

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 889

Introduced by Avery, 28.

Read first time January 09, 2012

Committee: Transportation and Telecommunications

A BILL

1 FOR AN ACT relating to taxicabs; to amend sections 75-119 and 75-126,
2 Reissue Revised Statutes of Nebraska, and sections 75-302
3 and 75-311, Revised Statutes Supplement, 2011; to define
4 and redefine terms; to change provisions relating to
5 certificates of public convenience and necessity and
6 rates and fares; and to repeal the original sections.

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

1 Section 1. Section 75-119, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 75-119 (1) When any common carrier or other interested
4 person petitions the commission alleging that a rate, rule, or
5 regulation should be prescribed when none exists or alleging that an
6 existing rule, regulation, or rate is unreasonably high or low,
7 unjust, or discriminatory, notice shall be given to the common
8 carriers affected in accordance with the commission's rules for
9 notice and hearing. The minimum notice to be given under this section
10 shall be ten days. The order granting or denying the petition or
11 application shall be mailed to the parties of record. If a petition
12 or application is not opposed after notice has been given, the
13 commission may act upon such petition or application without a
14 hearing.

15 (2) The commission shall prescribe the maximum rate or
16 fare, by rule or regulation, for taxicab carriers pursuant to the
17 commission's procedures with respect to notice and public hearings. A
18 taxicab carrier shall be bound by the most recently approved maximum
19 rate or fare, but shall not be restricted from advertising,
20 promoting, billing, or charging a lesser amount for taxicab services.

21 Sec. 2. Section 75-126, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 75-126 (1) Except as otherwise provided in this section,
24 no common carrier shall:

25 (a) Charge, demand, collect, or receive from any person a

1 greater or lesser compensation for any services rendered than it
2 charges, demands, collects, or receives from any other person for
3 doing a like or contemporaneous service unless required under section
4 86-465;

5 (b) Make or give any undue or unreasonable preference or
6 advantage to any particular person;

7 (c) Subject any type of traffic to any undue or
8 unreasonable prejudice, delay, or disadvantage in any respect
9 whatsoever;

10 (d) Charge or receive any greater compensation in the
11 aggregate for the transportation of a like kind of property or
12 passengers for a shorter than for a longer distance over the same
13 line or route, except as the commission may prescribe in special
14 cases to prevent manifest injuries, except that no manifest injustice
15 shall be imposed upon any person at intermediate points. This section
16 shall not prevent the commission from making group or emergency
17 rates;

18 (e) Demand, charge, or collect, by any device whatsoever,
19 a lesser or greater compensation for any service rendered than that
20 filed with or prescribed by the commission; or

21 (f) Change any rate, schedule, or classification in any
22 manner whatsoever before application has been made to the commission
23 and permission granted for that purpose, except as otherwise provided
24 in section 86-155.

25 (2) This section shall not prohibit any common carrier

1 from, and a common carrier shall not be subject to any fine, penalty,
2 or forfeiture for, performing services free or at reduced rates to:

3 (a) The United States, the State of Nebraska, or any
4 governmental subdivision thereof;

5 (b) The employees, both present and retired, of such
6 common carrier;

7 (c) Any person when the object is to provide relief in
8 case of any disaster;

9 (d) Any person who transports property for charitable
10 purposes;

11 (e) Ministers and others giving their entire time to
12 religious or charitable work; or

13 (f) Any person who is legally blind or visually
14 handicapped.

15 (3) This section shall not prohibit a taxicab carrier
16 from advertising, promoting, billing, or charging a lesser amount for
17 taxicab services under section 75-119.

18 Sec. 3. Section 75-302, Revised Statutes Supplement,
19 2011, is amended to read:

20 75-302 For purposes of sections 75-301 to 75-322 and in
21 all rules and regulations adopted and promulgated by the commission
22 pursuant to such sections, unless the context otherwise requires:

23 (1) Attended services means an attendant or caregiver
24 accompanying a minor or persons who are physically, mentally, or
25 developmentally disabled and unable to travel or wait without

1 assistance or supervision;

2 (2) Carrier enforcement division means the carrier
3 enforcement division of the Nebraska State Patrol or the Nebraska
4 State Patrol;

5 (3) Certificate means a certificate of public convenience
6 and necessity issued under Chapter 75, article 3, to common carriers
7 by motor vehicle;

8 (4) Civil penalty means any monetary penalty assessed by
9 the commission or carrier enforcement division due to a violation of
10 Chapter 75, article 3, or section 75-126 as such section applies to
11 any person or carrier specified in Chapter 75, article 3; any term,
12 condition, or limitation of any certificate or permit issued pursuant
13 to Chapter 75, article 3; or any rule, regulation, or order of the
14 commission, the Division of Motor Carrier Services, or the carrier
15 enforcement division issued pursuant to Chapter 75, article 3;

16 (5) Commission means the Public Service Commission;

17 (6) Common carrier means any person who or which
18 undertakes to transport passengers or household goods for the general
19 public in intrastate commerce by motor vehicle for hire, whether over
20 regular or irregular routes, upon the highways of this state,
21 including taxicab carriers;

22 (7) Contract carrier means any motor carrier which
23 transports passengers or household goods for hire other than as a
24 common carrier designed to meet the distinct needs of each individual
25 customer or a specifically designated class of customers without any

1 limitation as to the number of customers it can serve within the
2 class;

3 (8) Division of Motor Carrier Services means the Division
4 of Motor Carrier Services of the Department of Motor Vehicles;

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

7 (10) Household goods means personal effects and property
8 used or to be used in a dwelling, when a part of the equipment or
9 supply of such dwelling, and similar property as the commission may
10 provide by regulation if the transportation of such effects or
11 property, is:

12 (a) Arranged and paid for by the householder, including
13 transportation of property from a factory or store when the property
14 is purchased by the householder with the intent to use in his or her
15 dwelling; or

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

17 (11) Intrastate commerce means commerce between any place
18 in this state and any other place in this state and not in part
19 through any other state;

20 (12) Licensed care transportation services means
21 transportation provided by an entity licensed by the Department of
22 Health and Human Services as a child-caring agency as defined in
23 section 71-1902 or child-placing agency as defined in such section or
24 a child care facility licensed under the Child Care Licensing Act to
25 a client of the entity or facility when the person providing

1 transportation services also assists and supervises the passenger or,
2 if the client is a minor, to a family member of a minor when it is
3 necessary for agency or facility staff to accompany or facilitate the
4 transportation in order to provide necessary services and support to
5 the minor. Licensed care transportation services must be incidental
6 to and in furtherance of the social services provided by the entity
7 or facility to the transported client;

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

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

18 (15) Permit means a permit issued under Chapter 75,
19 article 3, to contract carriers by motor vehicle;

20 (16) Person means any individual, firm, partnership,
21 limited liability company, corporation, company, association, or
22 joint-stock association and includes any trustee, receiver, assignee,
23 or personal representative thereof;

24 (17) Private carrier means any motor carrier which owns,
25 controls, manages, operates, or causes to be operated a motor vehicle

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

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

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

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

23 (21) Supported transportation services means
24 transportation services to a minor or for a person who is physically,
25 mentally, or developmentally disabled when the person providing

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

16 (22) Taxicab carrier means a common carrier who or which
17 (a) undertakes to transport passengers for the general public in
18 intrastate commerce by motor vehicle for hire, whether over regular
19 or irregular routes, upon the highways of this state, (b) uses
20 vehicles which meet all vehicular public safety standards as
21 prescribed in the rules and regulations of the commission, and (c) is
22 commonly known as a taxicab company.

23 Sec. 4. Section 75-311, Revised Statutes Supplement,
24 2011, is amended to read:

25 75-311 (1) A certificate shall be issued to any qualified

1 applicant authorizing the whole or any part of the operations covered
2 by the application if it is found after notice and hearing that (a)
3 the applicant is fit, willing, and able properly to perform the
4 service proposed and to conform to the provisions of sections 75-301
5 to 75-322 and the requirements, rules, and regulations of the
6 commission under such sections and (b) the proposed service, to the
7 extent to be authorized by the certificate, whether regular or
8 irregular, passenger or household goods, is or will be required by
9 the present or future public convenience and necessity, except that
10 this subdivision shall not apply to applications by taxicab carriers
11 in cities of the metropolitan or primary class. Otherwise the
12 application shall be denied.

13 (2) A permit shall be issued to any qualified applicant
14 therefor authorizing in whole or in part the operations covered by
15 the application if it appears after notice and hearing from the
16 application or from any hearing held on the application that (a) the
17 applicant is fit, willing, and able properly to perform the service
18 of a contract carrier by motor vehicle and to conform to the
19 provisions of such sections and the lawful requirements, rules, and
20 regulations of the commission under such sections and (b) the
21 proposed operation, to the extent authorized by the permit, will be
22 consistent with the public interest by providing services designed to
23 meet the distinct needs of each individual customer or a specifically
24 designated class of customers as defined in subdivision (7) of
25 section 75-302. Otherwise the application shall be denied.

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

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

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

20 Sec. 5. Original sections 75-119 and 75-126, Reissue
21 Revised Statutes of Nebraska, and sections 75-302 and 75-311, Revised
22 Statutes Supplement, 2011, are repealed.