

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 313

Introduced by Transportation and Telecommunications Committee: Smith, 14,
Chairperson; Brasch, 16; Davis, 43; Friesen, 34; Garrett,
3; McCoy, 39; Murante, 49; Seiler, 33.

Read first time January 15, 2015

Committee:

- 1 A BILL FOR AN ACT relating to transportation; to amend sections
2 60-336.01, 60-3,113.04, 60-3,193.01, 60-462.01, 60-479.01,
3 60-4,147.02, 75-363, 75-364, 75-366, and 75-393, Revised Statutes
4 Cumulative Supplement, 2014; to update certain references to federal
5 regulations regarding motor vehicles and motor carriers; and to
6 repeal the original sections.
- 7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 60-336.01, Revised Statutes Cumulative
2 Supplement, 2014, is amended to read:

3 60-336.01 Low-speed vehicle means a four-wheeled motor vehicle (1)
4 whose speed attainable in one mile is more than twenty miles per hour and
5 not more than twenty-five miles per hour on a paved, level surface, (2)
6 whose gross vehicle weight rating is less than three thousand pounds, and
7 (3) that complies with 49 C.F.R. part 571, as such part existed on
8 January 1, 2015 ~~2014~~.

9 Sec. 2. Section 60-3,113.04, Revised Statutes Cumulative Supplement,
10 2014, is amended to read:

11 60-3,113.04 (1) A handicapped or disabled parking permit shall be of
12 a design, size, configuration, color, and construction and contain such
13 information as specified in the regulations adopted by the United States
14 Department of Transportation in 23 C.F.R. part 1235, UNIFORM SYSTEM FOR
15 PARKING FOR PERSONS WITH DISABILITIES, as such regulations existed on
16 January 1, 2015 ~~2014~~.

17 (2) No handicapped or disabled parking permit shall be issued to any
18 person or for any motor vehicle if any permit has been issued to such
19 person or for such motor vehicle and such permit has been suspended
20 pursuant to section 18-1741.02. At the expiration of such suspension, a
21 permit may be renewed in the manner provided for renewal in sections
22 60-3,113.02, 60-3,113.03, and 60-3,113.05.

23 (3) A duplicate handicapped or disabled parking permit may be
24 provided up to two times during any single permit period if a permit is
25 destroyed, lost, or stolen. Such duplicate permit shall be issued as
26 provided in section 60-3,113.02 or 60-3,113.03, whichever is applicable,
27 except that a new certification by a physician, a physician assistant, or
28 an advanced practice registered nurse need not be provided. A duplicate
29 permit shall be valid for the remainder of the period for which the
30 original permit was issued. If a person has been issued two duplicate
31 permits under this subsection and needs another permit, such person shall

1 reapply for a new permit under section 60-3,113.02 or 60-3,113.03,
2 whichever is applicable.

3 Sec. 3. Section 60-3,193.01, Revised Statutes Cumulative Supplement,
4 2014, is amended to read:

5 60-3,193.01 For purposes of the Motor Vehicle Registration Act, the
6 International Registration Plan is adopted and incorporated by reference
7 as the plan existed on January 1, 2015 ~~2014~~.

8 Sec. 4. Section 60-462.01, Revised Statutes Cumulative Supplement,
9 2014, is amended to read:

10 60-462.01 For purposes of the Motor Vehicle Operator's License Act,
11 the following federal regulations are adopted as Nebraska law as they
12 existed on January 1, 2015 ~~2014~~:

13 The parts, subparts, and sections of Title 49 of the Code of Federal
14 Regulations, as referenced in the Motor Vehicle Operator's License Act.

15 Sec. 5. Section 60-479.01, Revised Statutes Cumulative Supplement,
16 2014, is amended to read:

17 60-479.01 (1) All persons handling source documents or engaged in
18 the issuance of new, renewed, or reissued operators' licenses or state
19 identification cards shall have periodic fraudulent document recognition
20 training.

21 ~~(2) This subsection applies beginning on an implementation date~~
22 ~~designated by the director on or before January 1, 2014.~~ All persons and
23 agents of the department involved in the recording of verified
24 application information or verified operator's license and state
25 identification card information, involved in the manufacture or
26 production of licenses or cards, or who have the ability to affect
27 information on such licenses or cards shall be subject to a criminal
28 history record information check, including a check of prior employment
29 references, and a lawful status check as required by 6 C.F.R. part 37, as
30 such part existed on January 1, 2015 ~~2014~~. Such persons and agents shall
31 provide fingerprints which shall be submitted to the Federal Bureau of

1 Investigation. The bureau shall use its records for the criminal history
2 record information check.

3 (3) Upon receipt of a request pursuant to subsection (2) of this
4 section, the Nebraska State Patrol shall undertake a search for criminal
5 history record information relating to such applicant, including
6 transmittal of the applicant's fingerprints to the Federal Bureau of
7 Investigation for a national criminal history record information check.
8 The criminal history record information check shall include information
9 concerning the applicant from federal repositories of such information
10 and repositories of such information in other states, if authorized by
11 federal law. The Nebraska State Patrol shall issue a report to the
12 employing public agency that shall include the criminal history record
13 information concerning the applicant. The cost of any background check
14 shall be borne by the employer of the person or agent.

15 (4) Any person convicted of any disqualifying offense as provided in
16 6 C.F.R. part 37, as such part existed on January 1, ~~2015~~ 2014, shall not
17 be involved in the recording of verified application information or
18 verified operator's license and state identification card information,
19 involved in the manufacture or production of licenses or cards, or
20 involved in any capacity in which such person would have the ability to
21 affect information on such licenses or cards. Any employee or prospective
22 employee of the department shall be provided notice that he or she will
23 undergo such criminal history record information check prior to
24 employment or prior to any involvement with the issuance of operators'
25 licenses or state identification cards.

26 Sec. 6. Section 60-4,147.02, Revised Statutes Cumulative Supplement,
27 2014, is amended to read:

28 60-4,147.02 No endorsement authorizing the driver to operate a
29 commercial motor vehicle transporting hazardous materials shall be
30 issued, renewed, or transferred by the Department of Motor Vehicles
31 unless the endorsement is issued, renewed, or transferred in conformance

1 with the requirements of section 1012 of the federal Uniting and
2 Strengthening America by Providing Appropriate Tools Required to
3 Intercept and Obstruct Terrorism Act of 2001, USA PATRIOT Act, 49 U.S.C.
4 5103a, including all amendments and federal regulations adopted pursuant
5 thereto as of January 1, 2015 ~~2014~~, for the issuance of licenses to
6 operate commercial motor vehicles transporting hazardous materials.

7 Sec. 7. Section 75-363, Revised Statutes Cumulative Supplement,
8 2014, is amended to read:

9 75-363 (1) The parts, subparts, and sections of Title 49 of the Code
10 of Federal Regulations listed below, as modified in this section, or any
11 other parts, subparts, and sections referred to by such parts, subparts,
12 and sections, in existence and effective as of January 1, 2015 ~~2014~~, are
13 adopted as Nebraska law.

14 (2) Except as otherwise provided in this section, the regulations
15 shall be applicable to:

16 (a) All motor carriers, drivers, and vehicles to which the federal
17 regulations apply; and

18 (b) All motor carriers transporting persons or property in
19 intrastate commerce to include:

20 (i) All vehicles of such motor carriers with a gross vehicle weight
21 rating, gross combination weight rating, gross vehicle weight, or gross
22 combination weight over ten thousand pounds;

23 (ii) All vehicles of such motor carriers designed or used to
24 transport more than eight passengers, including the driver, for
25 compensation, or designed or used to transport more than fifteen
26 passengers, including the driver, and not used to transport passengers
27 for compensation;

28 (iii) All vehicles of such motor carriers transporting hazardous
29 materials required to be placarded pursuant to section 75-364; and

30 (iv) All drivers of such motor carriers if the drivers are operating
31 a commercial motor vehicle as defined in section 60-465 which requires a

1 commercial driver's license.

2 (3) The Legislature hereby adopts, as modified in this section, the
3 following parts of Title 49 of the Code of Federal Regulations:

4 (a) Part 382 - CONTROLLED SUBSTANCES AND ALCOHOL USE AND TESTING;

5 (b) Part 385 - SAFETY FITNESS PROCEDURES;

6 (c) Part 386 - RULES OF PRACTICE FOR MOTOR CARRIER, INTERMODAL
7 EQUIPMENT PROVIDER, BROKER, FREIGHT FORWARDER, AND HAZARDOUS MATERIALS
8 PROCEEDINGS;

9 (d) Part 387 - MINIMUM LEVELS OF FINANCIAL RESPONSIBILITY FOR MOTOR
10 CARRIERS;

11 (e) Part 390 - FEDERAL MOTOR CARRIER SAFETY REGULATIONS; GENERAL;

12 (f) Part 391 - QUALIFICATIONS OF DRIVERS AND LONGER COMBINATION
13 VEHICLE (LCV) DRIVER INSTRUCTORS;

14 (g) Part 392 - DRIVING OF COMMERCIAL MOTOR VEHICLES;

15 (h) Part 393 - PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION;

16 (i) Part 395 - HOURS OF SERVICE OF DRIVERS;

17 (j) Part 396 - INSPECTION, REPAIR, AND MAINTENANCE;

18 (k) Part 397 - TRANSPORTATION OF HAZARDOUS MATERIALS; DRIVING AND
19 PARKING RULES; and

20 (l) Part 398 - TRANSPORTATION OF MIGRANT WORKERS.

21 (4) The provisions of subpart E - Physical Qualifications And
22 Examinations of 49 C.F.R. part 391 - QUALIFICATIONS OF DRIVERS AND LONGER
23 COMBINATION VEHICLE (LCV) DRIVER INSTRUCTORS shall not apply to any
24 driver subject to this section who: (a) Operates a commercial motor
25 vehicle exclusively in intrastate commerce; and (b) holds, or has held, a
26 commercial driver's license issued by this state prior to July 30, 1996.

27 (5) The regulations adopted in subsection (3) of this section shall
28 not apply to farm trucks registered pursuant to section 60-3,146 with a
29 gross weight of sixteen tons or less. The following parts and sections of
30 49 C.F.R. chapter III shall not apply to drivers of farm trucks
31 registered pursuant to section 60-3,146 and operated solely in intrastate

1 commerce:

2 (a) All of part 391;

3 (b) Section 395.8 of part 395; and

4 (c) Section 396.11 of part 396.

5 (6) The following parts and subparts of 49 C.F.R. chapter III shall
6 not apply to the operation of covered farm vehicles:

7 (a) Part 382 - CONTROLLED SUBSTANCES AND ALCOHOL USE AND TESTING;

8 (b) Part 391, subpart E - Physical Qualifications and Examinations;

9 (c) Part 395 - HOURS OF SERVICE OF DRIVERS; and

10 (d) Part 396 - INSPECTION, REPAIR, AND MAINTENANCE.

11 (7) Part 393 - PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION
12 and Part 396 - INSPECTION, REPAIR, AND MAINTENANCE shall not apply to
13 fertilizer and agricultural chemical application and distribution
14 equipment transported in units with a capacity of three thousand five
15 hundred gallons or less.

16 (8) For purposes of this section, intrastate motor carriers shall
17 not include any motor carrier or driver excepted from 49 C.F.R. chapter
18 III by section 390.3(f) of part 390.

19 (9)(a) Part 395 - HOURS OF SERVICE OF DRIVERS shall apply to motor
20 carriers and drivers who engage in intrastate commerce as defined in
21 section 75-362, except that no motor carrier who engages in intrastate
22 commerce shall permit or require any driver used by it to drive nor shall
23 any driver drive:

24 (i) More than twelve hours following eight consecutive hours off
25 duty; or

26 (ii) For any period after having been on duty sixteen hours
27 following eight consecutive hours off duty.

28 (b) No motor carrier who engages in intrastate commerce shall permit
29 or require a driver of a commercial motor vehicle, regardless of the
30 number of motor carriers using the driver's services, to drive, nor shall
31 any driver of a commercial motor vehicle drive, for any period after:

1 (i) Having been on duty seventy hours in any seven consecutive days
2 if the employing motor carrier does not operate every day of the week; or

3 (ii) Having been on duty eighty hours in any period of eight
4 consecutive days if the employing motor carrier operates motor vehicles
5 every day of the week.

6 (10) Part 395 - HOURS OF SERVICE OF DRIVERS, as adopted in
7 subsections (3) and (9) of this section, shall not apply to drivers
8 transporting agricultural commodities or farm supplies for agricultural
9 purposes during planting and harvesting season when:

10 (a) The transportation of such agricultural commodities is from the
11 source of the commodities to a location within a one-hundred-fifty-air-
12 mile radius of the source of the commodities;

13 (b) The transportation of such farm supplies is from a wholesale or
14 retail distribution point of the farm supplies to a farm or other
15 location where the farm supplies are intended to be used which is within
16 a one-hundred-fifty-air-mile radius of the wholesale or retail
17 distribution point; or

18 (c) The transportation of such farm supplies is from a wholesale
19 distribution point of the farm supplies to a retail distribution point of
20 the farm supplies which is within a one-hundred-fifty-air-mile radius of
21 the wholesale distribution point.

22 (11) 49 C.F.R. 390.21 - MARKING OF SELF-PROPELLED CMVS AND
23 INTERMODAL EQUIPMENT shall not apply to farm trucks and farm truck-
24 tractors registered pursuant to section 60-3,146 and operated solely in
25 intrastate commerce.

26 (12) 49 C.F.R. 392.9a - Operating Authority shall not apply to
27 Nebraska motor carriers operating commercial motor vehicles solely in
28 intrastate commerce.

29 (13) No motor carrier shall permit or require a driver of a
30 commercial motor vehicle to violate, and no driver of a commercial motor
31 vehicle shall violate, any out-of-service order.

1 Sec. 8. Section 75-364, Revised Statutes Cumulative Supplement,
2 2014, is amended to read:

3 75-364 The parts, subparts, and sections of Title 49 of the Code of
4 Federal Regulations listed below, or any other parts, subparts, and
5 sections referred to by such parts, subparts, and sections, in existence
6 and effective as of January 1, 2015 ~~2014~~, are adopted as part of Nebraska
7 law and shall be applicable to all motor carriers whether engaged in
8 interstate or intrastate commerce, drivers of such motor carriers, and
9 vehicles of such motor carriers:

10 (1) Part 107 - HAZARDOUS MATERIALS PROGRAM PROCEDURES, subpart F-
11 Registration of Cargo Tank and Cargo Tank Motor Vehicle Manufacturers,
12 Assemblers, Repairers, Inspectors, Testers, and Design Certifying
13 Engineers;

14 (2) Part 107 - HAZARDOUS MATERIALS PROGRAM PROCEDURES, subpart G-
15 Registration of Persons Who Offer or Transport Hazardous Materials;

16 (3) Part 171 - GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS;

17 (4) Part 172 - HAZARDOUS MATERIALS TABLE, SPECIAL PROVISIONS,
18 HAZARDOUS MATERIALS COMMUNICATIONS, EMERGENCY RESPONSE INFORMATION,
19 TRAINING REQUIREMENTS, AND SECURITY PLANS;

20 (5) Part 173 - SHIPPERS - GENERAL REQUIREMENTS FOR SHIPMENTS AND
21 PACKAGINGS;

22 (6) Part 177 - CARRIAGE BY PUBLIC HIGHWAY;

23 (7) Part 178 - SPECIFICATIONS FOR PACKAGINGS; and

24 (8) Part 180 - CONTINUING QUALIFICATION AND MAINTENANCE OF
25 PACKAGINGS.

26 Sec. 9. Section 75-366, Revised Statutes Cumulative Supplement,
27 2014, is amended to read:

28 75-366 For the purpose of enforcing Chapter 75, article 3, any
29 officer of the Nebraska State Patrol may, upon demand, inspect the
30 accounts, records, and equipment of any motor carrier or shipper. Any
31 officer of the Nebraska State Patrol shall have the authority to enforce

1 the federal motor carrier safety regulations, as such regulations existed
2 on January 1, 2015 ~~2014~~, and federal hazardous materials regulations, as
3 such regulations existed on January 1, 2015 ~~2014~~, and is authorized to
4 enter upon, inspect, and examine any and all lands, buildings, and
5 equipment of any motor carrier, any shipper, and any other person subject
6 to the federal Interstate Commerce Act, the federal Department of
7 Transportation Act, and other related federal laws and to inspect and
8 copy any and all accounts, books, records, memoranda, correspondence, and
9 other documents of a motor carrier, a shipper, and any other person
10 subject to Chapter 75, article 3, for the purposes of enforcing Chapter
11 75, article 3. To promote uniformity of enforcement, the carrier
12 enforcement division of the Nebraska State Patrol shall cooperate and
13 consult with the Public Service Commission and the Division of Motor
14 Carrier Services.

15 Sec. 10. Section 75-393, Revised Statutes Cumulative Supplement,
16 2014, is amended to read:

17 75-393 The director may participate in the unified carrier
18 registration plan and agreement pursuant to the Unified Carrier
19 Registration Act of 2005, 49 U.S.C. 13908, as the act existed on January
20 1, 2015 ~~2014~~, and may file on behalf of this state the plan required by
21 such plan and agreement for enforcement of the act in this state.

22 Sec. 11. Original sections 60-336.01, 60-3,113.04, 60-3,193.01,
23 60-462.01, 60-479.01, 60-4,147.02, 75-363, 75-364, 75-366, and 75-393,
24 Revised Statutes Cumulative Supplement, 2014, are repealed.