

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 756

Introduced by Transportation and Telecommunications Committee:
Fischer, 43, Chairperson; Aguilar, 35; Hudkins, 21;
Lautenbaugh, 18; Louden, 49; Pedersen, 39; Schimek,
27; Stuthman, 22.

Read first time January 09, 2008

Committee: Transportation and Telecommunications

A BILL

1 FOR AN ACT relating to motor vehicles; to amend sections 60-301,
2 60-302, 60-311, 60-342, 60-3,196, 60-462.01, 60-4,147.02,
3 60-6,265, 60-6,267, 75-363, and 75-364, Revised Statutes
4 Supplement, 2007; to change provisions relating to motor
5 vehicle registration, operators' licenses, rules of the
6 road, and motor carriers; to adopt the most recent
7 International Registration Plan; to define and redefine
8 terms; to update certain federal references; to harmonize
9 provisions; to provide operative dates; to repeal the
10 original sections; and to declare an emergency.

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

1 Section 1. Section 60-301, Revised Statutes Supplement,
2 2007, is amended to read:

3 60-301 Sections 60-301 to 60-3,221 and sections 4 and 6
4 of this act shall be known and may be cited as the Motor Vehicle
5 Registration Act.

6 Sec. 2. Section 60-302, Revised Statutes Supplement,
7 2007, is amended to read:

8 60-302 For purposes of the Motor Vehicle Registration
9 Act, unless the context otherwise requires, the definitions found
10 in sections 60-303 to 60-360 and section 4 of this act shall be
11 used.

12 Sec. 3. Section 60-311, Revised Statutes Supplement,
13 2007, is amended to read:

14 60-311 Base jurisdiction means, for purposes of fleet
15 registration, the jurisdiction where the registrant has an
16 established place of business, where miles or kilometers are
17 accrued by the fleet, and where operational records of such
18 fleet are maintained or can be made available. ~~For such purpose,~~
19 ~~there is hereby adopted and incorporated by reference section~~
20 ~~1602 of Article XVI, International Registration Plan, adopted by~~
21 ~~the American Association of Motor Vehicle Administrators, as such~~
22 ~~section existed on October 1, 2006.~~

23 Sec. 4. International Registration Plan means the
24 International Registration Plan adopted by International
25 Registration Plan, Inc.

1 Sec. 5. Section 60-342, Revised Statutes Supplement,
2 2007, is amended to read:

3 60-342 Owner means a person, firm, or corporation which
4 holds a legal title of a motor vehicle or trailer. If (1) a
5 motor vehicle or trailer is the subject of an agreement for
6 the conditional sale thereof with the right of purchase upon
7 performance of the conditions stated in the agreement and with an
8 immediate right of possession vested in the conditional vendee,
9 (2) a motor vehicle or trailer is subject to a lease of thirty
10 days or more with an immediate right of possession vested in
11 the lessee, or (3) a mortgagor of a motor vehicle or trailer is
12 entitled to possession, then such conditional vendee, lessee, or
13 mortgagor shall be deemed the owner for purposes of the Motor
14 Vehicle Registration Act. ~~For such purpose, there are hereby~~
15 ~~adopted and incorporated by reference the provisions of Article~~
16 ~~XI, International Registration Plan, adopted by the American~~
17 ~~Association of Motor Vehicle Administrators, as such provisions~~
18 ~~existed on October 1, 2006.~~

19 Sec. 6. For purposes of the Motor Vehicle Registration
20 Act, the International Registration Plan is adopted and
21 incorporated by reference as the plan existed on July 1, 2008.

22 Sec. 7. Section 60-3,196, Revised Statutes Supplement,
23 2007, is amended to read:

24 60-3,196 Apportionable vehicles registered as provided in
25 section 60-3,198 and apportionable vehicles covered under ~~section~~

1 404 of Article IV, the International Registration Plan, adopted
2 by the American Association of Motor Vehicle Administrators, as
3 such section existed on October 1, 2006, which is hereby adopted
4 and incorporated by reference, shall be deemed fully registered
5 in all jurisdictions where apportioned or granted reciprocity
6 for any type of movement or operation. The registrant must have
7 proper interjurisdiction or intrajurisdiction authority from the
8 appropriate regulatory agency of each jurisdiction of this state if
9 not exempt from regulation by the regulatory agency.

10 Sec. 8. Section 60-462.01, Revised Statutes Supplement,
11 2007, is amended to read:

12 60-462.01 For purposes of the Motor Vehicle Operator's
13 License Act, the following federal regulations are adopted as
14 Nebraska law as they existed on January 1, ~~2007~~ 2008:

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

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

21 Sec. 9. Section 60-4,147.02, Revised Statutes Supplement,
22 2007, is amended to read:

23 60-4,147.02 No endorsement authorizing the driver to
24 operate a commercial motor vehicle transporting hazardous materials
25 shall be issued, renewed, or transferred by the Department of Motor

1 Vehicles unless the endorsement is issued, renewed, or transferred
2 in conformance with the requirements of section 1012 of the federal
3 Uniting and Strengthening America by Providing Appropriate Tools
4 Required to Intercept and Obstruct Terrorism Act of 2001, USA
5 PATRIOT Act, 49 U.S.C. 5103a, including all amendments and federal
6 rules and regulations adopted and promulgated pursuant thereto as
7 of January 1, ~~2007~~, 2008, for the issuance of licenses to operate
8 commercial motor vehicles transporting hazardous materials.

9 Sec. 10. Section 60-6,265, Revised Statutes Supplement,
10 2007, is amended to read:

11 60-6,265 For purposes of sections 60-6,266 to 60-6,273,
12 occupant protection system means a system utilizing a lap belt, a
13 shoulder belt, or any combination of belts installed in a motor
14 vehicle which (1) restrains drivers and passengers and (2) conforms
15 to Federal Motor Vehicle Safety Standards, 49 C.F.R. 571.207,
16 571.208, 571.209, and 571.210, as such standards existed on January
17 1, ~~2007~~, 2008, or to the federal motor vehicle safety standards
18 for passenger restraint systems applicable for the motor vehicle's
19 model year.

20 Sec. 11. Section 60-6,267, Revised Statutes Supplement,
21 2007, is amended to read:

22 60-6,267 (1) Any person in Nebraska who drives any motor
23 vehicle which has or is required to have an occupant protection
24 system shall ensure that:

25 (a) All children up to six years of age being transported

1 by such vehicle use a child passenger restraint system of a type
2 which meets Federal Motor Vehicle Safety Standard 213 as developed
3 by the National Highway Traffic Safety Administration, as such
4 standard existed on January 1, ~~2007~~, 2008, and which is correctly
5 installed in such vehicle; and

6 (b) All children six years of age and less than eighteen
7 years of age being transported by such vehicle use an occupant
8 protection system.

9 This subsection shall apply to every motor vehicle which
10 is equipped with an occupant protection system or is required to be
11 equipped with restraint systems pursuant to Federal Motor Vehicle
12 Safety Standard 208, as such standard existed on January 1, ~~2007~~,
13 2008, except taxicabs, mopeds, motorcycles, and any motor vehicle
14 designated by the manufacturer as a 1963 year model or earlier
15 which is not equipped with an occupant protection system.

16 (2) Whenever any licensed physician determines, through
17 accepted medical procedures, that use of a child passenger
18 restraint system by a particular child would be harmful by reason
19 of the child's weight, physical condition, or other medical reason,
20 the provisions of subsection (1) of this section shall be waived.
21 The driver of any vehicle transporting such a child shall carry
22 on his or her person or in the vehicle a signed written statement
23 of the physician identifying the child and stating the grounds for
24 such waiver.

25 (3) The drivers of authorized emergency vehicles shall

1 not be subject to the requirements of subsection (1) of this
2 section when operating such authorized emergency vehicles pursuant
3 to their employment.

4 (4) A driver of a motor vehicle shall not be subject to
5 the requirements of subsection (1) of this section if the motor
6 vehicle is being operated in a parade or exhibition and the parade
7 or exhibition is being conducted in accordance with applicable
8 state law and local ordinances and resolutions.

9 (5) The Department of Motor Vehicles shall develop and
10 implement an ongoing statewide public information and education
11 program regarding the use of child passenger restraint systems and
12 occupant protection systems and the availability of distribution
13 and discount programs for child passenger restraint systems.

14 (6) All persons being transported by a motor vehicle
15 operated by a holder of a provisional operator's permit or a school
16 permit shall use such motor vehicle's occupant protection system.

17 Sec. 12. Section 75-363, Revised Statutes Supplement,
18 2007, is amended to read:

19 75-363 (1) The parts, subparts, and sections of Title
20 49 of the Code of Federal Regulations listed below, as modified
21 in this section, or any other parts, subparts, and sections
22 referred to by such parts, subparts, and sections, in existence and
23 effective as of January 1, ~~2007~~, 2008, are adopted as Nebraska law.

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

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

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

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

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

14 (iii) All vehicles of such motor carriers transporting
15 hazardous materials required to be placarded pursuant to section
16 75-364; and

17 (iv) All drivers of such motor carriers if the drivers
18 are operating a commercial motor vehicle as defined in section
19 60-465 which requires a commercial driver's license.

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

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

25 (b) Part 385 - Safety Fitness Procedures;

- 1 (c) Part 387 - Minimum Levels of Financial Responsibility
2 for Motor Carriers;
- 3 (d) Part 390 - Federal Motor Carrier Safety Regulations;
4 General;
- 5 (e) Part 391 - Qualifications Of Drivers And Longer
6 Combination Vehicle (LCV) Driver Instructors;
- 7 (f) Part 392 - Driving Of Commercial Motor Vehicles;
- 8 (g) Part 393 - Parts And Accessories Necessary For Safe
9 Operation;
- 10 (h) Part 395 - Hours Of Service Of Drivers;
- 11 (i) Part 396 - Inspection, Repair, And Maintenance;
- 12 (j) Part 397 - Transportation Of Hazardous Materials;
13 Driving And Parking Rules; and
- 14 (k) Part 398 - Transportation Of Migrant Workers.
- 15 (4) The provisions of subpart E - Physical Qualifications
16 And Examinations of 49 C.F.R. part 391 - Qualifications Of Drivers
17 And Longer Combination Vehicle (LCV) Driver Instructors shall not
18 apply to any driver subject to this section who: (a) Operates a
19 commercial motor vehicle exclusively in intrastate commerce; and
20 (b) holds, or has held, a commercial driver's license issued by
21 this state prior to July 30, 1996.
- 22 (5) The regulations adopted in subsection (3) of this
23 section shall not apply to farm trucks registered pursuant to
24 section 60-3,146 with a gross weight of sixteen tons or less or to
25 fertilizer and agricultural chemical application and distribution

1 equipment transported in units with a capacity of three thousand
2 five hundred gallons or less if the equipment is not required to
3 be placarded pursuant to section 75-364. The following parts and
4 sections of 49 C.F.R. chapter III shall not apply to drivers of
5 farm trucks registered pursuant to section 60-3,146 and operated
6 solely in intrastate commerce:

7 (a) All of part 391;

8 (b) Section 395.8 of part 395; and

9 (c) Section 396.11 of part 396.

10 (6) For purposes of this section, intrastate motor
11 carriers shall not include any motor carrier or driver excepted
12 from 49 C.F.R. chapter III by section 390.3(f) of part 390 or
13 any nonprofit entity, operating solely in intrastate commerce,
14 organized for the purpose of furnishing electric service.

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

20 (a) More than twelve hours following eight consecutive
21 hours off duty; or

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

24 No motor carrier who engages in intrastate commerce
25 shall permit or require a driver of a commercial motor vehicle,

1 regardless of the number of motor carriers using the driver's
2 services, to drive, nor shall any driver of a commercial motor
3 vehicle drive, for any period after:

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

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

10 (8) Part 395 - Hours Of Service Of Drivers, as adopted
11 in subsections (3) and (7) of this section, shall not apply to
12 drivers transporting agricultural commodities or farm supplies for
13 agricultural purposes when the transportation of such commodities
14 or supplies occurs within a one-hundred-air-mile radius of
15 the source of the commodities or the distribution point for
16 the supplies when such transportation occurs during the period
17 beginning on February 15 up to and including December 15 of each
18 calendar year.

19 (9) 49 C.F.R. 390.21 - Marking Of Commercial Motor
20 Vehicles shall not apply to farm trucks and farm truck-tractors
21 registered pursuant to section 60-3,146 and operated solely in
22 intrastate commerce.

23 (10) 49 C.F.R. 392.9a - Operating Authority shall
24 not apply to Nebraska motor carriers operating commercial motor
25 vehicles solely in intrastate commerce.

1 Sec. 13. Section 75-364, Revised Statutes Supplement,
2 2007, is amended to read:

3 75-364 (1) The parts, subparts, and sections of Title
4 49 of the Code of Federal Regulations listed below, or any other
5 parts, subparts, and sections referred to by such parts, subparts,
6 and sections, in existence and effective as of January 1, ~~2007,~~
7 2008, are adopted as part of Nebraska law and, except as provided
8 in subsections (2) and (3) of this section, shall be applicable
9 to all motor carriers whether engaged in interstate or intrastate
10 commerce, drivers of such motor carriers, and vehicles of such
11 motor carriers:

12 (a) Part 107 - Hazardous Materials Program Procedures,
13 subpart F - Registration Of Cargo Tank And Cargo Tank Motor
14 Vehicle Manufacturers, Assemblers, Repairers, Inspectors, Testers,
15 and Design Certifying Engineers;

16 (b) Part 107 - Hazardous Materials Program Procedures,
17 subpart G - Registration Of Persons Who Offer Or Transport
18 Hazardous Materials;

19 (c) Part 171 - General Information, Regulations, And
20 Definitions;

21 (d) Part 172 - Hazardous Materials Table, Special
22 Provisions, Hazardous Materials Communications, Emergency Response
23 Information, and Training Requirements;

24 (e) Part 173 - Shippers-General Requirements For
25 Shipments And Packagings;

- 1 (f) Part 177 - Carriage By Public Highway;
2 (g) Part 178 - Specifications For Packagings; and
3 (h) Part 180 - Continuing Qualification And Maintenance
4 Of Packagings.

5 (2) Agricultural operations exceptions:

6 (a) The transportation of an agricultural product other
7 than a Class 2 material (Compressed Gases) as defined in 49 C.F.R.
8 171.8, over roads, other than the National System of Interstate and
9 Defense Highways, between fields of the same farm, is excepted from
10 subsection (1) of this section when:

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

13 (ii) The movement of the agricultural product conforms to
14 all other laws in effect on or before July 1, 1998, and 49 C.F.R.
15 173.24, 173.24a, and 173.24b;

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

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

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

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

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

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

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

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

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

25 (a) Nonspecification cargo tanks for petroleum products:

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

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

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

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

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

24 (iii) Be specifically authorized by state law in effect
25 before July 1, 1998, for use as a packaging for the hazardous

1 material being transported and by 49 C.F.R. 173.24, 173.24a, and
2 173.24b;

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

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

9 (vi) On and after July 1, 2000, for a tank authorized
10 under subdivision (a) or (b) of this subsection, conform to
11 all requirements in 49 C.F.R. part 180, except for 49 C.F.R.
12 180.405(g), in the same manner as required for a United States
13 Department of Transportation specification MC306 cargo tank motor
14 vehicle.

15 (4) For purposes of this section:

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

25 (b) Bulk package means a packaging, including a transport

1 vehicle or freight container, in which hazardous materials are
2 loaded with no other intermediate form of containment and which
3 has:

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

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

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

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

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

17 Sec. 14. Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and
18 15 of this act become operative on July 1, 2008. The other sections
19 of this act become operative on their effective date.

20 Sec. 15. Original sections 60-301, 60-302, 60-311,
21 60-342, 60-3,196, 60-462.01, 60-4,147.02, 60-6,265, and 60-6,267,
22 Revised Statutes Supplement, 2007, are repealed.

23 Sec. 16. Original sections 75-363 and 75-364, Revised
24 Statutes Supplement, 2007, are repealed.

25 Sec. 17. Since an emergency exists, this act takes effect

LB 756

LB 756

1 when passed and approved according to law.