

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 331

FINAL READING

Introduced by Transportation and Telecommunications Committee:
Fischer, 43, Chairperson; Campbell, 25; Gay, 14;
Hadley, 37; Lautenbaugh, 18; Louden, 49; Stuthman,
22.

Read first time January 15, 2009

Committee: Transportation and Telecommunications

A BILL

1 FOR AN ACT relating to transportation; to amend sections 18-1739
2 and 75-301, Reissue Revised Statutes of Nebraska,
3 and sections 60-3,122.02, 60-3,137, 60-3,193.01,
4 60-3,198, 60-3,205, 60-462.01, 60-462.02, 60-480.01,
5 60-4,147.02, 60-6,265, 60-6,267, 66-1406.02, 75-363,
6 75-364, 75-369.03, 75-386, 75-393, 75-394, 75-396,
7 75-397, and 75-398, Revised Statutes Cumulative
8 Supplement, 2008; to adopt by reference updates to
9 certain federal laws and regulations relating to parking
10 for disabled persons, operators' licenses, hazardous
11 material endorsement requirements under the USA PATRIOT

1 Act, occupant protection systems, motor carrier safety,
2 hazardous materials transportation, and the Unified
3 Carrier Registration System; to change provisions
4 relating to Gold Star Family plates and fleet vehicle
5 registration; to change an implementation date; to
6 authorize the issuance of undercover license plates
7 to Department of Insurance investigators; to adopt by
8 reference updates to the International Registration
9 Plan; to eliminate provisions relating to the single
10 state insurance registration system for motor carriers;
11 to harmonize provisions; to provide operative dates;
12 to repeal the original sections; to outright repeal
13 sections 75-348, 75-349, 75-350, 75-351, 75-353, 75-354,
14 75-355, 75-358, and 75-390, Reissue Revised Statutes of
15 Nebraska, and section 75-395, Revised Statutes Cumulative
16 Supplement, 2008; and to declare an emergency.

17 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 18-1739, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 18-1739 (1) The permit to be issued pursuant to section
4 18-1738 or 18-1738.01 shall be constructed of a durable plastic
5 designed to resist normal wear or fading for the term of the
6 permit's issuance and printed so as to minimize the possibility of
7 alteration following issuance. The permit shall be of a design,
8 size, configuration, color, and construction and contain such
9 information as specified in the rules and regulations adopted and
10 promulgated by the United States Department of Transportation in
11 the Uniform System for Parking for Persons with Disabilities, 23
12 C.F.R. part 1235, as such regulations existed on ~~May 31, 2001.~~
13 January 1, 2009.

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

23 (3) No permit shall be issued to any person or for any
24 motor vehicle if any parking permit has been issued to such person
25 or for such motor vehicle and such permit has been suspended

1 pursuant to section 18-1741. At the expiration of such suspension,
2 a permit may be renewed in the manner provided for renewal in
3 sections 18-1738, 18-1738.01, and 18-1740.

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

13 Sec. 2. Section 60-3,122.02, Revised Statutes Cumulative
14 Supplement, 2008, is amended to read:

15 60-3,122.02 (1) A person may apply to the department
16 for Gold Star Family plates in lieu of regular license plates
17 on an application prescribed and provided by the department for
18 any motor vehicle, trailer, semitrailer, or cabin trailer, except
19 for a motor vehicle or trailer registered under section 60-3,198.
20 ~~or cabin trailer, except for a commercial truck.~~ An applicant
21 receiving a Gold Star Family plate for a farm truck with a gross
22 weight of over sixteen tons shall affix the appropriate tonnage
23 decal to the plate. The department shall make forms available
24 for such applications through the county treasurers or designated
25 county officials. The license plates shall be issued upon payment

1 of the license fee described in subsection (2) of this section and
2 furnishing proof satisfactory to the department that the applicant
3 is a surviving spouse, whether remarried or not, or an ancestor,
4 including a stepparent, a descendant, including a stepchild, a
5 foster parent or a person in loco parentis, or a sibling of a
6 person who died while in good standing on active duty in the
7 military service of the United States. ~~Only one motor vehicle or~~
8 ~~trailer owned by the applicant shall be so licensed at any one~~
9 ~~time.~~

10 (2) (a) Each application for initial issuance of
11 consecutively numbered Gold Star Family plates shall be accompanied
12 by a fee of fifteen dollars. An application for renewal of such
13 plates shall be accompanied by a fee of fifteen dollars. County
14 treasurers or designated county officials collecting fees for
15 renewals pursuant to this subdivision shall remit them to the State
16 Treasurer. The State Treasurer shall credit five dollars of the fee
17 for initial issuance and renewal of such plates to the Department
18 of Motor Vehicles Cash Fund and ten dollars of the fee to the
19 Nebraska Veteran Cemetery System Operation Fund.

20 (b) Each application for initial issuance of personalized
21 message Gold Star Family plates shall be accompanied by a fee of
22 forty dollars. An application for renewal of such plates shall
23 be accompanied by a fee of forty dollars. County treasurers or
24 designated county officials collecting fees for renewals pursuant
25 to this subdivision shall remit them to the State Treasurer. The

1 State Treasurer shall credit thirty dollars of the fee for initial
2 issuance and renewal of such plates to the Department of Motor
3 Vehicles Cash Fund and ten dollars of the fee to the Nebraska
4 Veteran Cemetery System Operation Fund.

5 (3) When the department receives an application for Gold
6 Star Family plates, the department shall deliver the plates to
7 the county treasurer or designated county official of the county
8 in which the motor vehicle or cabin trailer is registered. The
9 county treasurer or designated county official shall issue Gold
10 Star Family plates in lieu of regular license plates when the
11 applicant complies with the other provisions of the Motor Vehicle
12 Registration Act for registration of the motor vehicle or cabin
13 trailer. If Gold Star Family plates are lost, stolen, or mutilated,
14 the licensee shall be issued replacement license plates upon
15 request and without charge.

16 (4) The owner of a motor vehicle or cabin trailer bearing
17 Gold Star Family plates may apply to the county treasurer or
18 designated county official to have such plates transferred to a
19 motor vehicle other than the vehicle for which such plates were
20 originally purchased if such vehicle is owned by the owner of the
21 plates. The owner may have the unused portion of the fee for the
22 plates credited to the other vehicle which will bear the plates
23 at the rate of eight and one-third percent per month for each
24 full month left in the registration period. Application for such
25 transfer shall be accompanied by a fee of three dollars. Fees

1 collected pursuant to this subsection shall be remitted to the
2 State Treasurer for credit to the Department of Motor Vehicles Cash
3 Fund.

4 (5) If the cost of manufacturing Gold Star Family plates
5 at any time exceeds the amount charged for license plates pursuant
6 to section 60-3,102, any money to be credited to the Nebraska
7 Veteran Cemetery System Operation Fund shall instead be credited
8 first to the Highway Trust Fund in an amount equal to the
9 difference between the manufacturing costs of Gold Star Family
10 plates and the amount charged pursuant to section 60-3,102 with
11 respect to such plates and the remainder shall be credited to the
12 Nebraska Veteran Cemetery System Operation Fund.

13 Sec. 3. Section 60-3,137, Revised Statutes Cumulative
14 Supplement, 2008, is amended to read:

15 60-3,137 Each insurance company doing business in this
16 state shall provide information shown on each automobile liability
17 policy issued in this state as required by the department pursuant
18 to sections 60-3,136 to 60-3,139 for inclusion in the motor
19 vehicle insurance data base in a form and manner acceptable to
20 the department. Any person who qualifies as a self-insurer under
21 sections 60-562 to 60-564 or any person who provides financial
22 responsibility under sections ~~75-348 to 75-358 or~~ 75-392 to 75-399
23 shall not be required to provide information to the department for
24 inclusion in the motor vehicle insurance data base.

25 Sec. 4. Section 60-3,193.01, Revised Statutes Cumulative

1 Supplement, 2008, is amended to read:

2 60-3,193.01 For purposes of the Motor Vehicle
3 Registration Act, the International Registration Plan is adopted
4 and incorporated by reference as the plan existed on July 1, ~~2008-~~
5 2009.

6 Sec. 5. Section 60-3,198, Revised Statutes Cumulative
7 Supplement, 2008, is amended to read:

8 60-3,198 (1) Any owner engaged in operating a fleet of
9 apportionable vehicles in this state in interjurisdiction commerce
10 may, in lieu of registration of such apportionable vehicles under
11 the general provisions of the Motor Vehicle Registration Act,
12 register and license such fleet for operation in this state
13 by filing a statement and the application required by section
14 60-3,203 with the Division of Motor Carrier Services of the
15 department. The statement shall be in such form and contain such
16 information as the division requires, declaring the total mileage
17 operated by such vehicles in all jurisdictions and in this state
18 during the preceding year and describing and identifying each
19 such apportionable vehicle to be operated in this state during
20 the ensuing license year. Upon receipt of such statement and
21 application, the division shall determine the total fee payment,
22 which shall be equal to the amount of fees due pursuant to
23 section 60-3,203 and the amount obtained by applying the formula
24 provided in section 60-3,204 to a fee of thirty-two dollars per
25 ton based upon gross vehicle weight of the empty weights of a

1 truck or truck-tractor and the empty weights of any trailer or
2 combination thereof with which it is to be operated in combination
3 at any one time plus the weight of the maximum load to be
4 carried thereon at any one time, and shall notify the applicant
5 of the amount of payment required to be made. Mileage operated in
6 noncontracting reciprocity jurisdictions by apportionable vehicles
7 based in Nebraska shall be applied to the portion of the formula
8 for determining the Nebraska injurisdiction fleet distance.

9 Temporary authority which permits the operation of a
10 fleet or an addition to a fleet in this state while the application
11 is being processed may be issued upon application to the division
12 if necessary to complete processing of the application.

13 Upon completion of such processing and receipt of the
14 appropriate fees, the division shall issue to the applicant a
15 sufficient number of distinctive registration certificates which
16 provide a list of the jurisdictions in which the apportionable
17 vehicle has been apportioned, the weight for which registered,
18 and such other evidence of registration for display on the
19 apportionable vehicle as the division determines appropriate for
20 each of the apportionable vehicles of his or her fleet, identifying
21 it as a part of an interjurisdiction fleet proportionately
22 registered. All fees received as provided in this section shall be
23 remitted to the State Treasurer for credit to the Motor Carrier
24 Services Division Distributive Fund.

25 The apportionable vehicles so registered shall be exempt

1 from all further registration and license fees under the Motor
2 Vehicle Registration Act for movement or operation in the State of
3 Nebraska except as provided in section 60-3,203. The proportional
4 registration and licensing provision of this section shall apply
5 to apportionable vehicles added to such fleets and operated in
6 this state during the license year except with regard to permanent
7 license plates issued under section 60-3,203.

8 The right of applicants to proportional registration
9 under this section shall be subject to the terms and conditions
10 of any reciprocity agreement, contract, or consent made by the
11 division.

12 When a nonresident fleet owner has registered his or her
13 apportionable vehicles, his or her apportionable vehicles shall
14 be considered as fully registered for both interjurisdiction
15 and intrajurisdiction commerce when the jurisdiction of base
16 registration for such fleet accords the same consideration for
17 fleets with a base registration in Nebraska. Each apportionable
18 vehicle of a fleet registered by a resident of Nebraska shall
19 be considered as fully registered for both interjurisdiction and
20 intrajurisdiction commerce.

21 (2) Mileage proportions for interjurisdiction fleets
22 not operated in this state during the preceding year shall
23 be determined by the division upon the application of the
24 applicant on forms to be supplied by the division which shall
25 show the operations of the preceding year in other jurisdictions

1 and estimated operations in Nebraska or, if no operations were
2 conducted the previous year, a full statement of the proposed
3 method of operation.

4 (3) Any owner complying with and being granted
5 proportional registration shall preserve the records on which the
6 application is made for a period of three years following the
7 current registration year. Upon request of the division, the owner
8 shall make such records available to the division at its office for
9 audit as to accuracy of computation and payments or pay the costs
10 of an audit at the home office of the owner by a duly appointed
11 representative of the division if the office where the records
12 are maintained is not within the State of Nebraska. The division
13 may enter into agreements with agencies of other jurisdictions
14 administering motor vehicle registration laws for joint audits of
15 any such owner. All payments received to cover the costs of an
16 audit shall be remitted by the division to the State Treasurer
17 for credit to the Motor Carrier Division Cash Fund. No deficiency
18 shall be assessed and no claim for credit shall be allowed for
19 any license registration year for which records on which the
20 application was made are no longer required to be maintained.

21 (4) If the division claims that a greater amount of fee
22 is due under this section than was paid, the division shall notify
23 the owner of the additional amount claimed to be due. The owner may
24 accept such claim and pay the amount due, or he or she may dispute
25 the claim and submit to the division any information which he or

1 she may have in support of his or her position. If the dispute
2 cannot otherwise be resolved within the division, the owner may
3 petition for an appeal of the matter. The director shall appoint
4 a hearing officer who shall hear the dispute and issue a written
5 decision. Any appeal shall be in accordance with the Administrative
6 Procedure Act. Upon expiration of the time for perfecting an appeal
7 if no appeal is taken or upon final judicial determination if an
8 appeal is taken, the division shall deny the owner the right to
9 further registration for a fleet license until the amount finally
10 determined to be due, together with any costs assessed against the
11 owner, has been paid.

12 (5) Every applicant who licenses any apportionable
13 vehicles under this section and section 60-3,203 shall have his
14 or her registration certificates issued only after all fees under
15 such sections are paid and, if applicable, proof has been furnished
16 of payment, in the form prescribed by the director as directed by
17 the United States Secretary of the Treasury, of the federal heavy
18 vehicle use tax imposed by 26 U.S.C. 4481 of the Internal Revenue
19 Code as defined in section 49-801.01.

20 ~~(6) In the event of the transfer of ownership of~~
21 ~~any registered apportionable vehicle or in the case of loss of~~
22 ~~possession because of fire or theft or because the apportionable~~
23 ~~vehicle was wrecked, junked, or dismantled, its registration shall~~
24 ~~expire, except that if the registered owner applies to the division~~
25 ~~after such transfer or loss of possession and accompanies the~~

1 application with the fee of one dollar and fifty cents, he or
2 she may have assigned to another motor vehicle the registration
3 identification of the motor vehicle so transferred or lost. If the
4 assigned apportionable vehicle has a greater gross vehicle weight
5 than the transferred or lost apportionable vehicle, the owner of
6 the assigned apportionable vehicle shall additionally pay only the
7 registration fee for the increased gross vehicle weight for the
8 remaining months of the registration year based on the factors
9 determined by the division in the original fleet application.

10 (6) (a) In the event of the transfer of ownership of
11 any registered apportionable vehicle, (b) in the case of loss
12 of possession because of fire, theft, or wrecking, junking, or
13 dismantling of any registered apportionable vehicle, (c) when a
14 salvage branded certificate of title is issued for any registered
15 apportionable vehicle, (d) whenever a type or class of registered
16 apportioned vehicle is subsequently declared by legislative act or
17 court decision to be illegal or ineligible to be operated or towed
18 on the public roads and no longer subject to registration fees and
19 taxes, (e) upon trade-in or surrender of a registered apportionable
20 vehicle under a lease, or (f) in case of a change in the situs of
21 a registered apportionable vehicle to a location outside of this
22 state, its registration shall expire, except that if the registered
23 owner or lessee applies to the division after such transfer or loss
24 of possession and accompanies the application with a fee of one
25 dollar and fifty cents, he or she may have any remaining credit of

1 vehicle fees and taxes from the previously registered apportionable
2 vehicle applied toward payment of any vehicle fees and taxes due
3 and owing on another registered apportionable vehicle. If such
4 registered apportionable vehicle has a greater gross vehicle weight
5 than that of the previously registered apportionable vehicle, the
6 registered owner or lessee of the registered apportionable vehicle
7 shall additionally pay only the registration fee for the increased
8 gross vehicle weight for the remaining months of the registration
9 year based on the factors determined by the division in the
10 original fleet application.

11 (7) Whenever a Nebraska-based fleet owner files an
12 application with the division to delete a registered apportionable
13 vehicle from a fleet of registered apportionable vehicles (a)
14 because of ~~(a) the~~ a transfer of ownership ~~or (b) the loss of~~
15 ~~possession due to fire or theft or because the apportionable~~
16 ~~vehicle was wrecked, junked, or dismantled~~ of the registered
17 apportionable vehicle, (b) because of loss of possession due to
18 fire, theft, or wrecking, junking, or dismantling of the registered
19 apportionable vehicle, (c) because a salvage branded certificate
20 of title is issued for the registered apportionable vehicle, (d)
21 because a type or class of registered apportioned vehicle is
22 subsequently declared by legislative act or court decision to be
23 illegal or ineligible to be operated or towed on the public roads
24 and no longer subject to registration fees and taxes, (e) because
25 of a trade-in or surrender of the registered apportionable vehicle

1 under a lease, or (f) because of a change in the situs of the
2 registered apportionable vehicle to a location outside of this
3 state, the registered owner may, by returning the registration
4 certificate or certificates and such other evidence of registration
5 used by the division or, if such certificate or certificates or
6 such other evidence of registration is unavailable, then by making
7 an affidavit to the division of such transfer or loss, receive a
8 refund of that portion of the unused registration fee based upon
9 the number of unexpired months remaining in the registration year
10 from the date of transfer or loss. No refund shall be allowed
11 for any fees paid under section 60-3,203. When such apportionable
12 vehicle is transferred or lost within the same month as acquired,
13 no refund shall be allowed for such month. Such refund may be in
14 the form of a credit against any registration fees that have been
15 incurred or are, at the time of the refund, being incurred by the
16 registered apportionable vehicle owner. The Nebraska-based fleet
17 owner shall make a claim for a refund under this subsection within
18 the registration period or shall be deemed to have forfeited his or
19 her right to the refund.

20 (8) Whenever a Nebraska-based fleet owner files an
21 application with the division to delete a registered apportionable
22 vehicle from a fleet of registered apportionable vehicles because
23 the apportionable vehicle is disabled and has been removed from
24 service, the registered owner may, by returning the registration
25 certificate or certificates and such other evidence of registration

1 used by the division or, in the case of the unavailability of such
2 certificate or certificates or such other evidence of registration,
3 then by making an affidavit to the division of such disablement
4 and removal from service, receive a credit for that portion
5 of the unused registration fee deposited in the Highway Trust
6 Fund based upon the number of unexpired months remaining in the
7 registration year. No credit shall be allowed for any fees paid
8 under section 60-3,203. When such apportionable vehicle is removed
9 from service within the same month in which it was registered,
10 no credit shall be allowed for such month. Such credit may be
11 applied against registration fees for new or replacement vehicles
12 incurred within one year after cancellation of registration of
13 the apportionable vehicle for which the credit was allowed. When
14 any such apportionable vehicle is reregistered within the same
15 registration year in which its registration has been canceled,
16 the fee shall be that portion of the registration fee provided
17 to be deposited in the Highway Trust Fund for the remainder of
18 the registration year. The Nebraska-based fleet owner shall make a
19 claim for a credit under this subsection within the registration
20 period or shall be deemed to have forfeited his or her right to the
21 credit.

22 (9) In case of addition to the registered fleet during
23 the registration year, the owner engaged in operating the fleet
24 shall pay the proportionate registration fee from the date the
25 vehicle was placed into service or, if the vehicle was previously

1 registered outside of Nebraska, the date the prior registration
2 expired or the date Nebraska became the base jurisdiction for
3 the fleet, whichever is first, for the remaining balance of the
4 registration year. The fee for any permanent license plate issued
5 for such addition pursuant to section 60-3,203 shall be the full
6 fee required by such section, regardless of the number of months
7 remaining in the license year.

8 (10) In lieu of registration under subsections (1)
9 through (9) of this section, the title holder of record may
10 apply to the division for special registration, to be known as an
11 unladen-weight registration, for any commercial motor vehicle or
12 combination of vehicles. Such registration shall be valid only for
13 a period of thirty days and shall give no authority to operate the
14 vehicle except when empty. The fee for such registration shall be
15 twenty dollars for each vehicle, which fee shall be remitted to the
16 State Treasurer for credit to the Highway Trust Fund. The issuance
17 of such permits shall be governed by section 60-3,179.

18 (11) Any person may, in lieu of registration under
19 subsections (1) through (9) of this section or for other
20 jurisdictions as approved by the director, purchase a trip
21 permit for any nonresident truck, truck-tractor, bus, or truck
22 or truck-tractor combination. Such permit shall be valid for a
23 period of seventy-two hours. The fee for such permit shall be
24 twenty-five dollars for each truck, truck-tractor, bus, or truck
25 or truck-tractor combination. Such permit shall be available at

1 weighing stations operated by the carrier enforcement division and
2 at various vendor stations as determined appropriate by the carrier
3 enforcement division. The carrier enforcement division shall act as
4 an agent for the Division of Motor Carrier Services in collecting
5 such fees and shall remit all such fees collected to the State
6 Treasurer for credit to the Highway Cash Fund. Trip permits shall
7 be obtained at the first available location whether that is a
8 weighing station or a vendor station. The vendor stations shall be
9 entitled to collect and retain an additional fee of ten percent of
10 the fee collected pursuant to this subsection as reimbursement for
11 the clerical work of issuing the permits.

12 Sec. 6. Section 60-3,205, Revised Statutes Cumulative
13 Supplement, 2008, is amended to read:

14 60-3,205 (1) (a) The director may suspend, revoke, cancel,
15 or refuse to issue or renew a registration certificate under the
16 International Registration Plan Act:

17 (i) If the applicant or certificate holder has had his or
18 her license issued under the International Fuel Tax Agreement Act
19 revoked or the director refused to issue or refused to renew such
20 license; or

21 (ii) If the applicant or certificate holder is in
22 violation of sections ~~75-348 to 75-358~~ ~~or~~ 75-392 to 75-399.

23 (b) Prior to taking action under this section, the
24 director shall notify and advise the applicant or certificate
25 holder of the proposed action and the reasons for such action in

1 writing, by registered or certified mail, to his or her last-known
2 business address as shown on the application for the certificate
3 or renewal. The notice shall also include an advisement of the
4 procedures in subdivision (c) of this subsection.

5 (c) The applicant or certificate holder may, within
6 thirty days after the date of the mailing of the notice,
7 petition the director for a hearing to contest the proposed
8 action. The hearing shall be commenced in accordance with the rules
9 and regulations adopted and promulgated by the department. If a
10 petition is filed, the director shall, within twenty days after
11 receipt of the petition, set a hearing date at which the applicant
12 or certificate holder may show cause why the proposed action should
13 not be taken. The director shall give the applicant or certificate
14 holder reasonable notice of the time and place of the hearing. If
15 the director's decision is adverse to the applicant or certificate
16 holder, the applicant or certificate holder may appeal the decision
17 in accordance with the Administrative Procedure Act.

18 (d) Except as provided in subsections (2) and (3) of this
19 section, the filing of the petition shall stay any action by the
20 director until a hearing is held and a final decision and order is
21 issued.

22 (e) Except as provided in subsections (2) and (3) of this
23 section, if no petition is filed at the expiration of thirty days
24 after the date on which the notification was mailed, the director
25 may take the proposed action described in the notice.

1 (f) If, in the judgment of the director, the applicant or
2 certificate holder has complied with or is no longer in violation
3 of the provisions for which the director took action under this
4 subsection, the director may reinstate the registration certificate
5 without delay.

6 (2)(a) The director may suspend, revoke, cancel, or
7 refuse to issue or renew a registration certificate under the
8 International Registration Plan Act or a license under the
9 International Fuel Tax Agreement Act if the applicant, licensee, or
10 certificate holder has issued to the department a check or draft
11 which has been returned because of insufficient funds, no funds, or
12 a stop-payment order. The director may take such action no sooner
13 than seven days after the written notice required in subdivision
14 (1)(b) of this section has been provided. Any petition to contest
15 such action filed pursuant to subdivision (1)(c) of this section
16 shall not stay such action of the director.

17 (b) If the director takes an action pursuant to
18 this subsection, the director shall reinstate the registration
19 certificate or license without delay upon the payment of certified
20 funds by the applicant, licensee, or certificate holder for
21 any fees due and reasonable administrative costs, not to exceed
22 twenty-five dollars, incurred in taking such action.

23 (c) The rules, regulations, and orders of the director
24 and the department that pertain to hearings commenced in accordance
25 with this section and that are in effect prior to March 17,

1 2006, shall remain in effect, unless changed or eliminated by the
2 director or the department, except for those portions involving a
3 stay upon the filing of a petition to contest any action taken
4 pursuant to this subsection, in which case this subsection shall
5 supersede those provisions.

6 (3) Any person who receives notice from the director
7 of action taken pursuant to subsection (1) or (2) of this
8 section shall, within three business days, return such registration
9 certificate and license plates to the department as provided in
10 this section. If any person fails to return the registration
11 certificate and license plates to the department, the department
12 shall notify the Nebraska State Patrol that any such person is in
13 violation of this section.

14 Sec. 7. Section 60-462.01, Revised Statutes Cumulative
15 Supplement, 2008, is amended to read:

16 60-462.01 For purposes of the Motor Vehicle Operator's
17 License Act, the following federal regulations are adopted as
18 Nebraska law as they existed on January 1, ~~2008~~ 2009:

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

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

25 Sec. 8. Section 60-462.02, Revised Statutes Cumulative

1 Supplement, 2008, is amended to read:

2 60-462.02 It is the intent of the Legislature that the
3 department develop, implement, and maintain processes for the
4 issuance of operators' licenses and state identification cards
5 designed to protect the identity of applicants for and holders
6 of such licenses and cards and reduce identity theft, fraud,
7 forgery, and counterfeiting to the maximum extent possible with
8 respect to such licenses and cards. The director shall designate
9 an implementation date for such processes which date is on or
10 before ~~April~~ August 1, 2009. The department shall adopt security
11 and technology practices to enhance the enrollment, production,
12 data storage, and credentialing system of such licenses and cards
13 in order to maximize the integrity of the process.

14 Sec. 9. Section 60-480.01, Revised Statutes Cumulative
15 Supplement, 2008, is amended to read:

16 60-480.01 (1)(a) Undercover drivers' licenses may be
17 issued to state, county, city, or village law enforcement agencies
18 and shall be used only for legitimate criminal investigatory
19 purposes. Undercover drivers' licenses may also be issued to the
20 Nebraska State Patrol, the Game and Parks Commission, deputy
21 state sheriffs employed by the Nebraska Brand Committee and State
22 Fire Marshal for state law enforcement purposes, persons employed
23 by the Tax Commissioner for state revenue enforcement purposes,
24 the Department of Health and Human Services for the purposes
25 of communicable disease control, the prevention and control of

1 those communicable diseases which endanger the public health, the
2 enforcement of drug control laws, or other investigation purposes,
3 ~~and the Department of Agriculture for special investigative~~
4 ~~purposes, and the Insurance Fraud Prevention Division of the~~
5 ~~Department of Insurance for investigative purposes.~~ Undercover
6 drivers' licenses are not for personal use.

7 (b) The director shall prescribe a form for agencies
8 to apply for undercover drivers' licenses. The form shall include
9 a space for the name and signature of the contact person for
10 the requesting agency, a statement that the undercover drivers'
11 licenses are to be used only for legitimate criminal investigatory
12 purposes, and a statement that undercover drivers' licenses are not
13 for personal use.

14 (2) The agency shall include the name and signature of
15 the contact person for the agency on the form and pay the fees
16 prescribed in section 60-4,115. If the undercover drivers' licenses
17 will be used for the investigation of a specific event rather than
18 for ongoing investigations, the agency shall designate on the form
19 an estimate of the length of time the undercover drivers' licenses
20 will be needed. The contact person in the agency shall sign the
21 form and verify the information contained in the form.

22 (3) Upon receipt of a completed form, the director shall
23 determine whether the undercover drivers' licenses will be used by
24 an approved agency for a legitimate purpose pursuant to subsection
25 (1) of this section. If the director determines that the undercover

1 drivers' licenses will be used for such a purpose, he or she may
2 issue the undercover drivers' licenses in the form and under the
3 conditions he or she determines to be necessary. The decision of
4 the director regarding issuance of undercover drivers' licenses is
5 final.

6 (4) The Department of Motor Vehicles shall keep records
7 pertaining to undercover drivers' licenses confidential, and such
8 records shall not be subject to public disclosure. Any person who
9 receives information pertaining to undercover drivers' licenses in
10 the course of his or her employment and who discloses any such
11 information to any unauthorized individual shall be guilty of a
12 Class III misdemeanor.

13 (5) The contact person shall return the undercover
14 drivers' licenses to the Department of Motor Vehicles if:

15 (a) The undercover drivers' licenses expire and are not
16 renewed;

17 (b) The purpose for which the undercover drivers'
18 licenses were issued has been completed or terminated;

19 (c) The persons for whom the undercover drivers' licenses
20 were issued cease to be employees of the agency; or

21 (d) The director requests their return.

22 Sec. 10. Section 60-4,147.02, Revised Statutes Cumulative
23 Supplement, 2008, is amended to read:

24 60-4,147.02 No endorsement authorizing the driver to
25 operate a commercial motor vehicle transporting hazardous materials

1 shall be issued, renewed, or transferred by the Department of Motor
2 Vehicles unless the endorsement is issued, renewed, or transferred
3 in conformance with the requirements of section 1012 of the federal
4 Uniting and Strengthening America by Providing Appropriate Tools
5 Required to Intercept and Obstruct Terrorism Act of 2001, USA
6 PATRIOT Act, 49 U.S.C. 5103a, including all amendments and federal
7 rules and regulations adopted and promulgated pursuant thereto as
8 of January 1, ~~2008~~, 2009, for the issuance of licenses to operate
9 commercial motor vehicles transporting hazardous materials.

10 Sec. 11. Section 60-6,265, Revised Statutes Cumulative
11 Supplement, 2008, is amended to read:

12 60-6,265 For purposes of sections 60-6,266 to 60-6,273,
13 occupant protection system means a system utilizing a lap belt, a
14 shoulder belt, or any combination of belts installed in a motor
15 vehicle which (1) restrains drivers and passengers and (2) conforms
16 to Federal Motor Vehicle Safety Standards, 49 C.F.R. 571.207,
17 571.208, 571.209, and 571.210, as such standards existed on January
18 1, ~~2008~~, 2009, or to the federal motor vehicle safety standards
19 for passenger restraint systems applicable for the motor vehicle's
20 model year.

21 Sec. 12. Section 60-6,267, Revised Statutes Cumulative
22 Supplement, 2008, is amended to read:

23 60-6,267 (1) Any person in Nebraska who drives any motor
24 vehicle which has or is required to have an occupant protection
25 system shall ensure that:

1 (a) All children up to six years of age being transported
2 by such vehicle use a child passenger restraint system of a type
3 which meets Federal Motor Vehicle Safety Standard 213 as developed
4 by the National Highway Traffic Safety Administration, as such
5 standard existed on January 1, ~~2008~~, 2009, and which is correctly
6 installed in such vehicle; and

7 (b) All children six years of age and less than eighteen
8 years of age being transported by such vehicle use an occupant
9 protection system.

10 This subsection shall apply to every motor vehicle which
11 is equipped with an occupant protection system or is required to be
12 equipped with restraint systems pursuant to Federal Motor Vehicle
13 Safety Standard 208, as such standard existed on January 1, ~~2008~~,
14 2009, except taxicabs, mopeds, motorcycles, and any motor vehicle
15 designated by the manufacturer as a 1963 year model or earlier
16 which is not equipped with an occupant protection system.

17 (2) Whenever any licensed physician determines, through
18 accepted medical procedures, that use of a child passenger
19 restraint system by a particular child would be harmful by reason
20 of the child's weight, physical condition, or other medical reason,
21 the provisions of subsection (1) of this section shall be waived.
22 The driver of any vehicle transporting such a child shall carry
23 on his or her person or in the vehicle a signed written statement
24 of the physician identifying the child and stating the grounds for
25 such waiver.

1 (3) The drivers of authorized emergency vehicles shall
2 not be subject to the requirements of subsection (1) of this
3 section when operating such authorized emergency vehicles pursuant
4 to their employment.

5 (4) A driver of a motor vehicle shall not be subject to
6 the requirements of subsection (1) of this section if the motor
7 vehicle is being operated in a parade or exhibition and the parade
8 or exhibition is being conducted in accordance with applicable
9 state law and local ordinances and resolutions.

10 (5) The Department of Motor Vehicles shall develop and
11 implement an ongoing statewide public information and education
12 program regarding the use of child passenger restraint systems and
13 occupant protection systems and the availability of distribution
14 and discount programs for child passenger restraint systems.

15 (6) All persons being transported by a motor vehicle
16 operated by a holder of a provisional operator's permit or a school
17 permit shall use such motor vehicle's occupant protection system.

18 Sec. 13. Section 66-1406.02, Revised Statutes Cumulative
19 Supplement, 2008, is amended to read:

20 66-1406.02 (1) The director may suspend, revoke, cancel,
21 or refuse to issue or renew a license under the International Fuel
22 Tax Agreement Act:

23 (a) If the applicant's or licensee's registration
24 certificate issued pursuant to the International Registration Plan
25 Act has been suspended, revoked, or canceled or the director

1 refused to issue or renew such certificate;

2 (b) If the applicant or licensee is in violation of
3 sections ~~75-348 to 75-358~~ or 75-392 to 75-399;

4 (c) If the applicant's or licensee's security has been
5 canceled;

6 (d) If the applicant or licensee failed to provide
7 additional security as required;

8 (e) If the applicant or licensee failed to file any
9 report or return required by the motor fuel laws, filed an
10 incomplete report or return required by the motor fuel laws, did
11 not file any report or return required by the motor fuel laws
12 electronically, or did not file a report or return required by the
13 motor fuel laws on time;

14 (f) If the applicant or licensee failed to pay taxes
15 required by the motor fuel laws due within the time provided;

16 (g) If the applicant or licensee filed any false report,
17 return, statement, or affidavit, required by the motor fuel laws,
18 knowing it to be false;

19 (h) If the applicant or licensee would no longer be
20 eligible to obtain a license; or

21 (i) If the applicant or licensee committed any other
22 violation of the International Fuel Tax Agreement Act or the rules
23 and regulations adopted and promulgated under the act.

24 (2) Prior to taking any action pursuant to subsection
25 (1) of this section, the director shall notify and advise the

1 applicant or licensee of the proposed action and the reasons for
2 such action in writing, by registered or certified mail, to his
3 or her last-known business address as shown on the application
4 or license. The notice shall also include an advisement of the
5 procedures in subsection (3) of this section.

6 (3) The applicant or licensee may, within thirty days
7 after the mailing of the notice, petition the director in writing
8 for a hearing to contest the proposed action. The hearing shall be
9 commenced in accordance with the rules and regulations adopted and
10 promulgated by the Department of Motor Vehicles. If a petition is
11 filed, the director shall, within twenty days after receipt of the
12 petition, set a hearing date at which the applicant or licensee
13 may show cause why the proposed action should not be taken. The
14 director shall give the applicant or licensee reasonable notice of
15 the time and place of the hearing. If the director's decision is
16 adverse to the applicant or licensee, the applicant or licensee may
17 appeal the decision in accordance with the Administrative Procedure
18 Act.

19 (4) Except as provided in subsection (2) of section
20 60-3,205 and subsection (8) of this section, the filing of the
21 petition shall stay any action by the director until a hearing is
22 held and a final decision and order is issued.

23 (5) Except as provided in subsection (2) of section
24 60-3,205 and subsection (8) of this section, if no petition is
25 filed at the expiration of thirty days after the date on which the

1 notification was mailed, the director may take the proposed action
2 described in the notice.

3 (6) Except as provided in subsection (2) of section
4 60-3,205 and subsection (8) of this section, if, in the judgment of
5 the director, the applicant or licensee has complied with or is no
6 longer in violation of the provisions for which the director took
7 action under this section, the director may reinstate the license
8 without delay. An applicant for reinstatement, issuance, or renewal
9 of a license within three years after the date of suspension,
10 revocation, cancellation, or refusal to issue or renew shall submit
11 a fee of one hundred dollars to the director. The director shall
12 remit the fee to the State Treasurer for credit to the Highway Cash
13 Fund.

14 (7) Suspension of, revocation of, cancellation of, or
15 refusal to issue or renew a license by the director shall not
16 relieve any person from making or filing the reports or returns
17 required by the motor fuel laws in the manner or within the time
18 required.

19 (8) Any person who receives notice from the director of
20 action taken pursuant to subsection (1) of this section shall,
21 within three business days, return such registration certificate
22 and license plates issued pursuant to section 60-3,198 to the
23 department. If any person fails to return the registration
24 certificate and license plates to the department, the department
25 shall notify the Nebraska State Patrol that any such person is in

1 violation of this section.

2 Sec. 14. Section 75-301, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 75-301 (1) It is the policy of the Legislature to
5 comply with the laws of the United States, to promote uniformity
6 of regulation, to prevent motor vehicle accidents, deaths, and
7 injuries, to protect the public safety, to reduce redundant
8 regulation, to promote financial responsibility on the part of
9 all motor carriers operating in and through the state, and to
10 foster the development, coordination, and preservation of a safe,
11 sound, adequate, and productive motor carrier system which is vital
12 to the economy of the state.

13 (2) It is the policy of the Legislature to (a) regulate
14 transportation by motor carriers of passengers and household goods
15 in intrastate commerce upon the public highways of Nebraska in
16 such manner as to recognize and preserve the inherent advantages
17 of and foster sound economic conditions in such transportation and
18 among such carriers, in the public interest, (b) promote adequate
19 economical and efficient service by motor carriers and reasonable
20 charges therefor without unjust discrimination, undue preferences
21 or advantages, and unfair or destructive competitive practices, (c)
22 improve the relations between and coordinate transportation by and
23 regulation of such motor carriers and other carriers, (d) develop
24 and preserve a highway transportation system properly adapted to
25 the needs of the commerce of Nebraska, (e) cooperate with the

1 several states and the duly authorized officials thereof, and (f)
2 cooperate with the United States Government in the administration
3 and enforcement of the ~~single state insurance registration system-~~
4 unified carrier registration plan and agreement.

5 The commission, the Division of Motor Carrier Services,
6 and the carrier enforcement division shall enforce all provisions
7 of section 75-126 and Chapter 75, article 3, so as to promote,
8 encourage, and ensure a safe, dependable, responsive, and adequate
9 transportation system for the public as a whole.

10 Sec. 15. Section 75-363, Revised Statutes Cumulative
11 Supplement, 2008, is amended to read:

12 75-363 (1) The parts, subparts, and sections of Title
13 49 of the Code of Federal Regulations listed below, as modified
14 in this section, or any other parts, subparts, and sections
15 referred to by such parts, subparts, and sections, in existence and
16 effective as of January 1, ~~2008,~~ 2009, are adopted as Nebraska law.

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

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

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

23 (i) All vehicles of such motor carriers with a gross
24 vehicle weight rating, gross combination weight rating, gross
25 vehicle weight, or gross combination weight over ten thousand

1 pounds;

2 (ii) All vehicles of such motor carriers designed or
3 used to transport more than eight passengers, including the driver,
4 for compensation, or designed or used to transport more than
5 fifteen passengers, including the driver, and not used to transport
6 passengers for compensation;

7 (iii) All vehicles of such motor carriers transporting
8 hazardous materials required to be placarded pursuant to section
9 75-364; and

10 (iv) All drivers of such motor carriers if the drivers
11 are operating a commercial motor vehicle as defined in section
12 60-465 which requires a commercial driver's license.

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

16 (a) Part 382—Controlled Substances And Alcohol Use And
17 Testing;

18 (b) Part 385—Safety Fitness Procedures;

19 (c) Part 387—Minimum Levels of Financial Responsibility
20 for Motor Carriers;

21 (d) Part 390—Federal Motor Carrier Safety Regulations;
22 General;

23 (e) Part 391—Qualifications Of Drivers And Longer
24 Combination Vehicle (LCV) Driver Instructors;

25 (f) Part 392—Driving Of Commercial Motor Vehicles;

- 1 (g) Part 393—Parts And Accessories Necessary For Safe
2 Operation;
- 3 (h) Part 395—Hours Of Service Of Drivers;
- 4 (i) Part 396—Inspection, Repair, And Maintenance;
- 5 (j) Part 397—Transportation Of Hazardous Materials;
6 Driving And Parking Rules; and
- 7 (k) Part 398—Transportation Of Migrant Workers.
- 8 (4) The provisions of subpart E—Physical Qualifications
9 And Examinations of 49 C.F.R. part 391—Qualifications Of Drivers
10 And Longer Combination Vehicle (LCV) Driver Instructors shall not
11 apply to any driver subject to this section who: (a) Operates a
12 commercial motor vehicle exclusively in intrastate commerce; and
13 (b) holds, or has held, a commercial driver's license issued by
14 this state prior to July 30, 1996.
- 15 (5) The regulations adopted in subsection (3) of this
16 section shall not apply to farm trucks registered pursuant to
17 section 60-3,146 with a gross weight of sixteen tons or less or to
18 fertilizer and agricultural chemical application and distribution
19 equipment transported in units with a capacity of three thousand
20 five hundred gallons or less if the equipment is not required to
21 be placarded pursuant to section 75-364. The following parts and
22 sections of 49 C.F.R. chapter III shall not apply to drivers of
23 farm trucks registered pursuant to section 60-3,146 and operated
24 solely in intrastate commerce:
- 25 (a) All of part 391;

1 (b) Section 395.8 of part 395; and

2 (c) Section 396.11 of part 396.

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

8 (7) Part 395—Hours Of Service Of Drivers shall apply to
9 motor carriers and drivers who engage in intrastate commerce as
10 defined in section 75-362, except that no motor carrier who engages
11 in intrastate commerce shall permit or require any driver used by
12 it to drive nor shall any driver drive:

13 (a) More than twelve hours following eight consecutive
14 hours off duty; or

15 (b) For any period after having been on duty sixteen
16 hours following eight consecutive hours off duty.

17 No motor carrier who engages in intrastate commerce
18 shall permit or require a driver of a commercial motor vehicle,
19 regardless of the number of motor carriers using the driver's
20 services, to drive, nor shall any driver of a commercial motor
21 vehicle drive, for any period after:

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

25 (ii) Having been on duty eighty hours in any period of

1 eight consecutive days if the employing motor carrier operates
2 motor vehicles every day of the week.

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

12 (9) 49 C.F.R. 390.21—Marking Of Commercial Motor Vehicles
13 shall not apply to farm trucks and farm truck-tractors registered
14 pursuant to section 60-3,146 and operated solely in intrastate
15 commerce.

16 (10) 49 C.F.R. 392.9a—Operating Authority shall not apply
17 to Nebraska motor carriers operating commercial motor vehicles
18 solely in intrastate commerce.

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

22 Sec. 16. Section 75-364, Revised Statutes Cumulative
23 Supplement, 2008, is amended to read:

24 75-364 (1) The parts, subparts, and sections of Title
25 49 of the Code of Federal Regulations listed below, or any other

1 parts, subparts, and sections referred to by such parts, subparts,
2 and sections, in existence and effective as of January 1, ~~2008,~~
3 2009, are adopted as part of Nebraska law and, except as provided
4 in subsections (2) and (3) of this section, shall be applicable
5 to all motor carriers whether engaged in interstate or intrastate
6 commerce, drivers of such motor carriers, and vehicles of such
7 motor carriers:

8 (a) Part 107—Hazardous Materials Program Procedures,
9 subpart F—Registration Of Cargo Tank And Cargo Tank Motor Vehicle
10 Manufacturers, Assemblers, Repairers, Inspectors, Testers, and
11 Design Certifying Engineers;

12 (b) Part 107—Hazardous Materials Program Procedures,
13 subpart G—Registration Of Persons Who Offer Or Transport Hazardous
14 Materials;

15 (c) Part 171—General Information, Regulations, And
16 Definitions;

17 (d) Part 172—Hazardous Materials Table, Special
18 Provisions, Hazardous Materials Communications, Emergency Response
19 Information, and Training Requirements;

20 (e) Part 173—Shippers—General Requirements For Shipments
21 And Packagings;

22 (f) Part 177—Carriage By Public Highway;

23 (g) Part 178—Specifications For Packagings; and

24 (h) Part 180—Continuing Qualification And Maintenance Of
25 Packagings.

1 (2) Agricultural operations exceptions:

2 (a) The transportation of an agricultural product other
3 than a Class 2 material (Compressed Gases) as defined in 49 C.F.R.
4 171.8, over roads, other than the National System of Interstate and
5 Defense Highways, between fields of the same farm, is excepted from
6 subsection (1) of this section when:

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

9 (ii) The movement of the agricultural product conforms to
10 all other laws in effect on or before July 1, 1998, and 49 C.F.R.
11 173.24, 173.24a, and 173.24b;

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

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

20 (ii) The total amount of agricultural product being
21 transported on a single vehicle does not exceed:

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

25 (B) Five hundred two gallons for liquids or gases, or

1 five thousand seventy pounds for solids, of any other agricultural
2 product;

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

7 (iv) Each person having any responsibility for
8 transporting the agricultural product or preparing the agricultural
9 product for shipment has been instructed in the applicable
10 requirements of the parts, subparts, and sections of Title 49 of
11 the Code of Federal Regulations adopted in this section; and

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

19 (3) Exceptions for nonspecification packagings used in
20 intrastate transportation:

21 (a) Nonspecification cargo tanks for petroleum products:
22 Notwithstanding requirements for specification packagings in 49
23 C.F.R. part 173, subpart F, and 49 C.F.R. parts 178 and 180,
24 a nonspecification metal tank permanently secured to a transport
25 vehicle and protected against leakage or damage in the event

1 of a turnover, having a capacity of less than three thousand
2 five hundred gallons, may be used by an intrastate motor carrier
3 for transportation of a flammable liquid petroleum product in
4 accordance with subdivision (c) of this subsection;

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

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

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

18 (ii) Be operated in conformance with the requirements of
19 the State of Nebraska;

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

24 (iv) Be offered for transportation and transported in
25 conformance with all other applicable requirements of the hazardous

1 material regulations;

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

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

11 (4) For purposes of this section:

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

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

25 (i) A maximum capacity greater than one hundred nineteen

1 gallons as a receptacle for a liquid;

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

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

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

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

13 Sec. 17. Section 75-369.03, Revised Statutes Cumulative
14 Supplement, 2008, is amended to read:

15 75-369.03 (1) The Superintendent of Law Enforcement and
16 Public Safety may issue an order imposing a civil penalty against
17 a motor carrier transporting persons or property in interstate
18 commerce for a violation of sections ~~75-348 to 75-358 or~~ 75-392 to
19 75-399 or against a motor carrier transporting persons or property
20 in intrastate commerce for a violation or violations of section
21 75-363 or 75-364 based upon an inspection conducted pursuant to
22 section 75-366 in an amount which shall not exceed five hundred
23 dollars for any single violation in any proceeding or series of
24 related proceedings against any person or motor carrier as defined
25 in 49 C.F.R. part 390.5 as adopted in section 75-363.

1 (2) The superintendent shall issue an order imposing a
2 civil penalty in an amount not to exceed ten thousand dollars
3 against a motor carrier transporting persons or property in
4 interstate commerce for a violation of subsection (3) of section
5 60-4,162 based upon a conviction of such a violation.

6 (3) The superintendent shall issue an order imposing
7 a civil penalty against a driver operating a commercial motor
8 vehicle, as defined in section 60-465, that requires a commercial
9 driver's license, in violation of an out-of-service order. The
10 civil penalty shall be in an amount not less than two thousand five
11 hundred dollars but not more than five thousand dollars for a first
12 violation and not less than five thousand one dollars but not more
13 than seven thousand five hundred dollars for a second or subsequent
14 violation.

15 (4) The superintendent shall issue an order imposing
16 a civil penalty against a motor carrier who knowingly allows,
17 requires, permits, or authorizes the operation of a commercial
18 motor vehicle, as defined in section 60-465, that requires a
19 commercial driver's license, in violation of an out-of-service
20 order. The civil penalty shall be not less than two thousand
21 seven hundred fifty dollars but not more than twenty-five thousand
22 dollars per violation.

23 (5) Upon the discovery of any violation by a motor
24 carrier transporting persons or property in interstate commerce of
25 section 75-307, 75-363, or 75-364 or sections 75-392 to 75-399

1 based upon an inspection conducted pursuant to section 75-366,
2 the superintendent shall immediately refer such violation to the
3 appropriate federal agency for disposition, and upon the discovery
4 of any violation by a motor carrier transporting persons or
5 property in intrastate commerce of section 75-307 based upon such
6 inspection, the superintendent shall refer such violation to the
7 Public Service Commission for disposition.

8 Sec. 18. Section 75-386, Revised Statutes Cumulative
9 Supplement, 2008, is amended to read:

10 75-386 The Division of Motor Carrier Services shall:

11 (1) Foster, promote, and preserve the motor carrier
12 industry of the State of Nebraska;

13 (2) Protect and promote the public health and welfare
14 of the citizens of the state by ensuring that the motor carrier
15 industry is operated in an efficient and safe manner;

16 (3) Promote and provide for efficient and uniform
17 governmental oversight of the motor carrier industry;

18 (4) Promote financial responsibility on the part of motor
19 carriers operating in and through the State of Nebraska;

20 (5) Administer all provisions of the International Fuel
21 Tax Agreement Act, the International Registration Plan Act, and
22 the ~~single state insurance registration system~~ unified carrier
23 registration plan and agreement pursuant to sections ~~75-348 to~~
24 ~~75-358 or~~ 75-392 to 75-399;

25 (6) Provide for the issuance of certificates of title to

1 apportioned registered motor vehicles as provided for by subsection
2 (6) of section 60-144; and

3 (7) Carry out such other duties and responsibilities as
4 directed by the Legislature.

5 Sec. 19. Section 75-393, Revised Statutes Cumulative
6 Supplement, 2008, is amended to read:

7 75-393 ~~(1)~~ On and after the date the United States
8 Secretary of Transportation establishes the Unified Carrier
9 Registration System in accordance with the Unified Carrier
10 Registration Act of 2005, 49 U.S.C. 13908, as such act existed
11 on January 1, 2007, the director may designate a date to begin
12 enforcement of such act in this state.

13 ~~(2)~~ The director may participate in the unified carrier
14 registration plan and agreement pursuant to the Unified Carrier
15 Registration Act of 2005, 49 U.S.C. 13908, as the act existed on
16 January 1, 2009, and may file on behalf of this state the plan
17 required by such plan and agreement for enforcement of the act in
18 this state.

19 Sec. 20. Section 75-394, Revised Statutes Cumulative
20 Supplement, 2008, is amended to read:

21 75-394 (1) On and after the date designated by the
22 director pursuant to section 75-393, ~~no~~ No foreign or domestic
23 motor carrier, private carrier, leasing company, broker, or freight
24 forwarder shall operate any motor vehicle on a highway of this
25 state or in interstate commerce without first being registered

1 in this state or another jurisdiction pursuant to the unified
2 carrier registration plan and agreement and having paid all fees
3 required under the unified carrier registration plan and agreement
4 for such registration. A motor carrier, private carrier, leasing
5 company, broker, or freight forwarder with its principal place of
6 business in this state shall register in this state with and pay
7 its required registration fees to the division. The division shall
8 remit the fees to the State Treasurer for credit to the General
9 Fund.

10 (2) ~~On and after the date designated by the director~~
11 ~~pursuant to section 75-393, the~~ The division may accept the
12 registration of and fees required from a foreign or domestic
13 motor carrier, private carrier, leasing company, broker, or freight
14 forwarder that maintains an office in this state but does not
15 have its principal place of business in the United States or that
16 maintains an office in this state but has its principal place of
17 business in another jurisdiction that does not participate in the
18 unified carrier registration plan and agreement. The division shall
19 remit the fees to the State Treasurer for credit to the General
20 Fund.

21 Sec. 21. Section 75-396, Revised Statutes Cumulative
22 Supplement, 2008, is amended to read:

23 75-396 ~~On and after the date designated by the director~~
24 ~~pursuant to section 75-393 the~~ The director may adopt and
25 promulgate rules and regulations to carry out the unified carrier

1 registration plan and agreement.

2 Sec. 22. Section 75-397, Revised Statutes Cumulative
3 Supplement, 2008, is amended to read:

4 75-397 ~~On and after the date designated by the director~~
5 ~~pursuant to section 75-393, the~~ The director may prescribe the
6 appropriate forms and implement the appropriate electronic systems
7 to allow filings with the division pursuant to the unified carrier
8 registration plan and agreement.

9 Sec. 23. Section 75-398, Revised Statutes Cumulative
10 Supplement, 2008, is amended to read:

11 75-398 ~~On and after the date designated by the director~~
12 ~~pursuant to section 75-393, any~~ Any foreign or domestic motor
13 carrier, private carrier, leasing company, broker, or freight
14 forwarder operating any motor vehicle in violation of sections
15 75-392 to 75-399, any rule or regulation adopted and promulgated
16 pursuant to such sections, or any order of the division issued
17 pursuant to such sections is guilty of a Class IV misdemeanor
18 and shall also be subject to section 75-369.03. Each day of the
19 violation constitutes a separate offense.

20 Sec. 24. Sections 2 and 25 of this act become operative
21 on January 1, 2010. Sections 1, 3, 4, 5, 6, 7, 9, 10, 11, 12,
22 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 26, and 28 of this
23 act become operative three calendar months after the adjournment
24 of this legislative session. The other sections of this act become
25 operative on their effective date.

1 Sec. 25. Original section 60-3,122.02, Revised Statutes
2 Cumulative Supplement, 2008, is repealed.

3 Sec. 26. Original sections 18-1739 and 75-301, Reissue
4 Revised Statutes of Nebraska, and sections 60-3,137, 60-3,193.01,
5 60-3,198, 60-3,205, 60-462.01, 60-480.01, 60-4,147.02, 60-6,265,
6 60-6,267, 66-1406.02, 75-363, 75-364, 75-369.03, 75-386, 75-393,
7 75-394, 75-396, 75-397, and 75-398, Revised Statutes Cumulative
8 Supplement, 2008, are repealed.

9 Sec. 27. Original section 60-462.02, Revised Statutes
10 Cumulative Supplement, 2008, is repealed.

11 Sec. 28. The following sections are outright repealed:
12 Sections 75-348, 75-349, 75-350, 75-351, 75-353, 75-354, 75-355,
13 75-358, and 75-390, Reissue Revised Statutes of Nebraska, and
14 section 75-395, Revised Statutes Cumulative Supplement, 2008.

15 Sec. 29. Since an emergency exists, this act takes effect
16 when passed and approved according to law.