

LEGISLATIVE BILL 1069

Approved by the Governor April 6, 2006

Introduced by Byars, 30

AN ACT relating to transportation; to amend sections 75-109.01, 75-302, 75-370, and 75-371, Reissue Revised Statutes of Nebraska; to provide for reimbursement of transportation costs for eligible persons as prescribed; to eliminate certain provisions related to transportation of hazardous materials; to harmonize provisions; to repeal the original sections; and to outright repeal sections 75-383 and 75-384, Reissue Revised Statutes of Nebraska.

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

Section 1. Section 75-109.01, Reissue Revised Statutes of Nebraska, is amended to read:

75-109.01 Except as otherwise specifically provided by law, the Public Service Commission shall have jurisdiction, as prescribed, over the following subjects:

- (1) Common carriers, generally, pursuant to sections 75-101 to 75-158;
- (2) Grain pursuant to the Grain Dealer Act and the Grain Warehouse Act and sections 89-1,104 to 89-1,108;
- (3) Manufactured homes and recreational vehicles pursuant to the Uniform Standard Code for Manufactured Homes and Recreational Vehicles;
- (4) Modular housing units pursuant to the Nebraska Uniform Standards for Modular Housing Units Act;
- (5) Motor carrier registration and safety pursuant to sections 75-301 to 75-322, 75-369.03, 75-370, and 75-371; ~~75-383, and 75-384;~~
- (6) Pipeline carriers and rights-of-way pursuant to sections 57-1301 to 57-1307 and 75-501 to 75-503;
- (7) Railroad carrier safety pursuant to sections 74-918, 74-919, 74-1323, and 75-401 to 75-430;
- (8) Telecommunications carriers pursuant to the Automatic Dialing-Announcing Devices Act, the Emergency Telephone Communications Systems Act, the Enhanced Wireless 911 Services Act, the Intrastate Pay-Per-Call Regulation Act, the Nebraska Telecommunications Regulation Act, the Nebraska Telecommunications Universal Service Fund Act, the Telecommunications Relay System Act, the Telephone Consumer Slamming Prevention Act, and sections 86-574 to 86-580;
- (9) Transmission lines and rights-of-way pursuant to sections 70-301 and 75-702 to 75-724;
- (10) Water service pursuant to the Water Service Regulation Act; and
- (11) Jurisdictional utilities governed by the State Natural Gas Regulation Act. If the provisions of Chapter 75 are inconsistent with the provisions of the State Natural Gas Regulation Act, the provisions of the State Natural Gas Regulation Act control.

Sec. 2. (1) The Department of Health and Human Services Finance and Support may reimburse an individual for the costs incurred by such individual in the transportation of a person eligible to receive transportation services through the Nebraska Health and Human Services System if:

- (a) The individual is under contract with the Nebraska Health and Human Services System and provides transportation to the eligible person; and
- (b) The eligible person has chosen the individual to provide the transportation.

(2) The department shall reimburse for the costs incurred in the transportation at a rate no greater than that provided for reimbursement of state employees pursuant to section 81-1176.

(3) Transportation provided to an eligible person by an individual pursuant to this section does not constitute transportation for hire.

(4) The department may adopt and promulgate rules and regulations to implement this section.

Sec. 3. Section 75-302, Reissue Revised Statutes of Nebraska, is amended to read:

75-302 For purposes of sections 75-301 to 75-322 and section 2 of this act and in all rules and regulations adopted and promulgated by the commission pursuant to such sections, unless the context otherwise requires:

- (1) Carrier enforcement division means the carrier enforcement division of the Nebraska State Patrol or the Nebraska State Patrol;
- (2) Certificate means a certificate of public convenience and necessity issued under Chapter 75, article 3, to common carriers by motor

vehicle;

(3) Civil penalty means any monetary penalty assessed by the commission or carrier enforcement division 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, the Division of Motor Carrier Services, or the carrier enforcement division issued pursuant to Chapter 75, article 3;

(4) Commission means the Public Service Commission;

(5) Common carrier means any person who or which undertakes to transport passengers or household goods for the general public in intrastate commerce by motor vehicle for hire, whether over regular or irregular routes, upon the highways of this state;

(6) Contract carrier means any motor carrier which transports passengers or household goods for hire other than as a common carrier designed to meet the distinct needs of each individual customer or a specifically designated class of customers without any limitation as to the number of customers it can serve within the class;

(7) Division of Motor Carrier Services means the Division of Motor Carrier Services of the Department of Motor Vehicles;

(8) Escort services means an attendant or caregiver accompanying a minor or persons who are physically, mentally, or developmentally disabled and unable to travel or wait without assistance or supervision;

(9) Highway means the roads, highways, streets, and ways in this state;

(10) Household goods means personal effects and property used or to be used in a dwelling, when a part of the equipment or supply of such dwelling, and similar property as the commission may provide by regulation if the transportation of such effects or property, is:

(a) Arranged and paid for by the householder, including transportation of property from a factory or store when the property is purchased by the householder with the intent to use in his or her dwelling; or

(b) Arranged and paid for by another party;

(11) Intrastate commerce means commerce between any place in this state and any other place in this state and not in part through any other state;

(12) Motor carrier means any person other than a regulated motor carrier who or which owns, controls, manages, operates, or causes to be operated any motor vehicle used to transport passengers or property over any public highway in this state;

(13) Motor vehicle means 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 does not include any vehicle, locomotive, or car operated exclusively on a rail or rails;

(14) Permit means a permit issued under Chapter 75, article 3, to contract carriers by motor vehicle;

(15) Person means any individual, firm, partnership, limited liability company, corporation, company, association, or joint-stock association and includes any trustee, receiver, assignee, or personal representative thereof;

(16) Private carrier means 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 shall apply to private carriers except sections 75-307 to 75-307.03 as they apply to private carriers; and

(17) Regulated motor carrier means any person who or which owns, controls, manages, operates, or causes to be operated any motor vehicle used to transport passengers, other than those excepted under section 75-303, or household goods over any public highway in this state.

Sec. 4. Section 75-370, Reissue Revised Statutes of Nebraska, is amended to read:

75-370 Enforcement of sections 75-307 to 75-307.03, ~~and 75-309, 75-383, and 75-384~~ shall be carried out 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. Any violation of such sections by any regulated motor carrier, motor carrier, or private carrier shall be referred to the commission for disposition under section 75-156, and the commission may take any other action

provided by section 75-133.

Sec. 5. Section 75-371, Reissue Revised Statutes of Nebraska, is amended to read:

75-371 Any person, private carrier, common carrier, or contract carrier which operates any motor vehicle in violation of section 75-307, 75-307.01, 75-307.02, or 75-307.03, ~~75-383~~, ~~or~~ 75-384 or any rule, regulation, or order of the commission pertaining to any of such sections shall be guilty of a Class IV misdemeanor. Each day of such violation shall constitute a separate offense.

Sec. 6. Original sections 75-109.01, 75-302, 75-370, and 75-371, Reissue Revised Statutes of Nebraska, are repealed.

Sec. 7. The following sections are outright repealed: Sections 75-383 and 75-384, Reissue Revised Statutes of Nebraska.