

LEGISLATURE OF NEBRASKA
 ONE HUNDRED THIRD LEGISLATURE
 FIRST SESSION
LEGISLATIVE BILL 35
 Final Reading

Introduced by Hadley, 37.

Read first time January 10, 2013

Committee: Transportation and Telecommunications

A BILL

1 FOR AN ACT relating to motor vehicles; to amend sections 60-3,113.04,
 2 60-3,193.01, 60-462.01, 60-479.01, 60-4,147.02, 75-363,
 3 75-364, 75-366, and 75-393, Revised Statutes Cumulative
 4 Supplement, 2012; to adopt and update references to
 5 certain federal provisions relating to handicapped or
 6 disabled parking permits, persons handling source
 7 documents, the International Registration Plan,
 8 operators' licenses, hazardous materials, motor carrier
 9 regulations and their enforcement, and the unified
 10 carrier registration plan; to repeal the original
 11 sections; and to declare an emergency.

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

1 Section 1. Section 60-3,113.04, Revised Statutes
2 Cumulative Supplement, 2012, is amended to read:

3 60-3,113.04 (1) This section applies beginning on the
4 implementation date designated by the director under section
5 60-3,113.01.

6 (2) A handicapped or disabled parking permit shall be of
7 a design, size, configuration, color, and construction and contain
8 such information as specified in the regulations adopted by the
9 United States Department of Transportation in ~~the Uniform System for~~
10 ~~Parking for Persons with Disabilities~~, 23 C.F.R. part 1235, UNIFORM
11 SYSTEM FOR PARKING FOR PERSONS WITH DISABILITIES, as such regulations
12 existed on January 1, ~~2012.~~ 2013.

13 (3) No handicapped or disabled parking permit shall be
14 issued to any person or for any motor vehicle if any permit has been
15 issued to such person or for such motor vehicle and such permit has
16 been suspended pursuant to section 18-1741.02. At the expiration of
17 such suspension, a permit may be renewed in the manner provided for
18 renewal in sections 60-3,113.02, 60-3,113.03, and 60-3,113.05.

19 (4) A duplicate handicapped or disabled parking permit
20 may be provided up to two times during any single permit period if a
21 permit is destroyed, lost, or stolen. Such duplicate permit shall be
22 issued as provided in section 60-3,113.02 or 60-3,113.03, whichever
23 is applicable, except that a new certification by a physician, a
24 physician assistant, or an advanced practice registered nurse need
25 not be provided. A duplicate permit shall be valid for the remainder

1 of the period for which the original permit was issued. If a person
2 has been issued two duplicate permits under this subsection and needs
3 another permit, such person shall reapply for a new permit under
4 section 60-3,113.02 or 60-3,113.03, whichever is applicable.

5 Sec. 2. Section 60-3,193.01, Revised Statutes Cumulative
6 Supplement, 2012, is amended to read:

7 60-3,193.01 For purposes of the Motor Vehicle
8 Registration Act, the International Registration Plan is adopted and
9 incorporated by reference as the plan existed on ~~January 1, 2012.~~
10 January 1, 2013.

11 Sec. 3. Section 60-462.01, Revised Statutes Cumulative
12 Supplement, 2012, is amended to read:

13 60-462.01 For purposes of the Motor Vehicle Operator's
14 License Act, the following federal regulations are adopted as
15 Nebraska law as they existed on January 1, ~~2012~~ 2013:

16 The parts, subparts, and sections of Title 49 of the Code
17 of Federal Regulations, as referenced in the Motor Vehicle Operator's
18 License Act.

19 Sec. 4. Section 60-479.01, Revised Statutes Cumulative
20 Supplement, 2012, is amended to read:

21 60-479.01 (1) All persons handling source documents or
22 engaged in the issuance of new, renewed, or reissued operators'
23 licenses or state identification cards shall have periodic fraudulent
24 document recognition training.

25 (2) This subsection applies beginning on an

1 implementation date designated by the director on or before January
2 1, 2014. All persons and agents of the department involved in the
3 recording of verified application information or verified operator's
4 license and state identification card information, involved in the
5 manufacture or production of licenses or cards, or who have the
6 ability to affect information on such licenses or cards shall be
7 subject to a criminal history record information check, including a
8 check of prior employment references, and a lawful status check as
9 required by 6 C.F.R. part 37, as such part existed on January 1,
10 ~~2012.~~2013. Such persons and agents shall provide fingerprints which
11 shall be submitted to the Federal Bureau of Investigation. The bureau
12 shall use its records for the criminal history record information
13 check.

14 (3) Upon receipt of a request pursuant to subsection (2)
15 of this section, the Nebraska State Patrol shall undertake a search
16 for criminal history record information relating to such applicant,
17 including transmittal of the applicant's fingerprints to the Federal
18 Bureau of Investigation for a national criminal history record
19 information check. The criminal history record information check
20 shall include information concerning the applicant from federal
21 repositories of such information and repositories of such information
22 in other states, if authorized by federal law. The Nebraska State
23 Patrol shall issue a report to the employing public agency that shall
24 include the criminal history record information concerning the
25 applicant. The cost of any background check shall be borne by the

1 employer of the person or agent.

2 (4) Any person convicted of any disqualifying offense as
3 provided in 6 C.F.R. part 37, as such part existed on January 1,
4 ~~2012, 2013,~~ shall not be involved in the recording of verified
5 application information or verified operator's license and state
6 identification card information, involved in the manufacture or
7 production of licenses or cards, or involved in any capacity in which
8 such person would have the ability to affect information on such
9 licenses or cards. Any employee or prospective employee of the
10 department shall be provided notice that he or she will undergo such
11 criminal history record information check prior to employment or
12 prior to any involvement with the issuance of operators' licenses or
13 state identification cards.

14 Sec. 5. Section 60-4,147.02, Revised Statutes Cumulative
15 Supplement, 2012, is amended to read:

16 60-4,147.02 No endorsement authorizing the driver to
17 operate a commercial motor vehicle transporting hazardous materials
18 shall be issued, renewed, or transferred by the Department of Motor
19 Vehicles unless the endorsement is issued, renewed, or transferred in
20 conformance with the requirements of section 1012 of the federal
21 Uniting and Strengthening America by Providing Appropriate Tools
22 Required to Intercept and Obstruct Terrorism Act of 2001, USA PATRIOT
23 Act, 49 U.S.C. 5103a, including all amendments and federal
24 regulations adopted pursuant thereto as of January 1, ~~2012, 2013,~~ for
25 the issuance of licenses to operate commercial motor vehicles

1 transporting hazardous materials.

2 Sec. 6. Section 75-363, Revised Statutes Cumulative
3 Supplement, 2012, is amended to read:

4 75-363 (1) The parts, subparts, and sections of Title 49
5 of the Code of Federal Regulations listed below, as modified in this
6 section, or any other parts, subparts, and sections referred to by
7 such parts, subparts, and sections, in existence and effective as of
8 January 1, ~~2012~~, 2013, are adopted as Nebraska law.

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

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

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

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

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

23 (iii) All vehicles of such motor carriers transporting
24 hazardous materials required to be placarded pursuant to section
25 75-364; and

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

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

7 (a) ~~Part 382 - Controlled Substances And Alcohol Use And~~
8 ~~Testing;~~ CONTROLLED SUBSTANCES AND ALCOHOL USE AND TESTING;

9 (b) ~~Part 385 - Safety Fitness Procedures;~~ SAFETY FITNESS
10 PROCEDURES;

11 (c) ~~Part 386 - Rules Of Practice For Motor Carrier,~~
12 ~~Intermodal Equipment Provider, Broker, Freight Forwarder, And~~
13 ~~Hazardous Materials Proceedings;~~ RULES OF PRACTICE FOR MOTOR CARRIER,
14 INTERMODAL EQUIPMENT PROVIDER, BROKER, FREIGHT FORWARDER, AND
15 HAZARDOUS MATERIALS PROCEEDINGS;

16 (d) ~~Part 387 - Minimum Levels of Financial Responsibility~~
17 ~~for Motor Carriers;~~ MINIMUM LEVELS OF FINANCIAL RESPONSIBILITY FOR
18 MOTOR CARRIERS;

19 (e) ~~Part 390 - Federal Motor Carrier Safety Regulations;~~
20 ~~General;~~ FEDERAL MOTOR CARRIER SAFETY REGULATIONS; GENERAL;

21 (f) ~~Part 391 - Qualifications Of Drivers And Longer~~
22 ~~Combination Vehicle (LCV) Driver Instructors;~~ QUALIFICATIONS OF
23 DRIVERS AND LONGER COMBINATION VEHICLE (LCV) DRIVER INSTRUCTORS;

24 (g) ~~Part 392 - Driving Of Commercial Motor Vehicles;~~
25 DRIVING OF COMMERCIAL MOTOR VEHICLES;

1 (h) ~~Part 393 - Parts And Accessories Necessary For Safe~~
2 ~~Operation;~~ PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION;

3 (i) ~~Part 395 - Hours Of Service Of Drivers;~~ HOURS OF
4 SERVICE OF DRIVERS;

5 (j) ~~Part 396 - Inspection, Repair, And Maintenance;~~
6 INSPECTION, REPAIR, AND MAINTENANCE;

7 (k) ~~Part 397 - Transportation Of Hazardous Materials;~~
8 ~~Driving And Parking Rules;~~ TRANSPORTATION OF HAZARDOUS MATERIALS;
9 DRIVING AND PARKING RULES; and

10 (l) ~~Part 398 - Transportation Of Migrant Workers.~~
11 TRANSPORTATION OF MIGRANT WORKERS.

12 (4) The provisions of subpart E - Physical Qualifications
13 And Examinations of 49 C.F.R. part 391 - ~~Qualifications Of Drivers~~
14 ~~And Longer Combination Vehicle (LCV) Driver Instructors~~
15 QUALIFICATIONS OF DRIVERS AND LONGER COMBINATION VEHICLE (LCV) DRIVER
16 INSTRUCTORS shall not apply to any driver subject to this section
17 who: (a) Operates a commercial motor vehicle exclusively in
18 intrastate commerce; and (b) holds, or has held, a commercial
19 driver's license issued by this state prior to July 30, 1996.

20 (5) The regulations adopted in subsection (3) of this
21 section shall not apply to farm trucks registered pursuant to section
22 60-3,146 with a gross weight of sixteen tons or less. The following
23 parts and sections of 49 C.F.R. chapter III shall not apply to
24 drivers of farm trucks registered pursuant to section 60-3,146 and
25 operated solely in intrastate commerce:

- 1 (a) All of part 391;
- 2 (b) Section 395.8 of part 395; and
- 3 (c) Section 396.11 of part 396.
- 4 (6) Part 393 - ~~Parts And Accessories Necessary For Safe~~
5 ~~Operation~~ PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION and Part
6 396 - ~~Inspection, Repair, And Maintenance~~ INSPECTION, REPAIR, AND
7 MAINTENANCE shall not apply to fertilizer and agricultural chemical
8 application and distribution equipment transported in units with a
9 capacity of three thousand five hundred gallons or less.
- 10 (7) For purposes of this section, intrastate motor
11 carriers shall not include any motor carrier or driver excepted from
12 49 C.F.R. chapter III by section 390.3(f) of part 390.
- 13 (8)(a) Part 395 - ~~Hours Of Service Of Drivers~~ HOURS OF
14 SERVICE OF DRIVERS shall apply to motor carriers and drivers who
15 engage in intrastate commerce as defined in section 75-362, except
16 that no motor carrier who engages in intrastate commerce shall permit
17 or require any driver used by it to drive nor shall any driver drive:
18 (i) More than twelve hours following eight consecutive
19 hours off duty; or
- 20 (ii) For any period after having been on duty sixteen
21 hours following eight consecutive hours off duty.
- 22 (b) No motor carrier who engages in intrastate commerce
23 shall permit or require a driver of a commercial motor vehicle,
24 regardless of the number of motor carriers using the driver's
25 services, to drive, nor shall any driver of a commercial motor

1 vehicle drive, for any period after:

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

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

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

17 (10) ~~49 C.F.R. 390.21 - Marking Of Self-Propelled CMVs~~
18 ~~And Intermodal Equipment~~ MARKING OF SELF-PROPELLED CMVS AND
19 INTERMODAL EQUIPMENT shall not apply to farm trucks and farm truck-
20 tractors registered pursuant to section 60-3,146 and operated solely
21 in intrastate commerce.

22 (11) 49 C.F.R. 392.9a - Operating Authority shall not
23 apply to Nebraska motor carriers operating commercial motor vehicles
24 solely in intrastate commerce.

25 (12) No motor carrier shall permit or require a driver of

1 a commercial motor vehicle to violate, and no driver of a commercial
2 motor vehicle shall violate, any out-of-service order.

3 Sec. 7. Section 75-364, Revised Statutes Cumulative
4 Supplement, 2012, is amended to read:

5 75-364 The parts, subparts, and sections of Title 49 of
6 the Code of Federal Regulations listed below, or any other parts,
7 subparts, and sections referred to by such parts, subparts, and
8 sections, in existence and effective as of January 1, ~~2012~~, 2013, are
9 adopted as part of Nebraska law and shall be applicable to all motor
10 carriers whether engaged in interstate or intrastate commerce,
11 drivers of such motor carriers, and vehicles of such motor carriers:

12 (1) Part 107 - ~~Hazardous Materials Program Procedures~~,
13 HAZARDOUS MATERIALS PROGRAM PROCEDURES, subpart F-Registration of
14 Cargo Tank and Cargo Tank Motor Vehicle Manufacturers, Assemblers,
15 Repairers, Inspectors, Testers, and Design Certifying Engineers;

16 (2) Part 107 - ~~Hazardous Materials Program Procedures~~,
17 HAZARDOUS MATERIALS PROGRAM PROCEDURES, subpart G-Registration of
18 Persons Who Offer or Transport Hazardous Materials;

19 (3) Part 171 - GENERAL INFORMATION, REGULATIONS, AND
20 DEFINITIONS;

21 (4) Part 172 - HAZARDOUS MATERIALS TABLE, SPECIAL
22 PROVISIONS, HAZARDOUS MATERIALS COMMUNICATIONS, EMERGENCY RESPONSE
23 INFORMATION, TRAINING REQUIREMENTS, AND SECURITY PLANS;

24 (5) Part 173 - SHIPPERS - GENERAL REQUIREMENTS FOR
25 SHIPMENTS AND PACKAGINGS;

- 1 (6) Part 177 - CARRIAGE BY PUBLIC HIGHWAY;
2 (7) Part 178 - SPECIFICATIONS FOR PACKAGINGS; and
3 (8) Part 180 - CONTINUING QUALIFICATION AND MAINTENANCE
4 OF PACKAGINGS.

5 Sec. 8. Section 75-366, Revised Statutes Cumulative
6 Supplement, 2012, is amended to read:

7 75-366 For the purpose of enforcing Chapter 75, article
8 3, any officer of the Nebraska State Patrol may, upon demand, inspect
9 the accounts, records, and equipment of any motor carrier or shipper.
10 Any officer of the Nebraska State Patrol shall have the authority to
11 enforce the federal motor carrier safety regulations, as such
12 regulations existed on January 1, ~~2012,~~2013, and federal hazardous
13 materials regulations, as such regulations existed on January 1,
14 ~~2012,~~2013, and is authorized to enter upon, inspect, and examine any
15 and all lands, buildings, and equipment of any motor carrier, any
16 shipper, and any other person subject to the federal Interstate
17 Commerce Act, the federal Department of Transportation Act, and other
18 related federal laws and to inspect and copy any and all accounts,
19 books, records, memoranda, correspondence, and other documents of a
20 motor carrier, a shipper, and any other person subject to Chapter 75,
21 article 3, for the purposes of enforcing Chapter 75, article 3. To
22 promote uniformity of enforcement, the carrier enforcement division
23 of the Nebraska State Patrol shall cooperate and consult with the
24 Public Service Commission and the Division of Motor Carrier Services.

25 Sec. 9. Section 75-393, Revised Statutes Cumulative

1 Supplement, 2012, is amended to read:

2 75-393 The director may participate in the unified
3 carrier registration plan and agreement pursuant to the Unified
4 Carrier Registration Act of 2005, 49 U.S.C. 13908, as the act existed
5 on January 1, ~~2012,~~2013, and may file on behalf of this state the
6 plan required by such plan and agreement for enforcement of the act
7 in this state.

8 Sec. 10. Original sections 60-3,113.04, 60-3,193.01,
9 60-462.01, 60-479.01, 60-4,147.02, 75-363, 75-364, 75-366, and
10 75-393, Revised Statutes Cumulative Supplement, 2012, are repealed.

11 Sec. 11. Since an emergency exists, this act takes effect
12 when passed and approved according to law.