

LEGISLATIVE BILL 410

Approved by the Governor March 30, 1993

Introduced by Transportation Committee: Kristensen, 37, Chairperson;
Byars, 30; Day, 19; Fisher, 35; Horgan, 4;
Pedersen, 39; Pirsch, 10; Schmitt, 41

AN ACT relating to motor carriers; to amend sections 75-363 and 75-364, Revised Statutes Supplement, 1992; to adopt updated federal motor carrier safety regulations and additional and updated federal hazardous material regulations; and to repeal the original sections.

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

Section 1. That section 75-363, Revised Statutes Supplement, 1992, be amended to read as follows:

75-363. (1) The parts of the federal Motor Carrier Safety Regulations, 49 C.F.R., listed in subdivisions (a) through (j) of this subsection or any other parts referred to by such parts, in existence and effective as of January 1, 1991 ~~1993~~, are adopted as Nebraska law. The regulations shall be applicable to all carriers, drivers, and vehicles to which the federal regulations apply, to all vehicles of intrastate motor carriers registered for a gross weight over ten thousand pounds, to all intrastate motor carriers in the operation of vehicles registered by such carriers for a gross weight over ten thousand pounds, and to all drivers of such vehicles if the drivers are operating a commercial motor vehicle as defined in section 60-465 which requires a Class A commercial driver's license except as provided in subsections (2) and (3) of this section. The Legislature hereby adopts:

- (a) Part 385 -- Safety Fitness Procedures;
- (b) Part 390 -- Federal Motor Carrier Safety Regulations:
 - General;
 - (c) Part 391, except section 391.15(c) and subpart H, sections 391.81 through 391.123, Controlled Substance Testing -- Qualifications Of Drivers;
 - (d) Part 392 -- Driving Of Motor Vehicles;
 - (e) Part 393 -- Parts And Accessories Necessary For Safe Operations;
 - (f) Part 394 -- Notification, Reporting And Recording Of Accidents;
 - (g) Part 395 -- Hours Of Service Of Drivers;
 - (h) Part 396 -- Inspection, Repair And Maintenance;
 - (i) Part 397 -- Transportation Of Hazardous Materials;
 - Driving And Parking Rules; and
 - (j) Part 398 -- Transportation Of Migrant Workers.
- (2) Subpart H, sections 391.81 through 391.123, Controlled

Substance Testing of part 391 of the federal Motor Carrier Safety Regulations, 49 C.F.R., or any other parts referred to by such subpart as in existence and effective as of January 1, ~~1991~~ 1993, is adopted as Nebraska law. Subpart H of part 391 shall apply to all carriers and drivers to which the federal regulations apply and to all motor carriers and drivers of motor carriers who operate a motor vehicle in intrastate commerce which has a gross vehicle weight rating in excess of twenty-six thousand pounds.

(3) The regulations adopted in subsections (1) and (2) of this section shall not apply to farm trucks registered pursuant to section 60-330 with a gross weight of sixteen tons or less, liquefied petroleum gas tanks with a capacity of three thousand five hundred gallons or less, flammable liquid tanks with a capacity of three thousand gallons or less, and fertilizer and agricultural chemical application and distribution equipment transported in units with a capacity of three thousand five hundred gallons or less. The following parts and sections of the federal Motor Carrier Safety Regulations shall not apply to drivers of farm trucks registered pursuant to section 60-330 and operated solely in intrastate commerce:

- (a) All of part 391;
- (b) Section 395.08 of part 395; and
- (c) Section 396.11 of part 396.

(4) For purposes of this section, intrastate motor carriers shall not include any motor carrier or driver excepted from the federal Motor Carrier Safety Regulations by section 390.3(f) of part 390 or any nonprofit entity, operating solely in intrastate commerce, organized for the purpose of furnishing electric service.

Sec. 2. That section 75-364, Revised Statutes Supplement, 1992, be amended to read as follows:

75-364. (1) The parts of the federal Hazardous Material Regulations, 49 C.F.R., listed below or any other parts referred to by such parts, in existence and effective as of ~~December 30, 1990~~ January 1, 1993, are adopted as part of Nebraska law and, except as provided in subsection (2) of this section, shall be applicable to all private, common, and contract motor vehicle carriers, drivers of such carriers, and vehicles of such carriers whether engaged in interstate or intrastate commerce:

- (a) Part 171 -- General Information, Regulations, And Definitions;
- (b) Part 172 -- Hazardous Materials Tables And Hazardous Materials Communications Regulations;
- (c) Part 173 -- Shippers-General Requirements For Shipments And Packaging;
- (d) Part 177 -- Carriage By Public Highway; ~~and~~
- (e) Part 178 -- Shipping Container Specifications; ~~and~~
- (f) Part 180 -- Continuing Qualification and Maintenance of Packaging.

(2) The provisions of subsection (1) of this section shall not apply to the use of fuels, fertilizers, and agricultural chemicals in a normal

farming or ranching operation on the farm or ranch.

(3) Liquefied petroleum gas tanks with a capacity of three thousand five hundred gallons or less, anhydrous ammonia tanks with a capacity of three thousand gallons or less, and flammable liquid tanks with a capacity of three thousand gallons or less shall be exempt from the requirements of part 173 and part 177 when such liquefied petroleum gas tanks, anhydrous ammonia tanks, or flammable liquid tanks are transported by a motor vehicle registered pursuant to Chapter 60, article 3, and operated solely in intrastate commerce.

(4) Liquefied petroleum gas tanks with a capacity of three thousand five hundred gallons or less shall be exempt from the provisions of section 173.315(k)(5) adopted under subdivision (1)(c) of this section if such tanks have been inspected and tested in accordance with the State Fire Marshal's rules and regulations.

Sec. 3. That original sections 75-363 and 75-364, Revised Statutes Supplement, 1992, are repealed.