

## LEGISLATIVE BILL 538

Approved by the Governor April 17, 1987

Introduced by Beyer, 3; Hartnett, 45

AN ACT relating to motor carriers; to amend sections 75-364 and 75-366, Reissue Revised Statutes of Nebraska, 1943, and section 79-488, Revised Statutes Supplement, 1986; to change a date relating to the Federal Hazardous Material Regulations; to provide additional powers for the Nebraska State Patrol; to change provisions relating to the inspection of pupil transportation vehicles as prescribed; to change penalty provisions; and to repeal the original sections.

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

Section 1. That section 75-364, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

75-364. (1) The parts of the Federal Hazardous Material Regulations, Title 49, Code of Federal Regulations, listed below or any other parts referred to by such parts, in existence as of ~~October 17, 1986~~ April 15, 1987, 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.

(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 provisions of subsection (1) of this section to the extent provided in Part 173 and Part 177.

(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. 2. That section 75-366, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

75-366. For the purpose of enforcing sections 75-363 and 75-364, the Nebraska State Patrol or the carrier enforcement division (1) may, upon demand, inspect the accounts, records, and equipment of any carrier or shipper and (2) shall have the authority of special agents of the Federal Highway Administration.

Sec. 3. That section 79-488, Revised Statutes Supplement, 1986, be amended to read as follows:

79-488. All boards of education, and the governing authority of any nonpublic school in this state, and all independent contractors who provide student transportation services for such boards of education and governing boards and for military installations shall cause all school buses or vans owned, leased, or contracted by the school or district pupil transportation vehicles used for the transportation of students to be inspected before school shall open in the fall and each eighty days during that part of the year when school is in session, by a qualified motor vehicle mechanic appointed by the board of education or governing authority having jurisdiction over such students, except and approved by the county superintendent or district superintendent; PROVIDED, that any bus or van pupil transportation vehicle that has been inspected under rules and regulations of the Public Service Commission shall be exempted from the provisions of this section. The mechanic shall thoroughly inspect every bus or van vehicle used for the transportation of students as to brakes, lights, windshield wipers, window glass, tires, doors, heaters, defrosting equipment, steering gear, exhaust system, and the mechanical condition of every part of such bus or van bearing upon the safety thereof as a means of transportation pupil transportation vehicle to ensure compliance with the minimum allowable safety criteria

established pursuant to subdivision (13) of section 79-328. Within five days after such inspection, the mechanic shall make a report of his or her inspection in writing on regular forms provided by the State Department of Education which shall show the work done. The chief administrative officer or chairperson of the board of education representing a public school district or the chief administrative officer or chairperson of the governing authority representing any nonpublic school shall sign the assurance form attached to each mechanic's inspection report signifying that the inspection did occur if the vehicle met the minimum allowable safety criteria for use. Any item not meeting such criteria shall be brought into compliance prior to the vehicle being used to transport students. One copy of such the mechanic's report shall be filed with the owner if other than the school district or school; one copy with the board of education or governing authority and, if the school contracts with an independent contractor to provide transportation services, one copy with the independent contractor. The chief administrative officer of each school district shall annually certify, by a written verification statement, to the State Department of Education that the inspections required pursuant to this section have been performed. Such verification statement shall be sent to the department no later than October 1, using such bus or van to transport pupils; one copy with the county superintendent or district superintendent; and one copy with the State Department of Education. The county superintendent, chief administrative officer, or chairperson of the board of education, the governing authority, or the independent contractor shall, upon request, make available the mechanic's inspection reports for each bus or van vehicle used for the transportation of students to the Nebraska State Patrol inspector when the annual school vehicle safety equipment inspections are conducted.

All such boards of education, and governing authorities, and independent contractors shall also cause such buses or vans pupil transportation vehicles used for the transportation of students to be safety inspected at least once during each calendar year by the Nebraska State Patrol or the patrol's carrier enforcement division. The vehicles are to be inspected to ensure compliance with the minimum allowable safety criteria prescribed in subdivision (13) of section 79-328. Upon successful completion of the Nebraska State Patrol such inspection, an approval sticker shall

be placed by the inspector on the lower inside corner of the driver's side windshield, and within five days after such inspection, the Nebraska State Patrol or the division shall make a report of its inspection in writing, and file one copy of such report with the board of education, or governing authority, or independent contractor and file one copy with the State Department of Education. If any inspection required by the provisions of this section discloses any defect in equipment bearing upon the safety of a bus or van as a means of transportation and the defect is not corrected within twenty-four hours after discovery, the bus or van equipment not in compliance with the minimum allowable safety criteria, the pupil transportation vehicle shall immediately be removed from service until such the defects are corrected to the satisfaction of a law enforcement officer. Failure to remove such bus or van from service shall constitute a Class V misdemeanor and conviction for such offense shall be grounds for dismissal of any employee Nebraska State Patrol or division inspector.

All such boards of education, governing authorities, and independent contractors shall also cause each pupil transportation vehicle used for the transportation of students to be inspected by the Nebraska State Patrol or the patrol's carrier enforcement division for compliance with minimum equipment standards established pursuant to subdivision (13) of section 79-328 prior to being placed into service for the first time in the State of Nebraska. After such inspection a one-time minimum equipment standards sticker shall be placed by the inspector on the lower left-hand inside corner of the windshield if the pupil transportation vehicle meets such minimum standards. If the inspection reveals any equipment on the pupil transportation vehicle that is not in compliance with such minimum equipment standards, the vehicle shall not be put into service until such deficiencies are corrected and a minimum equipment standards sticker is placed on such vehicle. Failure to remove pupil transportation vehicles from service due to noncompliance with minimum safety or minimum equipment standards shall constitute a Class V misdemeanor, and conviction for such offense shall be grounds for dismissal of any employee.

In addition to the inspection requirements prescribed in this section, the driver of each pupil transportation vehicle shall make daily inspections of such vehicle to ensure that all lights and equipment are

fully operational or repaired before his or her daily route. Reports of such daily inspections shall be kept by the driver in the vehicle and filed weekly with the head mechanic or administrator in charge of the transportation system. If the inspection reveals any significant defect in the lights or equipment, the driver shall immediately report the defect to the head mechanic or administrator in charge of the transportation system.

Sec. 4. That original sections 75-364 and 75-366, Reissue Revised Statutes of Nebraska, 1943, and section 79-488, Revised Statutes Supplement, 1986, are repealed.