

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 629

FINAL READING

Introduced by Larson, 40.

Read first time January 18, 2017

Committee: Transportation and Telecommunications

1 A BILL FOR AN ACT relating to commercial motor vehicles; to amend
2 sections 60-462, 60-4,131, 60-4,131.01, and 60-4,132, Revised
3 Statutes Cumulative Supplement, 2016; to exempt certain commercial
4 driver's license holders from hazardous materials endorsement
5 requirements as prescribed; and to repeal the original sections.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 60-462, Revised Statutes Cumulative Supplement,
2 2016, is amended to read:

3 60-462 Sections 60-462 to 60-4,189 and section 5 of this act shall
4 be known and may be cited as the Motor Vehicle Operator's License Act.

5 Sec. 2. Section 60-4,131, Revised Statutes Cumulative Supplement,
6 2016, is amended to read:

7 60-4,131 (1) Sections 60-462.01 and 60-4,132 to 60-4,172 and section
8 5 of this act shall apply to the operation of any commercial motor
9 vehicle.

10 (2) For purposes of such sections:

11 (a) Disqualification means:

12 (i) The suspension, revocation, cancellation, or any other
13 withdrawal by a state of a person's privilege to operate a commercial
14 motor vehicle;

15 (ii) A determination by the Federal Motor Carrier Safety
16 Administration, under the rules of practice for motor carrier safety
17 contained in 49 C.F.R. part 386, that a person is no longer qualified to
18 operate a commercial motor vehicle under 49 C.F.R. part 391; or

19 (iii) The loss of qualification which automatically follows
20 conviction of an offense listed in 49 C.F.R. 383.51;

21 (b) Downgrade means the state:

22 (i) Allows the driver of a commercial motor vehicle to change his or
23 her self-certification to interstate, but operating exclusively in
24 transportation or operation excepted from 49 C.F.R. part 391, as provided
25 in 49 C.F.R. 390.3(f), 391.2, 391.68, or 398.3;

26 (ii) Allows the driver of a commercial motor vehicle to change his
27 or her self-certification to intrastate only, if the driver qualifies
28 under a state's physical qualification requirements for intrastate only;

29 (iii) Allows the driver of a commercial motor vehicle to change his
30 or her certification to intrastate, but operating exclusively in
31 transportation or operations excepted from all or part of a state driver

1 qualification requirement; or

2 (iv) Removes the commercial driver's license privilege from the
3 operator's license;

4 (c) Employee means any operator of a commercial motor vehicle,
5 including full time, regularly employed drivers; casual, intermittent, or
6 occasional drivers; and leased drivers and independent, owner-operator
7 contractors, while in the course of operating a commercial motor vehicle,
8 who are either directly employed by or under lease to an employer;

9 (d) Employer means any person, including the United States, a state,
10 the District of Columbia, or a political subdivision of a state, that
11 owns or leases a commercial motor vehicle or assigns employees to operate
12 a commercial motor vehicle;

13 (e) Endorsement means an authorization to an individual's CLP-
14 commercial learner's permit or commercial driver's license required to
15 permit the individual to operate certain types of commercial motor
16 vehicles;

17 (f) Foreign means outside the fifty United States and the District
18 of Columbia;

19 (g) Imminent hazard means the existence of a condition relating to
20 hazardous material that presents a substantial likelihood that death,
21 serious illness, severe personal injury, or a substantial endangerment to
22 health, property, or the environment may occur before the reasonably
23 foreseeable completion date of a formal proceeding begun to lessen the
24 risk of that death, illness, injury, or endangerment;

25 (h) Issue and issuance means initial issuance, transfer, renewal, or
26 upgrade of a CLP-commercial learner's permit, commercial driver's
27 license, nondomiciled CLP-commercial learner's permit, or nondomiciled
28 commercial driver's license, as described in 49 C.F.R. 383.73;

29 (i) Medical examiner means an individual certified by the Federal
30 Motor Carrier Safety Administration and listed on the National Registry
31 of Certified Medical Examiners in accordance with 49 C.F.R. part 390,

1 subpart D;

2 (j) Medical examiner's certificate means a form meeting the
3 requirements of 49 C.F.R. 391.43 issued by a medical examiner in
4 compliance with such regulation;

5 (k) Medical variance means the Federal Motor Carrier Safety
6 Administration has provided a driver with either an exemption letter
7 permitting operation of a commercial motor vehicle pursuant to 49 C.F.R.
8 381, subpart C, or 49 C.F.R. 391.64 or a Skill Performance Evaluation
9 Certificate permitting operation of a commercial motor vehicle pursuant
10 to 49 C.F.R. 391.49;

11 (l) Nondomiciled CLP-commercial learner's permit or nondomiciled
12 commercial driver's license means a CLP-commercial learner's permit or
13 commercial driver's license, respectively, issued by this state or other
14 jurisdiction under either of the following two conditions:

15 (i) To an individual domiciled in a foreign country meeting the
16 requirements of 49 C.F.R. 383.23(b)(1); or and

17 (ii) To an individual domiciled in another state meeting the
18 requirements of 49 C.F.R. 383.23(b)(2);

19 (m) Representative vehicle means a motor vehicle which represents
20 the type of motor vehicle that a driver applicant operates or expects to
21 operate;

22 (n) State means a state of the United States and the District of
23 Columbia;

24 (o) State of domicile means that state where a person has his or her
25 true, fixed, and permanent home and principal residence and to which he
26 or she has the intention of returning whenever he or she is absent;

27 (p) Tank vehicle means any commercial motor vehicle that is designed
28 to transport any liquid or gaseous materials within a tank or tanks that
29 have an individual rated capacity of more than one hundred nineteen
30 gallons and an aggregate rated capacity of one thousand gallons or more
31 and that are either permanently or temporarily attached to the vehicle or

1 the chassis. A commercial motor vehicle transporting an empty storage
2 container tank, not designed for transportation, with a rated capacity of
3 one thousand gallons or more that is temporarily attached to a flatbed
4 trailer is not considered a tank vehicle;

5 (q) Third-party skills test examiner means a person employed by a
6 third-party tester who is authorized by this state to administer the
7 commercial driver's license skills tests specified in 49 C.F.R. part 383,
8 subparts G and H;

9 (r) Third-party tester means a person, including, but not limited
10 to, another state, a motor carrier, a private driver training facility or
11 other private institution, or a department, agency, or instrumentality of
12 a local government, authorized by this state to employ skills test
13 examiners to administer the commercial driver's license skills tests
14 specified in 49 C.F.R. part 383, subparts G and H;

15 (s) United States means the fifty states and the District of
16 Columbia; and

17 (t) Vehicle group means a class or type of vehicle with certain
18 operating characteristics.

19 Sec. 3. Section 60-4,131.01, Revised Statutes Cumulative Supplement,
20 2016, is amended to read:

21 60-4,131.01 Sections 60-462.01 and 60-4,132 to 60-4,172 and section
22 5 of this act shall not apply to individuals who operate commercial motor
23 vehicles for military purposes, including and limited to:

24 (1) Active duty military personnel;

25 (2) Members of the military reserves, other than military
26 technicians;

27 (3) Active duty United States Coast Guard personnel; and

28 (4) Members of the National Guard on active duty, including:

29 (a) Personnel on full-time National Guard duty;

30 (b) Personnel on part-time National Guard training; and

31 (c) National Guard military technicians required to wear military

1 uniforms.

2 Such individuals must have a valid military driver's license unless
3 such individual is operating the vehicle under written orders from a
4 commanding officer in an emergency declared by the federal government or
5 by the State of Nebraska.

6 Sec. 4. Section 60-4,132, Revised Statutes Cumulative Supplement,
7 2016, is amended to read:

8 60-4,132 The purposes of sections 60-462.01 and 60-4,137 to 60-4,172
9 and section 5 of this act are to implement the requirements mandated by
10 the federal Commercial Motor Vehicle Safety Act of 1986, 49 U.S.C. 31100
11 et seq., the federal Motor Carrier Safety Improvement Act of 1999, Public
12 Law 106-159, section 1012 of the federal Uniting and Strengthening
13 America by Providing Appropriate Tools Required to Intercept and Obstruct
14 Terrorism Act of 2001, USA PATRIOT Act, 49 U.S.C. 5103a, and federal
15 regulations and to reduce or prevent commercial motor vehicle accidents,
16 fatalities, and injuries by: (1) Permitting drivers to hold only one
17 operator's license; (2) disqualifying drivers for specified offenses and
18 serious traffic violations; and (3) strengthening licensing and testing
19 standards.

20 Sec. 5. Any person possessing a valid commercial driver's license
21 authorizing the operation of a Class A combination vehicle may lawfully
22 operate a Class A, B, or C commercial motor vehicle without a hazardous
23 materials endorsement if such person:

24 (1) Is acting within the scope of his or her employment as an
25 employee of a custom harvester operation, agrichemical business, farm
26 retail outlet and supplier, or livestock feeder; and

27 (2) Is operating a service vehicle that is:

28 (a) Transporting diesel fuel in a quantity of one thousand gallons
29 or less; and

30 (b) Clearly marked with a "flammable" or "combustible" placard, as
31 appropriate.

1 Sec. 6. Original sections 60-462, 60-4,131, 60-4,131.01, and
2 60-4,132, Revised Statutes Cumulative Supplement, 2016, are repealed.