

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 112

Introduced by Coash, 27; Campbell, 25.

Read first time January 06, 2011

Committee: Transportation and Telecommunications

A BILL

1 FOR AN ACT relating to motor carriers; to amend sections 75-302 and
2 75-303, Reissue Revised Statutes of Nebraska; to define a
3 term; to provide an exemption from regulation for
4 comprehensive services transport; to repeal the original
5 sections; and to declare an emergency.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 75-302, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 75-302 For purposes of sections 75-301 to 75-322 and in
4 all rules and regulations adopted and promulgated by the commission
5 pursuant to such sections, unless the context otherwise requires:

6 (1) Carrier enforcement division means the carrier
7 enforcement division of the Nebraska State Patrol or the Nebraska
8 State Patrol;

9 (2) Certificate means a certificate of public convenience
10 and necessity issued under Chapter 75, article 3, to common carriers
11 by motor vehicle;

12 (3) Civil penalty means any monetary penalty assessed by
13 the commission or carrier enforcement division due to a violation of
14 Chapter 75, article 3, or section 75-126 as such section applies to
15 any person or carrier specified in Chapter 75, article 3; any term,
16 condition, or limitation of any certificate or permit issued pursuant
17 to Chapter 75, article 3; or any rule, regulation, or order of the
18 commission, the Division of Motor Carrier Services, or the carrier
19 enforcement division issued pursuant to Chapter 75, article 3;

20 (4) Commission means the Public Service Commission;

21 (5) Common carrier means any person who or which
22 undertakes to transport passengers or household goods for the general
23 public in intrastate commerce by motor vehicle for hire, whether over
24 regular or irregular routes, upon the highways of this state;

25 (6) Contract carrier means any motor carrier which

1 transports passengers or household goods for hire other than as a
2 common carrier designed to meet the distinct needs of each individual
3 customer or a specifically designated class of customers without any
4 limitation as to the number of customers it can serve within the
5 class;

6 (7) Department of Health and Human Services comprehensive
7 services transport means transportation provided by a person engaged
8 in providing comprehensive services to clients pursuant to (a) a
9 comprehensive services contract with the Department of Health and
10 Human Services or (b) a subcontract entered into incident to a
11 comprehensive services contract with the department;

12 (7)—(8) Division of Motor Carrier Services means the
13 Division of Motor Carrier Services of the Department of Motor
14 Vehicles;

15 (8)—(9) Escort services means an attendant or caregiver
16 accompanying a minor or persons who are physically, mentally, or
17 developmentally disabled and unable to travel or wait without
18 assistance or supervision;

19 (9)—(10) Highway means the roads, highways, streets, and
20 ways in this state;

21 (10)—(11) Household goods means personal effects and
22 property used or to be used in a dwelling, when a part of the
23 equipment or supply of such dwelling, and similar property as the
24 commission may provide by regulation if the transportation of such
25 effects or property, is:

1 (a) Arranged and paid for by the householder, including
2 transportation of property from a factory or store when the property
3 is purchased by the householder with the intent to use in his or her
4 dwelling; or

5 (b) Arranged and paid for by another party;

6 ~~(11)~~-(12) Intrastate commerce means commerce between any
7 place in this state and any other place in this state and not in part
8 through any other state;

9 ~~(12)~~-(13) Motor carrier means any person other than a
10 regulated motor carrier who or which owns, controls, manages,
11 operates, or causes to be operated any motor vehicle used to
12 transport passengers or property over any public highway in this
13 state;

14 ~~(13)~~-(14) Motor vehicle means any vehicle, machine,
15 tractor, trailer, or semitrailer propelled or drawn by mechanical
16 power and used upon the highways in the transportation of passengers
17 or property but does not include any vehicle, locomotive, or car
18 operated exclusively on a rail or rails;

19 ~~(14)~~-(15) Permit means a permit issued under Chapter 75,
20 article 3, to contract carriers by motor vehicle;

21 ~~(15)~~-(16) Person means any individual, firm, partnership,
22 limited liability company, corporation, company, association, or
23 joint-stock association and includes any trustee, receiver, assignee,
24 or personal representative thereof;

25 ~~(16)~~-(17) Private carrier means any motor carrier which

1 owns, controls, manages, operates, or causes to be operated a motor
2 vehicle to transport passengers or property to or from its facility,
3 plant, or place of business or to deliver to purchasers its products,
4 supplies, or raw materials (a) when such transportation is within the
5 scope of and furthers a primary business of the carrier other than
6 transportation and (b) when not for hire. Nothing in sections 75-301
7 to 75-322 shall apply to private carriers; and

8 ~~(17)~~(18) Regulated motor carrier means any person who or
9 which owns, controls, manages, operates, or causes to be operated any
10 motor vehicle used to transport passengers, other than those excepted
11 under section 75-303, or household goods over any public highway in
12 this state.

13 Sec. 2. Section 75-303, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 75-303 Sections 75-301 to 75-322 shall apply to
16 transportation by a motor carrier or the transportation of passengers
17 and household goods by a regulated motor carrier for hire in
18 intrastate commerce except for the following:

19 (1) A motor carrier for hire in the transportation of
20 school children and teachers to and from school;

21 (2) A motor carrier for hire operated in connection with
22 a part of a streetcar system;

23 (3) An ambulance, ambulance owner, hearse, or automobile
24 used exclusively as an incident to conducting a funeral;

25 (4) A motor carrier exempt by subdivision (1) of this

1 section which hauls for hire (a) persons of a religious, fraternal,
2 educational, or charitable organization, (b) pupils of a school to
3 athletic events, (c) players of American Legion baseball teams when
4 the point of origin or termination is within five miles of the
5 domicile of the carrier, and (d) the elderly as defined in section
6 13-1203 and their spouses and dependents under a contract with a
7 municipality or county authorized in section 13-1208;

8 (5) A motor carrier operated by a city and engaged in the
9 transportation of passengers, and such exempt operations shall be no
10 broader than those authorized in intrastate commerce at the time the
11 city or other political subdivision assumed ownership of the
12 operation;

13 (6) A motor vehicle owned and operated by a nonprofit
14 organization which is exempt from payment of federal income taxes, as
15 provided by section 501(c)(4), Internal Revenue Code, transporting
16 solely persons over age sixty, persons who are spouses and dependents
17 of persons over age sixty, and handicapped persons;

18 (7) A motor carrier engaged in the transportation of
19 passengers operated by a transit authority created under and acting
20 pursuant to the laws of the State of Nebraska;

21 (8) A motor carrier operated by a municipality or county,
22 as authorized in section 13-1208, in the transportation of elderly
23 persons;

24 (9) A motor vehicle having a seating capacity of twenty
25 or less which is operated by a governmental subdivision or a

1 qualified public-purpose organization as defined in section 13-1203
2 engaged in the transportation of passengers in the state;

3 (10) A motor vehicle owned and operated by a nonprofit
4 entity organized for the purpose of furnishing electric service; ~~and~~

5 (11) A motor carrier engaged in escort services and under
6 contract with the Department of Health and Human Services or with any
7 agency organized under the Nebraska Community Aging Services Act;
8 and -

9 (12) A motor carrier engaged in Department of Health and
10 Human Services comprehensive services transport.

11 Sec. 3. Original sections 75-302 and 75-303, Reissue
12 Revised Statutes of Nebraska, are repealed.

13 Sec. 4. Since an emergency exists, this act takes effect
14 when passed and approved according to law.