

LEGISLATIVE BILL 980

Approved by the Governor April 7, 1990

Introduced by Transportation Committee, Lamb, 43,
 Chairperson; Byars, 30; Beyer, 3; Rogers,
 41; Schellpeper, 18; Peterson, 21; Robak, 22;
 Goodrich, 20

AN ACT relating to motor vehicles; to amend sections 60-106, 60-107, 60-107.01, 60-112, and 60-114, Reissue Revised Statutes of Nebraska, 1943, sections 75-364 and 75-366, Revised Statutes Supplement, 1988, and sections 60-462, 60-467, 60-480, 60-4,119, 60-4,122, 60-4,131, 60-4,133, 60-4,134, 60-4,138, 60-4,141, 60-4,142, 60-4,145, 60-4,146, 60-4,148, 60-4,149, 60-4,150, 60-4,156, 60-4,168, 75-302, 75-307, 75-311, 75-358, 75-363, 79-328, and 79-488.06, Revised Statutes Supplement, 1989; to change provisions relating to the issuance and form of certificates of title; to authorize certain contracts; to define and redefine terms; to change and eliminate provisions relating to licenses, permits, and endorsements to operate a school bus; to change provisions relating to commercial driver's licenses and learner's permits; to provide a duty for counties; to provide for and change applicability of penalties; to require certain carriers to comply with certain rules and regulations of the Public Service Commission as prescribed; to change provisions relating to the federal Motor Carrier Safety Regulations and the federal Hazardous Material Regulations; to provide for enforcement of motor carrier laws, rules, and regulations; to harmonize provisions; to provide operative dates; to repeal the original sections, and also sections 60-4,136 and 60-4,147, Revised Statutes Supplement, 1989; and to declare an emergency.

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

Section 1. That section 60-106, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-106. (1) Application for a certificate of title shall be made upon a form prescribed by the Department of Motor Vehicles and shall be sworn to before a notary public or other officer empowered to administer oaths.

(2) If the motor vehicle has tax situs in Nebraska, the application shall be filed with the county clerk of the county in which the vehicle has tax situs as defined in section 77-1240. If the applicant is a nonresident, the application shall be filed in the county in which the transaction is consummated. All applications shall be accompanied by the fee prescribed in section 60-115. If the applicant intends to register the motor vehicle pursuant to section 60-305.09, the application shall be made to the Department of Motor Vehicles. The department shall deliver the certificate to the applicant if there are no liens on the motor vehicle. If there are any liens on the motor vehicle, the department shall deliver or mail the certificate of title to the holder of the first lien on the day of issuance. All certificates of title issued by the department shall be issued in the manner prescribed for the county clerk in section 60-107.

(3) If a certificate of title has previously been issued for the motor vehicle in this state, the application for a new certificate of title shall be accompanied by the certificate of title duly assigned unless otherwise provided for in sections 60-102 to 60-117. If a certificate of title has not previously been issued for the motor vehicle in this state, the application, unless otherwise provided for in such sections, shall be accompanied by a manufacturer's or importer's certificate, as provided for in such sections, a duly certified copy thereof, a certificate of title, a court order issued by a court of record, a manufacturer's certificate of origin, or an assigned registration certificate, if the law of the other state from which the motor vehicle was brought into this state does not have a certificate of title law. The county clerk shall retain the evidence of title presented by the applicant and on which the certificate of title is issued.

(4) The county clerk shall use reasonable diligence in ascertaining whether or not the statements in the application for a certificate of title are true by checking the application and documents accompanying the same with the records of motor vehicles in his or her office. If he or she is satisfied that the applicant is the owner of such motor vehicle and that

the application is in the proper form, the county clerk shall issue a certificate of title over his or her signature and sealed with his or her seal.

(5) In the case of the sale of a motor vehicle, the certificate of title shall be obtained in the name of the purchaser upon application signed by the purchaser, except that for titles to be held by husband and wife, applications may be accepted by the clerk upon the signature of either one as a signature for himself or herself and as agent for his or her spouse.

(6) In all cases of transfers of motor vehicles, commercial trailers, semitrailers, or cabin trailers, the application for a certificate of title shall be filed within fifteen days after the delivery of such ~~motor vehicles, commercial trailers, semitrailers, or cabin trailers~~ vehicle or trailer. ~~Licensed dealers~~ A licensed dealer need not apply for certificates of title for motor vehicles, commercial trailers, semitrailers, or cabin trailers in stock or acquired for stock purposes, but upon transfer of the same, ~~they the licensed dealer~~ shall give the transferee a reassignment of the certificate of title on such ~~motor vehicle, commercial trailer, semitrailer, or cabin trailer~~ or an assignment of a manufacturer's or importer's certificate. If all reassignments on the certificate of title have been used, the licensed dealer shall obtain title in his or her name prior to any subsequent transfer.

(7) An application for a certificate of title shall include a statement that an identification inspection has been conducted on the vehicle unless (a) the title sought is a salvage certificate of title as defined in section 60-129, (b) the surrendered ownership document is a Nebraska certificate of title, a manufacturer's statement of origin, an importer's statement of origin, or a United States Government Certificate of Release of a motor vehicle, or (c) the application for a certificate of title contains a statement that such vehicle is to be registered under section 60-305.09. The statement that an identification inspection has been conducted shall be furnished by the county sheriff of the county in which application is made or by any other holder of a current certificate of training issued pursuant to section 60-121 and shall be in a format as determined by the Department of Motor Vehicles. The clerk may accept a certificate of inspection, approved by the Superintendent of Law Enforcement and Public Safety, from an officer of a state police agency of another

state. For each inspection, a fee of ten dollars shall be paid to the county treasurer. All such fees shall be credited to the county sheriff's vehicle inspection account within the county general fund. The identification inspection required by this subsection shall include examination and notation of the current odometer reading and a comparison of the vehicle identification number with the number listed on the ownership records, except that if a lien is registered against a vehicle and recorded on the vehicle's ownership records, the county clerk shall provide a copy of the ownership records for use in making such comparison. If such numbers are not identical or if there is reason to believe further inspection is necessary, the person performing the inspection shall make a further inspection of the vehicle which may include, but shall not be limited to, examination of other identifying numbers placed on the vehicle by the manufacturer and an inquiry into the numbering system used by the state issuing such ownership records to determine ownership of a vehicle. The identification inspection shall also include a statement that the vehicle identification number has been checked for entry in the National Crime Information Center and the Nebraska Crime Information Service. If there is cause to believe that odometer fraud exists, written notification shall be given to the Attorney General's office. If after such inspection the sheriff or his or her designee determines that the vehicle is not the vehicle described by the ownership records, no statement shall be issued. In the case of an assembled vehicle such inspection shall include, but not be limited to, an examination of the records showing the date of receipt and source of each major component part as defined in section 60-2601.

Sec. 2. That section 60-107, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-107. The county clerk shall issue the certificate of title in triplicate. All certificates of title shall be typewritten. One copy shall be retained by ~~him~~ the clerk in his or her office, and the other copy shall be transmitted, postage prepaid, on the day of issuance to the Department of Motor Vehicles. The county clerk shall sign and affix his or her seal to the original certificate of title and, if there are no liens on the motor vehicle, deliver the certificate to the applicant. If there are one or more liens on the motor vehicle, the certificate of title shall be delivered or

mailed to the holder of the first lien on the day of issuance. For the purpose of ~~this act~~ sections 60-102 to 60-117, the clerks of the various counties shall adopt a circular seal with the words County Clerk of (insert name) County thereon. Such seal shall be used by the county clerk, or the deputy or legal authorized agent of such officer, without charge to the applicant, on any certificate of title, application for certificate of title, duplicate copy, assignment or reassignment, power of attorney, statement, or affidavit pertaining to the issuance of a Nebraska certificate of title. The department shall prescribe a uniform method of numbering certificates of title in such a manner that the county of issuance shall be indicated. The county clerk shall (1) assign numbers to certificates of title in the manner prescribed by the department, (2) file all certificates of title according to regulations to be prescribed by the department, (3) (2) maintain in the office indices for such certificates of title, (4) (3) be authorized to destroy all previous records five years after a subsequent transfer has been made on a vehicle, and (5) (4) be authorized to destroy all certificates of title and all supporting records and documents which have been on file for a period of five years or more from the date of filing the certificate or a notation of lien, whichever shall occur later.

Sec. 3. That section 60-107.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-107.01. Any person holding a certificate of title to a motor vehicle may refile the same with the county clerk to prevent destruction of the clerk's records thereof pursuant to subdivision (5) of section 60-107.

Sec. 4. That section 60-112, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-112. In the event of a lost or destroyed certificate of title, application shall be made upon a form prescribed by the Department of Motor Vehicles. to the clerk of the county where such certificate of title was issued or, if issued by the department, to the department, by the owner of such motor vehicle or the holder of a lien thereon, for a certified copy of the same upon a form certificate of title and shall be accompanied by the fee prescribed by section 60-115. Such The application shall be signed and sworn to by the person making the same. Thereupon the county clerk,

with the approval of the department, or the department shall issue a certified copy of the certificate of title to the person entitled to receive the certificate of title under sections 60-102 to 60-117. If the county clerk's records of the title have been destroyed pursuant to ~~subdivision (5)~~ of section 60-107, the county clerk shall issue a duplicate certificate of title to the person entitled to receive the same upon such showing as the clerk may deem sufficient. If the applicant cannot produce such proof of ownership, he or she may apply directly to the department and submit such evidence as he or she may have, and the department may, ~~thereupon~~, if it finds the evidence sufficient, authorize the county clerk to issue a duplicate certificate of title. The new purchaser shall be entitled to receive an original title upon presentation of the assigned duplicate copy of the certificate of title, properly assigned to the new purchaser, to the county clerk prescribed in subsection (2) of section 60-106. Any purchaser of such motor vehicle may at the time of purchase require the seller of the same to indemnify him or her and all subsequent purchasers of the motor vehicle against any loss which he, she, or they may suffer by reason of any claim presented upon the original certificate. In the event of the recovery of the original certificate of title by the owner, he or she shall forthwith surrender the same to the county clerk or the department for cancellation.

Sec. 5. That section 60-114, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-114. A certificate of title shall be printed upon safety security paper to be selected by the Department of Motor Vehicles. The certificate of title, manufacturer's statement of origin, and assignment of manufacturer's certificate shall be upon forms prescribed by the department and shall may include, but shall not be limited to, county of issuance, date of issuance, certificate of title number, previous certificate of title number, vehicle identification number, year, make, model, and body type of the vehicle, name and address of the owner, acquisition date, issuing county clerk's signature and official seal, and sufficient space for the notation and release of liens, mortgages, or encumbrances, if any. An assignment of certificate of title shall appear on each certificate of title and shall include, but not be limited to, a statement that the owner of the vehicle assigns all his or her right, title, and interest in the vehicle, the

name and address of the assignee, the name and address of the lienholder or secured party, if any, and the signature of the owner, duly notarized. A reassignment by licensed dealer shall appear on each certificate of title and shall include, but not be limited to, a statement that the dealer assigns all his or her right, title, and interest in the vehicle, the name and address of the assignee, the name and address of the lienholder or secured party, if any, the signature of the licensed dealer or designated representative, duly notarized, and the dealer license number. Reassignments shall be printed on the reverse side of each certificate of title as many times as convenient. The department may prescribe a secure power-of-attorney form and may contract with one or more persons to develop, provide, sell, and distribute secure power-of-attorney forms in the manner authorized or required by the federal Truth in Mileage Act of 1986, and amendments thereto, and any other federal law or regulation. Any secure power-of-attorney form authorized pursuant to a contract shall conform to the terms of the contract and be in strict compliance with the requirements of the department, the following form-

CERTIFICATE OF TITLE

No- ---

State of Nebraska, County of ----- ss-

This is to certify that

{Registered Owner's Name}

{Registered Owner's Address in Full}

is the owner of the following described motor vehicle or trailer-

Make	Body Type	Model	Mfr's- Vehicle Id- No-	Year Model	Year Made
.....

having acquired title to such motor vehicle or trailer from

{Name of Previous Owner}

upon which motor vehicle or trailer are the following liens, mortgages, or encumbrances-

	First Lien	Second Lien
Nature of lien-----
Held by-----
Holder's address in full---
Date of notation-----
Clerk's Signature-----

Date of cancellation-----
 Clerk's Signature-----
 {Note- if there are no liens, mortgages, or encumbrances, that fact shall be stated-}
 Witness my hand and official seal this ----- day of ----- 19--

County Clerk

----- By -----
 {Signature of Owner} Deputy

An assignment of certificate of title shall appear on each certificate of title and shall include, but not be limited to, the following form:

ASSIGNMENT OF CERTIFICATE OF TITLE

State of Nebraska }
 } ss-
 County of ----- }

The undersigned, being the owner of the motor vehicle or trailer described in this certificate of title, hereby sells and assigns all his or her right, title, and interest in and to such certificate of title and the motor vehicle or trailer described in the certificate to

{Name of Assignee} {Address of Assignee in full}

The undersigned states and warrants that there are no mortgages, liens, or encumbrances on such motor vehicle or trailer except as noted on the certificate of title-

Date ----- {Signature of Assignor}

{Address in full}

Sworn to before me and subscribed in my presence this ----- day of ----- 19--

{Notary Public}

A reassignment by licensed dealer shall likewise appear on each certificate of title and shall include, but not be limited to, the following form:

REASSIGNMENT BY LICENSED DEALER

To be Filled in by Nebraska Licensed Dealer Only and Delivered with Motor Vehicle to Purchaser-
 State of Nebraska }
 } ss-
 County of ----- }

The undersigned, being a licensed dealer, who purchased the motor vehicle or trailer described in this certificate of title, hereby sells and assigns all his

or her right, title, and interest in and to such certificate of title and the motor vehicle or trailer described in the certificate to

.....
{Name of Assignee} {Address of Assignee}

The undersigned states and warrants that there are no mortgages, liens, or encumbrances on such motor vehicle or trailer except as noted on the certificate of title.

Date Licensed Dealer

License No. By
Sworn to before me and subscribed in my presence this day of 19....

.....
{Notary Public}

An application for a certificate of title shall appear on each certificate of title and shall include, but not be limited to:

APPLICATION FOR CERTIFICATE OF TITLE

State of Nebraska)
) ss-
County of)

..... residing at
{Name of Applicant} {Address in full}

hereby states that he or she is the lawful owner or purchaser of the following described motor vehicle or trailer and makes application for a certificate of title to same:

Make	Body Type	Model	Mfr's- Vehicle Id- No-	Year Model	Year Made
------	-----------	-------	------------------------	------------	-----------

.....
Applicant acquired such motor vehicle or trailer by
{State How Acquired}

from residing at
{Name of Previous Owner}

.....
{Address of Previous Owner in Full}

The following is a full statement of all liens, mortgages, or encumbrances on such motor vehicle or trailer:

Nature	Held by	Address
--------	---------	---------

.....
{Note- If there are no liens, mortgages, or encumbrances, that fact shall be stated-}

Date

(Signature of Applicant)

Sworn to before me and subscribed in my presence this day of 19....

(Notary Public)

The manufacturer's certificate shall be in the following form:

MANUFACTURER'S STATEMENT OF ORIGIN TO A MOTOR VEHICLE

The undersigned MANUFACTURER hereby certifies that the new motor vehicle or trailer described below; the property of such MANUFACTURER, has been transferred this day of 19..... on invoice No-

(Distributor, Dealer, etc.)

whose address is (Street)-

City State Trade Name Year Made Series or Model Body Type No. Cylinders Model Mfr's- Vehicle Id- No- H- P- (SAE) Shipping Weight

The MANUFACTURER further certifies that this was the first transfer of such new motor vehicle or trailer in ordinary trade and commerce-

(Manufacturer)

By: (Address)

An assignment of a manufacturer's certificate shall be in the following form and shall be printed on the reverse side of such manufacturer's certificate as many times as convenient:

ASSIGNMENT OF MANUFACTURER'S CERTIFICATE

State of Nebraska } County of }

The undersigned, being the owner of the motor vehicle or trailer described in this manufacturer's certificate, hereby sells and assigns all his or her right, title, and interest in and to such manufacturer's certificate and the motor vehicle or trailer described in the certificate to-

(Name of Assignee) (Address of Assignee in full)

The undersigned states and warrants that there are no mortgages, liens, or encumbrances on such motor vehicle or trailer-

{Address in Full}

Sworn to before me and subscribed in my presence this ----- day of ----- 19-- -

{Notary Public}

The department may, with the approval of the Attorney General, require additional information on any or all such forms.

Sec. 6. That section 60-462, Revised Statutes Supplement, 1989, be amended to read as follows:
60-462. Sections 60-462 to 60-4,181 and section 16 of this act shall be known and may be cited as the Motor Vehicle Operator's License Act.

Sec. 7. That section 60-467, Revised Statutes Supplement, 1989, be amended to read as follows:
60-467. Disqualification shall mean a withdrawal or the suspension, revocation, or cancellation or any other withdrawal by any state or the Federal Highway Administration of the privilege to operate a commercial motor vehicle.

Sec. 8. That section 60-480, Revised Statutes Supplement, 1989, be amended to read as follows:
60-480. Operators' licenses issued by the Department of Motor Vehicles pursuant to the Motor Vehicle Operator's License Act shall be classified as follows:

- (1) Class O license. The operator's license which authorizes the person to whom it is issued to operate on highways any motor vehicle except a commercial motor vehicle or motorcycle;
- (2) Class M license. The operator's license or endorsement on a Class O license or commercial driver's license which authorizes the person to whom it is issued to operate a motorcycle on highways;
- (3) CDL-commercial driver's license. The operator's license which authorizes the person to whom it is issued to operate a class of commercial motor vehicles or any motor vehicle, except a motorcycle, on highways;
- (4) SCP-school permit. A permit issued to a student between fourteen and sixteen years of age for the purpose of driving to and from school in accordance with the requirements of section 60-4,124;
- (5) FMP-farm permit. A permit issued to a person for purposes of operating farm tractors and other motorized implements of farm husbandry on highways in accordance with the requirements of section 60-4,126;
- (6) LPC-learner's permit. A permit issued to a person at least sixteen years of age which when held

in conjunction with a Class O license or commercial driver's license authorizes the person to operate a commercial motor vehicle for learning purposes when accompanied by a person who is at least twenty-one years of age;

(7) LPD-learner's permit. A permit issued to a person at least fifteen years of age which authorizes the person to operate a motor vehicle, except a commercial motor vehicle, for learning purposes when accompanied by a Nebraska-licensed operator who is at least nineteen years of age;

(8) LPE-learner's permit. A permit issued to a person at least fourteen years of age which authorizes the person to operate a motor vehicle, except a commercial motor vehicle, while learning to drive in preparation for application for a school permit; and

(9) EDP-employment driving permit. A permit issued to a person which authorizes the person to operate a motor vehicle, except a commercial motor vehicle, pursuant to the requirements of sections 60-4,129 and 60-4,130.

Sec. 9. That section 60-4,119, Revised Statutes Supplement, 1989, be amended to read as follows:

60-4,119. (1) A color photograph of the licensee shall be affixed to all state identification cards and operators' licenses except farm permits, school bus operators' permits, replacement and duplicate licenses as provided by subsections (3) and (4) of section 60-4,120, and licenses issued pursuant to subsection (2) of this section. State identification cards and operators' licenses shall be issued by the county treasurer. The director shall negotiate and enter into a contract to provide the necessary equipment, supplies, and forms for the photographs. All costs incurred by the Department of Motor Vehicles under this section shall be paid by the state out of appropriations made to the department. All costs of taking and affixing the photographs shall be paid by the county from the fees provided pursuant to sections 60-4,115 and 60-4,181.

(2) Any person who, at the time of renewal of his or her operator's license, is out of the state may be issued, after proper application, a license without an affixed photograph upon payment of a fee as provided in section 60-4,115. Such application shall be made to the county treasurer of the county in which the applicant resides.

(3) Any operator's license requiring an

affixed color photograph of the licensee issued after July 17, 1986, and any state identification card issued after January 1, 1990, to a minor as defined in section 53-103, as such definition may be amended from time to time by the Legislature, shall have a different background color in such photograph than the background color used in the photograph affixed to the operator's license or state identification card of a person who is not a minor. When a person is no longer a minor, he or she may apply for a replacement license or card with a photograph having the background color used for persons who are not minors. The fee for such replacement license or card shall be the same as the fee for a replacement license issued for a change of address pursuant to subsection (2) of section 60-4,120.

Sec. 10. That section 60-4,122, Revised Statutes Supplement, 1989, be amended to read as follows:

60-4,122. (1) Except as provided in subsections (2) and (3) of this section, no original or renewal operator's license shall be issued to any person until such person has appeared before an examiner to demonstrate his or her ability to operate a motor vehicle safely as provided in section 60-4,114. ~~The director may accept currently valid school transportation vehicle operators' permits issued pursuant to section 79-488-06 in lieu of reexamination for renewal of the operators' licenses of the holders of such permits.~~

(2) Any person who renews his or her Class O license shall appear before an examiner to demonstrate his or her ability to operate a motor vehicle safely as provided in section 60-4,114, except that such person shall be required to demonstrate his or her ability to drive and maneuver a motor vehicle, as provided in subdivision (2) of such section, only at the discretion of the examiner.

(3) Any person who renews his or her Class O license prior to its expiration shall not be required to demonstrate his or her knowledge of the motor vehicle laws of this state as provided in subdivision (3) of section 60-4,114 if he or she presents to the examiner an abstract of his or her driving record which abstract maintained in the department's computerized records shows that such person has had no traffic violations as described in section 39-669.26 from the date the operator's license was last issued to the date the abstract was issued application for renewal is made. A person may apply for and receive an abstract of his or

her driving record from the Department of Motor Vehicles using the procedure prescribed in section 60-483. For purposes of this section, no abstract shall be used if issued more than ninety-five days prior to the expiration of such person's operator's license-

(4) Any person who renews a state identification card shall appear before an examiner and present his or her current state identification card. The examining officer, upon examination of the card, may require one additional form of proof of identification described in section 60-484.

Sec. 11. That section 60-4,131, Revised Statutes Supplement, 1989, be amended to read as follows:

60-4,131. (1) Sections 60-4,132 to 60-4,172 and section 16 of this act shall apply to the operation of any commercial motor vehicle.

(2) For purposes of such sections: 60-4,132 to 60-4,172:

(a) Employer shall mean any person, including the United States, a state, or a political subdivision of a state, who or which owns or leases a commercial motor vehicle or assigns employees to operate a commercial motor vehicle; and

(b) State, when applied to different states of the United States, shall be construed to extend to and include any state of the United States, the District of Columbia, and any province of the Dominion of Canada.

Sec. 12. That section 60-4,133, Revised Statutes Supplement, 1989, be amended to read as follows:

60-4,133. Any person holding a valid Nebraska Class A operator's license issued prior to September 1, 1990, may lawfully operate a commercial motor vehicle, except a truck-tractor as defined in section 60-301 which is registered for more than twenty-four thousand pounds gross vehicle weight, ~~or a school bus as defined in section 60-4,147,~~ and the operator's license shall remain valid for the operation of a commercial motor vehicle until the license expires or is suspended, revoked, or canceled. This section shall terminate on March 31, 1992.

Sec. 13. That section 60-4,134, Revised Statutes Supplement, 1989, be amended to read as follows:

60-4,134. (1) Any person holding a valid Nebraska Class CC operator's license issued prior to September 1, 1990, may lawfully operate a commercial motor vehicle, ~~except a school bus as defined in section~~

60-4,147, and the operator's license shall remain valid for the operation of a commercial motor vehicle until the license expires or is suspended, revoked, or canceled.

(2) Any person holding a valid Nebraska Class CC operator's license issued prior to September 1, 1990, shall be deemed properly licensed to operate any motor vehicle upon the highways of this state except a motorcycle.

(3) Any person who violates the authorization described in this section or section 60-4,133 shall, upon conviction, be guilty of a Class III misdemeanor.

(4) This section shall terminate on March 31, 1992.

Sec. 14. That section 60-4,138, Revised Statutes Supplement, 1989, be amended to read as follows:

60-4,138. (1) Commercial drivers' licenses shall be issued by the Department of Motor Vehicles, shall be classified as provided in subsection (2) of this section, and shall bear such endorsements and restrictions as are provided in subsections (3) and (4) of this section.

(2) Commercial motor vehicle classifications for purposes of commercial drivers' licenses shall be as follows:

(a) Class A Combination Vehicle--Any combination of commercial motor vehicles and towed vehicles with a gross vehicle weight rating of more than twenty-six thousand pounds if the gross vehicle weight rating of the vehicles being towed are in excess of ten thousand pounds;

(b) Class B Heavy Straight Vehicle--Any single commercial motor vehicle with a gross vehicle weight rating of twenty-six thousand one pounds or more or any such commercial motor vehicle towing a vehicle with a gross vehicle weight rating not exceeding ten thousand pounds; and

(c) Class C Small Vehicle--Any single commercial motor vehicle with a gross vehicle weight rating of less than twenty-six thousand one pounds or any such commercial motor vehicle towing a vehicle with a gross vehicle weight rating not exceeding ten thousand pounds comprising:

(i) Motor vehicles designed to transport sixteen or more passengers, including the driver; and

(ii) Motor vehicles used in the transportation of hazardous materials and required to be placarded pursuant to section 75-364.

(3) The endorsements to a commercial driver's license shall be as follows:

(a) T - Double/triple trailers;

(b) P - Passengers;

(c) N - Tank vehicles;

(d) H - Hazardous materials; and

(e) X - Combination tank vehicle and hazardous materials; and

~~(f) SB - School bus;~~

(4) The restrictions restriction to a commercial driver's license shall be: as follows:

~~(a) K L - Operation of only a commercial motor vehicle which is not equipped with air brakes; and~~

~~(b) IN - Operation only of a commercial motor vehicle only in intrastate commerce.~~

Sec. 15. That section 60-4,141, Revised Statutes Supplement, 1989, be amended to read as follows:

60-4,141. (1) Except as provided in sections 60-4,133, and 60-4,134, and ~~60-4,136~~ and subsections (2) and (3) of this section, no person shall operate any class of commercial motor vehicle upon the highways of this state unless such person possesses a valid commercial driver's license authorizing the operation of the class of commercial motor vehicle being operated, except that (a) any person possessing a valid commercial driver's license authorizing the operation of a Class A commercial motor vehicle may lawfully operate any Class B or C commercial motor vehicle and (b) any person possessing a valid commercial driver's license authorizing the operation of a Class B commercial motor vehicle may lawfully operate a Class C commercial motor vehicle. No person shall operate upon the highways of this state any commercial motor vehicle which requires a specific endorsement unless such person possesses a valid commercial driver's license with such endorsement. No person possessing a restricted commercial driver's license shall operate upon the highways of this state any commercial motor vehicle to which such restriction is applicable.

(2) Any person holding an LPC-learner's permit may operate a commercial motor vehicle for learning purposes upon the highways of this state if accompanied by a person who is twenty-one years of age or older, who holds a commercial driver's license valid for the class of commercial motor vehicle being operated, and who occupies the seat beside the person for the purpose of giving instruction in the operation of the commercial motor vehicle.

(3) The provisions of subsection (1) of this section shall not apply to any nonresident until the state of residence of such nonresident begins the issuance of commercial drivers' licenses in conformance with the requirements of the Commercial Motor Vehicle Safety Act of 1986, Public Law 99-570, Title XII, and such nonresident is required by his or her state of residence to possess a commercial driver's license to operate a commercial motor vehicle. Any nonresident who is in this state for a period of thirty consecutive days or more shall apply for a Nebraska-issued commercial driver's license and shall surrender to the Department of Motor Vehicles any operator's license issued to such nonresident by any other state.

(4) Any person who operates a commercial motor vehicle upon the highways of this state in violation of this section shall, upon conviction, be guilty of a Class III misdemeanor.

Sec. 16. No person shall operate a commercial motor vehicle upon the highways of this state while his or her commercial driver's license or privilege to operate a commercial motor vehicle is suspended, revoked, or canceled or while subject to a disqualification or an out-of-service order. Any person who operates a commercial motor vehicle upon the highways of this state in violation of this section shall, upon conviction, be guilty of a Class III misdemeanor.

Sec. 17. That section 60-4,142, Revised Statutes Supplement, 1989, be amended to read as follows:

60-4,142. Any person resident sixteen years of age or older may obtain, on a form to be prescribed by the director, an LPC-learner's permit from the county treasurer by making application to an examiner of the Department of Motor Vehicles. An applicant shall present proof to the examiner that he or she holds a valid Class O operator's license or commercial driver's license or shall successfully complete the vision and written test requirements for the Class O operator's license before an LPC-learner's permit is issued. The LPC-learner's permit shall be valid for a period of six months and shall be renewed or reissued only once within any two-year period. The county treasurer shall charge a fee of five dollars for the issuance or renewal of an LPC-learner's permit.

Sec. 18. That section 60-4,145, Revised Statutes Supplement, 1989, be amended to read as follows:

60-4,145. Upon making any application pursuant to section 60-4,144, any applicant who operates or expects to operate a commercial motor vehicle in interstate or foreign commerce ~~or any applicant otherwise and who is~~ subject to part 391 of the federal Motor Carrier Safety Regulations adopted pursuant to section 75-363 shall certify that the applicant meets the qualification requirements of part 391. ~~Any applicant making such certification shall additionally present to the examiner proof of a physical which conforms to the requirements of part 391-43(e) of the federal Motor Carrier Safety Regulations adopted pursuant to section 75-363.~~ A commercial driver's license examiner may require any applicant making certification pursuant to this section to demonstrate with or without the aid of corrective devices sufficient powers of eyesight to enable him or her to operate a commercial motor vehicle in conformance with the minimum vision requirements of part 391 of the federal Motor Carrier Safety Regulations adopted pursuant to section 75-363. If from the examination given it appears that any applicant's powers of eyesight are such that he or she cannot operate a ~~commercial motor vehicle~~ meet the minimum vision requirements, the examiner shall allow the applicant to present an ophthalmologist's or optometrist's certificate to the effect that the applicant has sufficient powers of eyesight for such purpose before issuing a commercial driver's license to the applicant. If the examination given by the commercial driver's license examiner or the ophthalmologist's or optometrist's certificate indicates that the applicant must wear a corrective device to meet the minimum vision requirements established by this section, the applicant shall have the use of the commercial driver's license issued to him or her restricted to wearing a corrective device while operating a motor vehicle.

Sec. 19. That section 60-4,146, Revised Statutes Supplement, 1989, be amended to read as follows:

60-4,146. Upon making application pursuant to section 60-4,144, any applicant who operates or expects to operate a commercial motor vehicle solely in intrastate commerce ~~or~~ and who is not otherwise subject to part 391 of the federal Motor Carrier Safety Regulations adopted pursuant to section 75-363 shall certify that he or she is not subject to part 391. ~~Any applicant making a certification pursuant to this section shall be issued a commercial driver's license~~

~~restricted to intrastate operation only of a commercial motor vehicle-~~ Any applicant for a Class A commercial driver's license making certification pursuant to this section shall satisfy the examiner that he or she is eighteen years of age or older. Any applicant for a Class B or C commercial driver's license making certification pursuant to this section shall satisfy the examiner that he or she is sixteen years of age or older. Any applicant making certification pursuant to this section shall meet the physical and vision requirements established in section 60-4,118.

Sec. 20. That section 60-4,148, Revised Statutes Supplement, 1989, be amended to read as follows:

60-4,148. All commercial drivers' licenses shall be issued by the Department of Motor Vehicles as provided in section 60-4,149. Successful applicants shall pay to the county treasurer a fee of twenty dollars for an original or renewal commercial driver's license, except that the fee for a commercial driver's license which will be valid for one year or less shall be seven dollars, the fee for a commercial driver's license which will be valid for more than one year but less than two years shall be eleven dollars, and the fee for a commercial driver's license which will be valid for more than two years but less than three years shall be sixteen dollars. Any person making application to add or remove a class of commercial motor vehicle, any endorsement, ~~except a school bus endorsement,~~ or any restriction to or from a previously issued and outstanding commercial driver's license shall pay a fee of five dollars. One dollar and seventy-five cents of the fees for each original, renewal, duplicate, or replacement commercial driver's license and twenty-five cents of each of the original and renewal fees for LPC-learner's permits shall be credited to the general fund of the county and shall be included by the county treasurer in his or her report of fees as provided by law. The balance of the fees provided for by this section shall be remitted by the county treasurer to the State Treasurer for credit to the General Fund.

Sec. 21. That section 60-4,149, Revised Statutes Supplement, 1989, be amended to read as follows:

60-4,149. ~~{}~~ The examination for commercial drivers' licenses by the Department of Motor Vehicles shall occur in and for each county of the State of Nebraska. Each county shall furnish office space for the administration of the examinations, except that two

or more counties may, with the permission of the director, establish a separate facility to jointly conduct the examinations for such licenses. Except as provided for by section 60-4,157, all commercial driver's license examinations shall be conducted by examiners designated by the director. The examiner shall deliver to each successful applicant a certificate entitling the applicant to secure a commercial driver's license. If the examiner refuses to issue such certificate for cause, he or she shall state such cause in writing and deliver the same to the applicant. The successful applicant shall, within thirty days, present his or her certificate to the county treasurer who shall immediately issue the commercial driver's license and collect the fee. The county treasurer shall report the issuance of commercial drivers' licenses and LPC-learners' permits to the department within five days after issuance. The director shall provide each county treasurer with a sufficient number of commercial driver's license blanks to supply the needs of his or her county.

(2) Any applicant who successfully completes the requirements for an original or renewal commercial driver's license or any applicant changing any motor vehicle classification, endorsement, or restriction on a commercial driver's license shall be issued, on a form prescribed by the director, a temporary commercial driver's license by the county treasurer. Temporary commercial drivers' licenses shall be valid for the operation of a commercial motor vehicle for a period not to exceed thirty days.

(3) All applicant information, including such information prescribed by the director as necessary to complete issuance of a permanent commercial driver's license, shall be forwarded immediately by the examiner to the director. Upon receipt of the information, the director shall complete the information inquiries prescribed by section 60-4,153.

(4) Following a determination by the director that the applicant is eligible to hold a commercial driver's license, a permanent commercial driver's license shall be prepared and issued by the department to the applicant. If the director determines that the applicant is not eligible to hold a commercial driver's license, the permanent commercial driver's license shall not be issued and the director shall recall the temporary commercial driver's license.

(5) The director shall provide each county treasurer with a sufficient number of temporary

commercial driver's license blanks to supply the needs of his or her county.

(6) Notwithstanding subsections (2) through (5) of this section, the director may authorize any county treasurer to issue permanent commercial driver's licenses to successful applicants when, in the determination of the director, the examiner conducting commercial driver's license examinations in such county possesses the ability to complete the information inquiries prescribed by section 60-4,153 and determine the eligibility of the applicant to receive a commercial driver's license prior to the issuance of any permanent license. The director may utilize such funds as are appropriated by the legislature to the department to provide examiners with the computer capability to complete the information inquiries prescribed by section 60-4,153. It is the intent of the legislature that the director shall, within the limits of available funding, provide for the issuance of permanent commercial driver's licenses by each county treasurer of this state no later than August 1, 1990.

Sec. 22. That section 60-4,150, Revised Statutes Supplement, 1989, be amended to read as follows:

60-4,150. Any person holding a commercial driver's license who loses his or her license, who requires issuance of a replacement license because of a change of name or address, or whose license is mutilated or unreadable may obtain a duplicate or replacement commercial driver's license by filing with an examiner of the Department of Motor Vehicles an application and affidavit and by furnishing proof of identification in accordance with section 60-484.

Upon the examiner being satisfied that a duplicate or replacement commercial driver's license should be issued, the applicant shall receive such license upon payment of a fee of five dollars to the county treasurer. Duplicate and replacement commercial driver's licenses shall be issued in the manner provided for the issuance of original and renewal commercial driver's licenses as provided for by section 60-4,149. No more than two duplicate or replacement commercial driver's licenses shall be issued to any applicant in any four-year period. Upon issuance of any duplicate or replacement commercial driver's license, the commercial driver's license for which the duplicate or replacement license is issued shall be void.

Sec. 23. That section 60-4,156, Revised Statutes Supplement, 1989, be amended to read as

follows:

60-4,156. A commercial driver's license examiner may waive the driving skills examination when an applicant presents a certified driving record abstract and provides, on a form prescribed by the director, certification that during the two-year period immediately prior to the date of application he or she:

(1) Has not possessed more than one operator's license at any one time;

(2) Has not had any operator's license suspended, revoked, or canceled;

(3) Has not been convicted in any type of motor vehicle for any of the disqualification offenses provided for in section 60-4,168;

(4) Has not been convicted of any violation of state law or local ordinance related to motor vehicle traffic control arising in connection with any traffic accident and has no record of an accident when the applicant was at fault; and

(5) Provides suitable evidence that he or she has previously taken a driving skills examination given by a state with a classified licensing and testing system and that the examination included operation of a representative vehicle for the applicant's commercial driver's license classification or that the applicant has operated, for at least two years immediately preceding application, a vehicle representative of the commercial motor vehicle the applicant operates or expects to operate.

Sec. 24. That section 60-4,168, Revised Statutes Supplement, 1989, be amended to read as follows:

60-4,168. (1) Except as provided in subsection (2) of this section, a person shall be disqualified from driving a commercial motor vehicle for one year:

(a) Upon his or her first conviction, after April 1, 1992, in this or any other state for:

(i) Driving a commercial motor vehicle while under the influence of alcohol or a controlled substance;

(ii) Leaving the scene of an accident involving a commercial motor vehicle driven by the person; or

(iii) Using a commercial motor vehicle in the commission of a felony; or

(b) Upon a first administrative determination, after April 1, 1992, that such person while driving a commercial motor vehicle in this or any other state was

requested to submit to a chemical test of his or her blood, breath, or urine by a law enforcement officer and refused or had a concentration of four-hundredths of one gram or more by weight of alcohol per one hundred milliliters of his or her blood, four-hundredths of one gram or more by weight of alcohol per two hundred ten liters of his or her breath, or four-hundredths of one gram or more by weight of alcohol per one hundred milliliters of his or her urine.

(2) If any of the offenses described in this section occurred while the person was transporting hazardous material in a commercial motor vehicle which required placarding pursuant to section 75-364, the person shall, upon conviction or administrative determination, be disqualified from driving a commercial motor vehicle for three years.

(3) A person shall be disqualified from driving a commercial motor vehicle for life if, after April 1, 1992, he or she is convicted of or administratively determined to have committed a second or subsequent violation of any of the offenses described in subsection (1) of this section or any combination of those offenses arising from two or more separate incidents.

(4) A person shall be disqualified from driving a commercial motor vehicle for a period of not less than sixty days if he or she is convicted in this or any other state of two serious traffic violations or not less than one hundred twenty days if he or she is convicted in this or any other state of three serious traffic violations, arising from separate incidents occurring within a three-year period.

(5) For purposes of this section, conviction shall mean an adjudication of guilt in a court of original jurisdiction, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, a payment of a fine or court costs, or a violation of a condition of release without bail, regardless of whether the penalty is rebated, suspended, or probated.

(6) For purposes of this section, serious traffic violation shall mean:

(a) Speeding in excess of fifteen miles per hour over the legally posted speed limit;

(b) Willful reckless driving as described in section 39-669.03 or reckless driving as described in section 39-669.01; and

(c) Improper lane change as described in

section 39-628:

(d) Following the vehicle ahead too closely as described in section 39-629; and

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

Sec. 25. That section 75-302, Revised Statutes Supplement, 1989, be amended to read as follows:

75-302. As used in For purposes of sections 75-301 to 75-322.04 and in all rules and regulations prescribed by the commission pursuant thereto, unless the context otherwise requires:

(1) Person shall mean any individual, firm, copartnership, corporation, company, association, or joint-stock association and shall include any trustee, receiver, assignee, or personal representative thereof;

(2) Commission shall mean the Public Service Commission;

(3) Certificate shall mean a certificate of public convenience and necessity issued under Chapter 75, article 3, to common carriers by motor vehicle;

(4) Permit shall mean a permit issued under Chapter 75, article 3, to contract carriers by motor vehicle;

(5) Intrastate commerce shall mean commerce between any place in this state and any other place in this state and not in part through any other state;

(6) Highway shall mean the roads, highways, streets, and ways in this state. Any way or means of egress or ingress used by motor dump trucks engaged in construction work shall be construed as a highway for purposes of sections 75-301 to 75-322.04;

(7) Motor vehicle shall mean any vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used upon the highways in the transportation of passengers or property but shall not include any vehicle, locomotive, or car operated exclusively on a rail or rails;

(8) Motor carrier shall mean any person owning, controlling, managing, operating, or causing who or which owns, controls, manages, operates, or causes to be operated any motor vehicle used to transport motor-propelled vehicle used in transporting passengers or property ~~for hire~~ over any public highway in this state;

(9) Private carrier shall mean any motor

carrier which owns, controls, manages, operates, or causes to be operated a motor vehicle to transport passengers or property to or from its facility, plant, or place of business or to deliver to purchasers its products, supplies, or raw materials (a) when such transportation is within the scope of and furthers a primary business of the carrier other than transportation and (b) when not for hire. Nothing in sections 75-301 to 75-322.04 shall apply to private carriers except section 75-307 as it applies to private carriers;

~~{9}~~ {10} Common carrier shall mean any person who or which undertakes to transport passengers or property for the general public in intrastate commerce by motor vehicle for hire, whether over regular or irregular routes, upon the highways of this state;

~~{10}~~ {11} Contract carrier shall mean any motor carrier ~~transporting which transports~~ passengers or property for hire other than as a common carrier, except that any contract carrier ~~providing which~~ provides for hire transportation services on or before January 1, 1972, designed to meet the distinct needs of each individual customer or a specifically designated class of customers shall not have any limitation as to the number of customers it can serve within the class; and

~~{11}~~ {12} Civil penalty shall mean any monetary penalty assessed by the commission due to a violation of Chapter 75, article 3, or section 75-126 as such section applies to any person or carrier specified in Chapter 75, article 3, any term, condition, or limitation of any certificate or permit issued pursuant to Chapter 75, article 3, or any rule, regulation, or order of the commission issued pursuant to Chapter 75, article 3.

Sec. 26. That section 75-307, Revised Statutes Supplement, 1989, be amended to read as follows:

75-307. No certificate or permit shall be issued to a motor carrier or remain in force unless such carrier complies (1) Intrastate motor carriers, including common, contract, and private carriers, shall comply with such reasonable rules and regulations as the commission shall prescribe governing the filing and approval with the commission, the approval of the filings, and the maintenance of proof at such carrier's principal place of business of surety bonds, policies of insurance, qualifications as a self-insurer, or other securities or agreements, in such reasonable amount as

the commission may require, conditioned to pay, within the amount of such surety bonds, policies of insurance, qualifications as a self-insurer, or other securities or agreements, any final judgment recovered against such motor carrier for bodily injuries to or the death of any person resulting from the negligent operation, maintenance, or use of motor vehicles under such certificate or permit or for loss or damage to property of others. The commission may, in its discretion and under such rules and regulations No certificate or permit shall be issued to a common or contract carrier or remain in force unless such carrier complies with this section and the rules and regulations prescribed by the commission pursuant to this section.

(2) After August 1, 1990, the commission shall, pursuant to such rules and regulations as it shall prescribe, require a commercially licensed motor carrier of property excepted by section 75-303 which is not otherwise required to register with the commission pursuant to sections 75-348 to 75-358 to conform to the same filing and approval requirements.

(3) This section shall apply to a private carrier in intrastate commerce (a) which is not otherwise required to register with the commission pursuant to sections 75-348 to 75-358 and (b) which operates a commercially licensed motor vehicle registered for a gross vehicle weight over ten thousand pounds.

(4) The commission may, in its discretion and under such rules and regulations as it shall prescribe, require any certificated carrier to file a surety bond, policies of insurance, qualifications as a self-insurer, or other securities or agreements, in a sum to be determined by the commission, to be conditioned upon such carrier making compensation to shippers or consignees for all property belonging to shippers or consignees and coming into the possession of such carrier in connection with its transportation service. Any carrier which may be required by law to compensate a shipper or consignee for any loss, damage, or default for which a connecting motor common carrier is legally responsible shall be subrogated to the rights of such shipper or consignee under any such bond, policies of insurance, or other securities or agreements, to the extent of the sum so paid.

(5) In carrying out the provisions of this section, the commission may classify motor carriers taking into consideration the hazards of the operations of such carriers and the value of commodities carried,

but nothing contained in this section shall be construed as authorizing the commission to compel motor carriers other than common carriers to carry cargo insurance.

Sec. 27. That section 75-311, Revised Statutes Supplement, 1989, be amended to read as follows:

75-311. A certificate shall be issued to any qualified applicant therefor, authorizing the whole or any part of the operations covered by the application, if it is found after notice and hearing that the applicant is fit, willing, and able properly to perform the service proposed and to conform to the provisions of sections 75-301 to 75-322.04 and the requirements, rules, and regulations of the commission thereunder and that the proposed service, to the extent to be authorized by the certificate, whether regular or irregular, passenger or property, is or will be required by the present or future public convenience and necessity. ~~Otherwise~~ ; ~~otherwise~~ such application shall be denied. A permit shall be issued to any qualified applicant therefor, authorizing in whole or in part the operations covered by the application, if it appears after notice and hearing from the application or from any hearing held thereon that the applicant is fit, willing, and able properly to perform the service of a contract carrier by motor vehicle and to conform to the provisions of sections 75-301 to 75-322.04 and the lawful requirements, rules, and regulations of the commission thereunder and that the proposed operation, to the extent authorized by the permit, will be consistent with the public interest by providing services designed to meet the distinct needs of each individual customer or a specifically designated class of customers as defined in subdivision ~~(10)~~ (11) of section 75-302. ~~Otherwise~~, such application shall be denied. No person shall at the same time hold a certificate as a common carrier and a permit as a contract carrier authorizing operation for the transportation of property by motor vehicles over the same route or within the same territory unless the commission ~~shall find finds~~ that it is consistent with the public interest and with the policy declared in section 75-301. After the issuance of a certificate or permit, the commission shall review the annual reports of all common or contract carriers filed with the commission to determine if there are insufficient operations in the transportation of regulated commodities to justify the commission's finding that such common or contract carrier has willfully failed to

perform transportation under the provisions of sections 75-301 to 75-322.04 and rules and regulations promulgated thereunder. If the commission determines that there is such insufficiency of operations, then the commission shall commence proceedings under the provisions of section 75-315 to revoke the certificate or permit involved.

Sec. 28. That section 75-358, Revised Statutes Supplement, 1989, be amended to read as follows:

75-358. Any person, private carrier, common carrier, or contract carrier operating any motor vehicle in violation of knowingly and willfully violating any provision of sections 75-348 to 75-358, or any rule, or regulation, or order of the commission, or any term or condition of any registration shall be guilty of a Class IV misdemeanor and shall also be subject to the provisions of sections 75-322.02 to 75-322.04. Each day of such violation shall constitute a separate offense.

Sec. 29. That section 75-363, Revised Statutes Supplement, 1989, be amended to read as follows:

75-363. (1) The parts of the federal Motor Carrier Safety Regulations, 49 C.F.R., listed in subdivisions (a) through ~~(h)~~ (j) of this subsection or any other parts referred to by such parts, in existence as of ~~April 15, 1989~~ January 1, 1990, are adopted as Nebraska law. The regulations shall be applicable to all carriers, drivers, and vehicles to which the federal regulations apply, to all vehicles of intrastate motor carriers registered for a gross weight over ten thousand pounds, to all intrastate motor carriers in the operation of vehicles registered by such carriers for a gross weight over ten thousand pounds, and to all drivers of such vehicles if the drivers are ~~licensed pursuant to sections 60-403-06 to 60-403-10~~ operating a commercial motor vehicle as defined in section 60-465 which requires a Class A commercial driver's license except as provided in ~~subsection (2)~~ subsections (2) and (3) of this section. The Legislature hereby adopts:

(a) Part 385--Safety Fitness Procedures;

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

~~(b)~~ (c) Part 391, except section 391.15(c) and subpart H, sections 391.81 through 391.123, Controlled Substance Testing --Qualifications Of Drivers;

~~(e)~~ (d) Part 392--Driving Of Motor Vehicles;

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

(f) Part 394--Notification, Reporting and Recording of Accidents;

~~(e)~~ (g) Part 395--Hours Of Service Of Drivers;
~~(f)~~ (h) Part 396--Inspection, Repair And Maintenance;

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

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

(2) Subpart H, sections 391.81 through 391.123, Controlled Substance Testing of part 391 of the federal Motor Carrier Safety Regulations, 49 C.F.R., or any other parts referred to by such subpart as in existence as of January 1, 1990, is adopted as Nebraska law. Subpart H of part 391 shall apply to all carriers and drivers to which the federal regulations apply and to all motor carriers and drivers of motor carriers who operate a motor vehicle in intrastate commerce which has a gross vehicle weight rating in excess of twenty-six thousand pounds.

(3) The regulations adopted in subsections (1) and (2) of this section 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.

(4) For purposes of this section, intrastate motor carriers shall not include any motor carrier or driver excepted from the federal Motor Carrier Safety Regulations by section 390.3(f) of part 390.

Sec. 30. That section 75-364, Revised Statutes Supplement, 1988, be amended to read as follows:

75-364. (1) The parts of the federal Hazardous Material Regulations, 49 C.F.R., listed below or any other parts referred to by such parts, in existence as of ~~April 15, 1988~~ January 1, 1990, 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. 31. That section 75-366, Revised Statutes Supplement, 1988, be amended to read as follows:

75-366. For the purpose of enforcing sections 75-307, 75-352, 75-363, and 75-364, any officer of the carrier enforcement division of the Nebraska State Patrol or the carrier enforcement division {1} any officer of the Nebraska State Patrol may, upon demand, inspect the accounts, records, and equipment of any carrier or shipper. For the purpose of enforcing sections 75-363 and 75-364, any officer of the carrier enforcement division of the Nebraska State Patrol or any officer of the Nebraska State Patrol and {2} shall have the authority of special agents of the Federal Highway Administration.

Sec. 32. Enforcement of sections 75-307 and 75-352 shall be carried out by the Public Service Commission and by the carrier enforcement division of the Nebraska State Patrol or the Nebraska State Patrol pursuant to the rules and regulations adopted and

promulgated by the commission to enforce such sections.

Sec. 33. Any person, private carrier, common carrier, or contract carrier operating any motor vehicle in violation of the provisions of section 75-307 or 75-352 or any rule, regulation, or order of the Public Service Commission pertaining to either such section shall be guilty of a Class IV misdemeanor. Each day of such violation shall constitute a separate offense.

Sec. 34. That section 79-328, Revised Statutes Supplement, 1989, be amended to read as follows:

79-328. The State Board of Education shall have the power and it shall be its duty:

(1) To appoint and fix the compensation of the Commissioner of Education;

(2) To remove the commissioner from office at any time for conviction of any crime involving moral turpitude or felonious act, for inefficiency, or for willful and continuous disregard of his or her duties as commissioner or of the directives of the board;

(3) Upon recommendation of the commissioner, to appoint and fix the compensation of a deputy commissioner and all professional employees of the board;

(4) To organize the State Department of Education into such divisions, branches, or sections as may be necessary or desirable to perform all its proper functions and to render maximum service to the board and to the state school system;

(5) To provide, through the commissioner and his or her professional staff, enlightened professional leadership, guidance, and supervision of the state school system, including educational service units. In order that the commissioner and his or her staff may carry out their duties, the board shall, through the commissioner: (a) Provide supervisory and consultative services to the schools of the state; (b) issue materials helpful in the development, maintenance, and improvement of educational facilities and programs; (c) establish rules and regulations which govern standards and procedures for the approval and legal operation of all schools in the state and for the accreditation of all schools requesting state accreditation. All public, private, denominational, or parochial schools shall either comply with the accreditation or approval requirements prescribed in this section and section 79-4,140.16 or, for those schools which elect not to meet accreditation or approval requirements, the requirements prescribed in this section and subsections

(2) through (4) of section 79-1701. Such standards and procedures shall be based upon the program of studies, guidance services, the number and preparation of teachers in relation to the curriculum and enrollment, instructional materials and equipment, science facilities and equipment, library facilities and materials, and health and safety factors in buildings and grounds. Rules and regulations which govern procedures and standards for private, denominational, and parochial schools which elect, pursuant to the procedures prescribed in subsections (2) through (4) of section 79-1701, not to meet state accreditation or approval requirements shall be based upon evidence that such schools offer a program of instruction leading to the acquisition of basic skills in the language arts, mathematics, science, social studies, and health. Such rules and regulations may include a provision for the visitation of such schools and regular achievement testing of students attending such schools in order to insure that such schools are offering instruction in the basic skills listed in this subdivision. Any arrangements for visitation or testing shall be made through a parent representative of each such school. The results of such testing may be used as evidence that such schools are offering instruction in such basic skills but shall not be used to measure, compare, or evaluate the competency of students at such schools; (d) adopt and promulgate rules and regulations for the approval of high schools for the collection of nonresident high school tuition money in accordance with the rules and regulations provided for in this subdivision, except that the State Board of Education shall approve a school for the collection of nonresident high school tuition money when a hardship would result to the students and a substantial effort is being made to comply with such rules and regulations; (e) institute a statewide system of testing to determine the degree of achievement and accomplishment of all the students within the state's school systems if it determines such testing would be advisable; (f) prescribe a uniform system of records and accounting for keeping adequate educational and financial records, for gathering and reporting necessary educational data, and for evaluating educational progress; (g) cause to be published laws, rules, and regulations governing the schools and the school lands and funds with explanatory notes for the guidance of those charged with the administration of the schools of the state; (h) approve teacher education programs conducted in Nebraska institutions of higher

education designed for the purpose of certificating teachers and administrators; (i) approve teacher evaluation policies and procedures developed by school districts and educational service units; and (j) approve general plans and adopt educational policies, standards, rules, and regulations for carrying out the board's responsibilities and those assigned to the State Department of Education by the Legislature;

(6) To adopt and promulgate rules and regulations for the guidance, supervision, accreditation, and coordination of educational service units. Such rules and regulations for accreditation shall include, but not be limited to, (a) a requirement that programs and services offered the school district by each educational service unit shall be evaluated on a regular basis, but not less than every seven years, to assure that educational service units remain responsive to school district needs and (b) guidelines for the use and management of funds, generated from the property tax levy and other sources of revenue as may be available to the educational service units, to assure that public funds are used to accomplish the purposes and goals assigned to the educational service units by section 79-2201.02. The State Board of Education shall establish procedures to encourage the coordination of activities among educational service units and to encourage effective and efficient educational service delivery on a statewide basis;

(7) To submit a biennial report to the Governor and the Clerk of the Legislature covering the actions of the board, the operations of the State Department of Education, and the progress and needs of the schools and to recommend such legislation as may be necessary to satisfy these needs;

(8) To cause to be prepared and distributed reports designed to acquaint school district officers, teachers, and patrons of the schools with the conditions and needs of the schools;

(9) To provide for consultation with professional educators and lay leaders for the purpose of securing advice deemed necessary in the formulation of policies and in the effectual discharge of its duties;

(10) To cause such studies, investigations, and reports to be made and such information assembled as are necessary for the formulation of policies, for making plans, for evaluating the state school program, and for making essential and adequate reports;

(11) To submit to the Governor and the

Legislature a budget necessary to finance the state school program under its jurisdiction, including the internal operation and maintenance of the State Department of Education;

(12) To interpret its own policies, standards, rules, and regulations and, upon reasonable request, hear complaints and disputes arising therefrom;

(13) With the advice of the Department of Motor Vehicles, to adopt and promulgate rules and regulations containing reasonable standards, not inconsistent with existing statutes, governing: (a) The general design, equipment, color, operation, and maintenance of any vehicle with a manufacturer's rated seating capacity of ~~sixteen~~ eleven or more passengers, ~~including the driver~~; used for the transportation of school children; and (b) the equipment, operation, and maintenance of any vehicle with a capacity of ~~fifteen~~ ten or less passengers, ~~including the driver~~; used for the transportation of school children, when such vehicles are either owned or operated, or owned and operated under contract with any school district in this state. Similar rules and regulations shall be adopted and promulgated for operators of such vehicles as to physical and mental qualities, driving skills and practices, and knowledge of traffic laws, rules, and regulations which relate to school bus transportation. Such traffic rules and regulations shall by reference be made a part of any such contract with a school district. Any officer or employee of any school district who violates any of the traffic rules or regulations or fails to include obligations to comply with the traffic rules and regulations in any contract executed by him or her on behalf of a school district shall be guilty of a Class V misdemeanor and shall, upon conviction thereof, be subject to removal from office or employment. Any person operating a school bus under contract with a school district who fails to comply with any of such traffic rules and regulations shall be guilty of breach of contract, and such contract shall be canceled after notice and hearing by the responsible officers of such school district;

(14) To accept, on behalf of the Nebraska School for the Visually Handicapped, on behalf of the Nebraska School for the Deaf, or on behalf of any school for children with mental retardation which is exclusively owned by the State of Nebraska and under the control and supervision of the State Department of Education, devises of real property or donations or

bequests of other property, or both, if in its judgment any such devise, donation, or bequest is for the best interest of any such school or the students attending thereat, or both, and may cause any such real estate to be irrigated or otherwise improved when in its judgment it would be advisable to do so; and

(15) Upon acceptance of any devise, donation, or bequest as provided in this section, to administer and carry out such devise or bequest in accordance with the terms and conditions thereof. If not prohibited by the terms and conditions of any such devise, donation, or bequest, it may sell, convey, exchange, or lease property so devised, donated, or bequeathed upon such terms and conditions as it deems best and deposit all money derived from any such sale or lease in the State Department of Education Trust Fund.

Each member of the Legislature shall receive a copy of the report required by subdivision (7) of this section by making a request for it to the commissioner.

None of the duties prescribed in this section shall prevent the board from exercising such other duties as in its judgment may be necessary for the proper and legal exercise of its obligations.

Sec. 35. That section 79-488.06, Revised Statutes Supplement, 1989, be amended to read as follows:

79-488.06. (1) ~~Before operating any school bus designed to carry fifteen or fewer passengers, including the driver; any~~ Any person operating a school bus, designed to carry fifteen or fewer passengers, including the driver, including any such school bus which transports pupils by direct contract with the pupils or their parents and not owned by or under contract with the school district or nonpublic school, before the opening of a school term or before operating a school bus, shall each year submit himself or herself to (a) an examination, to be conducted by a driver's license examiner of the Department of Motor Vehicles, to determine his or her qualifications to operate such bus and (b) an examination by a licensed physician to determine whether or not he or she meets the physical and mental standards established pursuant to subdivision (13) of section 79-328 and shall furnish to the board of education or governing authority of a nonpublic school and the Director of Motor Vehicles a written report of each such examination on standard forms prescribed by the State Department of Education, signed by the person conducting the same, showing that he or she is qualified to operate a school bus and that he or she meets the

physical and mental standards. If the Director of Motor Vehicles determines that the person is so qualified and meets such standards, a special school transportation vehicle bus operator's permit in such form as the director prescribes shall be issued to him or her. No contract shall be entered into until such permit has been received and exhibited to the board of education or the governing authority of a nonpublic school. The holder of such permit shall have it on his or her person at all times while operating a school bus.

(2) No person shall operate any school transportation vehicle which carries sixteen or more passengers, including the driver, for any school district or nonpublic school until:

(a) If the operator is a resident of this state, such operator has received and exhibited to the board of education or the governing authority of a nonpublic school a valid Nebraska commercial driver's license with a school bus endorsement. The Department of Motor Vehicles shall require each applicant for a school bus endorsement to a commercial driver's license to meet driver qualification and physical and mental standards established pursuant to subdivision (13) of section 79-328 before any commercial driver's license with a school bus endorsement is issued to such applicant; or

(b) If the operator is a nonresident of this state, such nonresident operator has received and exhibited to the board of education or the governing authority of a nonpublic school a valid commercial driver's license bearing an endorsement for passengers if the nonresident's state of residence offers the issuance of a commercial driver's license which complies with the requirements of the Commercial Motor Vehicle Safety Act of 1986, Public Law 99-570, Title XII, or a valid operator's license issued by the nonresident's state of residence. The nonresident operator shall additionally furnish to the board of education or governing authority of a nonpublic school a certificate of competence to operate a school bus. The certificate of competence to operate a school bus shall be on a form prescribed by the State Department of Education and signed by a commercial driver's license examiner of the Department of Motor Vehicles indicating such nonresident operator is qualified to operate a school bus and that compliance with the driver qualification and physical and mental standards established pursuant to subdivision (13) of section 79-328 has been successfully demonstrated by the nonresident operator. The

certificate of competence to operate a school bus shall be retained and kept in the files of the board of education or governing authority of a nonpublic school. Certificates issued pursuant to this subdivision shall be valid for a period of one year from the date of issuance.

(3) It shall be unlawful for any person operating a school bus to be or remain on duty for a longer period than sixteen consecutive hours. When any person operating a bus has been continuously on duty for sixteen hours, he or she shall be relieved and not be permitted or required to again go on duty without having at least ten consecutive hours' rest off duty, and no such operator, who has been on duty sixteen hours in the aggregate in any twenty-four-hour period, shall be required or permitted to continue or again go on duty without having had at least eight consecutive hours off duty.

(4) (3) Any person violating this section shall be guilty of a Class V misdemeanor. The contract shall be canceled as provided in subdivision (13) of section 79-328.

Sec. 36. Sections 6 to 23, 34, 35, and 37 of this act shall become operative on September 1, 1990. Sections 24 and 38 of this act shall become operative on April 1, 1992. The other sections of this act shall become operative on their effective date.

Sec. 37. That original sections 60-462, 60-467, 60-480, 60-4,119, 60-4,122, 60-4,131, 60-4,133, 60-4,134, 60-4,138, 60-4,141, 60-4,142, 60-4,145, 60-4,146, 60-4,148, 60-4,149, 60-4,150, 60-4,156, 79-328, and 79-488.06, Revised Statutes Supplement, 1989, and also sections 60-4,136 and 60-4,147, Revised Statutes Supplement, 1989, are repealed.

Sec. 38. That original section 60-4,168, Revised Statutes Supplement, 1989, is repealed.

Sec. 39. That original sections 60-106, 60-107, 60-107.01, 60-112, and 60-114, Reissue Revised Statutes of Nebraska, 1943, sections 75-364 and 75-366, Revised Statutes Supplement, 1988, and sections 75-302, 75-307, 75-311, 75-358, and 75-363, Revised Statutes Supplement, 1989, are repealed.

Sec. 40. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.