

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 204**

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  
15 state while his or her commercial driver's license or privilege  
16 to operate a commercial motor vehicle is suspended, revoked,  
17 or canceled or while subject to a disqualification or an  
18 out-of-service order or while there is an out-of-service order in  
19 effect for the commercial motor vehicle being operated or for the  
20 motor carrier 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 or while subject to

1 a disqualification or an out-of-service order or while there is  
2 an 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,  
12 order such person not to operate any commercial motor vehicle for  
13 any purpose for a period of one year from the date ordered by the  
14 court and also order the commercial driver's license of such person  
15 to be revoked for a like period and (b) for each subsequent such  
16 offense, be guilty of a Class II misdemeanor, and the court shall,  
17 as a part of the judgment of conviction, order such person not to  
18 operate any 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 means a declaration by an authorized enforcement officer of a

1 federal, state, Canadian, Mexican, or local authority that a  
 2 driver, a commercial motor vehicle, or a motor carrier operation  
 3 is out-of-service pursuant to 49 C.F.R. 386.72, 392.5, 395.13,  
 4 or 396.9; compatible laws enacted by other jurisdictions as they  
 5 existed on January 1, 2009; 49 C.F.R. 392.5, 395.13, or 396.9 as  
 6 adopted pursuant to section 75-363; or the North American Uniform  
 7 Out-of-Service Criteria as such criteria existed on January 1,  
 8 2009.

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

11           60-4,168.01 (1) A Except as provided in subsection (2)  
 12 of this section, a person who is convicted of violating an  
 13 out-of-service order while operating a commercial motor vehicle  
 14 which is transporting nonhazardous materials shall be subject to  
 15 disqualification as follows except as provided in subsection (2) of  
 16 this section:

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

21           (b) A person shall be disqualified from operating a  
 22 commercial motor vehicle for a period of at least ~~one year~~ two  
 23 years but no more than five years upon a second court conviction  
 24 for violating an out-of-service order, which arises out of a  
 25 separate incident, during any ten-year period; and beginning on or

1 ~~after October 1, 1996, and~~

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

8 (2) A person who is convicted of violating an  
9 out-of-service order while operating a commercial motor vehicle  
10 ~~while~~ which is transporting hazardous materials required to  
11 be placarded pursuant to section 75-364 or while operating a  
12 commercial motor vehicle designed or used to transport sixteen  
13 or more passengers, including the driver, shall be subject to  
14 disqualification as follows:

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

19 (b) A person shall be disqualified from operating a  
20 commercial motor vehicle for a period of at least three years but  
21 no more than five years upon a second or subsequent conviction for  
22 violating an out-of-service order, which arises out of a separate  
23 incident, during any ten-year period, ~~beginning on or~~  
24 ~~after October~~  
25 ~~1, 1996.~~

(3) For purposes of this section, out-of-service order

1 ~~shall mean~~ means a declaration by an authorized enforcement officer  
2 of a federal, state, Canadian, Mexican, or local authority that a  
3 driver, a commercial motor vehicle, or a motor carrier operation  
4 is out of service pursuant to 49 C.F.R. 386.72, 392.5, 395.13,  
5 or 396.9; compatible laws enacted by other jurisdictions as they  
6 existed on January 1, 2009; 49 C.F.R. 392.5, 395.13, or 396.9 as  
7 adopted pursuant to section 75-363; or the North American Uniform  
8 Out-of-Service Criteria as such criteria existed on January 1,  
9 2009.

10           Sec. 3. Original sections 60-4,141.01 and 60-4,168.01,  
11 Reissue Revised Statutes of Nebraska, are repealed.