

AMENDMENTS TO LB 805

Introduced by Transportation and Telecommunications.

1 1. Strike the original sections and insert the following
2 new sections:

3 Section 1. Section 18-1739, Revised Statutes Supplement,
4 2009, is amended to read:

5 18-1739 (1) The permit to be issued pursuant to section
6 18-1738 or 18-1738.01 shall be constructed of a durable plastic
7 designed to resist normal wear or fading for the term of the
8 permit's issuance and printed so as to minimize the possibility of
9 alteration following issuance. The permit shall be of a design,
10 size, configuration, color, and construction and contain such
11 information as specified in the rules and regulations adopted and
12 promulgated by the United States Department of Transportation in
13 the Uniform System for Parking for Persons with Disabilities, 23
14 C.F.R. part 1235, as such regulations existed on January 1, 2009-
15 2010.

16 (2) In addition to the requirements of subsection (1) of
17 this section, the permit shall show the expiration date and such
18 identifying information with regard to the handicapped or disabled
19 person or temporarily handicapped or disabled person to whom it is
20 issued as is necessary to the enforcement of sections 18-1736 to
21 18-1741.07 as determined by the Department of Motor Vehicles. The
22 expiration date information shall be distinctively color-coded so
23 as to identify by color the year in which the permit is due to

1 expire.

2 (3) No permit shall be issued to any person or for any
3 motor vehicle if any parking permit has been issued to such person
4 or for such motor vehicle and such permit has been suspended
5 pursuant to section 18-1741. At the expiration of such suspension,
6 a permit may be renewed in the manner provided for renewal in
7 sections 18-1738, 18-1738.01, and 18-1740.

8 (4) A duplicate permit may be provided without cost if
9 the original permit is destroyed, lost, or stolen. Such duplicate
10 permit shall be issued in the same manner as the original permit,
11 except that a newly completed medical form need not be provided if
12 a completed medical form submitted at the time of the most recent
13 application for a permit or its renewal is on file with the clerk
14 or designated county official or the Department of Motor Vehicles.
15 A duplicate permit shall be valid for the remainder of the period
16 for which the original permit was issued.

17 Sec. 2. Section 60-3,193.01, Revised Statutes Supplement,
18 2009, is amended to read:

19 60-3,193.01 For purposes of the Motor Vehicle
20 Registration Act, the International Registration Plan is adopted
21 and incorporated by reference as the plan existed on ~~July 1, 2009.~~
22 January 1, 2010.

23 Sec. 3. Section 60-462.01, Revised Statutes Supplement,
24 2009, is amended to read:

25 60-462.01 For purposes of the Motor Vehicle Operator's
26 License Act, the following federal regulations are adopted as
27 Nebraska law as they existed on January 1, ~~2009.~~ 2010:

1 (1) Beginning on an implementation date designated by
2 the director, the federal requirements for interstate shipment of
3 etiologic agents, 42 C.F.R. part 72; and

4 (2) The parts, subparts, and sections of Title 49 of the
5 Code of Federal Regulations, as referenced in the Motor Vehicle
6 Operator's License Act.

7 Sec. 4. Section 60-465, Revised Statutes Cumulative
8 Supplement, 2008, is amended to read:

9 60-465 (1) Commercial motor vehicle means a motor vehicle
10 or combination of motor vehicles used in commerce to transport
11 passengers or property if the motor vehicle:

12 (a) Has a gross combination weight rating of eleven
13 thousand seven hundred ninety-four kilograms or more (twenty-six
14 thousand one pounds or more) inclusive of a towed unit with a
15 gross vehicle weight rating of more than four thousand five hundred
16 thirty-six kilograms (ten thousand pounds);

17 (b) Has a gross vehicle weight rating of eleven thousand
18 seven hundred ninety-four or more kilograms (twenty-six thousand
19 one pounds or more);

20 (c) Is designed to transport sixteen or more passengers,
21 including the driver; or

22 (d) Is of any size and is used in the transportation of
23 materials found to be hazardous for the purposes of the federal
24 Hazardous Materials Transportation Act and which require the motor
25 vehicle to be placarded under 49 C.F.R. part 172, subpart F.

26 (2) Commercial motor vehicle does not include (a) a
27 farm ~~truck~~ as defined in section ~~60-325~~ vehicle, other than

1 a combination of truck-tractors and semitrailers, which is (i)
2 controlled and operated by a farmer, including operation by
3 employees or family members of the farmer, (ii) used to transport
4 either agricultural products, farm machinery, farm supplies, or
5 both, to or from a farm or ranch, (iii) not used in the operations
6 of a common or contract motor carrier, and (iv) used when such farm
7 ~~truck is operated~~ within one hundred fifty miles of the registered
8 ~~owner's~~ farmer's farm or ranch, (b) any recreational vehicle as
9 defined in section 60-347 or motor vehicle towing a cabin trailer
10 as defined in sections 60-314 and 60-339, (c) any emergency vehicle
11 operated by a public or volunteer fire department, or (d) any
12 motor vehicle owned or operated by the United States Department
13 of Defense or Nebraska National Guard when such motor vehicle is
14 driven by persons identified in section 60-4,131.01.

15 Sec. 5. Section 60-484.02, Revised Statutes Supplement,
16 2009, is amended to read:

17 60-484.02 (1) Each applicant for an operator's license
18 or state identification card shall have his or her digital image
19 taken. Digital images shall be preserved for use as prescribed in
20 sections 60-4,119, 60-4,151, and 60-4,180. The images shall be used
21 for issuing operators' licenses and state identification cards. The
22 images may be retrieved only by the Department of Motor Vehicles
23 for issuing renewal, duplicate, and replacement operators' licenses
24 and state identification cards and may not be otherwise released
25 except in accordance with subsection (3) of this section.

26 (2) Upon application for an operator's license or
27 state identification card, each applicant shall provide his

1 or her signature in a form prescribed by the department.
2 Digital signatures shall be preserved for use on original,
3 renewal, duplicate, and replacement operators' licenses and state
4 identification cards and may not be otherwise released except in
5 accordance with subsection (3) of this section.

6 (3) No officer, employee, agent, or contractor of the
7 department or a law enforcement officer shall release a digital
8 image or a digital signature except to a federal, state, or
9 local law enforcement agency, a certified law enforcement officer
10 employed in an investigative position by a ~~state or federal,~~ state,
11 or local agency, or a driver licensing agency of another state
12 for the purpose of carrying out the functions of the agency or
13 assisting another agency in carrying out its functions upon the
14 verification of the identity of the person requesting the release
15 of the information and the verification of the purpose of the
16 requester in requesting the release. Any officer, employee, agent,
17 or contractor of the department or law enforcement officer that
18 knowingly discloses or knowingly permits disclosure of a digital
19 image or digital signature in violation of this section shall be
20 guilty of a Class I misdemeanor.

21 Sec. 6. Section 60-4,129, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 60-4,129 (1) Any individual whose operator's license
24 is revoked under section 60-498.02, 60-4,183, or 60-4,186 or
25 suspended under section 43-3318 shall be eligible to operate any
26 motor vehicle, except a commercial motor vehicle, in this state
27 under an employment driving permit. An employment driving permit

1 issued due to a revocation under section 60-498.02, 60-4,183, or
2 60-4,186 is valid for the period of revocation. An employment
3 driving permit issued due to a suspension of an operator's license
4 under section 43-3318 is valid for no more than three months
5 and cannot be renewed. An employment driving permit shall not
6 be issued to any person subject to an administrative license
7 revocation who submitted to a chemical test pursuant to section
8 60-6,197 which disclosed the presence of a concentration of alcohol
9 in violation of section 60-6,196 if the person's driving record
10 abstract maintained in the department's computerized records shows
11 one or more prior administrative license revocations on which
12 final orders have been issued during the immediately preceding
13 twelve-year period at the time the order of revocation is issued.

14 (2) Any person whose operator's license has been
15 suspended or revoked pursuant to any law of this state, except such
16 sections, shall not be eligible to receive an employment driving
17 permit during the period of such suspension or revocation.

18 (3) An individual who is issued an employment driving
19 permit may operate any motor vehicle, except a commercial motor
20 vehicle, (a) from his or her residence to his or her place
21 of employment and return and (b) during the normal course of
22 employment if the use of a motor vehicle is necessary in the course
23 of such employment. Such permit shall indicate for which purposes
24 the permit may be used. All permits issued pursuant to this section
25 shall indicate that the permit is not valid for the operation of
26 any commercial motor vehicle.

27 (4) The operation of a motor vehicle by the holder of

1 an employment driving permit, except as provided in this section,
2 shall be unlawful. Any person who violates this section shall be
3 guilty of a Class IV misdemeanor.

4 (5) The director shall revoke the employment driving
5 permit for an individual upon receipt of an abstract of conviction,
6 other than a conviction which is based upon actions which resulted
7 in the application for such employment driving permit, indicating
8 that the individual committed an offense for which points are
9 assessed pursuant to section 60-4,182. If the permit is revoked
10 in this manner, the individual shall not be eligible to receive
11 an employment driving permit for the remainder of the period of
12 suspension or revocation of his or her operator's license.

13 Sec. 7. Section 60-4,147.02, Revised Statutes Supplement,
14 2009, is amended to read:

15 60-4,147.02 No endorsement authorizing the driver to
16 operate a commercial motor vehicle transporting hazardous materials
17 shall be issued, renewed, or transferred by the Department of Motor
18 Vehicles unless the endorsement is issued, renewed, or transferred
19 in conformance with the requirements of section 1012 of the federal
20 Uniting and Strengthening America by Providing Appropriate Tools
21 Required to Intercept and Obstruct Terrorism Act of 2001, USA
22 PATRIOT Act, 49 U.S.C. 5103a, including all amendments and federal
23 rules and regulations adopted and promulgated pursuant thereto as
24 of January 1, ~~2009~~, 2010, for the issuance of licenses to operate
25 commercial motor vehicles transporting hazardous materials.

26 Sec. 8. Section 60-4,150, Revised Statutes Cumulative
27 Supplement, 2008, is amended to read:

1 60-4,150 (1) Any person holding a commercial driver's
2 license who loses his or her license, who requires issuance of
3 a replacement license because of a change of name or address, or
4 whose license is mutilated or unreadable may obtain a duplicate or
5 replacement commercial driver's license by filing an application
6 ~~and affidavit~~ and by furnishing proof of identification in
7 accordance with section 60-484.

8 (2) The application for a replacement license because of
9 a change of name or address shall be made within sixty days after
10 the change of name or address.

11 (3) (a) This subdivision applies until the implementation
12 date designated by the director pursuant to section 60-462.02.
13 Upon the examiner being satisfied that a duplicate or replacement
14 commercial driver's license should be issued, the applicant shall
15 receive such license upon payment of the fee prescribed in section
16 60-4,115 to the county treasurer.

17 (b) This subdivision applies beginning on the
18 implementation date designated by the director pursuant to section
19 60-462.02. A duplicate or replacement commercial driver's license
20 shall be delivered to the applicant as provided in section
21 60-4,113 after the county treasurer collects the fee and surcharge
22 prescribed in section 60-4,115 and issues the applicant a receipt
23 with driving privileges which is valid for up to thirty days.

24 (4) Duplicate and replacement commercial drivers'
25 licenses shall be issued in the manner provided for the issuance of
26 original and renewal commercial drivers' licenses as provided for
27 by section 60-4,149. Upon issuance of any duplicate or replacement

1 commercial driver's license, the commercial driver's license for
2 which the duplicate or replacement license is issued shall be void.

3 Sec. 9. Section 60-4,169, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 60-4,169 Whenever it comes to the attention of the
6 director that any person when operating a ~~commercial~~ motor vehicle
7 has, based upon the records of the director, been convicted of
8 or administratively determined to have committed an offense for
9 which disqualification is required pursuant to section 60-4,146.01,
10 60-4,168, or 60-4,168.01, the director shall summarily revoke
11 (1) the commercial driver's license and privilege of such person
12 to operate a commercial motor vehicle in this state or (2)
13 the privilege, if such person is a nonresident, of operating a
14 commercial motor vehicle in this state. Any revocation ordered by
15 the director pursuant to this section shall commence on the date of
16 the signing of the order of revocation or the date of the release
17 of such person from the jail or a Department of Correctional
18 Services adult correctional facility, whichever is later, unless
19 the order of the court requires the jail time and the revocation to
20 run concurrently.

21 Sec. 10. Section 60-6,123, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 60-6,123 Whenever traffic is controlled by traffic
24 control signals exhibiting different colored lights or colored
25 lighted arrows, successively one at a time or in combination, only
26 the colors green, red, and yellow shall be used, except for special
27 pedestrian signals carrying a word legend, number, or symbol, and

1 such lights shall indicate and apply to drivers of vehicles and
2 pedestrians as follows:

3 (1)(a) Vehicular traffic facing a circular green
4 indication may proceed straight through or turn right or left
5 unless a sign at such place prohibits either such turn, but
6 vehicular traffic, including vehicles turning right or left,
7 shall yield the right-of-way to other vehicles and to pedestrians
8 lawfully within the intersection or an adjacent crosswalk at the
9 time such indication is exhibited;

10 (b) Vehicular traffic facing a green arrow indication,
11 shown alone or in combination with another indication, may
12 cautiously enter the intersection only to make the movement
13 indicated by such arrow or such other movement as is permitted
14 by other indications shown at the same time, and such vehicular
15 traffic shall yield the right-of-way to pedestrians lawfully within
16 an adjacent crosswalk and to other traffic lawfully using the
17 intersection; and

18 (c) Unless otherwise directed by a pedestrian-control
19 signal, pedestrians facing any green indication, except when the
20 sole green indication is a turn arrow, may proceed across the
21 roadway within any marked or unmarked crosswalk;

22 (2)(a) Vehicular traffic facing a steady yellow
23 indication is thereby warned that the related green movement
24 is being terminated or that a red indication will be exhibited
25 immediately thereafter when vehicular traffic shall not enter the
26 intersection, and upon display of a steady yellow indication,
27 vehicular traffic shall stop before entering the nearest crosswalk

1 at the intersection, but if such stop cannot be made in safety, a
2 vehicle may be driven cautiously through the intersection; and

3 (b) Pedestrians facing a steady yellow indication, unless
4 otherwise directed by a pedestrian-control signal, are thereby
5 advised that there is insufficient time to cross the roadway before
6 a red indication is shown and no pedestrian shall then start to
7 cross the roadway;

8 (3) (a) Vehicular traffic facing a steady red indication
9 alone shall stop at a clearly marked stop line or shall stop,
10 if there is no such line, before entering the crosswalk on the
11 near side of the intersection or, if there is no crosswalk,
12 before entering the intersection. The traffic shall remain standing
13 until an indication to proceed is shown except as provided in
14 subdivisions (3) (b) and (3) (c) of this section;

15 (b) Except where a traffic control device is in
16 place prohibiting a turn, vehicular traffic facing a steady red
17 indication may cautiously enter the intersection to make a right
18 turn after stopping as required by subdivision (3) (a) of this
19 section. Such vehicular traffic shall yield the right-of-way to
20 pedestrians lawfully within an adjacent crosswalk and to other
21 traffic lawfully using the intersection;

22 (c) Except where a traffic control device is in
23 place prohibiting a turn, vehicular traffic facing a steady
24 red indication at the intersection of two one-way streets may
25 cautiously enter the intersection to make a left turn after
26 stopping as required by subdivision (3) (a) of this section. Such
27 vehicular traffic shall yield the right-of-way to pedestrians

1 lawfully within an adjacent crosswalk and to other traffic lawfully
2 using the intersection; and

3 (d) Unless otherwise directed by a pedestrian-control
4 signal, pedestrians facing a steady red indication alone shall not
5 enter the roadway; and

6 (4) If a traffic control signal is erected and maintained
7 at a place other than an intersection, the provisions of this
8 section shall be applicable except as to those provisions which by
9 their nature can have no application. Any stop required shall be
10 made at a sign or marking on the pavement indicating where the stop
11 shall be made, but in the absence of any such sign or marking, the
12 stop shall be made at the signal; ~~and-~~

13 (5) (a) If a traffic control signal at an intersection
14 is not operating because of a power failure or other cause and
15 no peace officer, flagperson, or other traffic control device
16 is providing direction for traffic at the intersection, the
17 intersection shall be treated as a multi-way stop; and

18 (b) If a traffic control signal is not in service and the
19 signal heads are turned away from traffic or covered with opaque
20 material, subdivision (a) of this subdivision shall not apply.

21 Sec. 11. Section 60-6,190, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 60-6,190 (1) Whenever the Department of Roads determines,
24 upon the basis of an engineering and traffic investigation, that
25 any maximum speed limit is greater or less than is reasonable
26 or safe under the conditions found to exist at any intersection,
27 place, or part of the state highway system outside of the corporate

1 limits of cities and villages as well as inside the corporate
2 limits of cities and villages on freeways which are part of the
3 state highway system, it may determine and set a reasonable and
4 safe maximum speed limit for such intersection, place, or part of
5 such highway which shall be the lawful speed limit when appropriate
6 signs giving notice thereof are erected at such intersection,
7 place, or part of the highway, except that the maximum rural and
8 freeway limits shall not be exceeded. Such a maximum speed limit
9 may be set to be effective at all times or at such times as are
10 indicated upon such signs.

11 (2) The speed limits set by the department shall not be
12 a departmental rule, regulation, or order subject to the statutory
13 procedures for such rules, regulations, or orders but shall be
14 an authorization over the signature of the Director-State Engineer
15 and shall be maintained on permanent file at the headquarters of
16 the department. Certified copies of such authorizations shall
17 be available from the department at a reasonable cost for
18 duplication. Any change to such an authorization shall be made
19 by a new authorization which cancels the previous authorization
20 and establishes the new limit, but the new limit shall not become
21 effective until signs showing the new limit are erected as provided
22 in subsection (1) of this section.

23 (3) On county highways which are not part of the state
24 highway system or within the limits of any state institution or any
25 area under control of the Game and Parks Commission or a natural
26 resources district and which are outside of the corporate limits
27 of cities and villages, county boards shall have the same power

1 and duty to alter the maximum speed limits as the department if
2 the change is based on an engineering and traffic investigation
3 comparable to that made by the department. The limit outside of
4 a business or residential district shall not be decreased to less
5 than thirty-five miles per hour.

6 (4) On all highways within their corporate limits, except
7 on state-maintained freeways which are part of the state highway
8 system, incorporated cities and villages shall have the same power
9 and duty to alter the maximum speed limits as the department if the
10 change is based on engineering and traffic investigation, except
11 that no imposition of speed limits on highways which are part
12 of the state highway system in cities and villages under forty
13 thousand inhabitants shall be effective without the approval of the
14 department.

15 (5) The director of any state institution, the Game and
16 Parks Commission, or a natural resources district, with regard to
17 highways which are not a part of the state highway system, which
18 are within the limits of such institution or area under Game and
19 Parks Commission or natural resources district control, and which
20 are outside the limits of any incorporated city or village, shall
21 have the same power and duty to alter the maximum speed limits as
22 the department if the change is based on an engineering and traffic
23 investigation comparable to that made by the department.

24 (6) Not more than six such speed limits shall be set
25 per mile along a highway, except in the case of reduced limits
26 at intersections. The ~~7~~ and the difference between adjacent speed
27 limits along a highway shall not be reduced by more than twenty

1 miles per hour, and there shall be no limit on the difference
2 between adjacent speed limits for increasing speed limits along a
3 highway.

4 (7) When the department or a local authority determines
5 by an investigation that certain vehicles in addition to those
6 specified in sections 60-6,187, 60-6,305, and 60-6,313 cannot
7 with safety travel at the speeds provided in sections 60-6,186,
8 60-6,187, 60-6,189, 60-6,305, and 60-6,313 or set pursuant to
9 this section or section 60-6,188 or 60-6,189, the department or
10 local authority may restrict the speed limit for such vehicles
11 on highways under its respective jurisdiction and post proper and
12 adequate signs.

13 Sec. 12. Section 75-362, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 75-362 For purposes of sections 75-362 to 75-369.07,
16 unless the context otherwise requires:

17 (1) Accident means:

18 (a) Except as provided in subdivision (b) of this
19 subdivision, an occurrence involving a commercial motor vehicle
20 operating on a highway in interstate or intrastate commerce which
21 results in:

22 (i) A fatality;

23 (ii) Bodily injury to a person who, as a result of the
24 injury, immediately receives medical treatment away from the scene
25 of the accident; or

26 (iii) One or more motor vehicles incurring disabling
27 damage as a result of the accident, requiring the motor vehicles to

1 be transported away from the scene by a tow truck or other motor
2 vehicle.

3 (b) The term accident does not include:

4 (i) An occurrence involving only boarding and alighting
5 from a stationary motor vehicle; or

6 (ii) An occurrence involving only the loading or
7 unloading of cargo;

8 (2) Bulk packaging means a packaging, other than a vessel
9 or a barge, including a transport vehicle or freight container, in
10 which hazardous materials are loaded with no intermediate form of
11 containment and which has:

12 (a) A maximum capacity greater than one hundred nineteen
13 gallons as a receptacle for a liquid;

14 (b) A maximum net mass greater than eight hundred
15 eighty-two pounds and a maximum capacity greater than one hundred
16 nineteen gallons as a receptacle for a solid; or

17 (c) A water capacity greater than one thousand pounds as
18 a receptacle for a gas as defined in 49 C.F.R. 173.115;

19 (3) Cargo tank means a bulk packaging that:

20 (a) Is a tank intended primarily for the carriage
21 of liquids or gases and includes appurtenances, reinforcements,
22 fittings, and closures;

23 (b) Is permanently attached to or forms a part of a
24 motor vehicle or is not permanently attached to a motor vehicle
25 but which, by reason of its size, construction, or attachment to a
26 motor vehicle, is loaded or unloaded without being removed from the
27 motor vehicle; and

1 (c) Is not fabricated under a specification for
2 cylinders, intermediate bulk containers, multi-unit tank-car tanks,
3 portable tanks, or tank cars;

4 (4) Cargo tank motor vehicle means a motor vehicle with
5 one or more cargo tanks permanently attached to or forming an
6 integral part of the motor vehicle;

7 (5) Commercial enterprise means any business activity
8 relating to or based upon the production, distribution, or
9 consumption of goods or services;

10 (6) Commercial motor vehicle means any self-propelled or
11 towed motor vehicle used on a highway in interstate commerce or
12 intrastate commerce to transport passengers or property when the
13 vehicle:

14 (a) Has a gross vehicle weight rating or gross
15 combination weight rating or gross vehicle weight or gross
16 combination weight of ten thousand one pounds or more, whichever
17 is greater;

18 (b) Is designed or used to transport more than eight
19 passengers, including the driver, for compensation;

20 (c) Is designed or used to transport more than fifteen
21 passengers, including the driver, and is not used to transport
22 passengers for compensation; or

23 (d) Is used in transporting material found to be
24 hazardous and such material is transported in a quantity requiring
25 placarding pursuant to section 75-364;

26 (7) Compliance review means an onsite examination of
27 motor carrier operations, such as drivers' hours of service,

1 maintenance and inspection, driver qualification, commercial
2 driver's license requirements, financial responsibility, accidents,
3 hazardous materials, and other safety and transportation records
4 to determine whether a motor carrier meets the safety fitness
5 standard. A compliance review may be conducted in response to
6 a request to change a safety rating, to investigate potential
7 violations of safety regulations by motor carriers, or to
8 investigate complaints or other evidence of safety violations. The
9 compliance review may result in the initiation of an enforcement
10 action with penalties;

11 (8) Disabling damage means damage which precludes
12 departure of a motor vehicle from the scene of the accident in its
13 usual manner in daylight after simple repairs.

14 (a) Inclusions: Damage to motor vehicles that could have
15 been driven but would have been further damaged if so driven.

16 (b) Exclusions:

17 (i) Damage which can be remedied temporarily at the scene
18 of the accident without special tools or parts;

19 (ii) Tire disablement without other damage even if no
20 spare tire is available;

21 (iii) Headlight or taillight damage; and

22 (iv) Damage to turnsignals, horn, or windshield wipers
23 which makes them inoperative;

24 (9) Driver means any person who operates any commercial
25 motor vehicle;

26 (10) Elevated temperature material means a material
27 which, when offered for transportation or transported in a bulk

1 packaging:

2 (a) Is in a liquid phase and at a temperature at or above
3 two hundred twelve degrees Fahrenheit;

4 (b) Is in a liquid phase with a flash point at or above
5 one hundred degrees Fahrenheit that is intentionally heated and
6 offered for transportation or transported at or above its flash
7 point; or

8 (c) Is in a solid phase and at a temperature at or above
9 four hundred sixty-four degrees Fahrenheit;

10 (11) Employee means any individual, other than an
11 employer, who is employed by an employer and who in the course
12 of his or her employment directly affects commercial motor
13 vehicle safety. Such term includes a driver of a commercial motor
14 vehicle, including an independent contractor while in the course
15 of operating a commercial motor vehicle, a mechanic, and a freight
16 handler. Such term does not include an employee of the United
17 States, any state, any political subdivision of a state, or any
18 agency established under a compact between states and approved by
19 the Congress of the United States who is acting within the course
20 of such employment;

21 (12) Employer means any person engaged in a business
22 affecting commerce who owns or leases a commercial motor vehicle
23 in connection with that business or assigns employees to operate
24 it. Such term does not include the United States, any state, any
25 political subdivision of a state, or an agency established under
26 a compact between states approved by the Congress of the United
27 States;

1 (13) Exempt motor carrier means a person engaged in
2 transportation exempt from economic regulation under 49 U.S.C.
3 13506. An exempt motor carrier is subject to the safety regulations
4 adopted in sections 75-362 to 75-369.07;

5 (14) Farm vehicle driver means a person who drives only
6 a commercial motor vehicle that is controlled and operated by a
7 farmer as a private motor carrier of property;

8 (15) Farmer means any person who operates a farm or is
9 directly involved in the cultivation of land, crops, or livestock
10 which:

11 (a) Are owned by that person; or

12 (b) Are under the direct control of that person;

13 (16) Fatality means any injury which results in the death
14 of a person at the time of the motor vehicle accident or within
15 thirty days after the accident;

16 (17) For-hire motor carrier means a person engaged in the
17 transportation of goods or passengers for compensation;

18 (18) Gross combination weight means the sum of the empty
19 weight of a motor vehicle plus the total weight of any load carried
20 thereon and the empty weight of the towed unit or units plus the
21 total weight of any load carried on such towed unit or units;

22 (19) Gross combination weight rating means the value
23 specified by the manufacturer as the loaded weight of a combination
24 (articulated) motor vehicle. In the absence of a value specified
25 by the manufacturer, gross combination weight rating will be
26 determined by adding either the gross vehicle weight rating or
27 gross vehicle weight of the motor vehicle plus the gross vehicle

1 weight rating or gross vehicle weight of the towed unit or units;

2 (20) Gross vehicle weight means the sum of the empty
3 weight of a motor vehicle plus the total weight of any load carried
4 thereon;

5 (21) Gross vehicle weight rating means the value
6 specified by the manufacturer as the loaded weight of a single
7 motor vehicle. In the absence of such value specified by the
8 manufacturer or the absence of any marking of such value on the
9 vehicle, the gross vehicle weight rating shall be determined from
10 the sum of the axle weight ratings of the vehicle or the sum of
11 the tire weight ratings as marked on the sidewall of the tires,
12 whichever is greater. In the absence of any tire sidewall marking,
13 the tire weight ratings shall be determined for the specified tires
14 from any of the publications of any of the organizations listed
15 in 49 C.F.R. 571.119;

16 (22) Hazardous material means a substance or material
17 that the Secretary of the United States Department of
18 Transportation has determined is capable of posing an unreasonable
19 risk to health, safety, and property when transported in commerce
20 and has designated as hazardous under 49 U.S.C. 5103. The term
21 includes hazardous substances, hazardous wastes, marine pollutants,
22 elevated temperature materials, materials designated as hazardous
23 in the Hazardous Materials Table, 49 C.F.R. 172.101, and materials
24 that meet the defining criteria for hazard classes and divisions
25 in 49 C.F.R. part 173;

26 (23) Hazardous substance means a material, including its
27 mixtures and solutions, that is listed in 49 C.F.R. 172.101,

1 Appendix A, List Of Hazardous Substances and Reportable Quantities,
2 and is in a quantity, in one package, which equals or exceeds the
3 reportable quantity listed in 49 C.F.R. 172.101, Appendix A. This
4 definition does not apply to petroleum products that are lubricants
5 or fuels or to mixtures or solutions of hazardous substances if
6 in a concentration less than that shown in the table in 49 C.F.R.
7 171.8 under the definition of hazardous substance based on the
8 reportable quantity specified for the materials listed in 49 C.F.R.
9 172.101, Appendix A;

10 (24) Hazardous waste means any material that is subject
11 to the hazardous waste manifest requirements of the United States
12 Environmental Protection Agency specified in 40 C.F.R. 262;

13 (25) Highway means the entire width between the boundary
14 limits of any street, road, avenue, boulevard, or way which is
15 publicly maintained when any part thereof is open to the use of the
16 public for purposes of vehicular travel;

17 (26) Interstate commerce means trade, traffic, or
18 transportation provided in the furtherance of a commercial
19 enterprise in the United States:

20 (a) Between a place in a state and a place outside of
21 such state, including a place outside of the United States;

22 (b) Between two places in a state through another state
23 or a place outside of the United States; or

24 (c) Between two places in a state as part of trade,
25 traffic, or transportation originating or terminating outside the
26 state or the United States;

27 (27) Intrastate commerce means any trade, traffic,

1 or transportation provided in the furtherance of a commercial
2 enterprise between any place in the State of Nebraska and any other
3 place in Nebraska and not through any other state;

4 (28) Marine pollutant means a material which is listed
5 in the Hazardous Materials Table, 49 C.F.R. 172.101, Appendix B,
6 as a marine pollutant (see 49 C.F.R. 171.4 for applicability to
7 marine pollutants) and, when in a solution or mixture of one or
8 more marine pollutants, is packaged in a concentration which equals
9 or exceeds:

10 (a) Ten percent by weight of the solution or mixture for
11 materials listed in 49 C.F.R. 172.101, Appendix B; or

12 (b) One percent by weight of the solution or mixture for
13 materials that are identified as severe marine pollutants in the
14 Hazardous Materials Table, 49 C.F.R. 172.101, Appendix B;

15 (29) Motor carrier means a for-hire motor carrier or a
16 private motor carrier. The term includes a motor carrier's agents,
17 officers, and representatives as well as employees responsible
18 for hiring, supervising, training, assigning, or dispatching of
19 drivers and employees concerned with the installation, inspection,
20 and maintenance of motor vehicle equipment or accessories. This
21 definition includes the terms employer and exempt motor carrier;

22 (30) Motor vehicle means any vehicle, truck,
23 truck-tractor, trailer, or semitrailer propelled or drawn by
24 mechanical power except (a) farm tractors, (b) vehicles which
25 run only on rails or tracks, and (c) road and general-purpose
26 construction and maintenance machinery which by design and
27 function is obviously not intended for use on a public highway,

1 including, but not limited to, motor scrapers, earthmoving
2 equipment, backhoes, trenchers, motor graders, compactors,
3 tractors, bulldozers, bucket loaders, ditchdigging apparatus,
4 asphalt spreaders, leveling graders, power shovels, and crawler
5 tractors;

6 (31) Nonbulk packaging means a packaging which has:

7 (a) A maximum capacity of one hundred nineteen gallons or
8 less as a receptacle for a liquid;

9 (b) A maximum net mass of eight hundred eighty-two pounds
10 or less and a maximum capacity of one hundred nineteen gallons or
11 less as a receptacle for a solid; or

12 (c) A water capacity of one thousand pounds or less as a
13 receptacle for a gas as defined in 49 C.F.R. 173.115;

14 (32) Out-of-service order means a declaration by an
15 authorized enforcement officer of a federal, state, Canadian,
16 Mexican, or local jurisdiction that a driver, a commercial motor
17 vehicle, or a motor carrier operation is out of service pursuant
18 to 49 C.F.R. 386.72, 392.5, 392.9a, 395.13, or 396.9, or compatible
19 laws or the North American Uniform Out-of-Service Criteria;

20 (33) Packaging means a receptacle and any other
21 components or materials necessary for the receptacle to perform
22 its containment function in conformance with the minimum packing
23 requirements of Title 49 of the Code of Federal Regulations. For
24 radioactive materials packaging, see 49 C.F.R. 173.403;

25 (34) Person means any individual, partnership,
26 association, corporation, business trust, or any other organized
27 group of individuals;

1 (35) Principal place of business means the single
2 location designated by the motor carrier, normally its
3 headquarters, for purposes of identification. The motor carrier
4 must make records required by the regulations referred to in
5 sections 75-363 to 75-369.07 and this section available for
6 inspection at this location within forty-eight hours, Saturdays,
7 Sundays, and state or federal holidays excluded, after a request
8 has been made by an officer of the Nebraska State Patrol;

9 (36) Private motor carrier means a person who provides
10 transportation of property or passengers by commercial motor
11 vehicle and is not a for-hire motor carrier;

12 (37) Safety audit means an examination of a motor
13 carrier's operations to provide educational and technical
14 assistance on drivers' hours of service, maintenance and
15 inspection, driver qualification, commercial driver's license
16 requirements, financial responsibility, accidents, hazardous
17 materials, and other safety and transportation records to determine
18 whether a motor carrier meets the safety fitness standard. The
19 purpose of a safety audit is to gather critical safety data needed
20 to make an assessment of the carrier's safety performance and basic
21 safety management controls. Safety audits do not result in safety
22 ratings; and

23 (38) Tank means a container, consisting of a shell and
24 heads, that forms a pressure-tight vessel having openings designed
25 to accept pressure-tight fittings or closures, but excludes any
26 appurtenances, reinforcements, fittings, or closures.

27 Sec. 13. Section 75-363, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 75-363 (1) The parts, subparts, and sections of Title
3 49 of the Code of Federal Regulations listed below, as modified
4 in this section, or any other parts, subparts, and sections
5 referred to by such parts, subparts, and sections, in existence and
6 effective as of January 1, ~~2009~~, 2010, are adopted as Nebraska law.

7 (2) Except as otherwise provided in this section, the
8 regulations shall be applicable to:

9 (a) All motor carriers, drivers, and vehicles to which
10 the federal regulations apply; and

11 (b) All motor carriers transporting persons or property
12 in intrastate commerce to include:

13 (i) All vehicles of such motor carriers with a gross
14 vehicle weight rating, gross combination weight rating, gross
15 vehicle weight, or gross combination weight over ten thousand
16 pounds;

17 (ii) All vehicles of such motor carriers designed or
18 used to transport more than eight passengers, including the driver,
19 for compensation, or designed or used to transport more than
20 fifteen passengers, including the driver, and not used to transport
21 passengers for compensation;

22 (iii) All vehicles of such motor carriers transporting
23 hazardous materials required to be placarded pursuant to section
24 75-364; and

25 (iv) All drivers of such motor carriers if the drivers
26 are operating a commercial motor vehicle as defined in section
27 60-465 which requires a commercial driver's license.

1 (3) The Legislature hereby adopts, as modified in this
2 section, the following parts of Title 49 of the Code of Federal
3 Regulations:

4 (a) Part 382 - Controlled Substances And Alcohol Use And
5 Testing;

6 (b) Part 385 - Safety Fitness Procedures;

7 (c) Part 386 - Rules Of Practice For Motor Carrier,
8 Broker, Freight Forwarder, And Hazardous Materials Proceedings;

9 (d) Part 387 - Minimum Levels of Financial Responsibility
10 for Motor Carriers;

11 (e) Part 390 - Federal Motor Carrier Safety Regulations;
12 General;

13 (f) Part 391 - Qualifications Of Drivers And Longer
14 Combination Vehicle (LCV) Driver Instructors;

15 (g) Part 392 - Driving Of Commercial Motor Vehicles;

16 (h) Part 393 - Parts And Accessories Necessary For Safe
17 Operation;

18 (i) Part 395 - Hours Of Service Of Drivers;

19 (j) Part 396 - Inspection, Repair, And Maintenance;

20 (k) Part 397 - Transportation Of Hazardous Materials;
21 Driving And Parking Rules; and

22 (l) Part 398 - Transportation Of Migrant Workers.

23 (4) The provisions of subpart E - Physical Qualifications
24 And Examinations of 49 C.F.R. part 391 - Qualifications Of Drivers
25 And Longer Combination Vehicle (LCV) Driver Instructors shall not
26 apply to any driver subject to this section who: (a) Operates a
27 commercial motor vehicle exclusively in intrastate commerce; and

1 (b) holds, or has held, a commercial driver's license issued by
2 this state prior to July 30, 1996.

3 (5) The regulations adopted in subsection (3) of this
4 section shall not apply to farm trucks registered pursuant to
5 section 60-3,146 with a gross weight of sixteen tons or less or to
6 fertilizer and agricultural chemical application and distribution
7 equipment transported in units with a capacity of three thousand
8 five hundred gallons or less if the equipment is not required to
9 be placarded pursuant to section 75-364. The following parts and
10 sections of 49 C.F.R. chapter III shall not apply to drivers of
11 farm trucks registered pursuant to section 60-3,146 and operated
12 solely in intrastate commerce:

13 (a) All of part 391;

14 (b) Section 395.8 of part 395; and

15 (c) Section 396.11 of part 396.

16 (6) For purposes of this section, intrastate motor
17 carriers shall not include any motor carrier or driver excepted
18 from 49 C.F.R. chapter III by section 390.3(f) of part 390 or
19 any nonprofit entity, operating solely in intrastate commerce,
20 organized for the purpose of furnishing electric service.

21 ~~(7)~~ (7)(a) Part 395 - Hours Of Service Of Drivers shall
22 apply to motor carriers and drivers who engage in intrastate
23 commerce as defined in section 75-362, except that no motor carrier
24 who engages in intrastate commerce shall permit or require any
25 driver used by it to drive nor shall any driver drive:

26 ~~(a)~~ (i) More than twelve hours following eight
27 consecutive hours off duty; or

1 ~~(b)~~ (ii) For any period after having been on duty sixteen
2 hours following eight consecutive hours off duty.

3 (b) No motor carrier who engages in intrastate commerce
4 shall permit or require a driver of a commercial motor vehicle,
5 regardless of the number of motor carriers using the driver's
6 services, to drive, nor shall any driver of a commercial motor
7 vehicle drive, for any period after:

8 (i) Having been on duty seventy hours in any seven
9 consecutive days if the employing motor carrier does not operate
10 every day of the week; or

11 (ii) Having been on duty eighty hours in any period of
12 eight consecutive days if the employing motor carrier operates
13 motor vehicles every day of the week.

14 (8) Part 395 - Hours Of Service Of Drivers, as adopted
15 in subsections (3) and (7) of this section, shall not apply to
16 drivers transporting agricultural commodities or farm supplies for
17 agricultural purposes when the transportation of such commodities
18 or supplies occurs within a one-hundred-air-mile radius of
19 the source of the commodities or the distribution point for
20 the supplies when such transportation occurs during the period
21 beginning on February 15 up to and including December 15 of each
22 calendar year.

23 (9) 49 C.F.R. 390.21 - Marking Of Commercial Motor
24 Vehicles shall not apply to farm trucks and farm truck-tractors
25 registered pursuant to section 60-3,146 and operated solely in
26 intrastate commerce.

27 (10) 49 C.F.R. 392.9a - Operating Authority shall

1 not apply to Nebraska motor carriers operating commercial motor
2 vehicles solely in intrastate commerce.

3 (11) No motor carrier shall permit or require a driver
4 of a commercial motor vehicle to violate, and no driver of a
5 commercial motor vehicle shall violate, any out-of-service order.

6 Sec. 14. Section 75-364, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 75-364 (1) The parts, subparts, and sections of Title
9 49 of the Code of Federal Regulations listed below, or any other
10 parts, subparts, and sections referred to by such parts, subparts,
11 and sections, in existence and effective as of January 1, ~~2009~~,
12 2010, are adopted as part of Nebraska law and, except as provided
13 in subsections (2) and (3) of this section, shall be applicable
14 to all motor carriers whether engaged in interstate or intrastate
15 commerce, drivers of such motor carriers, and vehicles of such
16 motor carriers:

17 (a) Part 107-Hazardous Materials Program Procedures,
18 subpart F-Registration Of Cargo Tank And Cargo Tank Motor Vehicle
19 Manufacturers, Assemblers, Repairers, Inspectors, Testers, and
20 Design Certifying Engineers;

21 (b) Part 107-Hazardous Materials Program Procedures,
22 subpart G-Registration Of Persons Who Offer Or Transport Hazardous
23 Materials;

24 (c) Part 171-General Information, Regulations, And
25 Definitions;

26 (d) Part 172-Hazardous Materials Table, Special
27 Provisions, Hazardous Materials Communications, Emergency Response

1 Information, and Training Requirements;

2 (e) Part 173-Shippers-General Requirements For Shipments
3 And Packagings;

4 (f) Part 177-Carriage By Public Highway;

5 (g) Part 178-Specifications For Packagings; and

6 (h) Part 180-Continuing Qualification And Maintenance Of
7 Packagings.

8 (2) Agricultural operations exceptions:

9 (a) The transportation of an agricultural product other
10 than a Class 2 material (Compressed Gases) as defined in 49 C.F.R.
11 171.8, over roads, other than the National System of Interstate and
12 Defense Highways, between fields of the same farm, is excepted from
13 subsection (1) of this section when:

14 (i) The agricultural product is transported by a farmer
15 who is an intrastate private motor carrier; and

16 (ii) The movement of the agricultural product conforms to
17 all other laws in effect on or before July 1, 1998, and 49 C.F.R.
18 173.24, 173.24a, and 173.24b;

19 (b) The transportation of an agricultural product to or
20 from a farm, within one hundred fifty miles of the farm, is
21 excepted from the requirements in 49 C.F.R. part 172, subparts G
22 (emergency response information) and H (training), and from the
23 specific packaging requirements of subsection (1) of this section
24 when:

25 (i) The agricultural product is transported by a farmer
26 who is an intrastate private motor carrier;

27 (ii) The total amount of agricultural product being

1 transported on a single vehicle does not exceed:

2 (A) Sixteen thousand ninety-four pounds of ammonium
3 nitrate fertilizer properly classed as Division 5.1, PGIII, in
4 a bulk packaging; or

5 (B) Five hundred two gallons for liquids or gases, or
6 five thousand seventy pounds for solids, of any other agricultural
7 product;

8 (iii) The packaging conforms to the requirements of
9 state law and is specifically authorized for transportation of the
10 agricultural product by state law and such state law has been in
11 effect on or before July 1, 1998; and

12 (iv) Each person having any responsibility for
13 transporting the agricultural product or preparing the agricultural
14 product for shipment has been instructed in the applicable
15 requirements of the parts, subparts, and sections of Title 49 of
16 the Code of Federal Regulations adopted in this section; and

17 (c) Formulated liquid agricultural products in
18 specification packagings of fifty-eight-gallon capacity or less,
19 with closures manifolded to a closed mixing system and equipped
20 with positive dry disconnect devices, may be transported by a
21 private motor carrier between a final distribution point and an
22 ultimate point of application or for loading aboard an airplane for
23 aerial application.

24 (3) Exceptions for nonspecification packagings used in
25 intrastate transportation:

26 (a) Nonspecification cargo tanks for petroleum products:
27 Notwithstanding requirements for specification packagings in 49

1 C.F.R. part 173, subpart F, and 49 C.F.R. parts 178 and 180,
2 a nonspecification metal tank permanently secured to a transport
3 vehicle and protected against leakage or damage in the event
4 of a turnover, having a capacity of less than three thousand
5 five hundred gallons, may be used by an intrastate motor carrier
6 for transportation of a flammable liquid petroleum product in
7 accordance with subdivision (c) of this subsection;

8 (b) Permanently secured nonbulk tanks for petroleum
9 products: Notwithstanding requirements for specification packagings
10 in 49 C.F.R. part 173, subpart F, and 49 C.F.R. parts 178
11 and 180, a nonspecification metal tank permanently secured to a
12 transport vehicle and protected against leakage or damage in the
13 event of a turnover, having a capacity of less than one hundred
14 nineteen gallons, may be used by an intrastate motor carrier
15 for transportation of a flammable liquid petroleum product in
16 accordance with subdivision (c) of this subsection; and

17 (c) Additional requirements: A packaging used pursuant to
18 subdivision (a) or (b) of this subsection must:

19 (i) Be operated by an intrastate motor carrier and in use
20 as a packaging for hazardous material before July 1, 1998;

21 (ii) Be operated in conformance with the requirements of
22 the State of Nebraska;

23 (iii) Be specifically authorized by state law in effect
24 before July 1, 1998, for use as a packaging for the hazardous
25 material being transported and by 49 C.F.R. 173.24, 173.24a, and
26 173.24b;

27 (iv) Be offered for transportation and transported in

1 conformance with all other applicable requirements of the hazardous
2 material regulations;

3 (v) Not be used to transport a flammable cryogenic
4 liquid, hazardous substance, hazardous waste, or marine pollutant
5 as defined in 49 C.F.R. 171.8; and

6 (vi) On and after July 1, 2000, for a tank authorized
7 under subdivision (a) or (b) of this subsection, conform to
8 all requirements in 49 C.F.R. part 180, except for 49 C.F.R.
9 180.405(g), in the same manner as required for a United States
10 Department of Transportation specification MC306 cargo tank motor
11 vehicle.

12 (4) For purposes of this section:

13 (a) Agricultural product means a hazardous material,
14 other than a hazardous waste, whose end use directly supports
15 the production of an agricultural commodity, including, but not
16 limited to, a fertilizer, pesticide, soil amendment, or fuel. An
17 agricultural product is limited to a material in Class 3 (Flammable
18 Liquids), Class 8 (Corrosives), or Class 9 (Miscellaneous),
19 Division 2.1 (Flammable Gas), Division 2.2 (Nonflammable Gas),
20 Division 5.1 (Oxidizers), or Division 6.1 (Poisons), or an ORM-D
21 material (Consumer Commodity), as defined in 49 C.F.R. 171.8;

22 (b) Bulk package means a packaging, including a transport
23 vehicle or freight container, in which hazardous materials are
24 loaded with no other intermediate form of containment and which
25 has:

26 (i) A maximum capacity greater than one hundred nineteen
27 gallons as a receptacle for a liquid;

1 (ii) A maximum net mass greater than eight hundred
2 eighty-two pounds and a maximum capacity greater than one hundred
3 nineteen gallons as a receptacle for a solid; or

4 (iii) A water capacity greater than one thousand pounds
5 as a receptacle for a gas, pursuant to standards set forth in 49
6 C.F.R. 173.115;

7 (c) Farmer means a person engaged in the production or
8 raising of crops, poultry, or livestock; and

9 (d) Private motor carrier means a person or persons
10 engaged in the transportation of persons or product while in
11 commerce, but not for hire.

12 Sec. 15. Original sections 60-4,129, 60-4,169, 60-6,123,
13 60-6,190, 75-362, 75-363, and 75-364, Reissue Revised Statutes of
14 Nebraska, sections 60-465 and 60-4,150, Revised Statutes Cumulative
15 Supplement, 2008, and sections 18-1739, 60-3,193.01, 60-462.01,
16 60-484.02, and 60-4,147.02, Revised Statutes Supplement, 2009, are
17 repealed.