

LEGISLATIVE BILL 884

Approved by the Governor April 11, 1988

Introduced by Beyer, 3

AN ACT relating to motor carriers; to amend sections 75-363 and 75-364, Revised Statutes Supplement, 1987; to adopt updated federal regulations relating to motor carrier safety and hazardous materials; to provide an operative date; to repeal the original sections; and to declare an emergency.

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

Section 1. That section 75-363, Revised Statutes Supplement, 1987, be amended to read as follows:

75-363. (1) The parts of the Federal Motor Carrier Safety Regulations, Title 49, Code of Federal Regulations, listed in subdivisions (a) through (h) of this subsection or any other parts referred to by such parts, in existence as of ~~October 1, 1986~~ April 15, 1988, are adopted as Nebraska law. The regulations shall be applicable to all carriers, drivers, and vehicles to which the federal regulations apply and to all vehicles of intrastate motor carriers registered for a gross weight over ten thousand pounds, all intrastate motor carriers in the operation of vehicles registered by such carriers for a gross weight over ten thousand pounds, and all drivers of such vehicles if the drivers are licensed pursuant to sections 60-403.06 to 60-403.10, except as provided in subsection (2) of this section. The Legislature hereby adopts:

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

(b) Part 391--Qualifications Of Drivers;

(c) Part 392--Driving Of Motor Vehicles;

(d) Part 393--Parts And Accessories Necessary For Safe Operations;

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

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

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

(h) Part 398--Transportation Of Migrant Workers.

(2) The regulations shall not apply to farm

trucks registered pursuant to section 60-330 with a gross weight of sixteen tons or less, liquefied petroleum gas tanks with a capacity of three thousand five hundred gallons or less, and fertilizer and agricultural chemical application and distribution equipment transported in units with a capacity of three thousand five hundred gallons or less. The following parts and sections of the Federal Motor Carrier Safety Regulations shall not apply to drivers of registered farm trucks:

- (a) All of Part 391;
- (b) Section 395.08 of Part 395; and
- (c) Section 396.11 of Part 396.

(3) No defect ticket or citation shall be issued pursuant to section 393.42 of Part 393, or pursuant to any other state or federal statute, prior to July 1, 1988, for failure to have functional brakes on any axle which is not the original equipment of the manufacturer.

Sec. 2. That section 75-364, Revised Statutes Supplement, 1987, be amended to read as follows:

75-364. (1) The parts of the Federal Hazardous Material Regulations, Title 49, Code of Federal Regulations, listed below or any other parts referred to by such parts, in existence as of April 15, 1987 ~~1988~~, are adopted as part of Nebraska law and, except as provided in subsection (2) of this section, shall be applicable to all private, common, and contract motor vehicle carriers, drivers of such carriers, and vehicles of such carriers whether engaged in interstate or intrastate commerce:

- (a) Part 171--General Information, Regulations, And Definitions;
- (b) Part 172--Hazardous Materials Tables And Hazardous Materials Communications Regulations;
- (c) Part 173--Shippers-General Requirements For Shipments And Packaging;
- (d) Part 177--Carriage By Public Highway; and
- (e) Part 178--Shipping Container Specifications.

(2) The provisions of subsection (1) of this section shall not apply to the use of fuels, fertilizers, and agricultural chemicals in a normal farming or ranching operation on the farm or ranch.

(3) Liquefied petroleum gas tanks with a capacity of three thousand five hundred gallons or less, anhydrous ammonia tanks with a capacity of three thousand gallons or less, and flammable liquid tanks with a capacity of three thousand gallons or less shall

be exempt from the provisions of subsection (1) of this section to the extent provided in Part 173 and Part 177.

(4) Liquefied petroleum gas tanks with a capacity of three thousand five hundred gallons or less shall be exempt from the provisions of section 173.315(k)(5) adopted under subdivision (1)(c) of this section if such tanks have been inspected and tested in accordance with the State Fire Marshal's rules and regulations.

Sec. 3. This act shall become operative on April 15, 1988.

Sec. 4. That original sections 75-363 and 75-364, Revised Statutes Supplement, 1987, are repealed.

Sec. 5. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.