

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 227

Introduced by DeBoer, 10.

Read first time January 14, 2025

Committee:

- 1 A BILL FOR AN ACT relating to common carriers; to amend section 75-342,
- 2 Reissue Revised Statutes of Nebraska, and section 75-311, Revised
- 3 Statutes Cumulative Supplement, 2024; to provide burdens of proof;
- 4 to change provisions relating to designations of authority, contract
- 5 carriers, and authorization requirements; to delete obsolete
- 6 provisions; to harmonize provisions; and to repeal the original
- 7 sections.
- 8 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** Section 75-311, Revised Statutes Cumulative Supplement,
2 2024, is amended to read:

3 75-311 (1)(a) ~~(1)~~ A certificate shall be issued to any qualified
4 applicant authorizing the whole or any part of the operations covered by
5 the application if it is found after notice and hearing that (i) ~~(a)~~ the
6 applicant is fit, willing, and able properly to perform the service
7 proposed and to conform to the provisions of sections 75-301 to 75-322
8 and the requirements, rules, and regulations of the commission under such
9 sections and (ii) ~~(b)~~ the proposed service, to the extent to be
10 authorized by the certificate, whether regular or irregular, is or will
11 be required by the present or future public convenience and necessity.
12 Otherwise the application shall be denied.

13 (b) The burden shall be on the applicant to show (i) that they are
14 fit, willing, and able properly to perform the service proposed and to
15 conform to the provisions of sections 75-301 to 75-322 and the
16 requirements, rules, and regulations of the commission and (ii) that the
17 proposed service will be responsive to a public demand or need.

18 (c) The burden shall be on any protestant to the application to show
19 that (i) existing carriers are currently meeting, or will meet, the
20 proposed need and (ii) that even if the applicant's service will be
21 responsive to a public demand or need, that applicant would not be able
22 to serve this need in a specified manner without endangering or impairing
23 the operations of existing carriers contrary to the public interest.

24 (2)(a) ~~(2)~~ A permit shall be issued to any qualified applicant
25 therefor authorizing in whole or in part the operations covered by the
26 application if it appears after notice and hearing from the application
27 or from any hearing held on the application that (i) ~~(a)~~ the applicant is
28 fit, willing, and able properly to perform the service of a contract
29 carrier by motor vehicle and to conform to the provisions of such
30 sections and the lawful requirements, rules, and regulations of the
31 commission under such sections and (ii) ~~(b)~~ the proposed operation, to

1 the extent authorized by the permit, will be consistent with the public
2 interest by providing services designed to meet the distinct needs of
3 each individual customer or a specifically designated class of customers
4 as defined in subdivision (7) of section 75-302. Otherwise the
5 application shall be denied.

6 (b) For a designation of authority to provide medicaid nonemergency
7 medical transportation services pursuant to a contract with (i) the
8 Department of Health and Human Services, (ii) a medicaid-managed care
9 organization under contract with the department, or (iii) another agent
10 working on the department's behalf as provided under section 75-303.01,
11 in determining whether the authorization will be consistent with the
12 public interest, the commission shall consult with the Director of
13 Medicaid and Long-Term Care of the Division of Medicaid and Long-Term
14 Care of the department or his or her designee.

15 (3)(a) (3) A designation of authority shall be issued to any
16 regulated motor carrier holding a certificate under subsection (1) of
17 this section or a permit under subsection (2) of this section authorizing
18 such carrier to provide medicaid nonemergency medical transportation
19 services pursuant to a contract with (i) the Department of Health and
20 Human Services, (ii) a medicaid-managed care organization under contract
21 with the department, or (iii) another agent working on the department's
22 behalf as provided under section 75-303.01, if it is found after notice
23 and hearing from the application or from any hearing held on the
24 application that the authorization is or will be required by the present
25 or future convenience and necessity to serve the distinct needs of
26 medicaid clients.

27 (b) The burden shall be on the applicant to show that the proposed
28 service will be responsive to a public demand or need. The burden shall
29 be on any protestant to the application to show that (i) existing
30 carriers are currently meeting, or will meet, the proposed need and (ii)
31 that even if the applicant's service will be responsive to a public

1 demand or need, that applicant would not be able to serve this need in a
2 specified manner without endangering or impairing the operations of
3 existing carriers contrary to the public interest.

4 (c) In determining whether the authorization is or will be required
5 by the present or future convenience and necessity to serve the distinct
6 needs of medicaid clients, the commission shall consult with the Director
7 of Medicaid and Long-Term Care of the Division of Medicaid and Long-Term
8 Care of the department or his or her designee.

9 ~~(4) Until July 1, 2021, no person shall at the same time hold a~~
10 ~~certificate as a common carrier and a permit as a contract carrier for~~
11 ~~transportation of household goods by motor vehicles over the same route~~
12 ~~or within the same territory unless the commission finds that it is~~
13 ~~consistent with the public interest and with the policy declared in~~
14 ~~section 75-301.~~

15 ~~(5) Until July 1, 2021, after the issuance of a certificate or~~
16 ~~permit, the commission shall review the operations of all common or~~
17 ~~contract carriers who hold authority from the commission to determine~~
18 ~~whether there are insufficient operations in the transportation of~~
19 ~~household goods to justify the commission's finding that such common or~~
20 ~~contract carrier has willfully failed to perform transportation under~~
21 ~~sections 75-301 to 75-322 and rules and regulations promulgated under~~
22 ~~such sections. If the commission determines that there are insufficient~~
23 ~~operations, then the commission shall commence proceedings under section~~
24 ~~75-315 to revoke the certificate or permit involved.~~

25 (4) (6) This section shall not apply to transportation network
26 companies holding a permit under section 75-324 or operations pursuant to
27 a contract authorized by sections 75-303.02 and 75-303.03.

28 **Sec. 2.** Section 75-342, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 75-342 No transportation network company or participating driver
31 shall provide transportation for any person under contract with the

1 Department of Health and Human Services or any contractors of the
2 Department of Health and Human Services without specific authorization
3 from the commission. The commission shall grant specific authorization to
4 a requesting transportation network company or participating driver,
5 unless a protestant shows that (1) existing carriers are currently
6 meeting, or will meet, the proposed need for the proposed service and (2)
7 that even if the applicant's service will be responsive to a public
8 demand or need, that applicant would not be able to serve this need in a
9 specified manner without endangering or impairing the operations of
10 existing carriers contrary to the public interest. In order to receive
11 such authorization, the transportation network company or participating
12 driver shall demonstrate that such service is or will be required by the
13 present or future public convenience and necessity.

14 **Sec. 3.** Original section 75-342, Reissue Revised Statutes of
15 Nebraska, and section 75-311, Revised Statutes Cumulative Supplement,
16 2024, are repealed.