

AMENDMENTS TO LB 112

Introduced by Transportation and Telecommunications

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

3 Section 1. Section 75-302, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 75-302 For purposes of sections 75-301 to 75-322 and in
6 all rules and regulations adopted and promulgated by the commission
7 pursuant to such sections, unless the context otherwise requires:

8 (1) Attended services means an attendant or caregiver
9 accompanying a minor or persons who are physically, mentally,
10 or developmentally disabled and unable to travel or wait without
11 assistance or supervision;

12 ~~(1)~~ (2) Carrier enforcement division means the carrier
13 enforcement division of the Nebraska State Patrol or the Nebraska
14 State Patrol;

15 ~~(2)~~ (3) Certificate means a certificate of public
16 convenience and necessity issued under Chapter 75, article 3, to
17 common carriers by motor vehicle;

18 ~~(3)~~ (4) Civil penalty means any monetary penalty assessed
19 by the commission or carrier enforcement division due to a
20 violation of Chapter 75, article 3, or section 75-126 as such
21 section applies to any person or carrier specified in Chapter 75,
22 article 3; any term, condition, or limitation of any certificate
23 or permit issued pursuant to Chapter 75, article 3; or any

1 rule, regulation, or order of the commission, the Division of
2 Motor Carrier Services, or the carrier enforcement division issued
3 pursuant to Chapter 75, article 3;

4 ~~(4)~~ (5) Commission means the Public Service Commission;

5 ~~(5)~~ (6) Common carrier means any person who or which
6 undertakes to transport passengers or household goods for the
7 general public in intrastate commerce by motor vehicle for hire,
8 whether over regular or irregular routes, upon the highways of this
9 state;

10 ~~(6)~~ (7) Contract carrier means any motor carrier which
11 transports passengers or household goods for hire other than as
12 a common carrier designed to meet the distinct needs of each
13 individual customer or a specifically designated class of customers
14 without any limitation as to the number of customers it can serve
15 within the class;

16 ~~(7)~~ (8) Division of Motor Carrier Services means the
17 Division of Motor Carrier Services of the Department of Motor
18 Vehicles;

19 ~~(8)~~ Escort services means an attendant or caregiver
20 accompanying a minor or persons who are physically, mentally,
21 or developmentally disabled and unable to travel or wait without
22 assistance or supervision;

23 (9) Highway means the roads, highways, streets, and ways
24 in this state;

25 (10) Household goods means personal effects and property
26 used or to be used in a dwelling, when a part of the equipment
27 or supply of such dwelling, and similar property as the commission

1 may provide by regulation if the transportation of such effects or
2 property, is:

3 (a) Arranged and paid for by the householder, including
4 transportation of property from a factory or store when the
5 property is purchased by the householder with the intent to use in
6 his or her dwelling; or

7 (b) Arranged and paid for by another party;

8 (11) Intrastate commerce means commerce between any place
9 in this state and any other place in this state and not in part
10 through any other state;

11 (12) Motor carrier means any person other than a
12 regulated motor carrier who or which owns, controls, manages,
13 operates, or causes to be operated any motor vehicle used to
14 transport passengers or property over any public highway in this
15 state;

16 (13) Motor vehicle means any vehicle, machine, tractor,
17 trailer, or semitrailer propelled or drawn by mechanical power
18 and used upon the highways in the transportation of passengers
19 or property but does not include any vehicle, locomotive, or car
20 operated exclusively on a rail or rails;

21 (14) Permit means a permit issued under Chapter 75,
22 article 3, to contract carriers by motor vehicle;

23 (15) Person means any individual, firm, partnership,
24 limited liability company, corporation, company, association,
25 or joint-stock association and includes any trustee, receiver,
26 assignee, or personal representative thereof;

27 (16) Private carrier means any motor carrier which

1 owns, controls, manages, operates, or causes to be operated a
2 motor vehicle to transport passengers or property to or from
3 its facility, plant, or place of business or to deliver to
4 purchasers its products, supplies, or raw materials (a) when such
5 transportation is within the scope of and furthers a primary
6 business of the carrier other than transportation and (b) when
7 not for hire. Nothing in sections 75-301 to 75-322 shall apply to
8 private carriers; and

9 (17) Regulated motor carrier means any person who or
10 which owns, controls, manages, operates, or causes to be operated
11 any motor vehicle used to transport passengers, other than those
12 excepted under section 75-303, or household goods over any public
13 highway in this state;—

14 (18) Residential care means care for a minor or a
15 person who is physically, mentally, or developmentally disabled
16 who resides in a residential home or facility regulated by the
17 Department of Health and Human Services, including, but not limited
18 to, a foster home, treatment facility, group home, or shelter;

19 (19) Residential care transportation services means
20 transportation services to persons in residential care when such
21 residential care transportation services and residential care are
22 provided as part of a services contract with the Department of
23 Health and Human Services or pursuant to a subcontract entered into
24 incident to a services contract with the department; and

25 (20) Supported transportation services means
26 transportation services to a minor or for a person who is
27 physically, mentally, or developmentally disabled when the person

1 providing transportation services also assists and supervises the
2 passenger or transportation services to a family member of a minor
3 when it is necessary for provider staff to accompany or facilitate
4 the transportation in order to provide necessary services and
5 support to the minor. Supported transportation services must be
6 provided as part of a services contract with the Department of
7 Health and Human Services or pursuant to a subcontract entered into
8 incident to a services contract with the department, and the driver
9 must meet department requirements for (a) training or experience
10 working with minors or persons who are physically, mentally, or
11 developmentally disabled, (b) training with regard to the specific
12 needs of the client served, (c) reporting to the department,
13 and (d) age. Assisting and supervising the passenger shall not
14 necessarily require the person providing transportation services
15 to stay with the passenger after the transportation services have
16 been provided.

17 Sec. 2. Section 75-303, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 75-303 Sections 75-301 to 75-322 shall apply to
20 transportation by a motor carrier or the transportation of
21 passengers and household goods by a regulated motor carrier for
22 hire in intrastate commerce except for the following:

23 (1) A motor carrier for hire in the transportation of
24 school children and teachers to and from school;

25 (2) A motor carrier for hire operated in connection with
26 a part of a streetcar system;

27 (3) An ambulance, ambulance owner, hearse, or automobile

1 used exclusively as an incident to conducting a funeral;

2 (4) A motor carrier exempt by subdivision (1) of this
3 section which hauls for hire (a) persons of a religious, fraternal,
4 educational, or charitable organization, (b) pupils of a school to
5 athletic events, (c) players of American Legion baseball teams when
6 the point of origin or termination is within five miles of the
7 domicile of the carrier, and (d) the elderly as defined in section
8 13-1203 and their spouses and dependents under a contract with a
9 municipality or county authorized in section 13-1208;

10 (5) A motor carrier operated by a city and engaged in the
11 transportation of passengers, and such exempt operations shall be
12 no broader than those authorized in intrastate commerce at the time
13 the city or other political subdivision assumed ownership of the
14 operation;

15 (6) A motor vehicle owned and operated by a nonprofit
16 organization which is exempt from payment of federal income
17 taxes, as provided by section 501(c)(4), Internal Revenue Code,
18 transporting solely persons over age sixty, persons who are spouses
19 and dependents of persons over age sixty, and handicapped persons;

20 (7) A motor carrier engaged in the transportation of
21 passengers operated by a transit authority created under and acting
22 pursuant to the laws of the State of Nebraska;

23 (8) A motor carrier operated by a municipality or county,
24 as authorized in section 13-1208, in the transportation of elderly
25 persons;

26 (9) A motor vehicle having a seating capacity of twenty
27 or less which is operated by a governmental subdivision or a

1 qualified public-purpose organization as defined in section 13-1203
2 engaged in the transportation of passengers in the state;

3 (10) A motor vehicle owned and operated by a nonprofit
4 entity organized for the purpose of furnishing electric service;
5 ~~and~~

6 (11) A motor carrier engaged in ~~escort~~ attended services
7 ~~and~~ under contract or subcontract with the Department of Health
8 and Human Services or with any agency organized under the Nebraska
9 Community Aging Services Act;~~;~~

10 (12) A motor carrier engaged in residential care
11 transportation services if the motor carrier complies with the
12 requirements of the Department of Health and Human Services
13 adopted, promulgated, and enforced to protect the safety and
14 well-being of the passengers, including insurance, training, and
15 age requirements; and

16 (13) A motor carrier engaged in supported transportation
17 services if the motor carrier complies with the requirements of the
18 Department of Health and Human Services adopted, promulgated, and
19 enforced to protect the safety and well-being of the passengers,
20 including insurance, training, and age requirements.

21 Sec. 3. Section 75-311, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 75-311 (1) A certificate shall be issued to any
24 qualified applicant authorizing the whole or any part of the
25 operations covered by the application if it is found after notice
26 and hearing that (a) the applicant is fit, willing, and able
27 properly to perform the service proposed and to conform to the

1 provisions of sections 75-301 to 75-322 and the requirements,
2 rules, and regulations of the commission under such sections and
3 (b) the proposed service, to the extent to be authorized by the
4 certificate, whether regular or irregular, passenger or household
5 goods, is or will be required by the present or future public
6 convenience and necessity. Otherwise the application shall be
7 denied.

8 (2) A permit shall be issued to any qualified applicant
9 therefor authorizing in whole or in part the operations covered
10 by the application if it appears after notice and hearing from
11 the application or from any hearing held on the application that

12 (a) the applicant is fit, willing, and able properly to perform
13 the service of a contract carrier by motor vehicle and to conform
14 to the provisions of such sections and the lawful requirements,
15 rules, and regulations of the commission under such sections and

16 (b) the proposed operation, to the extent authorized by the permit,
17 will be consistent with the public interest by providing services
18 designed to meet the distinct needs of each individual customer
19 or a specifically designated class of customers as defined in
20 subdivision ~~(6)~~ (7) of section 75-302. Otherwise the application
21 shall be denied.

22 (3) No person shall at the same time hold a certificate
23 as a common carrier and a permit as a contract carrier for
24 transportation of household goods by motor vehicles over the same
25 route or within the same territory unless the commission finds
26 that it is consistent with the public interest and with the policy
27 declared in section 75-301.

1 (4) After the issuance of a certificate or permit, the
2 commission shall review the operations of all common or contract
3 carriers who hold authority from the commission to determine
4 whether there are insufficient operations in the transportation
5 of household goods to justify the commission's finding that
6 such common or contract carrier has willfully failed to perform
7 transportation under sections 75-301 to 75-322 and rules and
8 regulations promulgated under such sections. If the commission
9 determines that there are insufficient operations, then the
10 commission shall commence proceedings under section 75-315 to
11 revoke the certificate or permit involved.

12 (5) This section shall not apply to operations pursuant
13 to a contract authorized by sections 75-303.01 and 75-303.02.

14 Sec. 4. Original sections 75-302, 75-303, and 75-311,
15 Reissue Revised Statutes of Nebraska, are repealed.

16 Sec. 5. Since an emergency exists, this act takes effect
17 when passed and approved according to law.