

LEGISLATIVE BILL 783

Approved by the Governor April 17, 1986

Introduced by Beyer, 3

AN ACT relating to motor vehicles; to amend sections 39-6,182 and 60-305.12, Reissue Revised Statutes of Nebraska, 1943, and sections 60-1306 and 60-1307, Revised Statutes Supplement, 1985; to change provisions relating to the offense of operating an overweight motor vehicle; to provide powers and duties for the Department of Motor Vehicles relating to information required on certain vehicles; to change the powers of carrier enforcement officers; to authorize a prohibition on the operation of a motor vehicle as prescribed; to repeal the original sections; and to declare an emergency.

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

Section 1. That section 39-6,182, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

39-6,182. It shall be unlawful to operate upon the public highways of this state any motor truck, truck-tractor, or trailer ~~carrying a load of more than twenty per cent in excess of the carrying capacity on that weighs in excess of the gross weight for which the registration fee on such vehicle has been paid, and the maximum tolerance of twenty per cent shall not exceed~~ plus one thousand pounds, but this section shall not apply to any motor truck, truck-tractor, or trailer being operated under a special permit issued pursuant to section 39-6,181.

Sec. 2. That section 60-305.12, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-305.12. All commercial trucks and truck-tractors, which are registered under the provisions of section 60-305.09 when such vehicles are a part of a Nebraska-based fleet and section 60-331 when such vehicles are licensed for twenty thousand pounds gross vehicle weight or more, shall have, permanently affixed to the sides of such trucks and truck-tractors, ~~either by painting, stickers, decals, or such other means as the Department of Motor Vehicles may designate,~~

the registered owner's name, or if such truck or truck-tractor is rented or leased the renter or lessee's name, and the city and state in which such owner, renter, or lessee resides. The Department of Motor Vehicles shall adopt and promulgate rules and regulations to carry out this section. and establish standards by which the size, lettering, coloring, and placement of the information required by this section and other related provisions of this section shall be carried out.

Sec. 3. That section 60-1306, Revised Statutes Supplement, 1985, be amended to read as follows:

60-1306. The carrier enforcement officers shall have the power (1) of peace officers solely for the purpose of enforcing the laws relating to the trip permit provided for in section 66-410.03 and to the size, weight, load, and registration of buses, motor trucks, truck-tractors, semitrailers, trailers, and towed vehicles, and when in uniform, to require the driver thereof to stop and exhibit his or her operator's license and registration issued for the vehicle and submit to an inspection of such vehicle, the plates, and registration thereon and (2) to make arrests upon view and without warrant for any violation committed in their presence of the laws referred to in subdivision (1) of this section and of in sections 60-305.12, 60-1308, section 60-1309, and sections 1 to 6, Legislative Bill 301, Eighty-ninth Legislature, Second Session, 1986.

Sec. 4. That section 60-1307, Revised Statutes Supplement, 1985, be amended to read as follows:

60-1307. (1) Whenever any person is arrested at one of the state weighing stations or portable scales for a violation of the laws relating to the trip permit provided in section 66-410.03 or to the size, weight, load, and registration of buses, motor trucks, truck-tractors, semitrailers, trailers, or towed vehicles, the arresting officer shall take the name and address of such person and the license number of his or her motor vehicle and issue a summons or otherwise notify him or her in writing to appear at a time and place to be specified in such summons or notice, such time to be at least five days after such arrest, unless the person arrested shall demand an earlier hearing. Such person shall, if he or she desires, have a right to an immediate hearing or a hearing within twenty-four hours at a convenient hour. The hearing shall be before a magistrate within the county wherein such offense was

committed. Such officer shall, upon such person giving a written promise to appear at such time and place, forthwith release him or her from custody. Such person arrested and released shall not be permitted to operate the motor vehicle concerned until it is in compliance with section 39-6,185 and Chapter 60, article 3. Any person refusing to give such written promise to appear shall be immediately taken by the arresting officer before the nearest or most accessible magistrate. Any person who willfully violates a written promise to appear, given in accordance with this section, shall be guilty of a Class III misdemeanor, regardless of the disposition of the charge upon which he or she was originally arrested.

(2) The provisions of subsection Subsection (1) of this section shall not apply to any person not a resident of the State of Nebraska. The arresting officer shall take such person forthwith before the nearest or most accessible magistrate.

(3) When any person appears before the magistrate and pleads not guilty, the arresting officer may prohibit such person from operating the motor vehicle concerned until the motor vehicle is in compliance with sections 39-6,179 and 39-6,180 or in conformity with the exceptions permitted by section 39-6,185 and all the violations pending before the magistrate relating to sections 39-6,179 and 39-6,180 have been the subject of a conviction, acquittal, or dismissal and all related fines and costs have been paid. Nothing in this section shall (a) prevent the owner or the owner's representative of such motor vehicle or the cargo on the motor vehicle from taking possession of the cargo and transferring it to another vehicle or taking possession of the cargo and the trailer, if the trailer can be separated from the power unit, or (b) create any liability for the state arising out of damage to such motor vehicle and its cargo.

Sec. 5. That original sections 39-6,182 and 60-305.12, Reissue Revised Statutes of Nebraska, 1943, and sections 60-1306 and 60-1307, Revised Statutes Supplement, 1985, are repealed.

Sec. 6. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.