

## LEGISLATIVE BILL 212

Approved by the Governor February 22, 2011

Introduced by Transportation and Telecommunications Committee: Fischer, 43, Chairperson; Campbell, 25; Dubas, 34; Hadley, 37; Janssen, 15; Lautenbaugh, 18; Louden, 49; Price, 3.

FOR AN ACT relating to motor vehicles; to amend sections 60-144, 60-3,193.01, 60-3,221, 60-462.01, 60-4,147.02, and 75-393, Reissue Revised Statutes of Nebraska, and sections 18-1739, 75-363, and 75-364, Revised Statutes Cumulative Supplement, 2010; to adopt revisions of federal laws and regulations and a registration reciprocity agreement by reference; to change provisions relating to applications for certificates of title and towing trailers; to harmonize provisions; to repeal the original sections; and to declare an emergency.

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

Section 1. Section 18-1739, Revised Statutes Cumulative Supplement, 2010, is amended to read:

18-1739 (1) The permit to be issued pursuant to section 18-1738 or 18-1738.01 shall be constructed of a durable plastic designed to resist normal wear or fading for the term of the permit's issuance and printed so as to minimize the possibility of alteration following issuance. The permit shall be of a design, size, configuration, color, and construction and contain such information as specified in the rules and regulations adopted and promulgated by the United States Department of Transportation in the Uniform System for Parking for Persons with Disabilities, 23 C.F.R. part 1235, as such regulations existed on January 1, ~~2010~~, 2011.

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

(3) No permit shall be issued to any person or for any motor vehicle if any parking permit has been issued to such person or for such motor vehicle and such permit has been suspended pursuant to section 18-1741. At the expiration of such suspension, a permit may be renewed in the manner provided for renewal in sections 18-1738, 18-1738.01, and 18-1740.

(4) A duplicate permit may be provided without cost if the original permit is destroyed, lost, or stolen. Such duplicate permit shall be issued in the same manner as the original permit, except that a newly completed medical form need not be provided if a completed medical form submitted at the time of the most recent application for a permit or its renewal is on file with the clerk or designated county official or the Department of Motor Vehicles. A duplicate permit shall be valid for the remainder of the period for which the original permit was issued.

Sec. 2. Section 60-144, Reissue Revised Statutes of Nebraska, is amended to read:

60-144 (1)(a) Except as provided in subdivisions (b), (c), and (d) of this subsection, the county clerk or designated county official shall be responsible for issuing and filing certificates of title for vehicles, and each county shall issue and file such certificates of title using the vehicle titling and registration computer system prescribed by the department. Application for a certificate of title shall be made upon a form prescribed by the department. All applications shall be accompanied by the appropriate fee or fees.

(b) The department shall issue and file certificates of title for Nebraska-based fleet vehicles. Application for a certificate of title shall be made upon a form prescribed by the department. All applications shall be accompanied by the appropriate fee or fees.

(c) The department shall issue and file certificates of title for state-owned vehicles. Application for a certificate of title shall be made upon a form prescribed by the department. All applications shall be accompanied by the appropriate fee or fees.

(d) The department shall issue certificates of title pursuant to section 60-142.06. Application for a certificate of title shall be made upon a form prescribed by the department. All applications shall be accompanied by

the appropriate fee or fees.

(2) If the owner of an all-terrain vehicle, a utility-type vehicle, or a minibike resides in Nebraska, the application shall be filed with the county clerk or designated county official of the county in which the owner resides.

(3) (a) Except as otherwise provided in subdivision (b) of this subsection, if a vehicle, other than an all-terrain vehicle, a utility-type vehicle, or a minibike, has situs in Nebraska, the application shall be filed with the county clerk or designated county official of the county in which the vehicle has situs.

(b) If a motor vehicle dealer licensed under the Motor Vehicle Industry Regulation Act, applies for a certificate of title for a vehicle, the application may be filed with the county clerk or designated county official of any county.

(4) If the owner of a vehicle is a nonresident, the application shall be filed in the county in which the transaction is consummated.

(5) The application shall be filed within thirty days after the delivery of the vehicle.

(6) All applicants registering a vehicle pursuant to section 60-3,198 shall file the application for a certificate of title with the Division of Motor Carrier Services of the department. The division shall deliver the certificate to the applicant if there are no liens on the vehicle. If there are any one or more liens on the vehicle, ~~the division shall deliver or mail the certificate of title to the holder of the first lien on the day of issuance.~~ shall be handled as provided in section 60-164. All certificates of title issued by the division shall be issued in the manner prescribed for the county clerk or designated county official in section 60-152.

Sec. 3. Section 60-3,193.01, Reissue Revised Statutes of Nebraska, is amended to read:

60-3,193.01 For purposes of the Motor Vehicle Registration Act, the International Registration Plan is adopted and incorporated by reference as the plan existed on ~~January 1, 2010.~~ January 1, 2011.

Sec. 4. Section 60-3,221, Reissue Revised Statutes of Nebraska, is amended to read:

60-3,221 (1) Except as otherwise provided in the Motor Vehicle Registration Act:

(a) A cabin trailer shall only be towed by a properly registered:

- (i) Passenger car;
- (ii) Commercial motor vehicle or apportionable vehicle;
- (iii) Farm truck;
- (iv) Local truck;
- (v) Minitruck;
- ~~(vi)~~ (vi) Recreational vehicle; or
- ~~(vii)~~ (vii) Bus;

(b) A utility trailer shall only be towed by:

- (i) A properly registered passenger car;
- (ii) A properly registered commercial motor vehicle or apportionable vehicle;

- (iii) A properly registered farm truck;

- (iv) A properly registered local truck;

- (v) A properly registered minitruck;

- ~~(vi)~~ (vi) A properly registered recreational vehicle;

- ~~(vii)~~ (vii) A properly registered motor vehicle which is engaged in soil and water conservation pursuant to section 60-3,149;

- ~~(viii)~~ (viii) A properly registered well-boring apparatus;

- ~~(ix)~~ (ix) A dealer-plated vehicle;

- ~~(x)~~ (x) A personal-use dealer-plated vehicle; or

- ~~(xi)~~ (xi) A properly registered bus;

(c) A farm trailer shall only be towed by a properly registered:

- (i) Passenger car;
- (ii) Commercial motor vehicle; ~~or~~
- (iii) Farm truck; or
- (iv) Minitruck;

(d) A commercial trailer shall only be towed by:

- (i) A properly registered motor vehicle which is engaged in soil and water conservation pursuant to section 60-3,149;

- (ii) A properly registered local truck;

- (iii) A properly registered well-boring apparatus;

- (iv) A properly registered commercial motor vehicle or apportionable vehicle;

- (v) A dealer-plated vehicle;

- (vi) A personal-use dealer-plated vehicle;

- (vii) A properly registered bus; or
- (viii) A properly registered farm truck;
- (e) A fertilizer trailer shall only be towed by a properly registered:
  - (i) Passenger car;
  - (ii) Commercial motor vehicle or apportionable vehicle;
  - (iii) Farm truck; or
  - (iv) Local truck;
- (f) A pole and cable reel trailer shall only be towed by a properly registered:
  - (i) Commercial motor vehicle or apportionable vehicle; or
  - (ii) Local truck;
  - (g) A dealer-plated trailer shall only be towed by:
    - (i) A dealer-plated vehicle;
    - (ii) A properly registered passenger car;
    - (iii) A properly registered commercial motor vehicle or apportionable vehicle;
    - (iv) A properly registered farm truck; ~~or~~
    - (v) A properly registered minitruck; or
    - ~~(v) (vi) A personal-use dealer-plated vehicle; and~~
  - (h) Trailers registered pursuant to section 60-3,198 as part of an apportioned fleet shall only be towed by:
    - (i) A properly registered motor vehicle which is engaged in soil and water conservation pursuant to section 60-3,149;
    - (ii) A properly registered local truck;
    - (iii) A properly registered well-boring apparatus;
    - (iv) A properly registered commercial motor vehicle or apportionable vehicle;
    - (v) A dealer-plated vehicle;
    - (vi) A personal-use dealer-plated vehicle;
    - (vii) A properly registered bus; or
    - (viii) A properly registered farm truck.

(2) Nothing in this section shall be construed to waive compliance with the Nebraska Rules of the Road or Chapter 75.

~~(2) (3) Nothing in this section shall be construed to prohibit any motor vehicle or trailer from displaying dealer license plates or In Transit stickers authorized by section 60-376.~~

Sec. 5. Section 60-462.01, Reissue Revised Statutes of Nebraska, is amended to read:

60-462.01 For purposes of the Motor Vehicle Operator's License Act, the following federal regulations are adopted as Nebraska law as they existed on January 1, 2010+ 2011: ~~(1) Beginning on an implementation date designated by the director, the federal requirements for interstate shipment of etiologic agents, 42 C.F.R. part 72; and~~ (2) The parts, subparts, and sections of Title 49 of the Code of Federal Regulations, as referenced in the Motor Vehicle Operator's License Act.

Sec. 6. Section 60-4,147.02, Reissue Revised Statutes of Nebraska, is amended to read:

60-4,147.02 No endorsement authorizing the driver to operate a commercial motor vehicle transporting hazardous materials shall be issued, renewed, or transferred by the Department of Motor Vehicles unless the endorsement is issued, renewed, or transferred in conformance with the requirements of section 1012 of the federal Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, USA PATRIOT Act, 49 U.S.C. 5103a, including all amendments and federal rules and regulations adopted and promulgated pursuant thereto as of January 1, 2010, 2011, for the issuance of licenses to operate commercial motor vehicles transporting hazardous materials.

Sec. 7. Section 75-363, Revised Statutes Cumulative Supplement, 2010, is amended to read:

75-363 (1) The parts, subparts, and sections of Title 49 of the Code of Federal Regulations listed below, as modified in this section, or any other parts, subparts, and sections referred to by such parts, subparts, and sections, in existence and effective as of January 1, 2010, 2011, are adopted as Nebraska law.

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

- (a) All motor carriers, drivers, and vehicles to which the federal regulations apply; and
- (b) All motor carriers transporting persons or property in intrastate commerce to include:
  - (i) All vehicles of such motor carriers with a gross vehicle weight

rating, gross combination weight rating, gross vehicle weight, or gross combination weight over ten thousand pounds;

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

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

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

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

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

(b) Part 385 - Safety Fitness Procedures;

(c) Part 386 - Rules Of Practice For Motor Carrier, Broker, Freight Forwarder, And Hazardous Materials Proceedings;

(d) Part 387 - Minimum Levels of Financial Responsibility for Motor Carriers;

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

(f) Part 391 - Qualifications Of Drivers And Longer Combination Vehicle (LCV) Driver Instructors;

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

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

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

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

(k) Part 397 - Transportation Of Hazardous Materials; Driving And Parking Rules; and

(l) Part 398 - Transportation Of Migrant Workers.

(4) The provisions of subpart E - Physical Qualifications And Examinations of 49 C.F.R. part 391 - Qualifications Of Drivers And Longer Combination Vehicle (LCV) Driver Instructors shall not apply to any driver subject to this section who: (a) Operates a commercial motor vehicle exclusively in intrastate commerce; and (b) holds, or has held, a commercial driver's license issued by this state prior to July 30, 1996.

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

(a) All of part 391;

(b) Section 395.8 of part 395; and

(c) Section 396.11 of part 396.

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

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

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

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

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

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

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

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

(9) Part 395 - Hours Of Service Of Drivers, as adopted in subsections (3) and (8) of this section, shall not apply to drivers transporting agricultural commodities or farm supplies for agricultural

purposes when the transportation of such commodities or supplies occurs within a one-hundred-air-mile radius of the source of the commodities or the distribution point for the supplies when such transportation occurs during the period beginning on February 15 up to and including December 15 of each calendar year.

(10) 49 C.F.R. 390.21 - Marking Of Commercial Motor Vehicles shall not apply to farm trucks and farm truck-tractors registered pursuant to section 60-3,146 and operated solely in intrastate commerce.

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

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

Sec. 8. Section 75-364, Revised Statutes Cumulative Supplement, 2010, is amended to read:

75-364 (1) The parts, subparts, and sections of Title 49 of the Code of Federal Regulations listed below, or any other parts, subparts, and sections referred to by such parts, subparts, and sections, in existence and effective as of January 1, ~~2010~~, 2011, are adopted as part of Nebraska law and, except as provided in subsections (2) and (3) of this section, shall be applicable to all motor carriers whether engaged in interstate or intrastate commerce, drivers of such motor carriers, and vehicles of such motor carriers:

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

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

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

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

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

(f) Part 177 - Carriage By Public Highway;

(g) Part 178 - Specifications For Packagings; and

(h) Part 180 - Continuing Qualification And Maintenance Of Packagings.

(2) Agricultural operations exceptions:

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

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

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

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

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

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

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

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

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

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

(c) Formulated liquid agricultural products in specification packagings of fifty-eight-gallon capacity or less, with closures manifolded to a closed mixing system and equipped with positive dry disconnect devices,

may be transported by a private motor carrier between a final distribution point and an ultimate point of application or for loading aboard an airplane for aerial application.

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

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

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

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

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

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

(iii) Be specifically authorized by state law in effect before July 1, 1998, for use as a packaging for the hazardous material being transported and by 49 C.F.R. 173.24, 173.24a, and 173.24b;

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

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

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

(4) For purposes of this section:

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

(b) Bulk package means a packaging, including a transport vehicle or freight container, in which hazardous materials are loaded with no other intermediate form of containment and which has:

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

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

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

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

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

Sec. 9. Section 75-393, Reissue Revised Statutes of Nebraska, is amended to read:

75-393 The director may participate in the unified carrier registration plan and agreement pursuant to the Unified Carrier Registration Act of 2005, 49 U.S.C. 13908, as the act existed on January 1, ~~2009~~, 2011, and may file on behalf of this state the plan required by such plan and agreement for enforcement of the act in this state.

Sec. 10. Original sections 60-144, 60-3,193.01, 60-3,221, 60-462.01, 60-4,147.02, and 75-393, Reissue Revised Statutes of Nebraska, and sections

18-1739, 75-363, and 75-364, Revised Statutes Cumulative Supplement, 2010, are repealed.

Sec. 11. Since an emergency exists, this act takes effect when passed and approved according to law.