

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 311

Introduced by Transportation and Telecommunications Committee: Smith, 14, Chairperson; Brasch, 16; Davis, 43; Friesen, 34; Garrett, 3; McCoy, 39; Murante, 49; Seiler, 33.

Read first time January 15, 2015

Committee: Transportation and Telecommunications

- 1 A BILL FOR AN ACT relating to motor vehicle operators' licenses; to amend
- 2 section 60-469, Reissue Revised Statutes of Nebraska, and sections
- 3 60-462, 60-463, 60-4,142, 60-4,144, 60-4,168, and 75-362, Revised
- 4 Statutes Cumulative Supplement, 2014; to define and redefine terms;
- 5 to change provisions relating to CLP-commercial learner's permit
- 6 issuance and applications for commercial drivers' licenses; to
- 7 harmonize provisions; to repeal the original sections; and to
- 8 declare an emergency.
- 9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 60-462, Revised Statutes Cumulative Supplement,
2 2014, is amended to read:

3 60-462 Sections 60-462 to 60-4,189 and section 3 of this act shall
4 be known and may be cited as the Motor Vehicle Operator's License Act.

5 Sec. 2. Section 60-463, Revised Statutes Cumulative Supplement,
6 2014, is amended to read:

7 60-463 For purposes of the Motor Vehicle Operator's License Act, the
8 definitions found in sections 60-463.01 to 60-478 and section 3 of this
9 act shall be used.

10 Sec. 3. (1) Gross combination weight rating means the greater of
11 (a) a value specified by the manufacturer of the power unit, if such
12 value is displayed on the Federal Motor Vehicle Safety Standard
13 certification label required by the National Highway Traffic Safety
14 Administration, or (b) the sum of the gross vehicle weight ratings or the
15 gross vehicle weights of the power unit and the towed unit or units, or
16 any combination thereof, that produces the highest value.

17 (2) Gross combination weight rating does not apply to a commercial
18 motor vehicle if the power unit is not towing another vehicle.

19 Sec. 4. Section 60-469, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 60-469 Gross vehicle weight rating (GVWR) means shall mean the value
22 specified by the manufacturer as the ~~maximum~~ loaded weight of a single
23 ~~motor or a combination or articulated~~ vehicle. ~~The gross vehicle weight~~
24 ~~rating of a combination or articulated vehicle shall be the gross vehicle~~
25 ~~weight rating of the power unit plus the gross vehicle weight rating of~~
26 ~~the towed unit or units. In the absence of a value specified for the~~
27 ~~towed unit or units by the manufacturer, the gross vehicle weight rating~~
28 ~~of a combination or articulated vehicle shall be the gross vehicle weight~~
29 ~~rating of the power unit plus the total weight of the towed unit or units~~
30 ~~and the loads on such towed unit or units.~~

31 Sec. 5. Section 60-4,142, Revised Statutes Cumulative Supplement,

1 2014, is amended to read:

2 60-4,142 Any resident or nondomiciled applicant may obtain a CLP-
3 commercial learner's permit from the department by making application to
4 licensing staff of the department. An applicant shall present proof to
5 licensing staff that he or she holds a valid Class 0 license or
6 commercial driver's license or a foreign nondomiciled applicant shall
7 successfully complete the requirements for the Class 0 license before a
8 CLP-commercial learner's permit is issued. An applicant shall also
9 successfully complete the commercial driver's license general knowledge
10 examination under section 60-4,155 and examinations for all previously
11 issued endorsements as provided in 49 C.F.R. 383.25(a)(3) and 49 C.F.R.
12 383.153(b)(2)(vii). Upon application, the examination may be waived if
13 the applicant presents a Nebraska commercial driver's license which is
14 valid or has been expired for less than one year, presents a valid
15 commercial driver's license from another state, or is renewing a CLP-
16 commercial learner's permit. The CLP-commercial learner's permit shall be
17 valid for a period of one hundred eighty days. The CLP-commercial
18 learner's permit holder may renew the CLP-commercial learner's permit for
19 an additional one hundred eighty days without retaking the general and
20 endorsement knowledge tests and shall be renewed only once within any
21 ~~two-year period~~. The successful applicant shall pay the fee prescribed in
22 section 60-4,115 for the issuance or renewal of a CLP-commercial
23 learner's permit.

24 Sec. 6. Section 60-4,144, Revised Statutes Cumulative Supplement,
25 2014, is amended to read:

26 60-4,144 (1) An applicant for issuance of any original or renewal
27 commercial driver's license or an applicant for a change of class of
28 commercial motor vehicle, endorsement, or restriction shall demonstrate
29 his or her knowledge and skills for operating a commercial motor vehicle
30 as prescribed in the Motor Vehicle Operator's License Act. An applicant
31 for a commercial driver's license shall provide the information and

1 documentation required by this section and section 60-4,144.01. Such
2 information and documentation shall include any additional information
3 required by 49 C.F.R. parts 383 and 391 and also include:

4 (a) Certification that the commercial motor vehicle in which the
5 applicant takes any driving skills examination is representative of the
6 class of commercial motor vehicle that the applicant operates or expects
7 to operate; and

8 (b) The names of all states where the applicant has been licensed to
9 operate any type of motor vehicle in the ten years prior to the date of
10 application.

11 (2)(a) Before being issued a CLP-commercial learner's permit or
12 commercial driver's license, the applicant shall provide (i) his or her
13 full legal name, date of birth, mailing address, gender, race or
14 ethnicity, and social security number, (ii) two forms of proof of address
15 of his or her principal residence unless the applicant is a program
16 participant under the Address Confidentiality Act, except that a
17 nondomiciled applicant for a CLP-commercial learner's permit or
18 nondomiciled commercial driver's license holder does not have to provide
19 proof of residence in Nebraska, (iii) evidence of identity as required by
20 this section, and (iv) a brief physical description of himself or
21 herself.

22 (b) The applicant's social security number shall not be printed on
23 the CLP-commercial learner's permit or commercial driver's license and
24 shall be used only (i) to furnish information to the United States
25 Selective Service System under section 60-483, (ii) with the permission
26 of the director in connection with the certification of the status of an
27 individual's driving record in this state or any other state, (iii) for
28 purposes of child support enforcement pursuant to section 42-358.08 or
29 43-512.06, (iv) to furnish information regarding an applicant for or
30 holder of a commercial driver's license with a hazardous materials
31 endorsement to the Transportation Security Administration of the United

1 States Department of Homeland Security or its agent, ~~or~~ (v) to furnish
2 information to the Department of Revenue under section 77-362.02, or (vi)
3 to furnish information to the Secretary of State for purposes of the
4 Election Act.

5 (c) No person shall be a holder of a CLP-commercial learner's permit
6 or commercial driver's license and a state identification card at the
7 same time.

8 (3) Before being issued a CLP-commercial learner's permit or
9 commercial driver's license, an applicant, except a nondomiciled
10 applicant, shall provide proof that this state is his or her state of
11 residence. Acceptable proof of residence is a document with the person's
12 name and residential address within this state.

13 (4)(a) Before being issued a CLP-commercial learner's permit or
14 commercial driver's license, an applicant shall provide proof of
15 identity.

16 (b) The following are acceptable as proof of identity:

17 (i) A valid, unexpired United States passport;

18 (ii) A certified copy of a birth certificate filed with a state
19 office of vital statistics or equivalent agency in the individual's state
20 of birth;

21 (iii) A Consular Report of Birth Abroad issued by the United States
22 Department of State;

23 (iv) A valid, unexpired permanent resident card issued by the United
24 States Department of Homeland Security or United States Citizenship and
25 Immigration Services;

26 (v) An unexpired employment authorization document issued by the
27 United States Department of Homeland Security;

28 (vi) An unexpired foreign passport with a valid, unexpired United
29 States visa affixed accompanied by the approved form documenting the
30 applicant's most recent admittance into the United States;

31 (vii) A Certificate of Naturalization issued by the United States

1 Department of Homeland Security;

2 (viii) A Certificate of Citizenship issued by the United States
3 Department of Homeland Security;

4 (ix) A driver's license or identification card issued in compliance
5 with the standards established by the REAL ID Act of 2005, Public Law
6 109-13, division B, section 1, 119 Stat. 302; or

7 (x) Such other documents as the director may approve.

8 (c) If an applicant presents one of the documents listed under
9 subdivision (b)(i), (ii), (iii), (iv), (vii), or (viii) of this
10 subsection, the verification of the applicant's identity will also
11 provide satisfactory evidence of lawful status.

12 (d) If the applicant presents one of the identity documents listed
13 under subdivision (b)(v), (vi), or (ix) of this subsection, the
14 verification of the identity documents does not provide satisfactory
15 evidence of lawful status. The applicant must also present a second
16 document from subdivision (4)(b) of this section, a document from
17 subsection (5) of this section, or documentation issued by the United
18 States Department of Homeland Security or other federal agencies
19 demonstrating lawful status as determined by the United States
20 Citizenship and Immigration Services.

21 (e) An applicant may present other documents as designated by the
22 director as proof of identity. Any documents accepted shall be recorded
23 according to a written exceptions process established by the director.

24 (5)(a) Whenever a person is renewing, replacing, upgrading,
25 transferring, or applying as a nondomiciled individual to this state for
26 a CLP-commercial learner's permit or commercial driver's license, the
27 Department of Motor Vehicles shall verify the citizenship in the United
28 States of the person or the lawful status in the United States of the
29 person.

30 (b) The following are acceptable as proof of citizenship or lawful
31 status:

1 (i) A valid, unexpired United States passport;

2 (ii) A certified copy of a birth certificate filed with a state
3 office of vital statistics or equivalent agency in the individual's state
4 of birth, Puerto Rico, the Virgin Islands, Guam, American Samoa, or the
5 Commonwealth of the Northern Mariana Islands;

6 (iii) A Consular Report of Birth Abroad issued by the United States
7 Department of State;

8 (iv) A Certificate of Naturalization issued by the United States
9 Department of Homeland Security;

10 (v) A Certificate of Citizenship issued by the United States
11 Department of Homeland Security; or

12 (vi) A valid, unexpired Permanent Resident Card issued by the United
13 States Department of Homeland Security or United States Citizenship and
14 Immigration Services.

15 (6) An applicant may present other documents as designated by the
16 director as proof of lawful status. Any documents accepted shall be
17 recorded according to a written exceptions process established by the
18 director.

19 (7)(a) An applicant shall obtain a nondomiciled CLP-commercial
20 driver's license or nondomiciled CLP-commercial learner's permit:

21 (i) If the applicant is domiciled in a foreign jurisdiction and the
22 Federal Motor Carrier Safety Administrator has not determined that the
23 commercial motor vehicle operator testing and licensing standards of that
24 jurisdiction meet the standards contained in subparts G and H of 49
25 C.F.R. part 383; or

26 (ii) If the applicant is domiciled in a state that is prohibited
27 from issuing commercial learners' permits and commercial drivers'
28 licenses in accordance with 49 C.F.R. 384.405. Such person is eligible to
29 obtain a nondomiciled CLP-commercial learner's permit or nondomiciled
30 commercial driver's license from Nebraska that complies with the testing
31 and licensing standards contained in subparts F, G, and H of 49 C.F.R.

1 part 383.

2 (b) An applicant for a nondomiciled CLP-commercial learner's permit
3 and nondomiciled commercial driver's license must do the following:

4 (i) Complete the requirements to obtain a CLP-commercial learner's
5 permit or a commercial driver's license under the Motor Vehicle
6 Operator's License Act, except that an applicant domiciled in a foreign
7 jurisdiction must provide an unexpired employment authorization document
8 issued by the United States Citizenship and Immigration Services or an
9 unexpired foreign passport accompanied by an approved I-94 form
10 documenting the applicant's most recent admittance into the United
11 States. No proof of domicile is required;

12 (ii) After receipt of the nondomiciled CLP-commercial learner's
13 permit or nondomiciled commercial driver's license and, for as long as
14 the permit or license is valid, notify the Department of Motor Vehicles
15 of any adverse action taken by any jurisdiction or governmental agency,
16 foreign or domestic, against his or her driving privileges. Such adverse
17 actions include, but are not limited to, license disqualification or
18 disqualification from operating a commercial motor vehicle for the
19 convictions described in 49 C.F.R. 383.51. Notifications must be made
20 within the time periods specified in 49 C.F.R. 383.33; and

21 (iii) Provide a mailing address to the Department of Motor Vehicles.
22 If the applicant is applying for a foreign nondomiciled CLP-commercial
23 learner's permit or foreign nondomiciled commercial driver's license, he
24 or she must provide a Nebraska mailing address and his or her employer's
25 mailing address to the Department of Motor Vehicles.

26 (c) An applicant for a nondomiciled CLP-commercial learner's permit
27 or nondomiciled commercial driver's license who holds a foreign
28 operator's license is not required to surrender his or her foreign
29 operator's license.

30 (8) Any person applying for a CLP-commercial learner's permit or
31 commercial driver's license may answer the following:

1 (a) Do you wish to register to vote as part of this application
2 process?

3 (b) Do you wish to have the word "veteran" displayed on the front of
4 your operator's license to show that you served in the armed forces of
5 the United States? (To be eligible you must register with the Nebraska
6 Department of Veterans' Affairs registry.)

7 OPTIONAL - YOU ARE NOT REQUIRED TO ANSWER ANY OF THE FOLLOWING
8 QUESTIONS:

9 (c) Do you wish to be an organ and tissue donor?

10 (d) Do you wish to receive any additional specific information
11 regarding organ and tissue donation and the Donor Registry of Nebraska?

12 (e) Do you wish to donate \$1 to promote the Organ and Tissue Donor
13 Awareness and Education Fund?

14 (9) Application for a CLP-commercial learner's permit or commercial
15 driver's license shall include a signed oath, affirmation, or declaration
16 of the applicant that the information provided on the application for the
17 permit or license is true and correct.

18 (~~10~~ 9) Any person applying for a CLP-commercial learner's permit or
19 commercial driver's license must make one of the certifications in
20 section 60-4,144.01 and any certification required under section 60-4,146
21 and must provide such certifications to the Department of Motor Vehicles
22 in order to be issued a CLP-commercial learner's permit or a commercial
23 driver's license.

24 (~~11~~ 10) Every person who holds any commercial driver's license must
25 provide to the department medical certification as required by section
26 60-4,144.01. The department may provide notice and prescribe medical
27 certification compliance requirements for all holders of commercial
28 drivers' licenses. Holders of commercial drivers' licenses who fail to
29 meet the prescribed medical certification compliance requirements may be
30 subject to downgrade.

31 Sec. 7. Section 60-4,168, Revised Statutes Cumulative Supplement,

1 2014, is amended to read:

2 60-4,168 (1) Except as provided in subsections (2) and (3) of this
3 section, a person shall be disqualified from operating a commercial motor
4 vehicle for one year upon his or her first conviction, after April 1,
5 1992, in this or any other state for:

6 (a) Operating a commercial motor vehicle in violation of section
7 60-6,196 or 60-6,197 or under the influence of a controlled substance or,
8 beginning September 30, 2005, operating any motor vehicle in violation of
9 section 60-6,196 or 60-6,197 or under the influence of a controlled
10 substance;

11 (b) Operating a commercial motor vehicle in violation of section
12 60-4,163 or 60-4,164;

13 (c) Leaving the scene of an accident involving a commercial motor
14 vehicle operated by the person or, beginning September 30, 2005, leaving
15 the scene of an accident involving any motor vehicle operated by the
16 person;

17 (d) Using a commercial motor vehicle in the commission of a felony
18 other than a felony described in subdivision (3)(b) of this section or,
19 beginning September 30, 2005, using any motor vehicle in the commission
20 of a felony other than a felony described in subdivision (3)(b) of this
21 section;

22 (e) Beginning September 30, 2005, operating a commercial motor
23 vehicle after his or her commercial driver's license has been suspended,
24 revoked, or canceled or the driver is disqualified from operating a
25 commercial motor vehicle; or

26 (f) Beginning September 30, 2005, causing a fatality through the
27 negligent or criminal operation of a commercial motor vehicle.

28 (2) Except as provided in subsection (3) of this section, if any of
29 the offenses described in subsection (1) of this section occurred while a
30 person was transporting hazardous material in a commercial motor vehicle
31 which required placarding pursuant to section 75-364, the person shall,

1 upon conviction or administrative determination, be disqualified from
2 operating a commercial motor vehicle for three years.

3 (3) A person shall be disqualified from operating a commercial motor
4 vehicle for life if, after April 1, 1992, he or she:

5 (a) Is convicted of or administratively determined to have committed
6 a second or subsequent violation of any of the offenses described in
7 subsection (1) of this section or any combination of those offenses
8 arising from two or more separate incidents; or

9 (b) Beginning September 30, 2005, used a commercial motor vehicle in
10 the commission of a felony involving the manufacturing, distributing, or
11 dispensing of a controlled substance.

12 (4)(a) A person is disqualified from operating a commercial motor
13 vehicle for a period of not less than sixty days if he or she is
14 convicted in this or any other state of two serious traffic violations,
15 or not less than one hundred twenty days if he or she is convicted in
16 this or any other state of three serious traffic violations, arising from
17 separate incidents occurring within a three-year period while operating a
18 commercial motor vehicle.

19 (b) A person is disqualified from operating a commercial motor
20 vehicle for a period of not less than sixty days if he or she is
21 convicted in this or any other state of two serious traffic violations,
22 or not less than one hundred twenty days if he or she is convicted in
23 this or any other state of three serious traffic violations, arising from
24 separate incidents occurring within a three-year period while operating a
25 motor vehicle other than a commercial motor vehicle if the convictions
26 have resulted in the revocation, cancellation, or suspension of the
27 person's operator's license or driving privileges.

28 (5)(a) A person who is convicted of operating a commercial motor
29 vehicle in violation of a federal, state, or local law or regulation
30 pertaining to one of the following six offenses at a highway-rail grade
31 crossing shall be disqualified for the period of time specified in

1 subdivision (5)(b) of this section:

2 (i) For drivers who are not required to always stop, failing to slow
3 down and check that the tracks are clear of an approaching train;

4 (ii) For drivers who are not required to always stop, failing to
5 stop before reaching the crossing, if the tracks are not clear;

6 (iii) For drivers who are always required to stop, failing to stop
7 before driving onto the crossing;

8 (iv) For all drivers, failing to have sufficient space to drive
9 completely through the crossing without stopping;

10 (v) For all drivers, failing to obey a traffic control device or the
11 directions of an enforcement official at the crossing; or

12 (vi) For all drivers, failing to negotiate a crossing because of
13 insufficient undercarriage clearance.

14 (b)(i) A person shall be disqualified for not less than sixty days
15 if the person is convicted of a first violation described in this
16 subsection.

17 (ii) A person shall be disqualified for not less than one hundred
18 twenty days if, during any three-year period, the person is convicted of
19 a second violation described in this subsection in separate incidents.

20 (iii) A person shall be disqualified for not less than one year if,
21 during any three-year period, the person is convicted of a third or
22 subsequent violation described in this subsection in separate incidents.

23 ~~(6) This subsection applies beginning July 8, 2015.~~ A person shall
24 be disqualified from operating a commercial motor vehicle for at least
25 one year if, on or after July 8, 2015, the person has been convicted of
26 fraud related to the issuance of his or her CLP-commercial learner's
27 permit or commercial driver's license.

28 ~~(7) This subsection applies beginning July 8, 2015.~~ If the
29 department receives credible information that a CLP-commercial learner's
30 permit holder or a commercial driver's license holder is suspected, but
31 has not been convicted, on or after July 8, 2015, of fraud related to the

1 issuance of his or her CLP-commercial learner's permit or commercial
2 driver's license, the department must require the driver to retake the
3 skills and knowledge tests. Within thirty days after receiving
4 notification from the department that retesting is necessary, the
5 affected CLP-commercial learner's permit holder or commercial driver's
6 license holder must make an appointment or otherwise schedule to take the
7 next available test. If the CLP-commercial learner's permit holder or
8 commercial driver's license holder fails to make an appointment within
9 thirty days, the department must disqualify his or her CLP-commercial
10 learner's permit or commercial driver's license. If the driver fails
11 either the knowledge or skills test or does not take the test, the
12 department must disqualify his or her CLP-commercial learner's permit or
13 commercial driver's license. If the holder of a CLP-commercial learner's
14 permit or commercial driver's license has had his or her CLP-commercial
15 learner's permit or commercial driver's license disqualified, he or she
16 must reapply for a CLP-commercial learner's permit or commercial driver's
17 license under department procedures applicable to all applicants for a
18 CLP-commercial learner's permit or commercial driver's license.

19 (8) For purposes of this section, controlled substance has the same
20 meaning as in section 28-401.

21 (9) For purposes of this section, conviction means an unvacated
22 adjudication of guilt, or a determination that a person has violated or
23 failed to comply with the law, in a court of original jurisdiction or by
24 an authorized administrative tribunal, an unvacated forfeiture of bail or
25 collateral deposited to secure the person's appearance in court, a plea
26 of guilty or nolo contendere accepted by the court, the payment of a fine
27 or court costs, or a violation of a condition of release without bail,
28 regardless of whether or not the penalty is rebated, suspended, or
29 probated.

30 (10) For purposes of this section, serious traffic violation means:

31 (a) Speeding at or in excess of fifteen miles per hour over the

1 legally posted speed limit;

2 (b) Willful reckless driving as described in section 60-6,214 or
3 reckless driving as described in section 60-6,213;

4 (c) Improper lane change as described in section 60-6,139;

5 (d) Following the vehicle ahead too closely as described in section
6 60-6,140;

7 (e) A violation of any law or ordinance related to motor vehicle
8 traffic control, other than parking violations or overweight or vehicle
9 defect violations, arising in connection with an accident or collision
10 resulting in death to any person;

11 (f) Beginning September 30, 2005, operating a commercial motor
12 vehicle without a commercial driver's license;

13 (g) Beginning September 30, 2005, operating a commercial motor
14 vehicle without a commercial driver's license in the operator's
15 possession;

16 (h) Beginning September 30, 2005, operating a commercial motor
17 vehicle without the proper class of commercial driver's license and any
18 endorsements, if required, for the specific vehicle group being operated
19 or for the passengers or type of cargo being transported on the vehicle;

20 (i) Beginning October 27, 2013, texting while driving as described
21 in section 60-6,179.02; and

22 (j) Using a handheld mobile telephone as described in section
23 60-6,179.02.

24 Sec. 8. Section 75-362, Revised Statutes Cumulative Supplement,
25 2014, is amended to read:

26 75-362 For purposes of sections 75-362 to 75-369.07, unless the
27 context otherwise requires:

28 (1) Accident means:

29 (a) Except as provided in subdivision (b) of this subdivision, an
30 occurrence involving a commercial motor vehicle operating on a highway in
31 interstate or intrastate commerce which results in:

1 (i) A fatality;

2 (ii) Bodily injury to a person who, as a result of the injury,
3 immediately receives medical treatment away from the scene of the
4 accident; or

5 (iii) One or more motor vehicles incurring disabling damage as a
6 result of the accident, requiring the motor vehicles to be transported
7 away from the scene by a tow truck or other motor vehicle.

8 (b) The term accident does not include:

9 (i) An occurrence involving only boarding and alighting from a
10 stationary motor vehicle; or

11 (ii) An occurrence involving only the loading or unloading of cargo;

12 (2) Bulk packaging means a packaging, other than a vessel or a
13 barge, including a transport vehicle or freight container, in which
14 hazardous materials are loaded with no intermediate form of containment
15 and which has:

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

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

21 (c) A water capacity greater than one thousand pounds as a
22 receptacle for a gas as defined in 49 C.F.R. 173.115;

23 (3) Cargo tank means a bulk packaging that:

24 (a) Is a tank intended primarily for the carriage of liquids or
25 gases and includes appurtenances, reinforcements, fittings, and closures;

26 (b) Is permanently attached to or forms a part of a motor vehicle or
27 is not permanently attached to a motor vehicle but which, by reason of
28 its size, construction, or attachment to a motor vehicle, is loaded or
29 unloaded without being removed from the motor vehicle; and

30 (c) Is not fabricated under a specification for cylinders,
31 intermediate bulk containers, multi-unit tank-car tanks, portable tanks,

1 or tank cars;

2 (4) Cargo tank motor vehicle means a motor vehicle with one or more
3 cargo tanks permanently attached to or forming an integral part of the
4 motor vehicle;

5 (5) Commercial enterprise means any business activity relating to or
6 based upon the production, distribution, or consumption of goods or
7 services;

8 (6) Commercial motor vehicle means any self-propelled or towed motor
9 vehicle used on a highway in interstate commerce or intrastate commerce
10 to transport passengers or property when the vehicle:

11 (a) Has a gross vehicle weight rating or gross combination weight
12 rating or gross vehicle weight or gross combination weight of ten
13 thousand one pounds or more, whichever is greater;

14 (b) Is designed or used to transport more than eight passengers,
15 including the driver, for compensation;

16 (c) Is designed or used to transport more than fifteen passengers,
17 including the driver, and is not used to transport passengers for
18 compensation; or

19 (d) Is used in transporting material found to be hazardous and such
20 material is transported in a quantity requiring placarding pursuant to
21 section 75-364;

22 (7) Compliance review means an onsite examination of motor carrier
23 operations, such as drivers' hours of service, maintenance and
24 inspection, driver qualification, commercial driver's license
25 requirements, financial responsibility, accidents, hazardous materials,
26 and other safety and transportation records to determine whether a motor
27 carrier meets the safety fitness standard. A compliance review may be
28 conducted in response to a request to change a safety rating, to
29 investigate potential violations of safety regulations by motor carriers,
30 or to investigate complaints or other evidence of safety violations. The
31 compliance review may result in the initiation of an enforcement action

1 with penalties;

2 (8)(a) Covered farm vehicle means a motor vehicle, including an
3 articulated motor vehicle:

4 (i) That:

5 (A) Is traveling in the state in which the vehicle is registered or
6 another state;

7 (B) Is operated by:

8 (I) A farm owner or operator;

9 (II) A ranch owner or operator; or

10 (III) An employee or family member of an individual specified in
11 subdivision (8)(a)(i)(B)(I) or (8)(a)(i)(B)(II) of this section;

12 (C) Is transporting to or from a farm or ranch:

13 (I) Agricultural commodities;

14 (II) Livestock; or

15 (III) Machinery or supplies;

16 (D) Except as provided in subdivision (8)(b) of this section, is not
17 used in the operations of a for-hire motor carrier; and

18 (E) Is equipped with a special license plate or other designation by
19 the state in which the vehicle is registered to allow for identification
20 of the vehicle as a farm vehicle by law enforcement personnel; and

21 (ii) That has a gross vehicle weight rating or gross vehicle weight,
22 whichever is greater, that is:

23 (A) Less than twenty-six thousand one pounds; or

24 (B) Twenty-six thousand one pounds or more and is traveling within
25 the state or within one hundred fifty air miles of the farm or ranch with
26 respect to which the vehicle is being operated.

27 (b) Covered farm vehicle includes a motor vehicle that meets the
28 requirements of subdivision (8)(a) of this section, except for
29 subdivision (8)(a)(i)(D) of this section, and:

30 (i) Is operated pursuant to a crop share farm lease agreement;

31 (ii) Is owned by a tenant with respect to that agreement; and

1 (iii) Is transporting the landlord's portion of the crops under that
2 agreement.

3 (c) Covered farm vehicle does not include:

4 (i) A combination of truck-tractor and semitrailer which is operated
5 by a person under eighteen years of age; or

6 (ii) A combination of truck-tractor and semitrailer which is used in
7 the transportation of materials found to be hazardous for the purposes of
8 the federal Hazardous Materials Transportation Act and which require the
9 combination to be placarded under 49 C.F.R. part 172, subpart F;

10 (9) Disabling damage means damage which precludes departure of a
11 motor vehicle from the scene of the accident in its usual manner in
12 daylight after simple repairs.

13 (a) Inclusions: Damage to motor vehicles that could have been driven
14 but would have been further damaged if so driven.

15 (b) Exclusions:

16 (i) Damage which can be remedied temporarily at the scene of the
17 accident without special tools or parts;

18 (ii) Tire disablement without other damage even if no spare tire is
19 available;

20 (iii) Headlight or taillight damage; and

21 (iv) Damage to turnsignals, horn, or windshield wipers which makes
22 them inoperative;

23 (10) Driver means any person who operates any commercial motor
24 vehicle;

25 (11) Elevated temperature material means a material which, when
26 offered for transportation or transported in a bulk packaging:

27 (a) Is in a liquid phase and at a temperature at or above two
28 hundred twelve degrees Fahrenheit;

29 (b) Is in a liquid phase with a flash point at or above one hundred
30 degrees Fahrenheit that is intentionally heated and offered for
31 transportation or transported at or above its flash point; or

1 (c) Is in a solid phase and at a temperature at or above four
2 hundred sixty-four degrees Fahrenheit;

3 (12) Employee means any individual, other than an employer, who is
4 employed by an employer and who in the course of his or her employment
5 directly affects commercial motor vehicle safety. Such term includes a
6 driver of a commercial motor vehicle, including an independent contractor
7 while in the course of operating a commercial motor vehicle, a mechanic,
8 and a freight handler. Such term does not include an employee of the
9 United States, any state, any political subdivision of a state, or any
10 agency established under a compact between states and approved by the
11 Congress of the United States who is acting within the course of such
12 employment;

13 (13) Employer means any person engaged in a business affecting
14 commerce who owns or leases a commercial motor vehicle in connection with
15 that business or assigns employees to operate it. Such term does not
16 include the United States, any state, any political subdivision of a
17 state, or an agency established under a compact between states approved
18 by the Congress of the United States;

19 (14) Exempt motor carrier means a person engaged in transportation
20 exempt from economic regulation under 49 U.S.C. 13506. An exempt motor
21 carrier is subject to the safety regulations adopted in sections 75-362
22 to 75-369.07;

23 (15) Farm vehicle driver means a person who drives only a commercial
24 motor vehicle that is controlled and operated by a farmer as a private
25 motor carrier of property;

26 (16) Farmer means any person who operates a farm or is directly
27 involved in the cultivation of land, crops, or livestock which:

28 (a) Are owned by that person; or

29 (b) Are under the direct control of that person;

30 (17) Fatality means any injury which results in the death of a
31 person at the time of the motor vehicle accident or within thirty days

1 after the accident;

2 (18) Fertilizer and agricultural chemical application and
3 distribution equipment means:

4 (a) Self-propelled or towed equipment, designed and used exclusively
5 to apply commercial fertilizer, as that term is defined in section
6 81-2,162.02, chemicals, or related products to agricultural soil and
7 crops; or

8 (b) Towed equipment designed and used exclusively to carry
9 commercial fertilizer, as that term is defined in section 81-2,162.02,
10 chemicals, or related products for use on agricultural soil and crops,
11 which are equipped with implement or floatation tires;

12 (19) For-hire motor carrier means a person engaged in the
13 transportation of goods or passengers for compensation;

14 (20) Gross combination weight means the sum of the empty weight of a
15 motor vehicle plus the total weight of any load carried thereon and the
16 empty weight of the towed unit or units plus the total weight of any load
17 carried on such towed unit or units;

18 (21) Gross combination weight rating means the greater of (a) a
19 value specified by the manufacturer of the power unit, if such value is
20 displayed on the Federal Motor Vehicle Safety Standard certification
21 label required by the National Highway Traffic Safety Administration, or
22 (b) the sum of the gross vehicle weight ratings or the gross vehicle
23 weights of the power unit and the towed unit or units, or any combination
24 thereof, that produces the highest value. Gross combination weight rating
25 does not apply to a commercial motor vehicle if the power unit is not
26 towing another vehicle the value specified by the manufacturer as the
27 loaded weight of a combination (articulated) motor vehicle. In the
28 absence of a value specified by the manufacturer, gross combination
29 weight rating will be determined by adding either the gross vehicle
30 weight rating or gross vehicle weight of the motor vehicle plus the gross
31 vehicle weight rating or gross vehicle weight of the towed unit or units;

1 (22) Gross vehicle weight means the sum of the empty weight of a
2 motor vehicle plus the total weight of any load carried thereon;

3 (23) Gross vehicle weight rating means the value specified by the
4 manufacturer as the loaded weight of a single or a combination or
5 articulated motor vehicle. ~~In the absence of such value specified by the~~
6 ~~manufacturer or the absence of any marking of such value on the vehicle,~~
7 ~~the gross vehicle weight rating shall be determined from the sum of the~~
8 ~~axle weight ratings of the vehicle or the sum of the tire weight ratings~~
9 ~~as marked on the sidewall of the tires, whichever is greater. In the~~
10 ~~absence of any tire sidewall marking, the tire weight ratings shall be~~
11 ~~determined for the specified tires from any of the publications of any of~~
12 ~~the organizations listed in 49 C.F.R. 571.119;~~

13 (24) Hazardous material means a substance or material that the
14 Secretary of the United States Department of Transportation has
15 determined is capable of posing an unreasonable risk to health, safety,
16 and property when transported in commerce and has designated as hazardous
17 under 49 U.S.C. 5103. The term includes hazardous substances, hazardous
18 wastes, marine pollutants, elevated temperature materials, materials
19 designated as hazardous in the Hazardous Materials Table, 49 C.F.R.
20 172.101, and materials that meet the defining criteria for hazard classes
21 and divisions in 49 C.F.R. part 173;

22 (25) Hazardous substance means a material, including its mixtures
23 and solutions, that is listed in 49 C.F.R. 172.101, Appendix A, List Of
24 Hazardous Substances and Reportable Quantities, and is in a quantity, in
25 one package, which equals or exceeds the reportable quantity listed in 49
26 C.F.R. 172.101, Appendix A. This definition does not apply to petroleum
27 products that are lubricants or fuels or to mixtures or solutions of
28 hazardous substances if in a concentration less than that shown in the
29 table in 49 C.F.R. 171.8 under the definition of hazardous substance
30 based on the reportable quantity specified for the materials listed in 49
31 C.F.R. 172.101, Appendix A;

1 (26) Hazardous waste means any material that is subject to the
2 hazardous waste manifest requirements of the United States Environmental
3 Protection Agency specified in 40 C.F.R. 262;

4 (27) Highway means the entire width between the boundary limits of
5 any street, road, avenue, boulevard, or way which is publicly maintained
6 when any part thereof is open to the use of the public for purposes of
7 vehicular travel;

8 (28) Interstate commerce means trade, traffic, or transportation
9 provided in the furtherance of a commercial enterprise in the United
10 States:

11 (a) Between a place in a state and a place outside of such state,
12 including a place outside of the United States;

13 (b) Between two places in a state through another state or a place
14 outside of the United States; or

15 (c) Between two places in a state as part of trade, traffic, or
16 transportation originating or terminating outside the state or the United
17 States;

18 (29) Intrastate commerce means any trade, traffic, or transportation
19 provided in the furtherance of a commercial enterprise between any place
20 in the State of Nebraska and any other place in Nebraska and not through
21 any other state;

22 (30) Marine pollutant means a material which is listed in the
23 Hazardous Materials Table, 49 C.F.R. 172.101, Appendix B, as a marine
24 pollutant (see 49 C.F.R. 171.4 for applicability to marine pollutants)
25 and, when in a solution or mixture of one or more marine pollutants, is
26 packaged in a concentration which equals or exceeds:

27 (a) Ten percent by weight of the solution or mixture for materials
28 listed in 49 C.F.R. 172.101, Appendix B; or

29 (b) One percent by weight of the solution or mixture for materials
30 that are identified as severe marine pollutants in the Hazardous
31 Materials Table, 49 C.F.R. 172.101, Appendix B;

1 (31) Motor carrier means a for-hire motor carrier or a private motor
2 carrier. The term includes a motor carrier's agents, officers, and
3 representatives as well as employees responsible for hiring, supervising,
4 training, assigning, or dispatching of drivers and employees concerned
5 with the installation, inspection, and maintenance of motor vehicle
6 equipment or accessories. This definition includes the terms employer and
7 exempt motor carrier;

8 (32) Motor vehicle means any vehicle, truck, truck-tractor, trailer,
9 or semitrailer propelled or drawn by mechanical power except (a) farm
10 tractors, (b) vehicles which run only on rails or tracks, and (c) road
11 and general-purpose construction and maintenance machinery which by
12 design and function is obviously not intended for use on a public
13 highway, including, but not limited to, motor scrapers, earthmoving
14 equipment, backhoes, trenchers, motor graders, compactors, tractors,
15 bulldozers, bucket loaders, ditchdigging apparatus, asphalt spreaders,
16 leveling graders, power shovels, and crawler tractors;

17 (33) Nonbulk packaging means a packaging which has:

18 (a) A maximum capacity of one hundred nineteen gallons or less as a
19 receptacle for a liquid;

20 (b) A maximum net mass of eight hundred eighty-two pounds or less
21 and a maximum capacity of one hundred nineteen gallons or less as a
22 receptacle for a solid; or

23 (c) A water capacity of one thousand pounds or less as a receptacle
24 for a gas as defined in 49 C.F.R. 173.115;

25 (34) Out-of-service order means a declaration by an authorized
26 enforcement officer of a federal, state, Canadian, Mexican, or local
27 jurisdiction that a driver, a commercial motor vehicle, or a motor
28 carrier operation is out of service pursuant to 49 C.F.R. 386.72, 392.5,
29 392.9a, 395.13, or 396.9, or compatible laws or the North American
30 Uniform Out-of-Service Criteria;

31 (35) Packaging means a receptacle and any other components or

1 materials necessary for the receptacle to perform its containment
2 function in conformance with the minimum packing requirements of Title 49
3 of the Code of Federal Regulations. For radioactive materials packaging,
4 see 49 C.F.R. 173.403;

5 (36) Person means any individual, partnership, association,
6 corporation, business trust, or any other organized group of individuals;

7 (37) Planting and harvesting season means the period beginning on
8 January 1 up to and including December 31 of each calendar year;

9 (38) Principal place of business means the single location
10 designated by the motor carrier, normally its headquarters, for purposes
11 of identification. The motor carrier must make records required by the
12 regulations referred to in sections 75-362 to 75-369.07 available for
13 inspection at this location within forty-eight hours, Saturdays, Sundays,
14 and state or federal holidays excluded, after a request has been made by
15 an officer of the Nebraska State Patrol;

16 (39) Private motor carrier means a person who provides
17 transportation of property or passengers by commercial motor vehicle and
18 is not a for-hire motor carrier;

19 (40) Safety audit means an examination of a motor carrier's
20 operations to provide educational and technical assistance on drivers'
21 hours of service, maintenance and inspection, driver qualification,
22 commercial driver's license requirements, financial responsibility,
23 accidents, hazardous materials, and other safety and transportation
24 records to determine whether a motor carrier meets the safety fitness
25 standard. The purpose of a safety audit is to gather critical safety data
26 needed to make an assessment of the carrier's safety performance and
27 basic safety management controls. Safety audits do not result in safety
28 ratings; and

29 (41) Tank means a container, consisting of a shell and heads, that
30 forms a pressure-tight vessel having openings designed to accept
31 pressure-tight fittings or closures, but excludes any appurtenances,

1 reinforcements, fittings, or closures.

2 Sec. 9. Original section 60-469, Reissue Revised Statutes of
3 Nebraska, and sections 60-462, 60-463, 60-4,142, 60-4,144, 60-4,168, and
4 75-362, Revised Statutes Cumulative Supplement, 2014, are repealed.

5 Sec. 10. Since an emergency exists, this act takes effect when
6 passed and approved according to law.