

## LEGISLATIVE BILL 178

Approved by the Governor March 10, 2011

Introduced by Transportation and Telecommunications Committee: Fischer, 43, Chairperson; Campbell, 25; Dubas, 34; Hadley, 37; Janssen, 15; Lautenbaugh, 18; Louden, 49.

FOR AN ACT relating to drivers' licenses; to amend sections 29-3608, 60-462, 60-462.01, 60-4,116, 60-4,131, 60-4,131.01, 60-4,132, 60-4,137, 60-4,138, 60-4,139, 60-4,143, 60-4,144, 60-4,145, 60-4,146, 60-4,153, 60-4,154, 60-4,171, and 60-2909.01, Reissue Revised Statutes of Nebraska, and sections 75-363 and 75-364, Revised Statutes Cumulative Supplement, 2010; to adopt updated federal regulations; to define and redefine terms; to adopt and change provisions relating to commercial driver medical examinations; to provide duties for the Department of Motor Vehicles; to change provisions relating to license issuance; to change provisions relating to commercial driver disqualification; to change provisions relating to adoption of federal Motor Carrier Safety Regulations and federal Hazardous Material Regulations; to harmonize provisions; and to repeal the original sections.

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

Section 1. Section 29-3608, Reissue Revised Statutes of Nebraska, is amended to read:

29-3608 Any driver holding a commercial driver's license issued pursuant to sections 60-462.01 and 60-4,138 to 60-4,172 and sections 13 and 14 of this act shall not be eligible to participate in a program under sections 29-3605 to 29-3609 if such participation would be in noncompliance with federal law or regulation and subject the state to possible loss of federal funds.

Sec. 2. Section 60-462, Reissue Revised Statutes of Nebraska, is amended to read:

60-462 Sections 60-462 to 60-4,188 and sections 13 and 14 of this act shall be known and may be cited as the Motor Vehicle Operator's License Act.

Sec. 3. Section 60-462.01, Reissue Revised Statutes of Nebraska, is amended to read:

60-462.01 For purposes of the Motor Vehicle Operator's License Act, the following federal regulations are adopted as Nebraska law as they existed on January 1, ~~2010~~ 2011:

(1) Beginning on an implementation date designated by the director, the federal requirements for interstate shipment of etiologic agents, 42 C.F.R. part 72; and

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

Sec. 4. Section 60-4,116, Reissue Revised Statutes of Nebraska, is amended to read:

60-4,116 Prior to the issuance of any original or renewal operator's license or the reissuance of any such license with a change of any classification, endorsement, or restriction, the ~~Department of Motor Vehicles~~ department shall:

(1) Check the driving record of the applicant as maintained by the department or by any other state which has issued an operator's license to the applicant;

(2) ~~Beginning September 30, 2005, contact~~ Contact the Commercial Driver License Information System to determine whether the applicant possesses any valid commercial driver's license issued by any other state, whether such license or the applicant's privilege to operate a commercial motor vehicle has been suspended, revoked, or canceled, or whether the applicant has been disqualified from operating a commercial motor vehicle; and

(3) Contact the National Driver Register to determine if the applicant (a) has been disqualified from operating any motor vehicle, ~~or~~ (b) has had an operator's license suspended, revoked, or canceled, (c) is not eligible, or (d) is deceased.

Sec. 5. Section 60-4,131, Reissue Revised Statutes of Nebraska, is amended to read:

60-4,131 (1) Sections 60-462.01 and 60-4,132 to 60-4,172 and sections 13 and 14 of this act shall apply to the operation of any commercial motor vehicle.

(2) For purposes of such sections:

(a) ~~Disqualification means: either:~~

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

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

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

(b) Downgrade means the state:

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

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

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

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

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

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

~~(d)~~ (e) Endorsement means an authorization to an individual's commercial driver's license required to permit the individual to operate certain types of commercial motor vehicles;

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

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

~~(e)~~ (h) Representative vehicle means a motor vehicle which represents the type of motor vehicle that a driver applicant operates or expects to operate;

~~(f)~~ (i) State means a state of the United States and the District of Columbia;

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

~~(h)~~ (k) Tank vehicle means any commercial motor vehicle that is designed to transport any liquid or gaseous materials within a tank that is either permanently or temporarily attached to the vehicle or the chassis. Such vehicle includes, but is not limited to, a cargo tank and a portable tank, as defined in 49 C.F.R. part 171. However, this definition does not include a portable tank that has a rated capacity under one thousand gallons;

~~(i)~~ (l) United States means the fifty states and the District of Columbia; and

~~(j)~~ (m) Vehicle group means a class or type of vehicle with certain operating characteristics.

Sec. 6. Section 60-4,131.01, Reissue Revised Statutes of Nebraska, is amended to read:

60-4,131.01 Sections 60-462.01 and 60-4,132 to 60-4,172 and sections 13 and 14 of this act shall not apply to individuals who operate commercial motor vehicles for military purposes, including and limited to:

(1) Active duty military personnel;

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

- (3) Active duty United States Coast Guard personnel; and
- (4) Members of the National Guard on active duty, including:
  - (a) Personnel on full-time National Guard duty;
  - (b) Personnel on part-time National Guard training; and
  - (c) National Guard military technicians required to wear military uniforms.

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

Sec. 7. Section 60-4,132, Reissue Revised Statutes of Nebraska, is amended to read:

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

Sec. 8. Section 60-4,137, Reissue Revised Statutes of Nebraska, is amended to read:

60-4,137 Any resident of this state operating a commercial motor vehicle on the highways of this state shall possess a commercial driver's license or LPC-learner's permit issued pursuant to sections 60-462.01 and 60-4,138 to 60-4,172 and sections 13 and 14 of this act.

Sec. 9. Section 60-4,138, Reissue Revised Statutes of Nebraska, is amended to read:

60-4,138 (1) Commercial drivers' licenses and restricted commercial drivers' licenses shall be issued by the ~~Department of Motor Vehicles,~~ department in compliance with 49 C.F.R. parts 383 and 391, shall be classified as provided in subsection (2) of this section, and shall bear such endorsements and restrictions as are provided in subsections (3) and (4) of this section.

(2) Commercial motor vehicle classifications for purposes of commercial drivers' licenses shall be as follows:

(a) Class A Combination Vehicle - Any combination of motor vehicles and towed vehicles with a gross vehicle weight rating of more than twenty-six thousand pounds if the gross vehicle weight rating of the vehicles being towed are in excess of ten thousand pounds;

(b) Class B Heavy Straight Vehicle - Any single commercial motor vehicle with a gross vehicle weight rating of twenty-six thousand one pounds or more or any such commercial motor vehicle towing a vehicle with a gross vehicle weight rating not exceeding ten thousand pounds; and

(c) Class C Small Vehicle - Any single commercial motor vehicle with a gross vehicle weight rating of less than twenty-six thousand one pounds or any such commercial motor vehicle towing a vehicle with a gross vehicle weight rating not exceeding ten thousand pounds comprising:

(i) Motor vehicles designed to transport sixteen or more passengers, including the driver; and

(ii) Motor vehicles used in the transportation of hazardous materials and required to be placarded pursuant to section 75-364.

(3) The endorsements to a commercial driver's license shall be as follows:

(a) T - Double/triple trailers;

(b) P - Passenger;

(c) N - Tank vehicle;

(d) H - Hazardous materials;

(e) X - Combination tank vehicle and hazardous materials; and

(f) S - School bus.

(4) The restrictions to a commercial driver's license shall be as follows:

(a) I - Operation of a commercial motor vehicle only in intrastate commerce due to an exemption from 49 C.F.R. part 391 pursuant to subsection (4) of section 75-363;

(b) K - Operation of a commercial motor vehicle only in intrastate commerce;

(c) L - Operation of only a commercial motor vehicle which is not equipped with air brakes;

(d) M - Operation of a commercial motor vehicle which is not a Class A bus;

(e) N - Operation of a commercial motor vehicle which is not a Class A or Class B bus; and

(f) O - Operation of a commercial motor vehicle which is not a tractor-trailer combination; and -

(g) V - Operation of a commercial motor vehicle for drivers with medical variance documentation. The documentation shall be required to be carried on the driver's person while operating a commercial motor vehicle.

Sec. 10. Section 60-4,139, Reissue Revised Statutes of Nebraska, is amended to read:

60-4,139 Any nonresident may operate a commercial motor vehicle upon the highways of this state if (1) such nonresident has in his or her immediate possession a valid commercial driver's license or LPC-learner's permit issued by his or her state of residence or by a jurisdiction with standards that are in accord with 49 C.F.R. part 383 ~~or an LPC-learner's permit issued by this state,~~ parts 383 and 391, (2) the license or permit is not suspended, revoked, or canceled, and (3) such nonresident is not disqualified from operating a commercial motor vehicle, and (4) the commercial motor vehicle is not operated in violation of any downgrade.

Sec. 11. Section 60-4,143, Reissue Revised Statutes of Nebraska, is amended to read:

60-4,143 (1) No commercial driver's license or LPC-learner's permit shall, under any circumstances, be issued to any person who has not attained the age of eighteen years.

(2) A commercial driver's license or LPC-learner's permit shall not be issued to any person during the period the person is subject to a disqualification in this or any other state, ~~or~~ while the person's operator's license is suspended, revoked, or canceled in this or any other state, or when the Commercial Driver License Information System indicates "not-certified".

(3) ~~The Department of Motor Vehicles~~ department shall not issue any commercial driver's license to any person unless the person applying for a commercial driver's license first surrenders to the department all operators' licenses issued to such person by this or any other state. Any operator's license issued by another state which is surrendered to the department shall be returned to that state by the director for cancellation.

Sec. 12. Section 60-4,144, Reissue Revised Statutes of Nebraska, is amended to read:

60-4,144 ~~(1)(a) This subsection applies until the implementation date designated by the director pursuant to section 60-462.02. Application for any original or renewal commercial driver's license or application for any change of class of commercial motor vehicle, endorsement, or restriction may be made in a manner prescribed by the department. Such application may be made to an examiner in any county. The examiner shall personally conduct the examination of the applicant and deliver to each successful applicant an examiner's certificate containing the statements made pursuant to subdivision (b) of this subsection.~~

~~(b) The application or examiner's certificate shall include the voter registration portion pursuant to section 32-308, the advisement language required by subsection (5) of section 60-6,197, and the following:~~

~~(i) The full name, the current mailing address, and the residential address of the applicant, except that if the applicant is a program participant under the Address Confidentiality Act, he or she need not supply his or her residential address;~~

~~(ii) A physical description of the applicant, including sex, height, weight, and eye and hair colors;~~

~~(iii) The applicant's date of birth;~~

~~(iv) The applicant's social security number;~~

~~(v) The applicant's signature;~~

~~(vi) Certification that the commercial motor vehicle in which the applicant takes any driving skills examination is representative of the class of commercial motor vehicle that the applicant operates or expects to operate;~~

~~(vii) The certification required pursuant to section 60-4,145 or 60-4,146;~~

~~(viii) Beginning September 30, 2005, the names of all states where the applicant has been licensed to operate any type of motor vehicle in the ten years prior to the date of application;~~

~~(ix) The following specific questions:~~

~~(A) Have you within the last three months (e.g. due to diabetes, epilepsy, mental illness, head injury, stroke, heart condition, neurological disease, etc.):~~

~~(I) lost voluntary control or consciousness ... yes ... no~~

(II) experienced vertigo or multiple episodes of dizziness or fainting ... yes ... no

(III) experienced disorientation ... yes ... no

(IV) experienced seizures ... yes ... no

(V) experienced impairment of memory, memory loss ... yes ... no

Please explain: .....

(B) Do you experience any condition which affects your ability to operate a motor vehicle? (e.g. due to loss of or impairment of foot, leg, hand, or arm, neurological or neuromuscular disease, etc.) ... yes ... no

Please explain: .....

(C) Since the issuance of your last driver's license/permit has your health or medical condition changed or worsened? ... yes ... no

Please explain, including how the above affects your ability to drive: .....

(\*) Do you wish to register to vote as part of this application process?

OPTIONAL - YOU ARE NOT REQUIRED TO ANSWER ANY OF THE FOLLOWING QUESTIONS:

(xi) Do you wish to be an organ and tissue donor?

(xii) Do you wish to receive any additional specific information regarding organ and tissue donation and the Donor Registry of Nebraska?

(xiii) Do you wish to donate \$1 to promote the Organ and Tissue Donor Awareness and Education Fund?

(e) Application shall be made under oath or affirmation of the applicant.

(2) This subsection applies beginning on the implementation date designated by the director pursuant to section 60-462.02. (1) An applicant for any original or renewal commercial driver's license or an applicant for a change of class of commercial motor vehicle, endorsement, or restriction shall demonstrate his or her knowledge and skills for operating a commercial motor vehicle as prescribed in the Motor Vehicle Operator's License Act. An applicant for a commercial driver's license shall provide the information and documentation required by this section and section 60-484 and section 13 of this act. Such information and documentation shall include any additional information required by 49 C.F.R. parts 383 and 391 and also include:

(a) Certification that the commercial motor vehicle in which the applicant takes any driving skills examination is representative of the class of commercial motor vehicle that the applicant operates or expects to operate; and

(b) The certification required pursuant to section 60-4,145 or 60-4,146; and

(e) (b) The names of all states where the applicant has been licensed to operate any type of motor vehicle in the ten years prior to the date of application.

(2) Any person applying for any commercial driver's license on or before December 31, 2011, must present the certification required pursuant to section 60-4,145 or 60-4,146.

(3) Any person applying for any commercial driver's license on or after January 1, 2012, must make one of the certifications in section 13 of this act and provide such certification to the department in order to be issued a commercial driver's license.

(4) On or after January 1, 2012, but no later than January 30, 2014, every person who holds any commercial driver's license must provide to the department medical certification as required by section 13 of this act. The department may provide notice and prescribe medical certification compliance requirements for all holders of commercial driver's licenses. Holders of commercial driver's licenses who fail to meet the prescribed medical certification compliance requirements may be subject to downgrade.

Sec. 13. (1) A person must certify that he or she operates or expects to operate a commercial motor vehicle in interstate commerce, is both subject to and meets the qualification requirements under 49 C.F.R. part 391, and is required to obtain a medical examiner's certificate by 49 C.F.R. 391.45. Any nonexcepted holder of a commercial driver's license on or after January 1, 2012, who certifies that he or she will operate a commercial motor vehicle in nonexcepted, interstate commerce must maintain a current medical examiner's certificate and provide a copy of it to the department in order to maintain his or her medical certification status;

(2) A person must certify that he or she operates or expects to operate a commercial motor vehicle in interstate commerce, but engages exclusively in transportation or operations excepted under 49 C.F.R. 390.3(f), 391.2, 391.68, or 398.3 from all or part of the qualification requirements of 49 C.F.R. part 391, and is therefor not required to obtain a medical

examiner's certificate by 49 C.F.R. 391.45;

(3) A person must certify that he or she operates a commercial motor vehicle only in intrastate commerce and therefor is subject to state driver qualification requirements as provided in section 75-363; or

(4) A person must certify that he or she operates a commercial motor vehicle in intrastate commerce, but engages exclusively in transportation or operations excepted from all or parts of the state driver qualification requirements.

Sec. 14. (1) Beginning January 1, 2012, for each operator of a commercial motor vehicle required to have a commercial driver's license, the department, in compliance with 49 C.F.R. 383.73, shall:

(a) Post the driver's self-certification of type of driving under 49 C.F.R. 383.71(a)(1)(ii);

(b) Retain the medical examiner's certificate of any driver required to provide documentation of physical qualification for three years beyond the date the certificate was issued; and

(c) Post the information from the medical examiner's certificate within ten calendar days to the Commercial Driver License Information System driver record, including:

(i) The medical examiner's name;

(ii) The medical examiner's telephone number;

(iii) The date of the medical examiner's certificate issuance;

(iv) The medical examiner's license number and the state that issued

it;

(v) The medical examiner's National Registry identification number (if the National Registry of Medical Examiners, mandated by 49 U.S.C. 31149(d), requires one);

(vi) The indicator of the medical certification status, either "certified" or "not-certified";

(vii) The expiration date of the medical examiner's certificate;

(viii) The existence of any medical variance on the medical certificate, such as an exemption, Skill Performance Evaluation (SPE) certification, or grandfather provisions;

(ix) Any restrictions, for example, corrective lenses, hearing aid, or required to have possession of an exemption letter or Skill Performance Evaluation certificate while on duty; and

(x) The date the medical examiner's certificate information was posted to the Commercial Driver License Information System driver record.

(2) Beginning January 1, 2012, the department shall, within ten calendar days of the driver's medical certification status expiring or a medical variance expiring or being rescinded, update the medical certification status of that driver as "not-certified".

(3) Beginning January 1, 2012, within ten calendar days of receiving information from the Federal Motor Carrier Safety Administration regarding issuance or renewal of a medical variance for a driver, the department shall update the Commercial Driver License Information System driver record to include the medical variance information provided by the Federal Motor Carrier Safety Administration.

(4)(a) Beginning January 1, 2012, if a driver's medical certification or medical variance expires, or the Federal Motor Carrier Safety Administration notifies the department that a medical variance was removed or rescinded, the department shall:

(i) Notify the commercial driver's license holder of his or her commercial driver's license "not-certified" medical certification status and that the commercial driver's license privilege will be removed from the driver's license unless the driver submits a current medical certificate or medical variance or changes his or her self-certification to driving only in excepted or intrastate commerce, if permitted by the department; and

(ii) Initiate established department procedures for downgrading the license. The commercial driver's license downgrade shall be completed and recorded within sixty days of the driver's medical certification status becoming "not-certified" to operate a commercial motor vehicle.

(b) Beginning January 1, 2012, if a driver fails to provide the department with the certification contained in 49 C.F.R. 383.71(a)(1)(ii), or a current medical examiner's certificate if the driver self-certifies according to 49 C.F.R. 383.71(a)(1)(ii)(A) that he or she is operating in nonexcepted interstate commerce as required by 49 C.F.R. 383.71(h), the department shall mark that Commercial Driver License Information System driver record as "not-certified" and initiate a commercial driver's license downgrade following department procedures in accordance with subdivision (4)(a)(ii) of this section.

Sec. 15. Section 60-4,145, Reissue Revised Statutes of Nebraska, is

amended to read:

60-4,145 This section applies up to and including December 31, 2011.  
 Upon making any application pursuant to section 60-4,144, any applicant who operates or expects to operate a commercial motor vehicle in interstate or foreign commerce and who is subject to 49 C.F.R. part 391 adopted pursuant to section 75-363 shall certify that the applicant meets the qualification requirements of 49 C.F.R. part 391. A commercial driver's license examiner may require any applicant making certification pursuant to this section to demonstrate with or without the aid of corrective devices sufficient powers of eyesight to enable him or her to operate a commercial motor vehicle in conformance with the minimum vision requirements of 49 C.F.R. part 391 adopted pursuant to section 75-363. If from the examination given it appears that any applicant's powers of eyesight are such that he or she cannot meet the minimum vision requirements, the examiner shall allow the applicant to present an ophthalmologist's or optometrist's certificate to the effect that the applicant has sufficient powers of eyesight for such purpose before issuing a commercial driver's license to the applicant. If the examination given by the commercial driver's license examiner or the ophthalmologist's or optometrist's certificate indicates that the applicant must wear a corrective device to meet the minimum vision requirements established by this section, the applicant shall have the use of the commercial driver's license issued to him or her restricted to wearing a corrective device while operating a motor vehicle. An applicant who has been issued a waiver or exemption by the Federal Motor Carrier Safety Administration from the vision requirements set forth in 49 C.F.R. 391.41(b)(10) may be issued an interstate commercial driver's license without meeting the vision requirements set forth in 49 C.F.R. 391.41(b)(10).

Sec. 16. Section 60-4,146, Reissue Revised Statutes of Nebraska, is amended to read:

60-4,146 (1) Beginning January 1, 2012, in addition to certifying himself or herself under this section, an applicant shall also certify himself or herself under subsections (2) and (4) of section 13 of this act.

~~(1)~~ (2) Upon making application pursuant to section 60-4,144, any applicant who operates or expects to operate a commercial motor vehicle solely in intrastate commerce and who is not subject to 49 C.F.R. part 391 adopted pursuant to section 75-363 shall certify that he or she is not subject to 49 C.F.R. part 391. Any applicant making certification pursuant to this section shall meet the physical and vision requirements established in section 60-4,118 and shall be subject to the provisions of such section relating to the Health Advisory Board.

~~(2)~~ (3) An applicant who certifies that he or she is exempt from the physical qualifications and examination requirements of 49 C.F.R. part 391 pursuant to subsection (4) of section 75-363 shall meet the physical and vision requirements established in section 60-4,118 and shall be subject to the provisions of such section relating to the Health Advisory Board. A successful applicant shall be issued a commercial driver's license which restricts the holder to operating a commercial motor vehicle solely in intrastate commerce and which also indicates that the holder is exempt from the physical qualifications and examination requirements prescribed by 49 C.F.R. part 391. Two years after the initial issuance of such license and upon renewal, and every two years following renewal, the holder of the commercial driver's license shall present to the ~~Department of Motor Vehicles~~ department upon request, on a form to be prescribed by the department, a statement from a physician detailing that based upon his or her examination of the applicant the medical or physical condition in existence prior to July 30, 1996, which would otherwise render the individual not qualified under federal standards, has not significantly worsened or that another nonqualifying medical or physical condition has not developed.

~~(3)~~ (4) An applicant who certifies that he or she is not subject to 49 C.F.R. part 391 under subsection ~~(1)~~ (2) of this section or who certifies that he or she is exempt from 49 C.F.R. part 391 under subsection ~~(2)~~ (3) of this section shall answer the following questions on the application:

(a) Have you within the last three months (e.g. due to diabetes, epilepsy, mental illness, head injury, stroke, heart condition, neurological disease, etc.):

- (i) lost voluntary control or consciousness ... yes ... no
  - (ii) experienced vertigo or multiple episodes of dizziness or fainting ... yes ... no
  - (iii) experienced disorientation ... yes ... no
  - (iv) experienced seizures ... yes ... no
  - (v) experienced impairment of memory, memory loss ... yes ... no
- Please explain: .....

(b) Do you experience any condition which affects your ability to

operate a motor vehicle? (e.g. due to loss of, or impairment of, foot, leg, hand, arm; neurological or neuromuscular disease, etc.) ... yes ... no

Please explain: .....

(c) Since the issuance of your last driver's license/permit has your health or medical condition changed or worsened? ... yes ... no

Please explain, including how the above affects your ability to drive: .....

Sec. 17. Section 60-4,153, Reissue Revised Statutes of Nebraska, is amended to read:

60-4,153 Prior to the issuance of any original or renewal commercial driver's license or the reissuance of any commercial driver's license with a change of any classification, endorsement, or restriction, the ~~Department of Motor Vehicles~~ department shall, within twenty-four hours prior to issuance if the applicant does not currently possess a valid commercial driver's license issued by this state and within ten days prior to the issuance or reissuance for all other applicants:

(1) Check the driving record of the applicant as maintained by the department or by any other state which has issued an operator's license to the applicant;

(2) Contact the Commercial Driver License Information System to determine whether the applicant possesses any valid commercial driver's license issued by any other state, whether such license or the applicant's privilege to operate a commercial motor vehicle has been suspended, revoked, or canceled, or whether the applicant has been disqualified from operating a commercial motor vehicle; and

(3) Contact the National Driver Register to determine if the applicant (a) has been disqualified from operating any motor vehicle, (b) has had an operator's license suspended, revoked, or canceled for cause in the three-year period ending on the date of application, ~~or~~ (c) has been convicted of operation of a motor vehicle while under the influence of or while impaired by alcohol or a controlled substance, a traffic violation arising in connection with a fatal traffic accident, reckless driving, racing on the highways, failure to render aid or provide identification when involved in an accident which resulted in a fatality or personal injury, or perjury or the knowledgeable making of a false affidavit or statement to officials in connection with activities governed by a law, rule, or regulation related to the operation of a motor vehicle, (d) is not eligible, or (e) is deceased.

Sec. 18. Section 60-4,154, Reissue Revised Statutes of Nebraska, is amended to read:

60-4,154 (1) Prior to the issuance of any original or renewal commercial driver's license or the reissuance of any commercial driver's license with a change of any classification, endorsement, or restriction, the director shall notify the Commercial Driver License Information System of the issuance and shall provide the applicant's name, social security number, and any other required information to the operator of the system.

(2) Beginning January 1, 2012, the department shall post information from the medical examiner's certificate to the Commercial Driver License Information System in accordance with section 14 of this act and 49 C.F.R. 383.73.

Sec. 19. Section 60-4,171, Reissue Revised Statutes of Nebraska, is amended to read:

60-4,171 (1) Following any period of revocation ordered by a court, a resident who has had a commercial driver's license revoked pursuant to section 60-4,169 may apply for a Class O or M operator's license.

(2) Any person who has had his or her commercial driver's license revoked pursuant to section 60-4,169 may, at the end of such revocation period, apply to have his or her eligibility for a commercial driver's license reinstated. The applicant shall (a) apply to the Department of Motor Vehicles and provide his or her social security number, (b) take the commercial driver's license knowledge and driving skills examinations prescribed pursuant to section 60-4,155, (c) up to and including December 31, 2011, comply with section 60-4,145 regarding physical requirements, (d) on or after January 1, 2012, certify pursuant to section 13 of this act and meet the applicable medical requirements for such certification, (e) be subject to a check of his or her driving record, ~~(e)~~ (f) pay the fees specified in section 60-4,115 and a reinstatement fee as provided in section 60-499.01, and ~~(f)~~ (g) surrender any operator's license issued pursuant to subsection (1) of this section.

Sec. 20. Section 60-2909.01, Reissue Revised Statutes of Nebraska, is amended to read:

60-2909.01 The department and any officer, employee, agent, or contractor of the department having custody of a motor vehicle record shall, upon the verification of identity and purpose of a requester, disclose and



make available the requested motor vehicle record, including the sensitive personal information in the record, other than the social security number, for the following purposes:

(1) For use by any federal, state, or local governmental agency, including any court or law enforcement agency, in carrying out the agency's functions or by a private person or entity acting on behalf of a governmental agency in carrying out the agency's functions;

(2) For use in connection with any civil, criminal, administrative, or arbitral proceeding in any federal, state, or local court or governmental agency or before any self-regulatory body, including service of process, investigation in anticipation of litigation, and execution or enforcement of judgments and orders, or pursuant to an order of a federal, state, or local court, an administrative agency, or a self-regulatory body;

(3) For use by any insurer or insurance support organization, or by a self-insured entity, or its agents, employees, or contractors, in connection with claims investigation activities, anti-fraud activities, rating, or underwriting; and

(4) For use by an employer or the employer's agent or insurer to obtain or verify information relating to a holder of a commercial driver's license that is required under the Commercial Motor Vehicle Safety Act of 1986, 49 U.S.C. 31301 et seq., or pursuant to sections 60-4,132 and 60-4,141; and -

(5) For use by employers of commercial driver's license holders and by the Commercial Driver License Information System as provided in section 14 of this act and 49 C.F.R. 383.73.

Sec. 21. Section 75-363, Revised Statutes Cumulative Supplement, 2010, is amended to read:

75-363 (1) The parts, subparts, and sections of Title 49 of the Code of Federal Regulations listed below, as modified in this section, or any other parts, subparts, and sections referred to by such parts, subparts, and sections, in existence and effective as of January 1, 2010, 2011, are adopted as Nebraska law.

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

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

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

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

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

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

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

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

(a) Part 382 - Controlled Substances And Alcohol Use And Testing;

(b) Part 385 - Safety Fitness Procedures;

(c) Part 386 - Rules Of Practice For Motor Carrier, Broker, Freight Forwarder, And Hazardous Materials Proceedings;

(d) Part 387 - Minimum Levels of Financial Responsibility for Motor Carriers;

(e) Part 390 - Federal Motor Carrier Safety Regulations; General;

(f) Part 391 - Qualifications Of Drivers And Longer Combination Vehicle (LCV) Driver Instructors;

(g) Part 392 - Driving Of Commercial Motor Vehicles;

(h) Part 393 - Parts And Accessories Necessary For Safe Operation;

(i) Part 395 - Hours Of Service Of Drivers;

(j) Part 396 - Inspection, Repair, And Maintenance;

(k) Part 397 - Transportation Of Hazardous Materials; Driving And Parking Rules; and

(l) Part 398 - Transportation Of Migrant Workers.

(4) The provisions of subpart E - Physical Qualifications And Examinations of 49 C.F.R. part 391 - Qualifications Of Drivers And Longer Combination Vehicle (LCV) Driver Instructors shall not apply to any driver subject to this section who: (a) Operates a commercial motor vehicle

exclusively in intrastate commerce; and (b) holds, or has held, a commercial driver's license issued by this state prior to July 30, 1996.

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

- (a) All of part 391;
- (b) Section 395.8 of part 395; and
- (c) Section 396.11 of part 396.

(6) Part 393 - Parts And Accessories Necessary For Safe Operation and Part 396 - Inspection, Repair, And Maintenance shall not apply to fertilizer and agricultural chemical application and distribution equipment transported in units with a capacity of three thousand five hundred gallons or less.

(7) For purposes of this section, intrastate motor carriers shall not include any motor carrier or driver excepted from 49 C.F.R. chapter III 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.~~

(8) (a) Part 395 - Hours Of Service Of Drivers shall apply to motor carriers and drivers who engage in intrastate commerce as defined in section 75-362, except that no motor carrier who engages in intrastate commerce shall permit or require any driver used by it to drive nor shall any driver drive:

(i) More than twelve hours following eight consecutive hours off duty; or

(ii) For any period after having been on duty sixteen hours following eight consecutive hours off duty.

(b) No motor carrier who engages in intrastate commerce shall permit or require a driver of a commercial motor vehicle, regardless of the number of motor carriers using the driver's services, to drive, nor shall any driver of a commercial motor vehicle drive, for any period after:

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

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

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

(10) 49 C.F.R. 390.21 - Marking Of Commercial Motor Vehicles shall not apply to farm trucks and farm truck-tractors registered pursuant to section 60-3,146 and operated solely in intrastate commerce.

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

(12) No motor carrier shall permit or require a driver of a commercial motor vehicle to violate, and no driver of a commercial motor vehicle shall violate, any out-of-service order.

Sec. 22. Section 75-364, Revised Statutes Cumulative Supplement, 2010, is amended to read:

75-364 ~~(1)~~ The parts, subparts, and sections of Title 49 of the Code of Federal Regulations listed below, or any other parts, subparts, and sections referred to by such parts, subparts, and sections, in existence and effective as of January 1, ~~2010~~, 2011, are adopted as part of Nebraska law and, ~~except as provided in subsections (2) and (3) of this section,~~ shall be applicable to all motor carriers whether engaged in interstate or intrastate commerce, drivers of such motor carriers, and vehicles of such motor carriers:

~~(a)~~ (1) Part 107 - Hazardous Materials Program Procedures, subpart F-Registration ~~of~~ of Cargo Tank ~~And~~ and Cargo Tank Motor Vehicle Manufacturers, Assemblers, Repairers, Inspectors, Testers, and Design Certifying Engineers;

~~(b)~~ (2) Part 107 - Hazardous Materials Program Procedures, subpart G-Registration ~~of~~ of Persons Who Offer ~~or~~ or Transport Hazardous Materials;

~~(c)~~ (3) Part 171 - ~~General Information, Regulations, And Definitions;~~ GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS;

~~(d)~~ (4) Part 172 - ~~Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, and~~

Training Requirements, HAZARDOUS MATERIALS TABLE, SPECIAL PROVISIONS, HAZARDOUS MATERIALS COMMUNICATIONS, EMERGENCY RESPONSE INFORMATION, AND TRAINING REQUIREMENTS AND SECURITY PLANS;

~~(e) (5) Part 173 - Shippers - General Requirements For Shipments And Packagings; SHIPPERS - GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS;~~

~~(f) (6) Part 177 - Carriage By Public Highway; CARRIAGE BY PUBLIC HIGHWAY;~~

~~(g) (7) Part 178 - Specifications For Packagings; SPECIFICATIONS FOR PACKAGINGS; and~~

~~(h) (8) Part 180 - Continuing Qualification And Maintenance Of Packagings; CONTINUING QUALIFICATION AND MAINTENANCE OF PACKAGINGS.~~

~~(2) Agricultural operations exceptions:~~

~~(a) The transportation of an agricultural product other than a Class 2 material (Compressed Gases) as defined in 49 C.F.R. 171.8, over roads, other than the National System of Interstate and Defense Highways, between fields of the same farm, is excepted from subsection (1) of this section when:~~

~~(i) The agricultural product is transported by a farmer who is an intrastate private motor carrier; and~~

~~(ii) The movement of the agricultural product conforms to all other laws in effect on or before July 1, 1998, and 49 C.F.R. 173.24, 173.24a, and 173.24b;~~

~~(b) The transportation of an agricultural product to or from a farm, within one hundred fifty miles of the farm, is excepted from the requirements in 49 C.F.R. part 172, subparts G (emergency response information) and H (training), and from the specific packaging requirements of subsection (1) of this section when:~~

~~(i) The agricultural product is transported by a farmer who is an intrastate private motor carrier;~~

~~(ii) The total amount of agricultural product being transported on a single vehicle does not exceed:~~

~~(A) Sixteen thousand ninety-four pounds of ammonium nitrate fertilizer properly classed as Division 5.1, PGIII, in a bulk packaging; or~~

~~(B) Five hundred two gallons for liquids or gases, or five thousand seventy pounds for solids, of any other agricultural product;~~

~~(iii) The packaging conforms to the requirements of state law and is specifically authorized for transportation of the agricultural product by state law and such state law has been in effect on or before July 1, 1998; and~~

~~(iv) Each person having any responsibility for transporting the agricultural product or preparing the agricultural product for shipment has been instructed in the applicable requirements of the parts, subparts, and sections of Title 49 of the Code of Federal Regulations adopted in this section; and~~

~~(c) Formulated liquid agricultural products in specification packagings of fifty-eight-gallon capacity or less, with closures manifolded to a closed mixing system and equipped with positive dry disconnect devices, may be transported by a private motor carrier between a final distribution point and an ultimate point of application or for loading aboard an airplane for aerial application.~~

~~(3) Exceptions for nonspecification packagings used in intrastate transportation:~~

~~(a) Nonspecification cargo tanks for petroleum products: Notwithstanding requirements for specification packagings in 49 C.F.R. part 173, subpart F, and 49 C.F.R. parts 178 and 180, a nonspecification metal tank permanently secured to a transport vehicle and protected against leakage or damage in the event of a turnover, having a capacity of less than three thousand five hundred gallons, may be used by an intrastate motor carrier for transportation of a flammable liquid petroleum product in accordance with subdivision (c) of this subsection;~~

~~(b) Permanently secured nonbulk tanks for petroleum products: Notwithstanding requirements for specification packagings in 49 C.F.R. part 173, subpart F, and 49 C.F.R. parts 178 and 180, a nonspecification metal tank permanently secured to a transport vehicle and protected against leakage or damage in the event of a turnover, having a capacity of less than one hundred nineteen gallons, may be used by an intrastate motor carrier for transportation of a flammable liquid petroleum product in accordance with subdivision (c) of this subsection; and~~

~~(c) Additional requirements: A packaging used pursuant to subdivision (a) or (b) of this subsection must:~~

~~(i) Be operated by an intrastate motor carrier and in use as a packaging for hazardous material before July 1, 1998;~~

~~(ii) Be operated in conformance with the requirements of the State of Nebraska;~~

(iii) Be specifically authorized by state law in effect before July 1, 1998, for use as a packaging for the hazardous material being transported and by 49 C.F.R. 173.24, 173.24a, and 173.24b;

(iv) Be offered for transportation and transported in conformance with all other applicable requirements of the hazardous material regulations;

(v) Not be used to transport a flammable cryogenic liquid, hazardous substance, hazardous waste, or marine pollutant as defined in 49 C.F.R. 171.8, and

(vi) On and after July 1, 2000, for a tank authorized under subdivision (a) or (b) of this subsection, conform to all requirements in 49 C.F.R. part 180, except for 49 C.F.R. 180.405(g), in the same manner as required for a United States Department of Transportation specification MC306 cargo tank motor vehicle.

(4) For purposes of this section:

(a) Agricultural product means a hazardous material, other than a hazardous waste, whose end use directly supports the production of an agricultural commodity, including, but not limited to, a fertilizer, pesticide, soil amendment, or fuel. An agricultural product is limited to a material in Class 3 (Flammable Liquids), Class 8 (Corrosives), or Class 9 (Miscellaneous), Division 2.1 (Flammable Gas), Division 2.2 (Nonflammable Gas), Division 5.1 (Oxidizers), or Division 6.1 (Poisons), or an ORM-D material (Consumer Commodity), as defined in 49 C.F.R. 171.8;

(b) Bulk package means a packaging, including a transport vehicle or freight container, in which hazardous materials are loaded with no other intermediate form of containment and which has:

(i) A maximum capacity greater than one hundred nineteen gallons as a receptacle for a liquid;

(ii) A maximum net mass greater than eight hundred eighty-two pounds and a maximum capacity greater than one hundred nineteen gallons as a receptacle for a solid; or

(iii) A water capacity greater than one thousand pounds as a receptacle for a gas, pursuant to standards set forth in 49 C.F.R. 173.115;

(c) Farmer means a person engaged in the production or raising of crops, poultry, or livestock; and

(d) Private motor carrier means a person or persons engaged in the transportation of persons or product while in commerce, but not for hire.

Sec. 23. Original sections 29-3608, 60-462, 60-462.01, 60-4,116, 60-4,131, 60-4,131.01, 60-4,132, 60-4,137, 60-4,138, 60-4,139, 60-4,143, 60-4,144, 60-4,145, 60-4,146, 60-4,153, 60-4,154, 60-4,171, and 60-2909.01, Reissue Revised Statutes of Nebraska, and sections 75-363 and 75-364, Revised Statutes Cumulative Supplement, 2010, are repealed.