

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 212

Introduced by Transportation and Telecommunications Committee:
Fischer, 43, Chairperson; Campbell, 25; Dubas, 34;
Hadley, 37; Janssen, 15; Lautenbaugh, 18; Louden, 49;
Price, 3.

Read first time January 10, 2011

Committee: Transportation and Telecommunications

A BILL

1 FOR AN ACT relating to motor vehicles; to amend sections 60-3,193.01,
2 60-3,221, 60-462.01, 60-4,147.02, and 75-393, Reissue
3 Revised Statutes of Nebraska, and sections 18-1739,
4 75-363, and 75-364, Revised Statutes Cumulative
5 Supplement, 2010; to adopt revisions of federal laws and
6 regulations and a registration reciprocity agreement by
7 reference; to change provisions relating to towing
8 trailers; to harmonize provisions; to repeal the original
9 sections; and to declare an emergency.

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

1 Section 1. Section 18-1739, Revised Statutes Cumulative
2 Supplement, 2010, 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 permit's
6 issuance and printed so as to minimize the possibility of alteration
7 following issuance. The permit shall be of a design, size,
8 configuration, color, and construction and contain such information
9 as specified in the rules and regulations adopted and promulgated by
10 the United States Department of Transportation in the Uniform System
11 for Parking for Persons with Disabilities, 23 C.F.R. part 1235, as
12 such regulations existed on January 1, ~~2010~~ 2011.

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

21 (3) No permit shall be issued to any person or for any
22 motor vehicle if any parking permit has been issued to such person or
23 for such motor vehicle and such permit has been suspended pursuant to
24 section 18-1741. At the expiration of such suspension, a permit may
25 be renewed in the manner provided for renewal in sections 18-1738,

1 18-1738.01, and 18-1740.

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

11 Sec. 2. Section 60-3,193.01, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 60-3,193.01 For purposes of the Motor Vehicle
14 Registration Act, the International Registration Plan is adopted and
15 incorporated by reference as the plan existed on ~~January 1, 2010.~~
16 January 1, 2011.

17 Sec. 3. Section 60-3,221, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 60-3,221 (1) Except as otherwise provided in the Motor
20 Vehicle Registration Act:

21 (a) A cabin trailer shall only be towed by a properly
22 registered:

23 (i) Passenger car;

24 (ii) Commercial motor vehicle or apportionable vehicle;

25 (iii) Farm truck;

- 1 (iv) Local truck;
- 2 (v) Minitruck;
- 3 ~~(v)~~(vi) Recreational vehicle; or
- 4 ~~(vi)~~(vii) Bus;
- 5 (b) A utility trailer shall only be towed by:
- 6 (i) A properly registered passenger car;
- 7 (ii) A properly registered commercial motor vehicle or
- 8 apportionable vehicle;
- 9 (iii) A properly registered farm truck;
- 10 (iv) A properly registered local truck;
- 11 (v) A properly registered minitruck;
- 12 ~~(v)~~(vi) A properly registered recreational vehicle;
- 13 ~~(vi)~~(vii) A properly registered motor vehicle which is
- 14 engaged in soil and water conservation pursuant to section 60-3,149;
- 15 ~~(vii)~~(viii) A properly registered well-boring apparatus;
- 16 ~~(viii)~~(ix) A dealer-plated vehicle;
- 17 ~~(ix)~~(x) A personal-use dealer-plated vehicle; or
- 18 ~~(x)~~(xi) A properly registered bus;
- 19 (c) A farm trailer shall only be towed by a properly
- 20 registered:
- 21 (i) Passenger car;
- 22 (ii) Commercial motor vehicle; ~~or~~
- 23 (iii) Farm truck; or
- 24 (iv) Minitruck;
- 25 (d) A commercial trailer shall only be towed by:

- 1 (i) A properly registered motor vehicle which is engaged
2 in soil and water conservation pursuant to section 60-3,149;
- 3 (ii) A properly registered local truck;
- 4 (iii) A properly registered well-boring apparatus;
- 5 (iv) A properly registered commercial motor vehicle or
6 apportionable vehicle;
- 7 (v) A dealer-plated vehicle;
- 8 (vi) A personal-use dealer-plated vehicle;
- 9 (vii) A properly registered bus; or
- 10 (viii) A properly registered farm truck;
- 11 (e) A fertilizer trailer shall only be towed by a
12 properly registered:
- 13 (i) Passenger car;
- 14 (ii) Commercial motor vehicle or apportionable vehicle;
- 15 (iii) Farm truck; or
- 16 (iv) Local truck;
- 17 (f) A pole and cable reel trailer shall only be towed by
18 a properly registered:
- 19 (i) Commercial motor vehicle or apportionable vehicle; or
- 20 (ii) Local truck;
- 21 (g) A dealer-plated trailer shall only be towed by:
- 22 (i) A dealer-plated vehicle;
- 23 (ii) A properly registered passenger car;
- 24 (iii) A properly registered commercial motor vehicle or
25 apportionable vehicle;

- 1 (iv) A properly registered farm truck; ~~or~~
 2 (v) A properly registered minitruck; or
 3 ~~(v)-(vi) A personal-use dealer-plated vehicle; and~~
 4 (h) Trailers registered pursuant to section 60-3,198 as
 5 part of an apportioned fleet shall only be towed by:
 6 (i) A properly registered motor vehicle which is engaged
 7 in soil and water conservation pursuant to section 60-3,149;
 8 (ii) A properly registered local truck;
 9 (iii) A properly registered well-boring apparatus;
 10 (iv) A properly registered commercial motor vehicle or
 11 apportionable vehicle;
 12 (v) A dealer-plated vehicle;
 13 (vi) A personal-use dealer-plated vehicle;
 14 (vii) A properly registered bus; or
 15 (viii) A properly registered farm truck.

16 (2) Nothing in this section shall be construed to waive
 17 compliance with the Nebraska Rules of the Road or Chapter 75.

18 ~~(2)-(3)~~ Nothing in this section shall be construed to
 19 prohibit any motor vehicle or trailer from displaying dealer license
 20 plates or In Transit stickers authorized by section 60-376.

21 Sec. 4. Section 60-462.01, Reissue Revised Statutes of
 22 Nebraska, is amended to read:

23 60-462.01 For purposes of the Motor Vehicle Operator's
 24 License Act, the following federal regulations are adopted as
 25 Nebraska law as they existed on January 1, 2010+ 2011:

1 (1) Beginning on an implementation date designated by the
2 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. 5. Section 60-4,147.02, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 60-4,147.02 No endorsement authorizing the driver to
10 operate a commercial motor vehicle transporting hazardous materials
11 shall be issued, renewed, or transferred by the Department of Motor
12 Vehicles unless the endorsement is issued, renewed, or transferred in
13 conformance with the requirements of section 1012 of the federal
14 Uniting and Strengthening America by Providing Appropriate Tools
15 Required to Intercept and Obstruct Terrorism Act of 2001, USA PATRIOT
16 Act, 49 U.S.C. 5103a, including all amendments and federal ~~rules and~~
17 regulations adopted ~~and promulgated~~ pursuant thereto as of January 1,
18 ~~2010, 2011,~~ for the issuance of licenses to operate commercial motor
19 vehicles transporting hazardous materials.

20 Sec. 6. Section 75-363, Revised Statutes Cumulative
21 Supplement, 2010, is amended to read:

22 75-363 (1) The parts, subparts, and sections of Title 49
23 of the Code of Federal Regulations listed below, as modified in this
24 section, or any other parts, subparts, and sections referred to by
25 such parts, subparts, and sections, in existence and effective as of

1 January 1, ~~2010~~, 2011, are adopted as Nebraska law.

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

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

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

8 (i) All vehicles of such motor carriers with a gross
9 vehicle weight rating, gross combination weight rating, gross vehicle
10 weight, or gross combination weight over ten thousand pounds;

11 (ii) All vehicles of such motor carriers designed or used
12 to transport more than eight passengers, including the driver, for
13 compensation, or designed or used to transport more than fifteen
14 passengers, including the driver, and not used to transport
15 passengers for compensation;

16 (iii) All vehicles of such motor carriers transporting
17 hazardous materials required to be placarded pursuant to section
18 75-364; and

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

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

25 (a) Part 382 - Controlled Substances And Alcohol Use And

1 Testing;

2 (b) Part 385 - Safety Fitness Procedures;

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

5 (d) Part 387 - Minimum Levels of Financial Responsibility
6 for Motor Carriers;

7 (e) Part 390 - Federal Motor Carrier Safety Regulations;

8 General;

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

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

12 (h) Part 393 - Parts And Accessories Necessary For Safe
13 Operation;

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

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

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

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

19 (4) The provisions of subpart E - Physical Qualifications
20 And Examinations of 49 C.F.R. part 391 - Qualifications Of Drivers
21 And Longer Combination Vehicle (LCV) Driver Instructors shall not
22 apply to any driver subject to this section who: (a) Operates a
23 commercial motor vehicle exclusively in intrastate commerce; and (b)
24 holds, or has held, a commercial driver's license issued by this
25 state prior to July 30, 1996.

1 (5) The regulations adopted in subsection (3) of this
2 section shall not apply to farm trucks registered pursuant to section
3 60-3,146 with a gross weight of sixteen tons or less. The following
4 parts and sections of 49 C.F.R. chapter III shall not apply to
5 drivers of farm trucks registered pursuant to section 60-3,146 and
6 operated solely in intrastate commerce:

7 (a) All of part 391;

8 (b) Section 395.8 of part 395; and

9 (c) Section 396.11 of part 396.

10 (6) Part 393 - Parts And Accessories Necessary For Safe
11 Operation and Part 396 - Inspection, Repair, And Maintenance shall
12 not apply to fertilizer and agricultural chemical application and
13 distribution equipment transported in units with a capacity of three
14 thousand five hundred gallons or less.

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

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

25 (i) More than twelve hours following eight consecutive

1 hours off duty; or

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

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

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

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

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

23 (10) 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

1 intrastate commerce.

2 (11) 49 C.F.R. 392.9a - Operating Authority shall not
3 apply to Nebraska motor carriers operating commercial motor vehicles
4 solely in intrastate commerce.

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

8 Sec. 7. Section 75-364, Revised Statutes Cumulative
9 Supplement, 2010, is amended to read:

10 75-364 (1) The parts, subparts, and sections of Title 49
11 of the Code of Federal Regulations listed below, or any other parts,
12 subparts, and sections referred to by such parts, subparts, and
13 sections, in existence and effective as of January 1, ~~2010~~, 2011, are
14 adopted as part of Nebraska law and, except as provided in
15 subsections (2) and (3) of this section, shall be applicable to all
16 motor carriers whether engaged in interstate or intrastate commerce,
17 drivers of such motor carriers, and vehicles of such motor carriers:

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

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

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

1 Definitions;

2 (d) Part 172 - Hazardous Materials Table, Special
3 Provisions, Hazardous Materials Communications, Emergency Response
4 Information, and Training Requirements;

5 (e) Part 173 - Shippers-General Requirements For
6 Shipments And Packagings;

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

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

9 (h) Part 180 - Continuing Qualification And Maintenance
10 Of Packagings.

11 (2) Agricultural operations exceptions:

12 (a) The transportation of an agricultural product other
13 than a Class 2 material (Compressed Gases) as defined in 49 C.F.R.
14 171.8, over roads, other than the National System of Interstate and
15 Defense Highways, between fields of the same farm, is excepted from
16 subsection (1) of this section when:

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

19 (ii) The movement of the agricultural product conforms to
20 all other laws in effect on or before July 1, 1998, and 49 C.F.R.
21 173.24, 173.24a, and 173.24b;

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

1 packaging requirements of subsection (1) of this section when:

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

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

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

9 (B) Five hundred two gallons for liquids or gases, or
10 five thousand seventy pounds for solids, of any other agricultural
11 product;

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

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

21 (c) Formulated liquid agricultural products in
22 specification packagings of fifty-eight-gallon capacity or less, with
23 closures manifolded to a closed mixing system and equipped with
24 positive dry disconnect devices, may be transported by a private
25 motor carrier between a final distribution point and an ultimate

1 point of application or for loading aboard an airplane for aerial
2 application.

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

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

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

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

25 (i) Be operated by an intrastate motor carrier and in use

1 as a packaging for hazardous material before July 1, 1998;

2 (ii) Be operated in conformance with the requirements of
3 the State of Nebraska;

4 (iii) Be specifically authorized by state law in effect
5 before July 1, 1998, for use as a packaging for the hazardous
6 material being transported and by 49 C.F.R. 173.24, 173.24a, and
7 173.24b;

8 (iv) Be offered for transportation and transported in
9 conformance with all other applicable requirements of the hazardous
10 material regulations;

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

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

19 (4) For purposes of this section:

20 (a) Agricultural product means a hazardous material,
21 other than a hazardous waste, whose end use directly supports the
22 production of an agricultural commodity, including, but not limited
23 to, a fertilizer, pesticide, soil amendment, or fuel. An agricultural
24 product is limited to a material in Class 3 (Flammable Liquids),
25 Class 8 (Corrosives), or Class 9 (Miscellaneous), Division 2.1

1 (Flammable Gas), Division 2.2 (Nonflammable Gas), Division 5.1
2 (Oxidizers), or Division 6.1 (Poisons), or an ORM-D material
3 (Consumer Commodity), as defined in 49 C.F.R. 171.8;

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

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

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

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

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

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

20 Sec. 8. Section 75-393, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 75-393 The director may participate in the unified
23 carrier registration plan and agreement pursuant to the Unified
24 Carrier Registration Act of 2005, 49 U.S.C. 13908, as the act existed
25 on January 1, ~~2009~~, 2011, and may file on behalf of this state the

1 plan required by such plan and agreement for enforcement of the act
2 in this state.

3 Sec. 9. Original sections 60-3,193.01, 60-3,221,
4 60-462.01, 60-4,147.02, and 75-393, Reissue Revised Statutes of
5 Nebraska, and sections 18-1739, 75-363, and 75-364, Revised Statutes
6 Cumulative Supplement, 2010, are repealed.

7 Sec. 10. Since an emergency exists, this act takes effect
8 when passed and approved according to law.