

LEGISLATIVE BILL 413

Approved by the Governor June 4, 1993

Introduced by Transportation Committee: Kristensen, 37, Chairperson;
Byars, 30; Day, 19; Fisher, 35; Horgan, 4;
Pedersen, 39; Pirsch, 10; Schmitt, 41

AN ACT relating to vehicles; to amend sections 75-110, 75-303, 75-349, and 75-353, Reissue Revised Statutes of Nebraska, 1943, section 75-352, Revised Statutes Supplement, 1992, and section 39-6,177, Revised Statutes Supplement, 1992, as amended by section 35, Legislative Bill 575, Ninety-third Legislature, First Session, 1993; to change exceptions from vehicle width restrictions for farm equipment dealers; to require rules and regulations for the single state insurance registration system for motor carriers provided for in federal law; to change provisions relating to regulation of carriers; to eliminate the Interstate Operating Authority Agreement Act; to harmonize provisions; to provide operative dates; to provide severability; to repeal the original sections, and also sections 75-372 to 75-380, Revised Statutes Supplement, 1992; and to declare an emergency.

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

Section 1. That section 39-6,177, Revised Statutes Supplement, 1992, as amended by section 35, Legislative Bill 575, Ninety-third Legislature, First Session, 1993, be amended to read as follows:

39-6,177. (1) No vehicle which exceeds a total outside width of one hundred two inches, including any load but excluding designated safety devices, shall be permitted on any portion of the National System of Interstate and Defense Highways. The Director-State Engineer shall adopt and promulgate rules and regulations, consistent with federal requirements, designating safety devices which shall be excluded in determining vehicle width.

(2) No vehicle which exceeds a total outside width of one hundred two inches, including any load but excluding designated safety devices, shall be permitted on any highway which is not a portion of the National System of Interstate and Defense Highways, except that such prohibition shall not apply to:

(a) Farm equipment in temporary movement during daylight hours or during hours of darkness when the clearance light requirements of section 39-6,127 are fully complied with, in the normal course of farm operations;

(b) Combines eighteen feet or less in width, while in the

normal course of farm operations and while being driven during daylight hours or during hours of darkness when the clearance light requirements of section 39-6,127 are fully complied with;

(c) Combines in excess of eighteen feet in width, while in the normal course of farm operations, while being driven during daylight hours for distances of twenty-five miles or less on highways, and while preceded by a well-lighted pilot vehicle or flagperson, except that such combines may be driven on highways while in the normal course of farm operations for distances of twenty-five miles or less and while preceded by a well-lighted pilot vehicle or flagperson during hours of darkness when the clearance light requirements of section 39-6,127 are fully complied with;

(d) Combines and vehicles used in transporting combines, and only when transporting combines, to be engaged in harvesting, while being transported into or through the state during daylight hours, when the total width including the width of the combine being transported does not exceed fifteen feet, except that vehicles used in transporting combines may, when necessary to the harvesting operation, travel unloaded for distances not to exceed twenty-five miles, while the combine to be transported is engaged in a harvesting operation;

(e) Farm equipment dealers hauling, driving, delivering, or picking up farm equipment, including portable livestock buildings not exceeding fourteen ~~fifteen~~ feet in width, or implements of husbandry during daylight hours; ~~and not in inclement weather;~~

(f) Alfalfa harvesting machinery in temporary movement during daylight hours and hours of darkness when (i) the clearance light requirements of section 39-6,127 are fully complied with, (ii) there is, on the front vehicle and above the line of the regular lights of such vehicle, a flashing, amber-colored light at least four inches in diameter and clearly visible to traffic approaching from any direction, and (iii) there is a well-lighted pilot vehicle or flagperson at least three hundred feet in advance of such vehicles to give warning of the approach of overwidth equipment, and such prohibition shall not apply to equipment of thirteen feet or less in width to be used in highway or other public construction or in agricultural land treatment in temporary movement during daylight hours on roads other than dustless-surfaced state highways and for necessary access to points on such highways;

(g) Livestock forage vehicles loaded or unloaded that comply with subsection (2) of section 39-6,100;

(h) During daylight hours only, vehicles en route to pick up, delivering, or returning unloaded from delivery of baled livestock forage which, including the load if any, may be twelve feet in width;

(i) Mobile homes or prefabricated livestock buildings not exceeding sixteen feet in width and with an outside tire width dimension not exceeding one hundred twenty inches moving during daylight hours;

(j) A rubber-tired crane with a fixed load when (i) such vehicle will be transported on a state highway, excluding any portion of the National System of Interstate and Defense Highways, on a city street,

or on a road within the corporate limits of a city, (ii) the city in which the crane is intended to be transported has authorized a one-day permit for the transportation of the crane, specifying the route to be used and the hours during which the crane can be transported, except that no permit shall be issued by a city for travel on a state highway containing a bridge or structure which is structurally inadequate to carry the crane as determined by the Department of Roads, (iii) such vehicle will be escorted by another vehicle or vehicles assigned by the city, (iv) such vehicle's gross weight does not exceed eighty-five thousand pounds, if a four-axle crane, or sixty-seven thousand pounds, if a three-axle crane, and (v) if a four-axle crane, the maximum weight on each set of tandem axles does not exceed forty-two thousand five hundred pounds, or if a three-axle crane, the maximum weight on the front axle does not exceed twenty-five thousand pounds and the total maximum weight on the rear tandem axles does not exceed forty-two thousand five hundred pounds; or

(k) Vehicles which have been issued a permit pursuant to section 39-6,181.01.

(3) The Director-State Engineer, with respect to highways under his or her jurisdiction, may designate certain highways upon which vehicles of no more than ninety-six inches in width may be permitted to travel. Highways so designated shall be limited to one or more of the following: (a) Highways with traffic lanes of ten feet or less; (b) highways upon which are located narrow bridges; and (c) highways which because of sight distance, surfacing, unusual curves, topographic conditions, or other unusual circumstances would not in the opinion of the Director-State Engineer safely accommodate vehicles of more than ninety-six inches in width.

Sec. 2. That section 75-110, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

75-110. ~~The commission~~ Public Service Commission shall adopt rules for the government of its proceedings, including rules of procedure for notice and hearing. The commission shall also promulgate regulations which the commission deems necessary to regulate persons within the commission's jurisdiction. The commission shall not take any action affecting persons subject to the commission's jurisdiction unless such action be taken pursuant to a rule, regulation, or statute.

The commission shall adopt and promulgate all rules and regulations necessary to enable the State of Nebraska to participate in the single state insurance registration system for motor carriers authorized by Section 4005 of the Intermodal Surface Transportation Efficiency Act of 1991, 49 U.S.C., and by applicable rules and regulations of the Interstate Commerce Commission. No later than December 1, 1993, the Public Service Commission shall report to the Transportation Committee of the Legislature on the final registration plan adopted by the Interstate Commerce Commission.

Sec. 3. That section 75-303, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

75-303. Sections 75-301 to 75-322.04 shall apply to the

transportation of passengers or property by motor carriers for hire engaged in intrastate commerce except:

(1) A motor carrier for hire engaged in the transportation of school children and teachers to and from school;

(2) A motor carrier for hire operated in connection with a part of a streetcar system;

(3) A motor carrier for hire engaged in the transportation of newspapers under a contract with the publisher or a distributor thereof if no other property or person is being transported for hire on the same load with such newspapers;

(4) The operation of any motor carrier owned in or within a radius of five miles of the corporate limits of any city or village of this state engaged in the transportation of property, except carriers of hazardous materials who are subject to section 75-364, within such city or village or within a radius of five miles beyond the corporate limits thereof such radius;

(5) To ranch, dairy, or farm products, including livestock, being transported by motor vehicle from or to any ranch, dairy, farm, feedlot, or market;

(6) To supplies or merchandise being transported by motor vehicle from or to any ranch, dairy, feedlot, or farm for use thereon when originating at or destined to a neighboring trading point or points;

(7) To ambulances or their owners, to hearses, or to automobiles used exclusively as an incident to conducting a funeral;

(8) To motor vehicles owned and operated by any industrial, processing, or manufacturing plant when used by such plant in the transportation of raw materials and supplies to its plant or plants, or in the delivery of its products, supplies, or raw materials to purchasers thereof, when not for hire;

(9) To star route carriers employed by the post office department of the United States while operating a motor vehicle not exceeding one-half ton manufacturer's rated capacity on their regular routes;

(10) To wrecked or disabled motor vehicles being transported by winch or tow truck;

(11) To a motor carrier exempt by the provisions of subdivision (1) of this section who hauls for hire; (a) persons of a religious, fraternal, educational, or charitable organization, (b) pupils of a school to athletic events, (c) players of American Legion baseball teams when the point of origin or termination is within five miles of the domicile of the carrier, and (d) the elderly, as defined in section 13-1203, and their spouses and dependents under a contract with a municipality or county authorized in section 13-1208;

(12) To motor vehicles owned and operated by farmers or ranchers when hauling gravel or other road building material by agreement with the county board of the county in which their farms or ranches are situated for use upon the public roads within such county and when the compensation for the use of such motor vehicles shall not exceed

the reimbursement for the motor vehicle fuel used during such hauling;

(13) A motor carrier operated by a city and engaged in the transportation of passengers, and such exempt operations shall be no broader than those authorized in intrastate commerce at the time the city or other political subdivision assumed ownership of the operation;

(14) Motor vehicles owned and operated by a nonprofit organization which has been exempted from the payment of federal income taxes, as provided by section 501(c)(4), Internal Revenue Code, of 1954, transporting solely those persons over age sixty, those persons who are spouses and dependents of persons over age sixty, and the handicapped;

(15) A motor carrier engaged in the transportation of passengers operated by a transit authority created under and acting pursuant to the laws of the State of Nebraska;

(16) A motor carrier operated by a municipality or county, as authorized in section 13-1208, in the transportation of the elderly;

(17) Motor vehicles having a seating capacity of twenty or less, which are operated by a governmental subdivision or a qualified public purpose organization, as defined in section 13-1203, engaged in the transportation of passengers in the state; and

(18) A motor carrier engaged in the transportation or movement of livestock and poultry feed, or livestock and poultry feed and related health products and supplements when transported in the same vehicle, between a livestock and poultry feed manufacturer and the manufacturer's dealer as long as if such transportation is performed on a vehicle licensed under the provisions of section 60-305.09 or 60-331.

Sec. 4. That section 75-349, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

75-349. Applications for registration shall be made to the ~~commission~~ Public Service Commission in writing, shall be verified under oath, and shall be in such form and shall contain such information as the commission shall require by rule or regulation. ~~Such required information shall include statements of the ownership, motor vehicle equipment to be used within the state and a description of the products proposed to be transported and the territory or routes to be traveled in such transportation.~~ Whenever the applicant is a motor common or contract carrier in interstate commerce, ~~in lieu of the foregoing required description~~ there shall be attached to the original of the application a copy of the operating authority issued to the applicant by the Interstate Commerce Commission. Upon receipt of an application, which is in compliance with the provisions of sections 75-348 to 75-358 and the rules and regulations promulgated by the ~~commission~~ Public Service Commission thereunder, and the filing fee, if any, required by law, the commission shall approve the application for registration.

Sec. 5. That section 75-352, Revised Statutes Supplement, 1992, be amended to read as follows:

75-352. It shall be unlawful for any common, contract, or private carrier to conduct any operations under the registration provided

for by sections 75-348 to 75-358 until such carrier has registered with the ~~commission each motor vehicle~~ Public Service Commission the number of motor vehicles to be operated thereunder and has met the insurance and bond requirements provided for in section 75-307 and ~~such all~~ motor vehicles are identified as being registered with the commission in a manner to be provided in rules and regulations which shall be adopted by the commission in conformance with federal law and Interstate Commerce Commission regulations. It shall be unlawful for any common, contract, or private carrier not domiciled in this state to conduct operations under such registration unless such carriers make the filings and pay the fees provided for in sections 75-348 to 75-358 through an agent designated by the ~~commission~~ Public Service Commission, which agent shall be a corporation, organized under the laws of this state, not for profit, and it has been exempted from the payment of federal income taxes, as provided by section 501(c)(4), (6), or (8) of the Internal Revenue Code, ~~of 1954~~. It shall be the duty of the designated agent to:

(1) Serve as the true and lawful attorney for such carriers upon whom all legal processes may be served in any action or proceeding against such carrier, growing out of such use or operation of a motor vehicle over or upon the streets, highways, or any other place within this state, resulting in damages or loss to person or property;

(2) Certify with the office of the Secretary of State, in a manner to be prescribed by the Secretary of State, a current list of all such carriers for whom the designated agent is serving under subdivision (1) of this section;

(3) File with the commission, in a manner to be prescribed by the commission, evidence of compliance by such carriers with the requirements of section 75-307; and

(4) Collect from such carriers and pay to the commission, at the time of making the filings prescribed herein, all fees required by the provisions of sections 75-348 to 75-358, and the designated agent may collect an additional fee not to exceed fifty cents per motor vehicle registered with the commission under such sections.

Sec. 6. That section 75-353, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

75-353. Every common, contract, or private carrier of property by motor vehicle operating a motor vehicle under the registration required by sections 75-348 to 75-358 shall ~~file with the commission an identification of newly acquired motor vehicles on or before the fifteenth day after such carrier initiates or discontinues operation of a motor vehicle or motor vehicles within the state~~ make such filing as required by the rules and regulations of the Public Service Commission when such carrier initiates the operation of newly acquired motor vehicles or discontinues operation of any motor vehicle within the state.

Sec. 7. Section 9 of this act shall become operative on January 1, 1994. Sections 1 and 11 of this act shall become operative three calendar months after the adjournment of this legislative session. The other sections of this act shall become operative on their effective

date.

Sec. 8. If any section in this act or any part of any section shall be declared invalid or unconstitutional, such declaration shall not affect the validity or constitutionality of the remaining portions thereof.

Sec. 9. That sections 75-372 to 75-380, Revised Statutes Supplement, 1992, are repealed.

Sec. 10. That original sections 75-110, 75-303, 75-349, and 75-353, Reissue Revised Statutes of Nebraska, 1943, and section 75-352, Revised Statutes Supplement, 1992, are repealed.

Sec. 11. That original section 39-6,177, Revised Statutes Supplement, 1992, as amended by section 35, Legislative Bill 575, Ninety-third Legislature, First Session, 1993, is repealed.

Sec. 12. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.