

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 751

Introduced by Fischer, 43; Hadley, 37.

Read first time January 04, 2012

Committee: Transportation and Telecommunications

A BILL

1 FOR AN ACT relating to motor vehicles; to amend section 75-366,
2 Reissue Revised Statutes of Nebraska, and sections
3 18-1739, 60-3,113.04, 60-3,193.01, 60-462.01, 60-498.02,
4 60-4,118.06, 60-4,147.02, 60-6,211.05, 75-363, 75-364,
5 and 75-393, Revised Statutes Supplement, 2011; to update
6 certain state laws to comply with federal law; to change
7 provisions relating to the operation of ignition-
8 interlock-equipped motor vehicles; to change provisions
9 relating to enforcement of certain motor carrier laws; to
10 repeal the original sections; and to declare an
11 emergency.

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

1 Section 1. Section 18-1739, Revised Statutes Supplement,
2 2011, is amended to read:

3 18-1739 (1) This section applies until the implementation
4 date designated by the Director of Motor Vehicles under section
5 60-3,113.01.

6 (2) The handicapped or disabled parking permit to be
7 issued pursuant to section 18-1738 or 18-1738.01 shall be constructed
8 of a durable plastic designed to resist normal wear or fading for the
9 term of the permit's issuance and printed so as to minimize the
10 possibility of alteration following issuance. The permit shall be of
11 a design, size, configuration, color, and construction and contain
12 such information as specified in the regulations adopted by the
13 United States Department of Transportation in the Uniform System for
14 Parking for Persons with Disabilities, 23 C.F.R. part 1235, as such
15 regulations existed on January 1, ~~2011~~ 2012.

16 (3) Until October 1, 2011, in addition to the
17 requirements of subsection (2) of this section, the handicapped or
18 disabled parking permit shall show the expiration date and such
19 identifying information with regard to the handicapped or disabled
20 person or temporarily handicapped or disabled person to whom it is
21 issued as is necessary to the enforcement of sections 18-1736 to
22 18-1741.07 as determined by the Department of Motor Vehicles. The
23 expiration date information shall be distinctively color-coded so as
24 to identify by color the year in which the permit is due to expire.

25 (4) No handicapped or disabled parking permit shall be

1 issued to any person or for any motor vehicle if any permit has been
2 issued to such person or for such motor vehicle and such permit has
3 been suspended pursuant to section 18-1741.02. At the expiration of
4 such suspension, a permit may be renewed in the manner provided for
5 renewal in sections 18-1738, 18-1738.01, and 18-1740.

6 (5) A duplicate handicapped or disabled parking permit
7 may be provided without cost up to two times during any single permit
8 period if a permit is destroyed, lost, or stolen. Such duplicate
9 permit shall be issued as provided in section 18-1738 or 18-1738.01,
10 whichever is applicable, except that a newly completed medical form
11 need not be provided if a completed medical form submitted at the
12 time of the most recent application for a permit or its renewal is on
13 file with the clerk or designated county official or the Department
14 of Motor Vehicles. A duplicate permit shall be valid for the
15 remainder of the period for which the original permit was issued. If
16 a person has been issued two duplicate permits under this subsection
17 and needs another permit, such person shall reapply for a new permit
18 under section 18-1738 or 18-1738.01, whichever is applicable.

19 Sec. 2. Section 60-3,113.04, Revised Statutes Supplement,
20 2011, is amended to read:

21 60-3,113.04 (1) This section applies beginning on the
22 implementation date designated by the director under section
23 60-3,113.01.

24 (2) A handicapped or disabled parking permit shall be of
25 a design, size, configuration, color, and construction and contain

1 such information as specified in the regulations adopted by the
2 United States Department of Transportation in the Uniform System for
3 Parking for Persons with Disabilities, 23 C.F.R. part 1235, as such
4 regulations existed on January 1, ~~2011~~. 2012.

5 (3) No handicapped or disabled parking permit shall be
6 issued to any person or for any motor vehicle if any permit has been
7 issued to such person or for such motor vehicle and such permit has
8 been suspended pursuant to section 18-1741.02. At the expiration of
9 such suspension, a permit may be renewed in the manner provided for
10 renewal in sections 60-3,113.02, 60-3,113.03, and 60-3,113.05.

11 (4) A duplicate handicapped or disabled parking permit
12 may be provided up to two times during any single permit period if a
13 permit is destroyed, lost, or stolen. Such duplicate permit shall be
14 issued as provided in section 60-3,113.02 or 60-3,113.03, whichever
15 is applicable, except that a new certification by a physician, a
16 physician assistant, or an advanced practice registered nurse need
17 not be provided. A duplicate permit shall be valid for the remainder
18 of the period for which the original permit was issued. If a person
19 has been issued two duplicate permits under this subsection and needs
20 another permit, such person shall reapply for a new permit under
21 section 60-3,113.02 or 60-3,113.03, whichever is applicable.

22 Sec. 3. Section 60-3,193.01, Revised Statutes Supplement,
23 2011, is amended to read:

24 60-3,193.01 For purposes of the Motor Vehicle
25 Registration Act, the International Registration Plan is adopted and

1 incorporated by reference as the plan existed on January 1, ~~2011-~~
2 2012.

3 Sec. 4. Section 60-462.01, Revised Statutes Supplement,
4 2011, is amended to read:

5 60-462.01 For purposes of the Motor Vehicle Operator's
6 License Act, the following federal regulations are adopted as
7 Nebraska law as they existed on January 1, ~~2011-~~ 2012:

8 The parts, subparts, and sections of Title 49 of the Code
9 of Federal Regulations, as referenced in the Motor Vehicle Operator's
10 License Act.

11 Sec. 5. Section 60-498.02, Revised Statutes Supplement,
12 2011, is amended to read:

13 60-498.02 (1) At the expiration of fifteen days after the
14 date of arrest as described in subsection (2) of section 60-6,197 or
15 if after a hearing pursuant to section 60-498.01 the director finds
16 that the operator's license should be revoked, the director shall (a)
17 revoke the operator's license of a person arrested for refusal to
18 submit to a chemical test of blood, breath, or urine as required by
19 section 60-6,197 for a period of one year and (b) revoke the
20 operator's license of a person who submits to a chemical test
21 pursuant to such section which discloses the presence of a
22 concentration of alcohol specified in section 60-6,196 for a period
23 of one hundred eighty days unless the person's driving record
24 abstract maintained in the department's computerized records shows
25 one or more prior administrative license revocations on which final

1 orders have been issued during the immediately preceding fifteen-year
2 period at the time the order of revocation is issued, in which case
3 the period of revocation shall be one year. Except as otherwise
4 provided in section 60-6,211.05, a new operator's license shall not
5 be issued to such person until the period of revocation has elapsed.
6 If the person subject to the revocation is a nonresident of this
7 state, the director shall revoke only the nonresident's operating
8 privilege as defined in section 60-474 of such person and shall
9 immediately forward the operator's license and a statement of the
10 order of revocation to the person's state of residence.

11 (2) A person operating a motor vehicle under an ignition
12 interlock permit issued pursuant to sections 60-498.01 to 60-498.04
13 who has no previous convictions under section 60-6,196, 60-6,197, or
14 60-6,197.06 and no previous administrative license revocation shall
15 only operate the motor vehicle to and from his or her residence for
16 purposes of his or her employment, his or her school, a substance
17 abuse treatment program, his or her parole or probation officer, his
18 or her continuing health care or the continuing health care of
19 another person who is dependent upon the person, his or her court-
20 ordered community service responsibilities, or an ignition interlock
21 service facility. A person operating a motor vehicle under an
22 ignition interlock permit issued pursuant to sections 60-498.01 to
23 60-498.04 who has a previous conviction under section 60-6,196,
24 60-6,197, or 60-6,197.06 or a previous administrative license
25 revocation shall only operate the motor vehicle equipped with an

1 ignition interlock device to and from his or her residence, ~~for~~
2 ~~purposes of~~ his or her place of employment, his or her school, ~~or a~~
3 substance abuse treatment program, or an ignition interlock service
4 facility. Such permit shall indicate for which purposes the permit
5 may be used. All permits issued pursuant to this subsection shall
6 indicate that the permit is not valid for the operation of any
7 commercial motor vehicle.

8 (3) A person may have his or her eligibility for a
9 license reinstated upon payment of a reinstatement fee as required by
10 section 60-694.01.

11 (4)(a) A person whose operator's license is subject to
12 revocation pursuant to subsection (3) of section 60-498.01 shall have
13 all proceedings dismissed or his or her operator's license
14 immediately reinstated without payment of the reinstatement fee upon
15 receipt of suitable evidence by the director that:

16 (i) The prosecuting attorney responsible for the matter
17 declined to file a complaint alleging a violation of section
18 60-6,196;

19 (ii) The defendant, after trial, was found not guilty of
20 violating section 60-6,196 or such charge was dismissed on the merits
21 by the court; or

22 (iii) In the criminal action on the charge of a violation
23 of section 60-6,196 arising from the same incident, the court held
24 one of the following:

25 (A) The peace officer did not have probable cause to

1 believe the person was operating or in the actual physical control of
2 a motor vehicle in violation of section 60-6,196 or a city or village
3 ordinance enacted in conformance with such section; or

4 (B) The person was not operating or in the actual
5 physical control of a motor vehicle while having an alcohol
6 concentration in violation of section 60-6,196 or a city or village
7 ordinance enacted in conformance with such section.

8 (b) The director shall adopt and promulgate rules and
9 regulations establishing standards for the presentation of suitable
10 evidence of compliance with subdivision (a) of this subsection.

11 (c) If a criminal charge is filed or refiled for a
12 violation of section 60-6,196 pursuant to an arrest for which all
13 administrative license revocation proceedings were dismissed under
14 this subsection, the director, upon notification or discovery, may
15 reinstate an administrative license revocation under this section as
16 of the date that the director receives notification of the filing or
17 refiling of the charge, except that a revocation shall not be
18 reinstated if it was dismissed pursuant to section 60-498.01.

19 Sec. 6. Section 60-4,118.06, Revised Statutes Supplement,
20 2011, is amended to read:

21 60-4,118.06 (1) Upon receipt by the director of (a) a
22 certified copy of a court order issued pursuant to section
23 60-6,211.05, a certified copy of an order for installation of an
24 ignition interlock device and issuance of an ignition interlock
25 permit pursuant to section 60-6,197.03, or a copy of an order from

1 the Board of Pardons pursuant to section 83-1,127.02, (b) sufficient
2 evidence that the person has surrendered his or her operator's
3 license to the department and installed an approved ignition
4 interlock device in accordance with such order, and (c) payment of
5 the fee provided in section 60-4,115, such person may apply for an
6 ignition interlock permit. A person subject to administrative license
7 revocation under sections 60-498.01 to 60-498.04 shall be eligible
8 for an ignition interlock permit as provided in such sections. The
9 director shall issue an ignition interlock permit for the operation
10 of a motor vehicle equipped with an ignition interlock device. Any
11 person issued an ignition interlock permit pursuant to a court order
12 who has no previous convictions under section 60-6,196, 60-6,197, or
13 60-6,197.06 and no previous administrative license revocation shall
14 only operate the motor vehicle equipped with an ignition interlock
15 device to and from his or her residence for purposes of his or her
16 employment, his or her school, a substance abuse treatment program,
17 his or her parole or probation officer, his or her continuing health
18 care or the continuing health care of another person who is dependent
19 upon the person, his or her court-ordered community service
20 responsibilities, or an ignition interlock service facility. Any
21 person issued an ignition interlock permit pursuant to a court order
22 who has a previous conviction under section 60-6,196, 60-6,197, or
23 60-6,197.06 and no previous administrative license revocation shall
24 only operate the motor vehicle equipped with an ignition interlock
25 device to and from his or her residence, ~~for purposes of his or her~~

1 place of employment, his or her school, or a substance abuse
2 treatment program, or an ignition interlock service facility. The
3 permit shall indicate for which purposes the permit may be used. All
4 permits issued pursuant to this subsection shall indicate that the
5 permit is not valid for the operation of any commercial motor
6 vehicle.

7 (2) Upon expiration of the revocation period or upon
8 expiration of an order issued by the Board of Pardons pursuant to
9 section 83-1,127.02, a person may apply to the department in writing
10 for issuance of an operator's license. Regardless of whether the
11 license surrendered by such person under subsection (1) of this
12 section has expired, the person shall apply for a new operator's
13 license pursuant to the Motor Vehicle Operator's License Act.

14 (3)(a) An ignition interlock permit shall not be issued
15 under this section or sections 60-498.01 to 60-498.04 to any person
16 except in cases of a violation of subdivision (3)(b) or (c) of
17 section 28-306, subdivision (3)(b) or (c) of section 28-394, or
18 section 28-1254, 60-6,196, 60-6,197, or 60-6,197.06.

19 (b) An ignition interlock permit shall only be available
20 to a holder of a Class M or O operator's license.

21 (4) The director shall revoke a person's ignition
22 interlock permit issued under this section or sections 60-498.01 to
23 60-498.04 upon receipt of an (a) abstract of conviction indicating
24 that the person had his or her operating privileges revoked or
25 canceled or (b) administrative order revoking or canceling the

1 person's operating privileges, if such conviction or order resulted
2 from an incident other than the incident which resulted in the
3 application for the ignition interlock permit.

4 Sec. 7. Section 60-4,147.02, Revised Statutes Supplement,
5 2011, is amended to read:

6 60-4,147.02 No endorsement authorizing the driver to
7 operate a commercial motor vehicle transporting hazardous materials
8 shall be issued, renewed, or transferred by the Department of Motor
9 Vehicles unless the endorsement is issued, renewed, or transferred in
10 conformance with the requirements of section 1012 of the federal
11 Uniting and Strengthening America by Providing Appropriate Tools
12 Required to Intercept and Obstruct Terrorism Act of 2001, USA PATRIOT
13 Act, 49 U.S.C. 5103a, including all amendments and federal
14 regulations adopted pursuant thereto as of January 1, ~~2011~~, 2012, for
15 the issuance of licenses to operate commercial motor vehicles
16 transporting hazardous materials.

17 Sec. 8. Section 60-6,211.05, Revised Statutes Supplement,
18 2011, is amended to read:

19 60-6,211.05 (1) If an order is granted under section
20 60-6,196 or 60-6,197 and sections 60-6,197.02 and 60-6,197.03, the
21 court may order that the defendant install an ignition interlock
22 device of a type approved by the Director of Motor Vehicles on each
23 motor vehicle operated by the defendant during the period of
24 revocation. Upon sufficient evidence of installation, the defendant
25 may apply to the director for an ignition interlock permit pursuant

1 to section 60-4,118.06. The device shall, without tampering or the
2 intervention of another person, prevent the defendant from operating
3 the motor vehicle when the defendant has an alcohol concentration
4 greater than three-hundredths of one gram or more by weight of
5 alcohol per one hundred milliliters of his or her blood or three-
6 hundredths of one gram or more by weight of alcohol per two hundred
7 ten liters of his or her breath. The Department of Motor Vehicles
8 shall issue an ignition interlock permit to the defendant under
9 section 60-4,118.06 only upon sufficient proof that a defendant has
10 installed an ignition interlock device on any motor vehicle that the
11 defendant will operate during his or her release.

12 (2) If the court orders installation of an ignition
13 interlock device and issuance of an ignition interlock permit
14 pursuant to subsection (1) of this section, the court may also order
15 the use of a continuous alcohol monitoring device and abstention from
16 alcohol use at all times. The device shall, without tampering or the
17 intervention of another person, test and record the alcohol
18 consumption level of the defendant on a periodic basis and transmit
19 such information to probation authorities.

20 (3) Any order issued by the court pursuant to this
21 section shall not take effect until the defendant is eligible to
22 operate a motor vehicle pursuant to subsection (8) of section
23 60-498.01. A person shall be eligible to be issued an ignition
24 interlock permit allowing operation of a motor vehicle equipped with
25 an ignition interlock device if he or she is not subject to any other

1 suspension, cancellation, required no-driving period, or period of
2 revocation and has successfully completed the ignition interlock
3 permit application process. The Department of Motor Vehicles shall
4 review its records and the driving record abstract of any person who
5 applies for an ignition interlock permit allowing operation of a
6 motor vehicle equipped with an ignition interlock device to determine
7 (a) the applicant's eligibility for an ignition interlock permit, (b)
8 the applicant's previous convictions under section 60-6,196,
9 60-6,197, or 60-6,197.06 or any previous administrative license
10 revocation, if any, (c) if the applicant is subject to any required
11 no-drive periods before the ignition interlock permit may be issued,
12 and (d) the permitted driving uses to be allowed to that person on
13 his or her ignition interlock permit.

14 (4)(a) If the court orders an ignition interlock device
15 or the Board of Pardons orders an ignition interlock device under
16 section 83-1,127.02, the court or the Board of Pardons shall order
17 the defendant to apply for an ignition interlock permit as provided
18 in section 60-4,118.06 which indicates that the defendant is only
19 allowed to operate a motor vehicle equipped with an ignition
20 interlock device.

21 (b) Such court order shall remain in effect for a period
22 of time as determined by the court not to exceed the maximum term of
23 revocation which the court could have imposed according to the nature
24 of the violation and shall allow operation by the defendant of an
25 ignition-interlock-equipped motor vehicle only (i) if the defendant

1 has no previous conviction under section 60-6,196, 60-6,197, or
2 60-6,197.06 and no previous administrative license revocation, to and
3 from his or her residence for purposes of his or her employment, his
4 or her school, a substance abuse treatment program, his or her
5 probation officer, his or her continuing health care or the
6 continuing health care of another person who is dependent upon the
7 person, his or her court-ordered community service responsibilities,
8 or an ignition interlock service facility or (ii) if the defendant
9 has a previous conviction under section 60-6,196, 60-6,197, or
10 60-6,197.06 or a previous administrative license revocation, to and
11 from his or her residence, ~~for purposes of his or her place of~~
12 employment, his or her school, or a substance abuse treatment
13 program, or an ignition interlock service facility.

14 (c) Such Board of Pardons order shall remain in effect
15 for a period of time not to exceed any period of revocation the
16 applicant is subject to at the time the application for a reprieve is
17 made.

18 (5) Any person restricted to operating a motor vehicle
19 equipped with an ignition interlock device, pursuant to a Board of
20 Pardons order, who operates upon the highways of this state a motor
21 vehicle without such device or if the device has been disabled,
22 bypassed, or altered in any way, shall be punished as provided in
23 subsection (3) of section 83-1,127.02.

24 (6) If a person ordered to use a continuous alcohol
25 monitoring device and abstain from alcohol use pursuant to a court

1 order as provided in subsection (2) of this section violates the
2 provisions of such court order by removing, tampering with, or
3 otherwise bypassing the continuous alcohol monitoring device or by
4 consuming alcohol while required to use such device, he or she shall
5 have his or her ignition interlock permit revoked and be unable to
6 apply for reinstatement for the duration of the revocation period
7 imposed by the court.

8 (7) The director shall adopt and promulgate rules and
9 regulations regarding the approval of ignition interlock devices, the
10 means of installing ignition interlock devices, and the means of
11 administering the ignition interlock permit program.

12 (8)(a) The costs incurred in order to comply with the
13 ignition interlock requirements of this section shall be paid
14 directly to the ignition interlock provider by the person complying
15 with an order for an ignition interlock permit and installation of an
16 ignition interlock device.

17 (b) If the Department of Motor Vehicles has determined
18 the person to be indigent and incapable of paying for the cost of
19 installation, removal, or maintenance of the ignition interlock
20 device in accordance with this section, such costs shall be paid out
21 of the Department of Motor Vehicles Ignition Interlock Fund if such
22 funds are available, according to rules and regulations adopted and
23 promulgated by the department. Such costs shall also be paid out of
24 the Department of Motor Vehicles Ignition Interlock Fund if such
25 funds are available and if the court or the Board of Pardons,

1 whichever is applicable, has determined the person to be indigent and
2 incapable of paying for the cost of installation, removal, or
3 maintenance of the ignition interlock device in accordance with this
4 section. The Department of Motor Vehicles Ignition Interlock Fund is
5 created. Any money in the fund available for investment shall be
6 invested by the state investment officer pursuant to the Nebraska
7 Capital Expansion Act and the Nebraska State Funds Investment Act.

8 (9)(a)(i) An ignition interlock service facility shall
9 notify the appropriate district probation office or the appropriate
10 court, as applicable, of any evidence of tampering with or
11 circumvention of an ignition interlock device, or any attempts to do
12 so, when the facility becomes aware of such evidence. Failure of the
13 facility to provide notification as provided in this subdivision is a
14 Class V misdemeanor.

15 (ii) An ignition interlock service facility shall notify
16 the Department of Motor Vehicles, if the ignition interlock permit is
17 issued pursuant to sections 60-498.01 to 60-498.04, of any evidence
18 of tampering with or circumvention of an ignition interlock device,
19 or any attempts to do so, when the facility becomes aware of such
20 evidence. Failure of the facility to provide notification as provided
21 in this subdivision is a Class V misdemeanor.

22 (b) If a district probation office receives evidence of
23 tampering with or circumvention of an ignition interlock device, or
24 any attempts to do so, from an ignition interlock service facility,
25 the district probation office shall notify the appropriate court of

1 such violation. The court shall immediately schedule an evidentiary
2 hearing to be held within fourteen days after receiving such
3 evidence, either from the district probation office or an ignition
4 interlock service facility, and the court shall cause notice of the
5 hearing to be given to the person operating a motor vehicle pursuant
6 to an order under subsection (1) of this section. If the person who
7 is the subject of such evidence does not appear at the hearing and
8 show cause why the order made pursuant to subsection (1) of this
9 section should remain in effect, the court shall rescind the original
10 order. Nothing in this subsection shall apply to an order made by the
11 Board of Pardons pursuant to section 83-1,127.02.

12 (10) Notwithstanding any other provision of law, the
13 issuance of an ignition interlock permit by the Department of Motor
14 Vehicles under section 60-498.01 or an order for the installation of
15 an ignition interlock device and ignition interlock permit made
16 pursuant to subsection (1) of this section as part of a conviction,
17 as well as the administration of such court order by the Office of
18 Probation Administration for the installation, maintenance, and
19 removal of such device, as applicable, shall not be construed to
20 create an order of probation when an order of probation has not been
21 issued.

22 Sec. 9. Section 75-363, Revised Statutes Supplement,
23 2011, is amended to read:

24 75-363 (1) The parts, subparts, and sections of Title 49
25 of the Code of Federal Regulations listed below, as modified in this

1 section, or any other parts, subparts, and sections referred to by
2 such parts, subparts, and sections, in existence and effective as of
3 January 1, ~~2011~~, 2012, are adopted as Nebraska law.

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

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

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

10 (i) All vehicles of such motor carriers with a gross
11 vehicle weight rating, gross combination weight rating, gross vehicle
12 weight, or gross combination weight over ten thousand pounds;

13 (ii) All vehicles of such motor carriers designed or used
14 to transport more than eight passengers, including the driver, for
15 compensation, or designed or used to transport more than fifteen
16 passengers, including the driver, and not used to transport
17 passengers for compensation;

18 (iii) All vehicles of such motor carriers transporting
19 hazardous materials required to be placarded pursuant to section
20 75-364; and

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

24 (3) The Legislature hereby adopts, as modified in this
25 section, the following parts of Title 49 of the Code of Federal

1 Regulations:

2 (a) Part 382 - Controlled Substances And Alcohol Use And

3 Testing;

4 (b) Part 385 - Safety Fitness Procedures;

5 (c) Part 386 - Rules Of Practice For Motor Carrier,

6 Intermodal Equipment Provider, Broker, Freight Forwarder, And

7 Hazardous Materials Proceedings;

8 (d) Part 387 - Minimum Levels of Financial Responsibility

9 for Motor Carriers;

10 (e) Part 390 - Federal Motor Carrier Safety Regulations;

11 General;

12 (f) Part 391 - Qualifications Of Drivers And Longer

13 Combination Vehicle (LCV) Driver Instructors;

14 (g) Part 392 - Driving Of Commercial Motor Vehicles;

15 (h) Part 393 - Parts And Accessories Necessary For Safe

16 Operation;

17 (i) Part 395 - Hours Of Service Of Drivers;

18 (j) Part 396 - Inspection, Repair, And Maintenance;

19 (k) Part 397 - Transportation Of Hazardous Materials;

20 Driving And Parking Rules; and

21 (l) Part 398 - Transportation Of Migrant Workers.

22 (4) The provisions of subpart E - Physical Qualifications

23 And Examinations of 49 C.F.R. part 391 - Qualifications Of Drivers

24 And Longer Combination Vehicle (LCV) Driver Instructors shall not

25 apply to any driver subject to this section who: (a) Operates a

1 commercial motor vehicle exclusively in intrastate commerce; and (b)
2 holds, or has held, a commercial driver's license issued by this
3 state prior to July 30, 1996.

4 (5) The regulations adopted in subsection (3) of this
5 section shall not apply to farm trucks registered pursuant to section
6 60-3,146 with a gross weight of sixteen tons or less. The following
7 parts and sections of 49 C.F.R. chapter III shall not apply to
8 drivers of farm trucks registered pursuant to section 60-3,146 and
9 operated solely in intrastate commerce:

10 (a) All of part 391;

11 (b) Section 395.8 of part 395; and

12 (c) Section 396.11 of part 396.

13 (6) Part 393 - Parts And Accessories Necessary For Safe
14 Operation and Part 396 - Inspection, Repair, And Maintenance shall
15 not apply to fertilizer and agricultural chemical application and
16 distribution equipment transported in units with a capacity of three
17 thousand five hundred gallons or less.

18 (7) For purposes of this section, intrastate motor
19 carriers shall not include any motor carrier or driver excepted from
20 49 C.F.R. chapter III by section 390.3(f) of part 390.

21 (8)(a) Part 395 - Hours Of Service Of Drivers shall apply
22 to motor carriers and drivers who engage in intrastate commerce as
23 defined in section 75-362, except that no motor carrier who engages
24 in intrastate commerce shall permit or require any driver used by it
25 to drive nor shall any driver drive:

1 (i) More than twelve hours following eight consecutive
2 hours off duty; or

3 (ii) For any period after having been on duty sixteen
4 hours following eight consecutive hours off duty.

5 (b) No motor carrier who engages in intrastate commerce
6 shall permit or require a driver of a commercial motor vehicle,
7 regardless of the number of motor carriers using the driver's
8 services, to drive, nor shall any driver of a commercial motor
9 vehicle drive, for any period after:

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

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

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

24 (10) 49 C.F.R. 390.21 - Marking Of ~~Commercial-Motor~~
25 Vehicles-Self-Propelled CMVs And Intermodal Equipment shall not apply

1 to farm trucks and farm truck-tractors registered pursuant to section
2 60-3,146 and operated solely in intrastate commerce.

3 (11) 49 C.F.R. 392.9a - Operating Authority shall not
4 apply to Nebraska motor carriers operating commercial motor vehicles
5 solely in intrastate commerce.

6 (12) No motor carrier shall permit or require a driver of
7 a commercial motor vehicle to violate, and no driver of a commercial
8 motor vehicle shall violate, any out-of-service order.

9 Sec. 10. Section 75-364, Revised Statutes Supplement,
10 2011, is amended to read:

11 75-364 The parts, subparts, and sections of Title 49 of
12 the Code of Federal Regulations listed below, or any other parts,
13 subparts, and sections referred to by such parts, subparts, and
14 sections, in existence and effective as of January 1, ~~2011~~, 2012, are
15 adopted as part of Nebraska law and shall be applicable to all motor
16 carriers whether engaged in interstate or intrastate commerce,
17 drivers of such motor carriers, and vehicles of such motor carriers:

18 (1) Part 107 - Hazardous Materials Program Procedures,
19 subpart F-Registration of Cargo Tank and Cargo Tank Motor Vehicle
20 Manufacturers, Assemblers, Repairers, Inspectors, Testers, and Design
21 Certifying Engineers;

22 (2) Part 107 - Hazardous Materials Program Procedures,
23 subpart G-Registration of Persons Who Offer or Transport Hazardous
24 Materials;

25 (3) Part 171 - GENERAL INFORMATION, REGULATIONS, AND

1 DEFINITIONS;

2 (4) Part 172 - HAZARDOUS MATERIALS TABLE, SPECIAL
3 PROVISIONS, HAZARDOUS MATERIALS COMMUNICATIONS, EMERGENCY RESPONSE
4 INFORMATION, ~~AND TRAINING REQUIREMENTS,~~ AND SECURITY PLANS;

5 (5) Part 173 - SHIPPERS - GENERAL REQUIREMENTS FOR
6 SHIPMENTS AND PACKAGINGS;

7 (6) Part 177 - CARRIAGE BY PUBLIC HIGHWAY;

8 (7) Part 178 - SPECIFICATIONS FOR PACKAGINGS; and

9 (8) Part 180 - CONTINUING QUALIFICATION AND MAINTENANCE
10 OF PACKAGINGS.

11 Sec. 11. Section 75-366, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 ~~75-366 For the purpose of enforcing Chapter 75, article~~
14 ~~3, any officer of the carrier enforcement division of the Nebraska~~
15 ~~State Patrol or any officer of the Nebraska State Patrol may, upon~~
16 ~~demand, inspect the accounts, records, and equipment of any carrier~~
17 ~~or shipper. The carrier enforcement division shall enforce the~~
18 ~~provisions of Chapter 75, article 3. To promote uniformity of~~
19 ~~enforcement, the carrier enforcement division shall cooperate and~~
20 ~~consult with the Public Service Commission and the Division of Motor~~
21 ~~Carrier Services. For the purpose of enforcing sections 75-363 and~~
22 ~~75-364, any officer of the carrier enforcement division of the~~
23 ~~Nebraska State Patrol or any officer of the Nebraska State Patrol~~
24 ~~shall have the authority of special agents of the Federal Motor~~
25 ~~Carrier Safety Administration.~~

1 For the purpose of enforcing Chapter 75, article 3, any
2 officer of the Nebraska State Patrol may, upon demand, inspect the
3 accounts, records, and equipment of any motor carrier or shipper. Any
4 officer of the Nebraska State Patrol shall have the authority to
5 enforce the federal motor carrier safety regulations, as such
6 regulations existed on January 1, 2012, and federal hazardous
7 materials regulations, as such regulations existed on January 1,
8 2012, and is authorized to enter upon, inspect, and examine any and
9 all lands, buildings, and equipment of any motor carrier, shipper,
10 and any other person subject to the federal Interstate Commerce Act,
11 the federal Department of Transportation Act, and other related
12 federal laws, and to inspect and copy any and all accounts, books,
13 records, memoranda, correspondence, and other documents of a motor
14 carrier, shipper, and any other person subject to Chapter 75, article
15 3. To promote uniformity of enforcement, the carrier enforcement
16 division of the Nebraska State Patrol shall cooperate and consult
17 with the Public Service Commission and the Division of Motor Carrier
18 Services.

19 Sec. 12. Section 75-393, Revised Statutes Supplement,
20 2011, is amended to read:

21 75-393 The director may participate in the unified
22 carrier registration plan and agreement pursuant to the Unified
23 Carrier Registration Act of 2005, 49 U.S.C. 13908, as the act existed
24 on January 1, ~~2011~~, 2012, and may file on behalf of this state the
25 plan required by such plan and agreement for enforcement of the act

1 in this state.

2 Sec. 13. Original section 75-366, Reissue Revised
3 Statutes of Nebraska, and sections 18-1739, 60-3,113.04, 60-3,193.01,
4 60-462.01, 60-498.02, 60-4,118.06, 60-4,147.02, 60-6,211.05, 75-363,
5 75-364, and 75-393, Revised Statutes Supplement, 2011, are repealed.

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