

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 204

FINAL READING

(SECOND)

Introduced by Transportation and Telecommunications Committee:  
Fischer, 43, Chairperson; Campbell, 25; Hadley, 37;  
Lautenbaugh, 18; Louden, 49; Stuthman, 22.

Read first time January 12, 2009

Committee: Transportation and Telecommunications

A BILL

1 FOR AN ACT relating to the Motor Vehicle Operator's License  
2 Act; to amend sections 60-4,141.01 and 60-4,168.01,  
3 Reissue Revised Statutes of Nebraska; to change certain  
4 penalty provisions relating to prohibited operations of  
5 commercial motor vehicles; and to repeal the original  
6 sections.

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

1           Section 1. Section 60-4,141.01, Reissue Revised Statutes  
2 of Nebraska, is amended to read:

3           60-4,141.01 (1) No person shall operate a commercial  
4 motor vehicle upon the highways of this state while his or her  
5 commercial driver's license or privilege to operate a commercial  
6 motor vehicle is suspended, revoked, or canceled, ~~or~~ while subject  
7 to a disqualification or an out-of-service order, or while there is  
8 an out-of-service order in effect for the commercial motor vehicle  
9 being operated or for the motor carrier operation. Any person  
10 who operates a commercial motor vehicle upon the highways of this  
11 state in violation of this subsection shall be subject to section  
12 60-4,108.

13           (2) No person shall operate a commercial motor vehicle  
14 transporting hazardous materials upon the highways of this state  
15 while his or her commercial driver's license or privilege to  
16 operate a commercial motor vehicle is suspended, revoked, or  
17 canceled, while subject to a disqualification or an out-of-service  
18 order, or while there is an out-of-service order in effect for the  
19 commercial motor vehicle being operated or for the motor carrier  
20 operation.

21           (3) No person shall operate a commercial motor vehicle  
22 transporting sixteen or more passengers including the driver  
23 upon the highways of this state while his or her commercial  
24 driver's license or privilege to operate a commercial motor  
25 vehicle is suspended, revoked, or canceled, while subject to a

1 disqualification or an out-of-service order, or while there is an  
2 out-of-service order in effect for the commercial motor vehicle  
3 being operated or for the motor carrier operation.

4 ~~(2)~~ (4) No person shall operate a commercial motor  
5 vehicle upon the highways of this state while he or she is  
6 disqualified under section 60-4,168. A person violating this  
7 subsection is subject to section 60-4,108.

8 (5) Any person operating a commercial motor vehicle in  
9 violation of subsection (1), (2), (3), or (4) of this section shall  
10 (a) for a first such offense, be guilty of a Class II misdemeanor,  
11 and the court shall, as a part of the judgment of conviction, order  
12 such person not to operate any commercial motor vehicle for any  
13 purpose for a period of one year from the date ordered by the court  
14 and also order the commercial driver's license of such person to be  
15 revoked for a like period and (b) for each subsequent such offense,  
16 be guilty of a Class II misdemeanor, and the court shall, as a part  
17 of the judgment of conviction, order such person not to operate any  
18 commercial motor vehicle for any purpose for a period of two years  
19 from the date ordered by the court and also order the commercial  
20 driver's license of such person to be revoked for a like period.  
21 Such orders of the court shall be administered upon sentencing,  
22 upon final judgment of any appeal or review, or upon the date that  
23 any probation is revoked, whichever is later.

24 (6) For purposes of this section, out-of-service order  
25 has the same meaning as in section 75-362.

1           Sec. 2. Section 60-4,168.01, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           60-4,168.01 (1) A Except as provided in subsection (2)  
4 of this section, a person who is convicted of violating an  
5 out-of-service order while operating a commercial motor vehicle  
6 which is transporting nonhazardous materials shall be subject to  
7 disqualification as follows: ~~except as provided in subsection (2)~~  
8 of this section.

9           (a) A person shall be disqualified from operating a  
10 commercial motor vehicle for a period of at least ~~ninety one~~  
11 hundred eighty days but no more than one year upon a court  
12 conviction for violating an out-of-service order;

13           (b) A person shall be disqualified from operating a  
14 commercial motor vehicle for a period of at least ~~one year~~ two  
15 years but no more than five years upon a second court conviction  
16 for violating an out-of-service order, which arises out of a  
17 separate incident, during any ten-year period; and beginning on or  
18 after October 1, 1996, and

19           (c) A person shall be disqualified from operating a  
20 commercial motor vehicle for a period of at least three years  
21 but no more than five years upon a third or subsequent court  
22 conviction for violating an out-of-service order, which arises out  
23 of a separate incident, during any ten-year period. beginning on or  
24 after October 1, 1996.

25           (2) A person who is convicted of violating an

1 out-of-service order while operating a commercial motor vehicle  
 2 ~~while~~ which is transporting hazardous materials required to  
 3 be placarded pursuant to section 75-364 or while operating a  
 4 commercial motor vehicle designed or used to transport sixteen  
 5 or more passengers, including the driver, shall be subject to  
 6 disqualification as follows:

7 (a) A person shall be disqualified from operating a  
 8 commercial motor vehicle for a period of at least one hundred  
 9 eighty days but no more than two years upon conviction for  
 10 violating an out-of-service order; and

11 (b) A person shall be disqualified from operating a  
 12 commercial motor vehicle for a period of at least three years but  
 13 no more than five years upon a second or subsequent conviction for  
 14 violating an out-of-service order, which arises out of a separate  
 15 incident, during any ten-year period, ~~beginning on or after October~~  
 16 ~~1, 1996.~~

17 (3) For purposes of this section, out-of-service order  
 18 has the same meaning as in section 75-362. ~~shall mean a declaration~~  
 19 ~~by an authorized enforcement officer of a federal, state, Canadian,~~  
 20 ~~Mexican, or local authority that a driver is out of service~~  
 21 ~~pursuant to 49 C.F.R. 386.72, 392.5, 395.13, or 396.9; compatible~~  
 22 ~~laws enacted by other jurisdictions; 49 C.F.R. 392.5, 395.13, or~~  
 23 ~~396.9 as adopted pursuant to section 75-363; or the North American~~  
 24 ~~Uniform Out-of-Service Criteria.~~

25 Sec. 3. Original sections 60-4,141.01 and 60-4,168.01,

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1 Reissue Revised Statutes of Nebraska, are repealed.