTER I. GENERAL REQUIREMENTS**

**§ 14101. Providing transportation and service**

**7. State and local regulation**

**I. IN GENERAL**

**1. Generally**

Where defendants violated truth-in-leasing regulations by failing to return escrow funds collected from independent truck owner-operators, defendants were not entitled to reconsideration based on new opinion from different circuit, and district court found that provisions of Interstate Commerce Commission Termination Act relied upon by owner-operators had no retroactive effect. *Owner-Operator Indep. Drivers Ass'n v Arctic Express, Inc.* (2003, SD Ohio) 288 F Supp 2d 895.

Contracts between carriers and shippers under 49 USCS § 14101(b)(1) are governed by state law, and § 14101(b)(1) does not create federal mandate that all contracts between carriers and shippers be in writing, as any statute of frauds requirement would be governed by applicable state law; limited writing requirement of § 14101(b)(1) only applies to waiver of federal obligations and remedies and not to overall contract between parties. *Mastercraft Interiors, Ltd. v ABF Freight Sys.* (2004, DC Md) 350 F Supp 2d 686. Summary judgment was not appropriate where alleged oral contract between carrier and shipper under

## INTERPRETIVE NOTES AND DECISIONS

## I. IN GENERAL

**2. Purpose.** § 14501 is modeled after preemption provisions of the Airline Deregulation Act and closely parallels it, and such provision is specifically concerned with state economic regulation. *Omyia, Inc. v. Vermont* (2002, CA2 Vt) 33 Fed Appx 581, 32 ELR 20652.

49 USCS § 14501 aims to preempt state economic regulation only and does not preempt *Vt. Stat. Ann. tit. 10, § 6001-6108* or non-economic regulation promulgated to restrict number of daily round-trips permitted by tractor-trailer trucks through Vermont town. *Omyia, Inc. v. Vermont* (2002, CA2 Vt) 33 Fed Appx 581, 32 ELR 20652.

In case in which motor carrier sued corporation for money allegedly still owing under transportation contract, court rejected corporation's claim that 49 USCS § 14501(c) expressly forbade state law claims, and court was unable to find any support for idea that Congress intended to create federal cause of action for claims in § 14501(c)(1). *Cent. Transp. Int'l v. Sterling Seating, Inc.* (2005, ED Mich) 356 F.Supp.2d 786.

## 4. State and local authority

Because Wash. Rev. Code § 46.55.105 did not impose any requirements on towing/storing companies or influence their prices, routes, or service, statute was not preempted under Interstate Commerce Act (ICA). 49 USCS § 14501(c)(1). ICA contained specific exception for non-consensual towing that allowed state to enact regulations that related to price of for-hire motor vehicle transportation by tow truck. 49 USCS § 14501(c)(2)(C), and because remaining challenged regulations all related to non-consensual towing, they were not preempted. *Indep. Towers of Wash. v. Washington* (2003, CA9 Wash) 350 F3d 925, 2003 CDOS 9899.

State statutes, which permitted municipalities to enact regulations restricting size and weight of motor carriers of property, even if regulations were unrelated to safety concerns, were not preempted by Federal Aviation Administration Authorization Act. 49 USCS § 14501(c)(1). *Cal. Dump Truck Owners Ass'n v. Davis* (2002, ED Cal) 302 F.Supp.2d 1139.

State may delegate to its municipalities authority to enact and enforce size and weight restrictions on their streets. *Cal. Dump Truck Owners Ass'n v. Davis* (2002, ED Cal) 302 F.Supp.2d 1139.

Three provisions of Maine's Tobacco Delivery Law—*Me. Stat. Ann. tit. 22, §§ 1555-C(3)(A), 1555-C(3)(C), and 1555-D*—were not facially preempted by Federal Aviation Administration Authorization Act of 1994. *Federal law did not completely foreclose state from exercising its traditional police powers to restrict delivery of tobacco.* *N.H. Motor Transp. Ass'n v. Rowe* (2004, DC Me) 301 F.Supp.2d 38.

## 7. Tow trucks and towing

*Cal. Veh. Code* § 22658(1)(1) was not preempted by Federal Aviation Administration Authorization Act of 1994. 49 USCS § 14501 et seq., as subsequent legislative amendments clarified that act was safety related and was intended to protect public from towing mistakes and theft; as result, statute fell under 49 USCS § 14501(c)(2)(A). *Tillison v. City of San Diego* (2005, CA9 Cal) 406 F3d 1126.

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tion Equity Act. A Legacy for Users, Pub. L. No. 109-59, 119 Stat. 1144 (2005), added another regulatory exception to 49 USCS § 14501(c), part of Federal Aviation Administration Authorization Act of 1994 (FAAAA), 49 USCS §§ 14501-14505, so that FAAAA now explicitly permits States to regulate non-consensual towing of vehicles illegally parked on private property; thus, for vehicles parked on private property, this new regulatory exception to 49 USCS § 14501(c) of FAAAA makes it clear that Wash. Rev. Code § 46.55.080(2) is not preempted as to vehicles parked on private property. *Tillison v. Gregoire* (2005, CA9 Wash) 424 F3d 1093.

District court properly granted summary judgment in favor of State of Washington in registered tow truck operator's declaratory action challenging Wash. Rev. Code § 46.55.080(2). *Wash. Rev. Code* § 46.55.080(2) was not preempted under 49 USCS § 14501(c)(1), part of Federal Aviation Administration Authority Act of 1994. 49 USCS § 14501 et seq., because Wash. Rev. Code § 46.55.080(2) was not "related to" prices and routes, had only indirect effect on services that towing company could provide, and was enacted under motor vehicle safety-related authority of State of Washington. *Tillison v. Gregoire* (2005, CA9 Wash) 424 F3d 1093.

In action by vehicle repossession business against city, city department of consumer affairs, and department commissioner, alleging that city ordinance licensing tow truck operators to obtain towing license violated its constitutional rights. *Rooker-Feldman doctrine did not preclude business' U.S. Const. art. I, § 8, cl. 3 claim because, in its prior state proceeding against city, department, and commissioner, state court's determination that 49 USCS § 14501(c)(1) did not preempt city's ordinance was not material to business' U.S. Const. art. I, § 8, cl. 3 claim in instant action.* *L.A.M. Recovery, Inc. v. Dep't of Consumer Affairs* (2005, SD NY) 377 F.Supp.2d 429.

## III. PARTICULAR MATTERS SUBJECT TO FEDERAL AUTHORITY

## 13. Classifications

To extent that Cal. Veh. Code § 21101(c) extends authority to enact regulation related to price, route, or services of any motor carrier that is not based on safety concern or size or weight restriction, it is preempted by 49 USCS § 14501(c)(1). *Cal. Dump Truck Owners Ass'n v. Davis* (2002, ED Cal) 302 F.Supp.2d 1139.

## 16. Miscellaneous

Out of State Registration Law, N.J. Stat. Ann. § 39-3-19.6, is preempted by 49 USCS § 14501(b), part of Real Interstate Driver Act (RIDE Act), at least to extent that state statute applies to for-hire vehicles covered by RIDE Act, where (1) Congress's intent to prevent states from requiring car services to purchase additional permits in order to provide service between states, is clearly apparent in RIDE Act; (2) state law is broadly drafted to encompass all out-of-state for-hire vehicles; and thus imposes fee on vehicles that fall under protection of RIDE Act; and (3) with regard to vehicles that meet criteria of RIDE Act, compliance with both RIDE Act and state law is impossible, and imposition of additional state licensing fees on such vehicles, as required by state statute, clearly conflicts with goal of RIDE Act. *Black Car Assistance Corp. v. State* (2004, DC.NJ) 351 F.Supp.2d 284.

State and its Motor Vehicle Commission were

## INTERSTATE TRANSPORTATION

permanently enjoined from enforcing provisions of Out of State Registration Law, N.J. Stat. Ann. § 39-3-19.6, against trade association and its members, lively dispatch companies that provided prearranged ground transportation to passengers going into and out of New Jersey, state law was preempted by 49 USCS § 14501(d), part of Real Interstate Driver Act (RIDE Act), at least to extent that state statute applied to for-hire vehicles covered by RIDE Act. *Black Car Assistance Corp. v. State* (2004, DC.NJ) 351 F.Supp.2d 284.

*Me. Rev. Stat. tit. 22, § 1555-D* was preempted by 49 USCS §§ 14501(c)(1), 41713(b)(4)(A), which were enacted pursuant to Congress's authority under Interstate Commerce Clause, because statute dealt with transportation of property, had some effect on carrier's "services" where lack of uniformity in delivery practices interfered with orderly flow of packages, and expressly referenced carriers' services where, although *Me. Rev. Stat. tit. 22, § 1555-D* used general language "a person," it expressly referenced service that carriers provide (transportation of property). *N.H. Motor Transp. Ass'n v. Rowe* (2005, DC Me) 377 F.Supp.2d 197.

*Me. Rev. Stat. tit. 22, § 1555-C(3)(C)* was preempted by 49 USCS §§ 14501(c)(1), 41713(b)(4)(A), under Interstate Commerce Clause, because statute dealt with transportation of property, had some effect on carrier's "services" where lack of uniformity in delivery practices interfered with orderly flow of packages; and impermissibly affected carriers' services where it resulted in carrier having to identify contents of package to determine whether it must impose delivery conditions listed in statute; however, § 1555-C(3)(A) was not preempted because it only resulted in carrier receiving information about par-

§ 14503. Withholding State and local income tax by certain carriers

## INTERPRETIVE NOTES AND DECISIONS

Because transfer of food by food bank to other nonprofit agencies was sale under 49 USCS § 13102(13)(C) food bank qualified as motor private carrier under 49 USCS § 14503(a)(1); consequently,

§ 14504. Registration of motor carriers by a State [Caution: See prospective amendment note below.]

## HISTORY; ANCILLARY LAWS AND DIRECTIVES

Prospective amendments:  
Repeal of section, effective Jan. 1, 2007. Act Aug. 10, 2005, P. L. 109-59, Title IV, Subtitle C, § 4305(a), 119 Stat. 1764, provides that this section is repealed effective on the first January 1st occurring more than 12 months after the date of enactment of such Act.

## INTERPRETIVE NOTES AND DECISIONS

## 1. Effect on state requirements

Federal Single State Registration System statute, 49 USCS § 14504(b), does not preempt § 100 fee requirement in Mich. Comp. Laws Ann. § 478.2(2), because state fee requirement is not kind of "State registration requirement" to which federal statute refers. *Mid-Con Freight Sys. v. Mich. PSC* (2005, US) 162 L.Ed.2d 418, 125 S.Ct. 2427, 18 FLW Fed. S. 427. Reference to text, historical context, and purpose discloses that words "State registration requirement" do not apply to every State registration requirement that happens to cover interstate carriers, nor to every such requirement specifically focused on trucking operation's interstate character; rather, they apply only to those state requirements that concern Single State Registration System (SSRS) registration—that is, registration with State of evidence that carrier possesses Federal Permit, registration of proof of insurance, or registration of name of agent for service of process; thus, federal provision preempts only those state requirements that (1) concern subject matter of SSRS and (2) are "in excess" of requirements that SSRS imposes in respect to that subject matter. *Mid-Con Freight Sys. v. Mich. PSC* (2005, US) 162 L.Ed.2d 418, 125 S.Ct. 2427, 18 FLW Fed. S. 427.

chaser's age but did not require carrier to do anything with information. *N.H. Motor Transp. Ass'n v. Rowe* (2005, DC Me) 377 F.Supp.2d 197.

## IV. PRACTICE AND PROCEDURE

## 17. Jurisdiction

Although customer's action against shipping company seeking damages after customer's insured package was lost appeared to be simple contract dispute governed by state law, controlling preemptive statutes, 49 USCS §§ 14501(c)(1) and 41713(b)(4)(A), precluded enactment or enforcement of state laws related to price, route or service of motor carriers and inter-modal ground/air carriers such as shipper; thus, dispute was properly adjudicated pursuant to district court's federal question jurisdiction. *E. J. Rogers, Inc. v. UPS* (2004, SD Ind) 338 F.Supp.2d 935.

## 26. Findings

## 27. —Particular cases

In challenge of state statute that made it unlawful to ship cigarettes directly to state consumers, plaintiff Native American smoke shop owners were unlikely to establish preemption by Federal Aviation Administration Authorization Act. *Ward v. New York* (2003, WD NY) 291 F.Supp.2d 188.

Maine Attorney General's motion to dismiss for lack of associational standing "as applied" challenge to provisions of Maine's Tobacco Delivery Law, was denied; discovery burdens due to absence of nonparty member, whose experience with challenged provisions was providing basis for "as applied" challenge, were not sufficient to overcome associational standing and to require nonparty to prosecute lawsuit instead of carrier associations who relied on 49 USCS § 14501(c)(1). *N.H. Motor Transp. Ass'n v. Rowe* (2004, DC Me) 324 F.Supp.2d 221.

§ 14504a. **Unified Carrier Registration System plan and agreement**

(a) **Definitions.** In this section and section 14506 [49 USCS § 14506], the following definitions apply:

- (1) Commercial motor vehicle. (A) In general. Except as provided in subparagraph (B), the term "commercial motor vehicle" has the meaning such term has under section 31101 [49 USCS § 31101].
  - (B) Exception. With respect to a motor carrier required to make any filing or pay any fee to a State with respect to the motor carrier's authority or insurance related to operation within such State, the motor carrier shall have the option to include, in addition to commercial motor vehicles as defined in subparagraph (A), any self-propelled vehicle used on the highway in commerce to transport passengers or property for compensation regardless of the gross vehicle weight rating of the vehicle or the number of passengers transported by such vehicle.
  - (2) Base-State. (A) In general. Subject to subparagraph (B), the term "base-State" means, with respect to a unified carrier registration agreement, a State—
    - (i) that is in compliance with the requirements of subsection (e); and
    - (ii) in which the motor carrier, motor private carrier, broker, freight forwarder, or leasing company to which the agreement applies maintains its principal place of business.
  - (B) Designation of base-State. A motor carrier, motor private carrier, broker, freight forwarder, or leasing company may designate another State in which it maintains an office or operating facility to be its base-State in the event that—
    - (i) the State in which the motor carrier, motor private carrier, broker, freight forwarder, or leasing company maintains its principal place of business is not in compliance with the requirements of subsection (e); or
    - (ii) the motor carrier, motor private carrier, broker, freight forwarder, or leasing company does not have a principal place of business in the United States.
  - (3) Intrastate fee. The term "intrastate fee" means any fee, tax, or other type of assessment, including per vehicle fees and gross receipts taxes, imposed on a motor carrier or motor private carrier for the renewal of the intrastate authority or insurance filings of such carrier with a State.
  - (4) Leasing company. The term "leasing company" means a lessor that is engaged in the business of leasing or renting for compensation motor vehicles without drivers to a motor carrier, motor private carrier, or freight forwarder.
  - (5) Motor carrier. The term "motor carrier" includes all carriers that are otherwise exempt from this part under subchapter I of chapter 135 [49 USCS §§ 13501 et seq.] or exemption actions by the former Interstate Commerce Commission under this title.
  - (6) Participating State. The term "participating State" means a State that has complied with the requirements of subsection (e).
  - (7) SSRS. The term "SSRS" means the single state registration system in effect on the date of enactment of this section [enacted Aug. 10, 2005].
  - (8) Unified carrier registration agreement. The terms "unified carrier registration agreement" and "UCR agreement" mean the interstate agreement developed under the unified carrier registration plan governing the collection and distribution of registration and financial responsibility information provided and fees paid by motor carriers, motor private carriers, brokers, freight forwarders, and leasing companies pursuant to this section.
  - (9) Unified carrier registration plan. The terms "unified carrier registration plan" and "UCR plan" mean the organization of State, Federal, and industry representatives responsible for developing, implementing, and administering the unified carrier registration agreement.
  - (10) Vehicle registration. The term "vehicle registration" means the registration of any commercial motor vehicle under the International Registration Plan (as defined in section 31701 [49 USCS § 31701]) or any other registration law or regulation of a jurisdiction.
- (b) **Applicability of provisions to freight forwarders.** A freight forwarder that operates commercial motor vehicles and is not required to register as a carrier pursuant to section 13903(b) [49 USCS § 13903(b)] shall be subject to the provisions of this section as if the freight forwarder is a motor carrier.
- (c) **Unreasonable burden.** For purposes of this section, it shall be considered an unreasonable burden upon interstate commerce for any State or any political subdivision of a State, or any political authority of two or more States—
- (1) to enact, impose, or enforce any requirement or standards with respect to, or levy any fee or charge on, any motor carrier or motor private carrier providing transportation or service subject to jurisdiction under subchapter I of chapter 135 [49 USCS §§ 13501 et seq.] (in this section referred to as an "interstate motor carrier" and an "interstate motor private carrier" respectively) in connection with—
    - (A) the registration with the State of the interstate operations of the motor carrier or motor private carrier;

(B) the filing with the State of information relating to the financial responsibility of the motor carrier or motor private carrier pursuant to sections 31138 or 31139 [49 USCS § 31138 or 31139];

(C) the filing with the State of the name of the local agent for service of process of the motor carrier or motor private carrier pursuant to sections 503 or 13304 [49 USCS §§ 503 or 13304]; or

(D) the annual renewal of the intrastate authority, or the insurance filings, of the motor carrier or motor private carrier, or other intrastate filing requirement necessary to operate within the State if the motor carrier or motor private carrier is—

(i) registered under section 13902 or section 13905(b) [49 USCS § 13902 or § 13905(b)]; and

(ii) in compliance with the laws and regulations of the State authorizing the carrier to operate in the State in accordance with section 14501(c)(2)(A) [49 USCS § 14501(c)(2)(A)]; except with respect to—

(i) intrastate service provided by motor carriers of passengers that is not subject to the preemption provisions of section 14501(a) [49 USCS § 14501(a)];

(ii) motor carriers of property, motor private carriers, brokers, or freight forwarders, or their services or operations, that are described in subparagraphs (B) and (C) of section 14501(c)(2) [USCS § 14501(c)(2)];

(iii) the intrastate transportation of waste or recyclable materials by any carrier; or

(2) to require any interstate motor carrier or motor private carrier that also performs intrastate operations to pay any fee or tax which a carrier engaged exclusively in interstate operations is exempt.

(d) **Unified carrier registration plan.** (1) Board of directors. (A) Governance of plan; establishment. The unified carrier registration plan shall have a board of directors consisting of representatives of the Department of Transportation, participating States, and the motor carrier industry. The Secretary shall establish the board.

(B) Composition. The board shall consist of 15 directors appointed by the Secretary as follows:

(i) Federal Motor Carrier Safety Administration. One director from each of the Federal Motor Carrier Safety Administration's 4 service areas (as those areas were defined by the Federal Motor Carrier Safety Administration on January 1, 2005) from among the chief administrative officers of the State agencies responsible for overseeing the administration of the UCR agreement.

(ii) State agencies. Five directors from the professional staffs of State agencies responsible for overseeing the administration of the UCR agreement in their respective States. Nominees for these 5 directorships shall be submitted to the Secretary by the national association of professional employees of the State agencies responsible for overseeing the administration of the UCR agreement in their respective States.

(iii) Motor carrier industry. Five directors from the motor carrier industry. At least 1 of the appointees under this clause shall be a representative of a national trade association representing the general motor carrier or property industry. At least 1 of the appointees under this clause shall represent a motor carrier that falls within the smallest fleet fee bracket.

(iv) Department of Transportation. The Deputy Administrator of the Federal Motor Carrier Safety Administration, or such other presidential appointee from the Department, as the Secretary may appoint.

(C) Chairperson and vice-chairperson. The Secretary shall designate 1 director as chairperson and 1 director as vice-chairperson of the board. The chairperson and vice-chairperson shall serve in such capacity for the term of their appointment as directors.

(D) Terms. (i) Initial terms. In appointing the initial board, the Secretary shall designate 5 of the appointed directors for initial terms of 3 years, 5 of the appointed directors for initial terms of 2 years, and 5 of the appointed directors for initial terms of 1 year.

(ii) Thereafter. After the initial term, all directors shall be appointed for terms of 3 years; except that the term of the Deputy Administrator or other individual designated by the Secretary under subparagraph (B)(iv) shall be at the discretion of the Secretary.

(iii) Succession. A director may be appointed to succeed himself or herself.

(iv) End of service. A director may continue to serve on the board until his or her successor is appointed.

(2) Rules and regulations governing the UCR agreement. The board of directors shall issue rules and regulations to govern the UCR agreement. The rules and regulations shall—

(A) prescribe uniform forms and formats, for—

- (i) the annual submission of the information required by a base-State of a motor carrier, motor private carrier, leasing company, broker, or freight forwarder;

- (ii) the transmission of information by a participating State to the Unified Carrier Registration System;
- (iii) the payment of excess fees by a State to the designated depository and the distribution of fees by the depository to those States so entitled; and
- (iv) the providing of notice by a motor carrier, motor private carrier, broker, freight forwarder, or leasing company to the board of the intent of such entity to change its base-State, and the procedures for a State to object to such a change under subparagraph (C).
- (B) provide for the administration of the unified carrier registration agreement, including procedures for amending the agreement and obtaining clarification of any provision of the Agreement;
- (C) provide procedures for dispute resolution under the agreement that provide due process for all involved parties; and
- (D) designate a depository.
- (3) Compensation and expenses. (A) In general. Except for the representative of the Department appointed under paragraph (1)(B)(iv) no director shall receive any compensation or other benefits from the Federal Government for serving on the board or be considered a Federal employee as a result of such service.
- (B) Expenses. All directors shall be reimbursed for expenses they incur attending meetings of the board. In addition, the board may approve the reimbursement of expenses incurred by members of any subcommittee or task force appointed under paragraph (5) for carrying out the duties of the subcommittee or task force. The reimbursement of expenses to directors and subcommittee and task force members shall be under subchapter II of chapter 57 of title 5, United States Code [49 USCS §§ 5721 et seq.], governing reimbursement of expenses for travel by Federal employees.
- (4) Meetings. (A) In general. The board shall meet at least once per year. Additional meetings may be called, as needed, by the chairperson of the board, a majority of the directors, or the Secretary.
- (B) Quorum. A majority of directors shall constitute a quorum.
- (C) Voting. Approval of any matter before the board shall require the approval of a majority of all directors present at the meeting.
- (D) Open meetings. Meetings of the board and any subcommittees or task forces appointed under paragraph (5) shall be subject to the provisions of section 552b of title 5 [5 USCS § 552b].
- (5) Subcommittees. (A) Industry advisory subcommittee. The chairperson shall appoint an industry advisory subcommittee. The industry advisory subcommittee shall consider any matter before the board and make recommendations to the board.
- (B) Other subcommittees. The chairperson shall appoint an audit subcommittee, a dispute resolution subcommittee, and any additional subcommittees and task forces that the board determines to be necessary.
- (C) Membership. The chairperson of each subcommittee shall be a director. The other members of subcommittees and task forces may be directors or nondirectors.
- (D) Representation on subcommittees. Except for the industry advisory subcommittee (the membership of which shall consist solely of representatives of entities subject to the fee requirements of subsection (f)), each subcommittee and task force shall include representatives of the participating States and the motor carrier industry.
- (6) Delegation of authority. The board may contract with any person or any agency of a State to perform administrative functions required under the unified carrier registration agreement, but may not delegate its decision or policy-making responsibilities.
- (7) Determination of fees. (A) Recommendation by board. The board shall recommend to the Secretary the initial annual fees to be assessed carriers, leasing companies, brokers, and freight forwarders under the unified carrier registration agreement. In making its recommendation to the Secretary for the level of fees to be assessed in any agreement year, and in setting the fee level, the board and the Secretary shall consider—
- the administrative costs associated with the unified carrier registration plan and the agreement;
  - whether the revenues generated in the previous year and any surplus or shortage from that or prior years enable the participating States to achieve the revenue levels set by the board; and
  - the provisions governing fees under subsection (f)(1).
- (B) Setting fees. The Secretary shall set the initial annual fees for the next agreement year and any subsequent adjustment of those fees—
- within 90 days after receiving the board's recommendation under subparagraph (A); and

(ii) after notice and opportunity for public comment.

(8) Liability protections for directors. No individual appointed to serve on the board shall be liable to any other director or to any other party for harm, either economic or non-economic, caused by an act or omission of the individual arising from the individual's service on the board if—

(A) the individual was acting within the scope of his or her responsibilities as a director; and

(B) the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the right or safety of the party harmed by the individual.

(9) Inapplicability of Federal Advisory Committee Act. The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the unified carrier registration plan, the board, or its committees.

(10) Certain fees not affected. This section does not limit the amount of money a State may charge for vehicle registration or the amount of any fuel use tax a State may impose pursuant to the International Fuel Tax Agreement (as defined in section 31701 [49 USCS § 31701]).

(e) State participation. (1) State plan. No State shall be eligible to participate in the unified carrier registration plan or to receive any revenues derived under the UCR agreement, unless the State submits to the Secretary, not later than 3 years after the date of enactment of the Unified Carrier Registration Act of 2005 [enacted Aug. 10, 2005], a plan—

(A) identifying the State agency that has or will have the legal authority, resources, and qualified personnel necessary to administer the agreement in accordance with the rules and regulations promulgated by the board of directors; and

(B) demonstrating that an amount at least equal to the revenue derived by the State from the unified carrier registration agreement shall be used for motor carrier safety programs, enforcement, or the administration of the UCR plan and UCR agreement.

(2) Amended plans. A State that submits a plan under this subsection may change the agency designated in the plan by filing an amended plan with the Secretary and the chairperson of the board of directors.

(3) Withdrawal of plan. If a State withdraws, or notifies the Secretary that it is withdrawing, the plan it submitted under this subsection, the State may no longer participate in the unified carrier registration agreement or receive any portion of the revenues derived under the agreement. The Secretary shall notify the chairperson upon receiving notice from a State that it is withdrawing its plan or withdrawing from the agreement, or both.

(4) Termination of eligibility. If a State fails to submit a plan to the Secretary in accordance with paragraph (1) or withdraws its plan under paragraph (3), the State may not submit or resubmit a plan or participate in the agreement.

(5) Provision of plan to chairperson. The Secretary shall provide a copy of each plan submitted under this subsection to the chairperson of the board of directors not later than 10 days after date of submission of the plan.

(f) Contents of unified carrier registration agreement. The unified carrier registration agreement shall provide the following:

(1) Fees. (A) Fees charged—

(i) to a motor carrier, motor private carrier, or freight forwarder in connection with the filing of proof of financial responsibility under the UCR agreement shall be based on the number of commercial motor vehicles owned or operated by the motor carrier, motor private carrier, or freight forwarder; and

(ii) to a broker or leasing company in connection with such a filing shall be equal to the smallest fee charged to a motor carrier, motor private carrier, and freight forwarder or under this paragraph.

(B) The fees shall be determined by the Secretary based upon the recommendation of the board under subsection (d)(7).

(C) The board shall develop for purposes of charging fees no more than 6 and no less than 4 brackets of carriers (including motor private carriers) based on the size of fleet.

(D) The fee scale shall be progressive in the amount of the fee.

(E) The board may ask the Secretary to adjust the fees within a reasonable range on an annual basis if the revenues derived from the fees—

(i) are insufficient to provide the revenues to which the States are entitled under this section; or

(ii) exceed those revenues.

(2) Determination of ownership or operation. For purposes of this subsection, a commercial motor vehicle is owned or operated by a motor carrier, motor private carrier, or freight forwarder if the vehicle is registered under Federal law or State law, or both, in the name of

the motor carrier, motor private carrier, or freight forwarder or is controlled by the motor carrier, motor private carrier, or freight forwarder under a long term lease during a vehicle registration year.

(3) Calculation of number of commercial motor vehicles owned or operated. The number of commercial motor vehicles owned or operated by a motor carrier, motor private carrier, or freight forwarder for purposes of paragraph (1) shall be based either on the number of commercial motor vehicles the motor carrier, motor private carrier, or freight forwarder has indicated it operates on its most recently filed MCS-150 or the total number of such vehicles it owned or operated for the 12-month period ending on June 30 of the year immediately prior to the registration year of the Unified Carrier Registration System. A motor carrier may include in the calculation of its fleet size for purposes of paragraph (1) any commercial motor vehicle. Motor carriers and motor private carriers in the calculation of their fleet size for purposes of paragraph (1) may elect not to include commercial motor vehicles used exclusively in the intrastate transportation of property, waste, or recyclable material.

(4) Payment of fees. Motor carriers, motor private carriers, leasing companies, brokers, and freight forwarders shall pay all fees required under this section to their base-State pursuant to the UCR Agreement.

(g) **Payment of fees.** Revenues derived under the UCR Agreement shall be allocated to participating States as follows:

(1) A State that participated in the SSRS in the last registration year under the SSRS ending before the date of enactment of the Unified Carrier Registration Act of 2005 and complies with subsection (e) is entitled to receive under this section a portion of the revenues generated under the UCR agreement equivalent to the revenues it received under the SSRS in such last registration year, as long as the State continues to comply with subsection (e).

(2) A State that collected intrastate registration fees from interstate motor carriers, interstate motor private carriers, or interstate exempt carriers and complies with subsection (e) is entitled to receive under this section an additional portion of the revenues generated under the UCR agreement equivalent to the revenues it received from such carriers in the last calendar year ending before the date of enactment of the Unified Carrier Registration Act of 2005 [enacted Aug. 10, 2005], as long as the State continues to comply with subsection (e).

(3) States that comply with subsection (e) but did not participate in SSRS during such last registration year shall be entitled under this section to an annual allotment not to exceed \$500,000 from the revenues generated under the UCR agreement, as long as the State continues to comply with the provisions of subsection (e).

(4) The amount of revenues generated under the UCR agreement to which a State is entitled under this section shall be calculated by the board and approved by the Secretary.

(h) **Distribution of UCR agreement revenues.** (1) Eligibility. Each State that is in compliance with subsection (e) shall be entitled under this section to a portion of the revenues derived from the UCR Agreement in accordance with subsection (g).

(2) Entitlement to revenues. A State that is in compliance with subsection (e) may retain an amount of the gross revenues it collects from motor carriers, motor private carriers, brokers, freight forwarders and leasing companies under the UCR agreement equivalent to the portion of revenues to which the State is entitled under subsection (g). All revenues a participating State collects in excess of the amount to which the State is so entitled shall be forwarded to the depository designated by the board under subsection (d)(2)(D).

(3) Distribution of funds from depository. The excess funds deposited in the depository shall be distributed by the board of directors as follows:

(A) On a pro rata basis to each participating State that did not collect revenues under the UCR agreement equivalent to the amount such State is entitled under subsection (g), except that the sum of the gross revenues collected under the UCR agreement by a participating State and the amount distributed to it from the depository shall not exceed the amount to which the State is entitled under subsection (g).

(B) After all distributions under subparagraph (A) have been made, to pay the administrative costs of the UCR plan and the UCR agreement.

(4) Retention of certain excess funds. Any excess funds held by the depository after distributions and payments under paragraphs (3)(A) and (3)(B) shall be retained in the depository, and the fees charged under the UCR agreement to motor carriers, motor private carriers, leasing companies, freight forwarders, and brokers for the next fee year shall be reduced by the Secretary accordingly.

(i) **Enforcement.** (1) Civil actions. Upon request by the Secretary, the Attorney General may bring a civil action in the United States district court described in paragraph (2) to enforce an order issued to require compliance with this section and with the terms of the UCR agreement.

(2) Venue. An action under this section may be brought only in a United States district court in the State in which compliance with the order is required.

(3) Relief. Subject to section 1341 of title 28 [28 USCS § 1341], the court, on a proper showing shall issue a temporary restraining order or a preliminary or permanent injunction requiring that the State or any person comply with this section.

(4) Enforcement by States. Nothing in this section—

(A) prohibits a participating State from issuing citations and imposing reasonable fines and penalties pursuant to the applicable laws and regulations of the State on any motor carrier, motor private carrier, freight forwarder, broker, or leasing company for failure to—

(i) submit information documents as required under subsection (d)(2); or

(ii) pay the fees required under subsection (f); or

(B) authorizes a State to require a motor carrier, motor private carrier, or freight forwarder to display as evidence of compliance any form of identification in excess of those permitted under section 14506 [49 USCS § 14506] on or in a commercial motor vehicle.

(j) **Application to intrastate carriers.** Notwithstanding any other provision of this section, a State may elect to apply the provisions of the UCR agreement to motor carriers and motor private carriers and freight forwarders subject to its jurisdiction that operate solely in intrastate commerce within the borders of the State.

(Added Aug. 10, 2005, P. L. 109-59, Title IV, Subtitle C, § 4305(b), 119 Stat. 1764.)

#### § 14506. Identification of vehicles

(a) **Restriction on requirements.** No State, political subdivision of a State, interstate agency, or other political agency of two or more States may enact or enforce any law, rule, regulation standard, or other provision having the force and effect of law that requires a motor carrier, motor private carrier, freight forwarder, or leasing company to display any form of identification on or in a commercial motor vehicle (as defined in section 14504a [49 USCS § 14504a]), other than forms of identification required by the Secretary of Transportation under section 390.21 of title 49, Code of Federal Regulations.

(b) **Exception.** Notwithstanding subsection (a), a State may continue to require display of credentials that are required—

(1) under the International Registration Plan under section 31704 [49 USCS § 31704];

(2) under the International Fuel Tax Agreement under section 31705 [49 USCS § 31705];

(3) under a State law regarding motor vehicle license plates or other displays that the Secretary determines are appropriate;

(4) in connection with Federal requirements for hazardous materials transportation under section 5103 [49 USCS § 5103]; or

(5) in connection with the Federal vehicle inspection standards under section 31136 [49 USCS § 31136].

(Added Aug. 10, 2005, P. L. 109-59, Title IV, Subtitle C, § 4306(a), 119 Stat. 1773.)

## CHAPTER 147. ENFORCEMENT; INVESTIGATIONS; RIGHTS; REMEDIES

### Section

14710. Enforcement of Federal laws and regulations with respect to transportation of household goods

14711. Enforcement by State attorneys general

### HISTORY; ANCILLARY LAWS AND DIRECTIVES

#### Amendments:

2005. Act Aug. 10, 2005, P. L. 109-59, Title IV, Subtitle B, § 4206(c), 119 Stat. 1757, amended the analysis of this chapter by adding items 14710 and 14711.

### § 14701. General authority

### HISTORY; ANCILLARY LAWS AND DIRECTIVES

#### Other provisions:

Consumer complaint information. Act Aug. 10, 2005, P. L. 109-59, Title IV, Subtitle B, § 4214, 119 Stat. 1759, provides:

“(a) Establishment of system. Not later than 1 year after the date of enactment of this Act, the Secretary shall—

“(1) establish (A) a system for filing and logging consumer complaints relating to household goods motor carriers for the purpose of compiling or linking complaint information gathered by the Department of Transportation and the States with regard to such carriers; (B) a database of the complaints; and (C) a procedure for the public to have access, subject to

TODAY

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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

LPS - please  
PWF

LPS - please  
soft draft

Gen

1 AN ACT ...; relating to: insurance requirements for motor carriers. ✓

*Analysis by the Legislative Reference Bureau* ✓

Under current law, the Department of Transportation (DOT) administers, in a manner provided under federal law, a single-state insurance registration system for common motor carriers and contract motor carriers allowing these motor carriers with interstate operations to register in, and pay applicable fees to, a single state with regard to proof of satisfaction of motor carrier insurance requirements. The registration is valid in, and the fee is divided among, all participating states. The annual fee for this registration is \$5. ✓

Under federal law, the single-state insurance registration system is repealed effective January 1, 2007. In its place, federal law has created a unified carrier registration system and states have until August 10, 2008, to elect to participate in the system. As with the single-state insurance registration system, the unified carrier registration system allows common motor carriers and contract motor carriers with interstate operations to register in, and pay applicable fees to, a single state with regard to proof of satisfaction of motor carrier insurance requirements. Unlike the single-state insurance registration system, the unified carrier registration system applies to private motor carriers as well as common motor carriers and contract motor carriers. Under the unified carrier registration system, the federal Secretary of Transportation, upon receiving a recommendation from the unified carrier registration plan board of directors, sets registration fees applicable to participating states. ✓

This bill authorizes DOT to participate in the unified carrier registration system and to impose on motor carriers, including private motor carriers,

registration fees applicable to proof of satisfaction of motor carrier insurance requirements. These fees must be consistent with the fees set by the federal Secretary of Transportation, except that any change in these fees is subject to a passive review by the Joint Committee on Finance.

Under current law, DOT may not issue to a common motor carrier or contract motor carrier a motor carrier permit or register a motor carrier's vehicle unless the carrier has filed with DOT and has in effect an approved certificate for a policy of motor vehicle liability insurance. DOT may inspect the insurance records of any common motor carrier or contract motor carrier, and examine under oath any officer or employee of a common motor carrier or contract motor carrier, as to this required insurance. Under this bill, these provisions also apply to a private motor carrier registered with DOT under the unified carrier registration system.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           SECTION 1. <sup>X</sup> 194.23 (1) of the statutes is amended to read:

2           194.23 (1) No person may operate any motor vehicle as a common motor carrier  
3 unless the person first obtains a certificate and, if required under this chapter, a  
4 permit issued by the department, or unless the person is registered by another state  
5 under a ~~single-state~~ <sup>✓</sup> unified carrier registration system consistent with the  
6 standards under 49 USC 14504 ~~13908~~ and ~~14504a~~, for the operation of the vehicle,  
7 except that no permit is required for the operation of a semitrailer. The department  
8 may issue or refuse to issue any certificate. The department may attach to the  
9 exercise of the privilege granted by a certificate any terms or conditions which are  
10 permitted under this chapter.

History: 1981 c. 347 ss. 51, 80 (1); 1987 a. 208; 1993 a. 16; 1999 a. 139.

11           SECTION 2. 194.31 of the statutes is amended to read:

12           **194.31 Inspection of records.** The secretary, or any person employed by the  
13 secretary, shall, upon demand, have the right to inspect the insurance records of any  
14 common motor carrier of property or of passengers or, of any contract motor carrier,

1 or of any private motor carrier registered in this state under s. 194.405, and to  
2 examine under oath any officer, agent or employee of such carrier, in relation to the  
3 insurance required under s. 194.41; provided that any person other than the  
4 secretary who shall make such demand shall produce his or her authority under the  
5 hand and seal of the department.

History: 1977 c. 29 s. 1654 (7) (c), (9) (e); 1977 c. 273; 1988 s. 347; 1993 a. 16.

6 **SECTION 3.** 194.34 (1) of the statutes is amended to read:

7 194.34 (1) No person may operate any motor vehicle as a contract motor carrier  
8 unless the person first obtains a license and, if required under this chapter, a permit  
9 issued by the department, or unless the person is registered by another state under  
10 a ~~single-state~~ unified carrier registration system consistent with the standards  
11 under 49 USC 14504 13908 and 14504a, for the operation of the motor vehicle, except  
12 that no permit is required for the operation of a semitrailer. The department may  
13 refuse to issue any license or may attach to the exercise of the privilege granted by  
14 a license any terms or conditions which are permitted under this chapter.

History: 1981 c. 347 ss. 61, 80 (1); 1985 a. 208; 1993 a. 16; 1999 a. 139.

15 **SECTION 4.** 194.41 (1) of the statutes, as affected by 2005 Wisconsin Act 250,

16 is amended to read:

17 194.41 (1) No permit or vehicle registration may be issued to a common motor  
18 carrier of property, contract motor carrier, private motor carrier registered in this  
19 state under s. 194.405, or rental company, no permit or vehicle registration may  
20 remain in force to operate any motor vehicle under the authority of this chapter, and  
21 no vehicle registration may be issued or remain in force for a semitrailer unless the  
22 carrier or rental company has on file with the department and in effect an approved  
23 certificate for a policy of insurance or other written contract in such form and  
24 containing such terms and conditions as may be approved by the department issued

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6-3 (mode)  
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INSERT  
6-3 cont  
SECTION 4

1 by an insurer authorized to do a surety or automobile liability business in this state  
2 under which the insurer assumes the liability prescribed by this section with respect  
3 to the operation of such motor vehicles. The certificate or other contract is subject  
4 to the approval of the department and shall provide that the insurer shall be directly  
5 liable for and shall pay all damages for injuries to or for the death of persons or for  
6 injuries to or destruction of property that may be recovered against the owner or  
7 operator of any such motor vehicles by reason of the negligent operation thereof in  
8 such amount as the department may require. Liability may be restricted so as to be  
9 inapplicable to damage claims on account of injury to or destruction of property  
10 transported, but the department may require, and with respect to a carrier  
11 transporting a building, as defined in s. 348.27 (12m) (a) 1., shall require, a certificate  
12 or other contract protecting the owner of the property transported by carriers from  
13 loss or damage in the amount and under the conditions as the department may  
14 require. No permit or vehicle registration may be issued to a common motor carrier  
15 of passengers by any motor vehicle, or other carrier of passengers by motor bus,  
16 except those registered in accordance with s. 341.26 (2) (a) and (d), and no permit or  
17 vehicle registration may remain in force to operate any motor vehicle unless it has  
18 on file with the department a like certificate or other contract in the form and  
19 containing the terms and conditions as may be approved by the department for the  
20 payment of damages for injuries to property and injuries to or for the death of  
21 persons, including passengers, in the amounts as the department may require. This  
22 subsection does not apply to a motor carrier that is registered by another state under



INS 6-3 cont

1 a ~~single-state~~ <sup>✓</sup> unified carrier registration system consistent with the standards  
2 under 49 USC 14504 13908 and 14504a. (end of Ins 6-3)

History: 1973 c. 200; 1975 c. 243, 421; 1977 c. 29 ss. 1319, 1654 (7) (a); 1977 c. 59, 203, 325; 1977 c. 418 s. 924 (48); 1979 c. 102, 154; 1981 c. 347; 1983 a. 34; 1985 a. 208, 332; 1987 a. 216 s. 20; 1993 a. 16; 1999 a. 139; 2005 a. 250.

3 **SECTION 5.** 194.405 (title) of the statutes is amended to read:

4 **194.405 (title) ~~Single-state~~ <sup>✓</sup> Unified carrier insurance registration**  
5 **system.**

History: 1993 a. 16; 1999 a. 139.

6 **SECTION 6.** 194.405 of the statutes is renumbered 194.405 (1) and amended to  
7 read:

8 194.405 (1) <sup>✓</sup> The department may participate in and do all things necessary to  
9 implement and administer a ~~single-state~~ <sup>✓</sup> unified carrier insurance registration  
10 system for motor carriers, <sup>✓</sup> including private motor carriers, in accordance with 49  
11 USC 14504 13908 and 14504a. The annual fee required under this section for a  
12 motor vehicle that is operated in this state and which ~~that~~ is subject to the  
13 ~~single-state~~ <sup>✓</sup> unified carrier insurance registration system shall be \$5 is the amount  
14 determined by the federal ~~Secretary of Transportation~~ under 49 USC 14504a (d) (7).

15 **SECTION 7.** 194.405 (2) of the statutes is created to read:

16 194.405 (2) Upon receiving notice of a federal change in fees under 49 USC  
17 14504a (d) (7), the department shall submit to the <sup>✓</sup> joint committee on finance, and  
18 to the appropriate standing committees of the legislature, a written request to  
19 change fees consistent with the notice of a federal change in fees. If the  
20 cochairpersons of the joint committee on finance do not notify the <sup>✓</sup> secretary within  
21 14 working days after the date of the department's submittal that the joint committee  
22 on finance has scheduled a meeting to review the request, the department may  
23 change fees payable under this section <sup>✓</sup> as provided in the request. If, within 14  
24 working days after the date of the department's submittal, the cochairpersons of the

1 joint committee on finance notify the secretary that the joint committee on finance  
2 has scheduled a meeting to review the request, the department may change fees  
3 payable under this section only as approved by the committee. ✓

4 → **INSERT 6-3**  
**SECTION 8. Initial applicability.**

5 (1) The treatment <sup>renumbering and amendment</sup> of section 194.405 (1) of the statutes first applies to  
6 applications for insurance registration submitted on the effective date of this  
7 subsection. ✓

8 (2) The treatment of section 194.41 (1) ✓ of the statutes first applies to  
9 applications for permits or vehicle registration submitted on the effective date of this  
10 subsection.

11 (END)

J - Note

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-4873/P1dn

ARG&BAB:.....

jcd

ATTN: Karen Baetsen

Please review the attached draft to ensure that it is consistent with your intent.

We have included the 14-day passive review provision in created s. 194.405 (2). Will this state be in compliance with federal law, or eligible to participate in the UCR system, if the federal Secretary of Transportation changes the fee and the joint committee on finance declines to allow DOT to change its fee to match the federal fee? If not, do you want to eliminate the passive review provision of this bill?

With regard to whether any statutory treatment may be required in order for DOT to include private motor carriers in the UCR system, the manner in which s. 194.405 is drafted provides DOT with broad authority to administer the UCR system consistent with federal law, including covering private motor carriers. Nonetheless, we have added the treatments of ss. 194.31 and 194.41 (1), though we are not sure they are necessary. Please advise if you want these treatments removed. In addition, if the treatment of s. 194.41 (1) remains in the bill, are the provisions of s. 194.41 (6) accurate with respect to private motor carriers registering under the UCR system?

Aaron R. Gary  
Legislative Attorney  
Phone: (608) 261-6926  
E-mail: aaron.gary@legis.state.wi.us

Brett A. Balinsky  
Legislative Attorney  
Phone: (608) 267-7380  
E-mail: brett.balinsky@legis.state.wi.us

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-0005/P1dn  
ARG&BAB:jld:pg

September 7, 2006

ATTN: Karen Baetsen

Please review the attached draft to ensure that it is consistent with your intent.

We have included the 14-day passive review provision in created s. 194.405 (2). Will this state be in compliance with federal law, or eligible to participate in the UCR system, if the federal Secretary of Transportation changes the fee and the joint committee on finance declines to allow DOT to change its fee to match the federal fee? If not, do you want to eliminate the passive review provision of this bill?

With regard to whether any statutory treatment may be required in order for DOT to include private motor carriers in the UCR system, the manner in which s. 194.405 is drafted provides DOT with broad authority to administer the UCR system consistent with federal law, including covering private motor carriers. Nonetheless, we have added the treatments of ss. 194.31 and 194.41 (1), though we are not sure they are necessary. Please advise if you want these treatments removed. In addition, if the treatment of s. 194.41 (1) remains in the bill, are the provisions of s. 194.41 (6) accurate with respect to private motor carriers registering under the UCR system?

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Brett A. Balinsky  
Legislative Attorney  
Phone: (608) 267-7380  
E-mail: brett.balinsky@legis.state.wi.us

## Gary, Aaron

---

**From:** Gary, Aaron  
**Sent:** Friday, October 13, 2006 2:38 PM  
**To:** Newman, Kenneth; Hammer, Paul; Swissler, John; Baetsen, Karen  
**Cc:** Nielson, Kristie; Balinsky, Brett  
**Subject:** RE: LRB 07-0005/P1 Comments for Consideration

Good afternoon,

I am working on the redraft of this bill and need some clarification along the way. I have inserted comments and questions below. When I hear back from DOT, I will continue with the redraft. Thanks. Aaron

Aaron R. Gary  
Legislative Attorney  
Legislative Reference Bureau  
608.261.6926 (voice)  
608.264.6948 (fax)  
aaron.gary@legis.state.wi.us

-----Original Message-----

**From:** Nielson, Kristie  
**Sent:** Thursday, October 12, 2006 6:20 AM  
**To:** Basford, Sarah  
**Cc:** Newman, Kenneth; Hammer, Paul; Swissler, John; Baetsen, Karen  
**Subject:** LRB 07-0005/P1 Comments for Consideration  
**Importance:** High

Sarah,

The Division of Motor Vehicles, Office of General Counsel, and Office of Policy, Budget and Finance submit the following comments for consideration into the next draft of LRB 07-0005/P1 - Single State Motor Carrier Registration; Unified Carrier Registration Act.

1. From the Drafter's Note:

(1) DOT still needs the 14-day passive review provision for approval of UCRA fees. Section 5 should be modified to reflect the fee is the "amount approved by JFC". We realize that passive review could result in disapproval of fee change request, which could result in WisDOT charging a fee different from the fee amount determined by USDOT. ~~OCC believes this would violate the UCR Agreement per 14504 (9)(1)(D)~~. The only way around it is to delete JFC passive review, which results in a delegation of state lawmaking to the US DOT. We believe this is an improper delegation.

Therefore, we suggest keeping JFC review and remaining mindful that the fee approval request to JFC is really a ratification on whether to continue our participation in UCR.

[ARG COMMENT: The draft allows DOT to participate in UCR, it does not require it. DOT can choose to stop participating at any time and JFC action is not, by the terms of the draft, a ratification of continued UCR participation - only for approval of the fee change. While the delegation issue could be raised (though I think this rarely occurs), resolution in the courts of whether or not it is a permissible delegation would be far from clear, to my limited knowledge; in contrast to the speculative challenge and speculative resolution of the delegation issue, it seems that non-compliance with federal law if JFC decides not to follow the federally set fee is pretty likely - so I'm not sure why it is better to keep bill section 6 in the draft. In any event, it seems to me that both issues can be adequately addressed if DOT is willing to simply provide in the statute that WisDOT will set the fee ("The annual fee ..... is determined by the department.") WisDOT could then, extra-statutorily, establish the fee according to the federal fee, and this should be unlikely to raise any impermissible delegation issue with respect to the fee. Do you want to try this approach?

(2) Yes, we agree that the language should include treatment of ss. 194.31 and 194.41(1) to include private motor carriers, and yes, the provisions of s. 194.41(6) are accurate with respect to private motor carriers. Provisions should stay.

2. In the bill Analysis, a couple of corrections:

(1) Second paragraph, first sentence -- the SSRS is repealed December 31, 2006, and the UCR is effective January 1, 2007. [ARG COMMENT: The Note in the US Code states that SSRS is repealed effective January 1, 2007. See 49 USCS 14504, supplement.]

(2) Second paragraph, fourth sentence, and also third paragraph, first sentence -- the analysis says that the UCR applies to private motor carriers. Could we mention that it applies also to brokers, freight forwarders, leasing companies, and exempt for-hire motor carriers? While these categories are already included in state statute definition of "common" and "contract" motor carriers, we would like the language to be crystal clear and for legislators to understand the full range of applicability.

(3) First paragraph, the last 2 sentences are incorrect. It should read:

"The registration is valid in all participating states. Each state sets its own fee, and the base state sends each participating state the proper amount of revenue reflecting vehicles that travel into that state. The annual fee in Wisconsin for this registration is \$5."

3. Section 5

should say in effect the fee is "the amount approved by JFC", not the amount determined by Secretary USDOT. [ARG COMMENT: I appreciate your catching my failure to reference in s. 194.405 (1) the modifications that might take place under s. 194.405 (2), which would impact the fee under sub. (1). While it is incomplete to say the fee is the amount approved by JFC, I have revised p. 4, line 2 and hopefully this will work for you. Also, if changes are made per the comment above, this issue would no longer be relevant.]

4. Section 8 Effective date:

If Wisconsin wants to retain SSRS if Congress authorizes it, we should delay the treatment of SSRS/UCR until such time as Congress extends SSRS and WisDOT notifies the reviser; or 2) January 1, 2007, whichever comes first. [ARG COMMENT: As part of the budget bill, this draft's effective date will be July 1, 2007 or later, so I don't understand this comment. (Even if this were not a budget bill, it would not be enacted until well into 2007 at the earliest, absent extraordinary circumstances.)]

A related issue is that we don't yet know whether Congress will enact the extension of SSRS beyond 12/31/06. Newspapers are reporting that the outcome of the extension now drafted within federal bill HR 5576 (FFY 07 appropriations bill for Transportation) is likely dependant on the outcome of mid-term elections, and it's possible that Congress will just enact continuing resolutions until the new Congress comes into session in January 2007. There won't be federal authority to operate the SSRS, but will be federal authority to operate UCR (although no fee structure). We don't want to be without legislative authorization to operate any system.

[ARG COMMENT: If you want to allow the possibility of proceeding under SSRS or UCR, depending on what happens with the feds, I will have to significantly modify the way the draft is structured. Under current law, DOT has permissive authority (but is not required to) participate in the SSRS system. This draft removes that authority and replaces it with authority to participate in the UCR system. If you want to leave all options open, I will need to leave the SSRS provisions as is, then create new provisions for UCR and specify that DOT may only operate under one or the other. Would that approach be OK with DOT?

Thank you.

Kristie J.N. Nielson Corning  
Federal-State Policy & Budget Analysis

Executive Office of Policy, Budget & Finance Wisconsin Department of Transportation Room 132B, 4802 Sheboygan Avenue Hill Farm State Transportation Building Madison, WI 53707-7910

Phone: 608/261.8617  
FAX: 608/261-8626  
kristie.nielson@dot.state.wi.us

## Gary, Aaron

---

**From:** Baetsen, Karen  
**Sent:** Monday, October 16, 2006 11:30 AM  
**To:** Gary, Aaron  
**Cc:** Nielson, Kristie; Frazier, Carson; Niva, Gregory; Galbraith, Timothy; Nilsen, Paul; Swissler, John; Hammer, Paul; Biermeier, Anna  
**Subject:** FW: DOT answers to Aaron's New Questions -- FW: LRB 07-0005/P1 Comments for Consideration

**Importance:** High

Aaron, DMV responded to your questions regarding revisions to the UCR draft. I only left in the items still in question. Thanks for handling so fast! ~Karen

### ***Karen Baetsen***

Department of Transportation  
Office of Policy, Budget and Finance  
Room 132B Hill Farms  
608/ 266-0179  
karen.baetsen@dot.state.wi.us

-----Original Message-----

**From:** Frazier, Carson  
**Sent:** Monday, October 16, 2006 11:21 AM  
**To:** Baetsen, Karen; Nielson, Kristie  
**Cc:** Biermeier, Anna; Niva, Gregory; Galbraith, Timothy; Frazier, Carson  
**Subject:** DOT answers to Aaron's New Questions -- FW: LRB 07-0005/P1 Comments for Consideration  
**Importance:** High

Please see DMV answers, in red below. Could you relay this to Aaron please?

#### 1. From the Drafter's Note:

(1) DOT still needs the 14-day passive review provision for approval of UCRA fees. Section 5 should be modified to reflect the fee is the "amount approved by JFC". We realize that passive review could result in disapproval of fee change request, which could result in WisDOT charging a fee different from the fee amount determined by USDOT. ~~CCC [REDACTED] 4150 (2) (b)~~. The only way around it is to delete JFC passive review, which results in a delegation of state lawmaking to the US DOT. We believe this is an improper delegation.

Therefore, we suggest keeping JFC review and remaining mindful that the fee approval request to JFC is really a ratification on whether to continue our participation in UCR.

[ARG COMMENT: The draft allows DOT to participate in UCR, it does not require it. DOT can choose to stop participating at any time and JFC action is not, by the terms of the draft, a ratification of continued UCR participation - only for approval of the fee change. While the delegation issue could be raised (though I think this rarely occurs), resolution in the courts of whether or not it is a permissible delegation would be far from clear, to my limited knowledge; in contrast to the speculative challenge and speculative resolution of the delegation issue, it seems that non-compliance with federal law if JFC decides not to follow the federally set fee is pretty likely - so I'm not sure why it is better to keep bill section 6 in the draft. In any event, it seems to me that both issues can be adequately addressed if DOT is willing to simply provide in the statute that WisDOT will set the fee ("The annual fee ..... is determined by the department.") WisDOT could then, extra-statutorily, establish the fee according to the federal fee, and this should be unlikely to raise any impermissible delegation issue with respect to the fee. Do you want to try this approach?

**DOT answer to Aaron's question: We would like to keep Section 6 of the bill. While it's possible that JFC could refuse to approve fees in the amount that USDOT had specified, we think it's not likely, and if that ever did occur, we would be prepared to explain to JFC that**

their refusal would put us out of compliance with federal law. We have no desire for language that allows DOT to set the fees, as we believe that the specified fee, the

2. In the bill Analysis, a couple of corrections:

(1) Second paragraph, first sentence -- the SSRS is repealed December 31, 2006, and the UCR is effective January 1, 2007. [ARG COMMENT: The Note in the US Code states that SSRS is repealed effective January 1, 2007. See 49 USCS 14504, supplement.]

**DOT answer to Aaron's question: Aaron's right, thank you Aaron, and please ignore our comment.**

3. Section 5

should say in effect the fee is "the amount approved by JFC", not the amount determined by Secretary USDOT. [ARG COMMENT: I appreciate your catching my failure to reference in s. 194.405 (1) the modifications that might take place under s. 194.405 (2), which would impact the fee under sub. (1). While it is incomplete to say the fee is the amount approved by JFC, I have revised p. 4, line 2 and hopefully this will work for you. Also, if changes are made per the comment above, this issue would no longer be relevant.]

**DOT's answer to Aaron's question: Thanks for the revision, it should be fine.**

4. Section 8 Effective date:

If Wisconsin wants to retain SSRS if Congress authorizes it, we should delay the treatment of SSRS/UCR until such time as Congress extends SSRS and WisDOT notifies the reviser; or 2) January 1, 2007, whichever comes first. [ARG COMMENT: As part of the budget bill, this draft's effective date will be July 1, 2007 or later, so I don't understand this comment. (Even if this were not a budget bill, it would not be enacted until well into 2007 at the earliest, absent extraordinary circumstances.)]

**DOT's answer to Aaron's question: Aaron, you're right of course, we apologize for confusing the issue!**

A related issue is that we don't yet know whether Congress will enact the extension of SSRS beyond 12/31/06. Newspapers are reporting that the outcome of the extension now drafted within federal bill HR 5576 (FFY 07 appropriations bill for Transportation) is likely dependant on the outcome of mid-term elections, and it's possible that Congress will just enact continuing resolutions until the new Congress comes into session in January 2007. There won't be federal authority to operate the SSRS, but will be federal authority to operate UCR (although no fee structure). We don't want to be without legislative authorization to operate any system.

[ARG COMMENT: If you want to allow the possibility of proceeding under SSRS or UCR, depending on what happens with the feds, I will have to significantly modify the way the draft is structured. Under current law, DOT has permissive authority (but is not required to) participate in the SSRS system. This draft removes that authority and replaces it with authority to participate in the UCR system. If you want to leave all options open, I will need to leave the SSRS provisions as is, then create new provisions for UCR and specify that DOT may only operate under one or the other. Would that approach be OK with DOT?

**DOT's answer to Aaron's question: Yes, we would like to leave all options open, so please could you leave the SSRS provisions in and specify that we may operate only under one or the other. What a good way to solve the dilemma, thank you Aaron.**