

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 568

Introduced by Brasch, 16.

Read first time January 21, 2015

Committee:

1 A BILL FOR AN ACT relating to the Motor Vehicle Operator's License Act;
2 to amend sections 60-462, 60-498.02, 60-4,131, 60-4,131.01, and
3 60-4,132, Revised Statutes Cumulative Supplement, 2014; to change
4 certain administrative license revocation provisions relating to
5 commercial drivers' licenses; to harmonize provisions; and to repeal
6 the original sections.

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

1 Section 1. Section 60-462, Revised Statutes Cumulative Supplement,
2 2014, is amended to read:

3 60-462 Sections 60-462 to 60-4,189 and section 6 of this act shall
4 be known and may be cited as the Motor Vehicle Operator's License Act.

5 Sec. 2. Section 60-498.02, Revised Statutes Cumulative Supplement,
6 2014, is amended to read:

7 60-498.02 (1) At the expiration of fifteen days after the date of
8 arrest as described in subsection (2) of section 60-6,197 or if after a
9 hearing pursuant to section 60-498.01 the director finds that the
10 operator's license should be revoked, the director shall (a) revoke the
11 operator's license of a person arrested for refusal to submit to a
12 chemical test of blood, breath, or urine as required by section 60-6,197
13 for a period of one year and (b) revoke the operator's license of a
14 person who submits to a chemical test pursuant to such section which
15 discloses the presence of a concentration of alcohol specified in section
16 60-6,196 for a period of one hundred eighty days unless the person's
17 driving record abstract maintained in the department's computerized
18 records shows one or more prior administrative license revocations on
19 which final orders have been issued during the immediately preceding
20 fifteen-year period at the time the order of revocation is issued, in
21 which case the period of revocation shall be one year. Except as
22 otherwise provided in section 60-6,211.05, a new operator's license shall
23 not be issued to such person until the period of revocation has elapsed.
24 If the person subject to the revocation is a nonresident of this state,
25 the director shall revoke only the nonresident's operating privilege as
26 defined in section 60-474 of such person and shall immediately forward
27 the operator's license and a statement of the order of revocation to the
28 person's state of residence.

29 (2) A person operating a motor vehicle under an ignition interlock
30 permit issued pursuant to sections 60-498.01 to 60-498.04 shall only
31 operate a motor vehicle equipped with an ignition interlock device. All

1 permits issued pursuant to such sections shall indicate that the permit
2 is not valid for the operation of any commercial motor vehicle.

3 (3) A person may have his or her eligibility for a license
4 reinstated upon payment of a reinstatement fee as required by section
5 60-694.01.

6 (4)(a) Except as provided in section 6 of this act, a A person whose
7 operator's license is subject to revocation pursuant to subsection (3) of
8 section 60-498.01 shall have all proceedings dismissed or his or her
9 operator's license immediately reinstated without payment of the
10 reinstatement fee upon receipt of suitable evidence by the director that:

11 (i) The prosecuting attorney responsible for the matter declined to
12 file a complaint alleging a violation of section 60-6,196;

13 (ii) The defendant, after trial, was found not guilty of violating
14 section 60-6,196 or such charge was dismissed on the merits by the court;
15 or

16 (iii) In the criminal action on the charge of a violation of section
17 60-6,196 arising from the same incident, the court held one of the
18 following:

19 (A) The peace officer did not have probable cause to believe the
20 person was operating or in the actual physical control of a motor vehicle
21 in violation of section 60-6,196 or a city or village ordinance enacted
22 in conformance with such section; or

23 (B) The person was not operating or in the actual physical control
24 of a motor vehicle while having an alcohol concentration in violation of
25 section 60-6,196 or a city or village ordinance enacted in conformance
26 with such section.

27 (b) The director shall adopt and promulgate rules and regulations
28 establishing standards for the presentation of suitable evidence of
29 compliance with subdivision (a) of this subsection.

30 (c) If a criminal charge is filed or refiled for a violation of
31 section 60-6,196 pursuant to an arrest for which all administrative

1 license revocation proceedings were dismissed under this subsection, the
2 director, upon notification or discovery, may reinstate an administrative
3 license revocation under this section as of the date that the director
4 receives notification of the filing or refiling of the charge, except
5 that a revocation shall not be reinstated if it was dismissed pursuant to
6 section 60-498.01.

7 Sec. 3. Section 60-4,131, Revised Statutes Cumulative Supplement,
8 2014, is amended to read:

9 ~~60-4,131 (1)(a) This subsection applies until July 8, 2015.~~
10 ~~Sections 60-462.01 and 60-4,132 to 60-4,172 shall apply to the operation~~
11 ~~of any commercial motor vehicle.~~

12 ~~(b) For purposes of such sections:~~

13 ~~(i) Disqualification means:~~

14 ~~(A) The suspension, revocation, cancellation, or any other~~
15 ~~withdrawal by a state of a person's privilege to operate a commercial~~
16 ~~motor vehicle;~~

17 ~~(B) A determination by the Federal Motor Carrier Safety~~
18 ~~Administration, under the rules of practice for motor carrier safety~~
19 ~~contained in 49 C.F.R. part 386, that a person is no longer qualified to~~
20 ~~operate a commercial motor vehicle under 49 C.F.R. part 391; or~~

21 ~~(C) The loss of qualification which automatically follows conviction~~
22 ~~of an offense listed in 49 C.F.R. 383.51;~~

23 ~~(ii) Downgrade means the state:~~

24 ~~(A) Allows the driver of a commercial motor vehicle to change his or~~
25 ~~her self-certification to interstate, but operating exclusively in~~
26 ~~transportation or operation excepted from 49 C.F.R. part 391, as provided~~
27 ~~in 49 C.F.R. 390.3(f), 391.2, 391.68, or 398.3;~~

28 ~~(B) Allows the driver of a commercial motor vehicle to change his or~~
29 ~~her self-certification to intrastate only, if the driver qualifies under~~
30 ~~a state's physical qualification requirements for intrastate only;~~

31 ~~(C) Allows the driver of a commercial motor vehicle to change his or~~

1 ~~her certification to intrastate, but operating exclusively in~~
2 ~~transportation or operations excepted from all or part of a state driver~~
3 ~~qualification requirement; or~~

4 ~~(D) Removes the commercial driver's license privilege from the~~
5 ~~operator's license;~~

6 ~~(iii) Employee means any operator of a commercial motor vehicle,~~
7 ~~including full time, regularly employed drivers; casual, intermittent, or~~
8 ~~occasional drivers; and leased drivers and independent, owner operator~~
9 ~~contractors, while in the course of operating a commercial motor vehicle,~~
10 ~~who are either directly employed by or under lease to an employer;~~

11 ~~(iv) Employer means any person, including the United States, a~~
12 ~~state, the District of Columbia, or a political subdivision of a state,~~
13 ~~that owns or leases a commercial motor vehicle or assigns employees to~~
14 ~~operate a commercial motor vehicle;~~

15 ~~(v) Endorsement means an authorization to an individual's commercial~~
16 ~~driver's license required to permit the individual to operate certain~~
17 ~~types of commercial motor vehicles;~~

18 ~~(vi) Medical examiner means for medical examinations conducted on~~
19 ~~and after May 21, 2014, an individual certified by the Federal Motor~~
20 ~~Carrier Safety Administration and listed on the National Registry of~~
21 ~~Certified Medical Examiners in accordance with 49 C.F.R. part 390,~~
22 ~~subpart D;~~

23 ~~(vii) Medical examiner's certificate means a form meeting the~~
24 ~~requirements of 49 C.F.R. 391.43 issued by a medical examiner in~~
25 ~~compliance with such regulation;~~

26 ~~(viii) Medical variance means the Federal Motor Carrier Safety~~
27 ~~Administration has provided a driver with either an exemption letter~~
28 ~~permitting operation of a commercial motor vehicle pursuant to 49 C.F.R.~~
29 ~~381, subpart C, or 49 C.F.R. 391.64 or a Skill Performance Evaluation~~
30 ~~Certificate permitting operation of a commercial motor vehicle pursuant~~
31 ~~to 49 C.F.R. 391.49;~~

1 ~~(ix) Representative vehicle means a motor vehicle which represents~~
2 ~~the type of motor vehicle that a driver applicant operates or expects to~~
3 ~~operate;~~

4 ~~(x) State means a state of the United States and the District of~~
5 ~~Columbia;~~

6 ~~(xi) State of domicile means that state where a person has his or~~
7 ~~her true, fixed, and permanent home and principal residence and to which~~
8 ~~he or she has the intention of returning whenever he or she is absent;~~

9 ~~(xii) Tank vehicle means any commercial motor vehicle that is~~
10 ~~designed to transport any liquid or gaseous materials within a tank that~~
11 ~~is either permanently or temporarily attached to the vehicle or the~~
12 ~~chassis. Such vehicle includes, but is not limited to, a cargo tank and a~~
13 ~~portable tank, as defined in 49 C.F.R. part 171. However, this definition~~
14 ~~does not include a portable tank that has a rated capacity under one~~
15 ~~thousand gallons;~~

16 ~~(xiii) United States means the fifty states and the District of~~
17 ~~Columbia; and~~

18 ~~(xiv) Vehicle group means a class or type of vehicle with certain~~
19 ~~operating characteristics.~~

20 ~~(1 2)(a) This subsection applies beginning July 8, 2015. Sections~~
21 ~~60-462.01 and 60-4,132 to 60-4,172 and section 6 of this act shall apply~~
22 ~~to the operation of any commercial motor vehicle.~~

23 ~~(2 b) For purposes of such sections:~~

24 ~~(a i) Disqualification means:~~

25 ~~(i A) The suspension, revocation, cancellation, or any other~~
26 ~~withdrawal by a state of a person's privilege to operate a commercial~~
27 ~~motor vehicle;~~

28 ~~(ii B) A determination by the Federal Motor Carrier Safety~~
29 ~~Administration, under the rules of practice for motor carrier safety~~
30 ~~contained in 49 C.F.R. part 386, that a person is no longer qualified to~~
31 ~~operate a commercial motor vehicle under 49 C.F.R. part 391; or~~

1 (iii ~~€~~) The loss of qualification which automatically follows
2 conviction of an offense listed in 49 C.F.R. 383.51;

3 (b ~~ii~~) Downgrade means the state:

4 (i A) Allows the driver of a commercial motor vehicle to change his
5 or her self-certification to interstate, but operating exclusively in
6 transportation or operation excepted from 49 C.F.R. part 391, as provided
7 in 49 C.F.R. 390.3(f), 391.2, 391.68, or 398.3;

8 (ii B) Allows the driver of a commercial motor vehicle to change his
9 or her self-certification to intrastate only, if the driver qualifies
10 under a state's physical qualification requirements for intrastate only;

11 (iii ~~€~~) Allows the driver of a commercial motor vehicle to change
12 his or her certification to intrastate, but operating exclusively in
13 transportation or operations excepted from all or part of a state driver
14 qualification requirement; or

15 (iv ~~Ð~~) Removes the commercial driver's license privilege from the
16 operator's license;

17 (c ~~iii~~) Employee means any operator of a commercial motor vehicle,
18 including full time, regularly employed drivers; casual, intermittent, or
19 occasional drivers; and leased drivers and independent, owner-operator
20 contractors, while in the course of operating a commercial motor vehicle,
21 who are either directly employed by or under lease to an employer;

22 (d ~~iv~~) Employer means any person, including the United States, a
23 state, the District of Columbia, or a political subdivision of a state,
24 that owns or leases a commercial motor vehicle or assigns employees to
25 operate a commercial motor vehicle;

26 (e ~~v~~) Endorsement means an authorization to an individual's CLP-
27 commercial learner's permit or commercial driver's license required to
28 permit the individual to operate certain types of commercial motor
29 vehicles;

30 (f ~~vi~~) Foreign means outside the fifty United States and the
31 District of Columbia;

1 (g vii) Imminent hazard means the existence of a condition relating
2 to hazardous material that presents a substantial likelihood that death,
3 serious illness, severe personal injury, or a substantial endangerment to
4 health, property, or the environment may occur before the reasonably
5 foreseeable completion date of a formal proceeding begun to lessen the
6 risk of that death, illness, injury, or endangerment;

7 (h viii) Issue and issuance means initial issuance, transfer,
8 renewal, or upgrade of a CLP-commercial learner's permit, commercial
9 driver's license, nondomiciled CLP-commercial learner's permit, or
10 nondomiciled commercial driver's license, as described in 49 C.F.R.
11 383.73;

12 (i ix) Medical examiner means an individual certified by the Federal
13 Motor Carrier Safety Administration and listed on the National Registry
14 of Certified Medical Examiners in accordance with 49 C.F.R. part 390,
15 subpart D;

16 (j x) Medical examiner's certificate means a form meeting the
17 requirements of 49 C.F.R. 391.43 issued by a medical examiner in
18 compliance with such regulation;

19 (k xi) Medical variance means the Federal Motor Carrier Safety
20 Administration has provided a driver with either an exemption letter
21 permitting operation of a commercial motor vehicle pursuant to 49 C.F.R.
22 381, subpart C, or 49 C.F.R. 391.64 or a Skill Performance Evaluation
23 Certificate permitting operation of a commercial motor vehicle pursuant
24 to 49 C.F.R. 391.49;

25 (l xii) Nondomiciled CLP-commercial learner's permit or nondomiciled
26 commercial driver's license means a CLP-commercial learner's permit or
27 commercial driver's license, respectively, issued by this state or other
28 jurisdiction under either of the following two conditions:

29 (i A) To an individual domiciled in a foreign country meeting the
30 requirements of 49 C.F.R. 383.23(b)(1); and

31 (ii B) To an individual domiciled in another state meeting the

1 requirements of 49 C.F.R. 383.23(b)(2);

2 (m ~~xiii~~) Representative vehicle means a motor vehicle which
3 represents the type of motor vehicle that a driver applicant operates or
4 expects to operate;

5 (n ~~xiv~~) State means a state of the United States and the District of
6 Columbia;

7 (o ~~xv~~) State of domicile means that state where a person has his or
8 her true, fixed, and permanent home and principal residence and to which
9 he or she has the intention of returning whenever he or she is absent;

10 (p ~~xvi~~) Tank vehicle means any commercial motor vehicle that is
11 designed to transport any liquid or gaseous materials within a tank or
12 tanks that have an individual rated capacity of more than one hundred
13 nineteen gallons and an aggregate rated capacity of one thousand gallons
14 or more and that are either permanently or temporarily attached to the
15 vehicle or the chassis. A commercial motor vehicle transporting an empty
16 storage container tank, not designed for transportation, with a rated
17 capacity of one thousand gallons or more that is temporarily attached to
18 a flatbed trailer is not considered a tank vehicle;

19 (q ~~xvii~~) Third-party skills test examiner means a person employed by
20 a third-party tester who is authorized by this state to administer the
21 commercial driver's license skills tests specified in 49 C.F.R. part 383,
22 subparts G and H;

23 (r ~~xviii~~) Third-party tester means a person, including, but not
24 limited to, another state, a motor carrier, a private driver training
25 facility or other private institution, or a department, agency, or
26 instrumentality of a local government, authorized by this state to employ
27 skills test examiners to administer the commercial driver's license
28 skills tests specified in 49 C.F.R. part 383, subparts G and H;

29 (s ~~xix~~) United States means the fifty states and the District of
30 Columbia; and

31 (t ~~xx~~) Vehicle group means a class or type of vehicle with certain

1 operating characteristics.

2 Sec. 4. Section 60-4,131.01, Revised Statutes Cumulative Supplement,
3 2014, is amended to read:

4 60-4,131.01 Sections 60-462.01 and 60-4,132 to 60-4,172 and section
5 6 of this act shall not apply to individuals who operate commercial motor
6 vehicles for military purposes, including and limited to:

7 (1) Active duty military personnel;

8 (2) Members of the military reserves, other than military
9 technicians;

10 (3) Active duty United States Coast Guard personnel; and

11 (4) Members of the National Guard on active duty, including:

12 (a) Personnel on full-time National Guard duty;

13 (b) Personnel on part-time National Guard training; and

14 (c) National Guard military technicians required to wear military
15 uniforms.

16 Such individuals must have a valid military driver's license unless
17 such individual is operating the vehicle under written orders from a
18 commanding officer in an emergency declared by the federal government or
19 by the State of Nebraska.

20 Sec. 5. Section 60-4,132, Revised Statutes Cumulative Supplement,
21 2014, is amended to read:

22 60-4,132 The purposes of sections 60-462.01 and 60-4,137 to 60-4,172
23 and section 6 of this act are to implement the requirements mandated by
24 the federal Commercial Motor Vehicle Safety Act of 1986, 49 U.S.C. 31100
25 et seq., the federal Motor Carrier Safety Improvement Act of 1999, Public
26 Law 106-159, section 1012 of the federal Uniting and Strengthening
27 America by Providing Appropriate Tools Required to Intercept and Obstruct
28 Terrorism Act of 2001, USA PATRIOT Act, 49 U.S.C. 5103a, and federal
29 regulations and to reduce or prevent commercial motor vehicle accidents,
30 fatalities, and injuries by: (1) Permitting drivers to hold only one
31 operator's license; (2) disqualifying drivers for specified offenses and

1 serious traffic violations; and (3) strengthening licensing and testing
2 standards.

3 Sec. 6. The provisions of subsection (4) of section 60-498.02
4 regarding the dismissal of revocation proceedings or the reinstatement of
5 a revoked commercial driver's license without payment of the
6 reinstatement fee shall not apply to any person holding a commercial
7 driver's license unless such person has been found not guilty of
8 violating section 60-6,196 in a court of law as described in subdivision
9 (4)(a)(ii) of section 60-498.02.

10 Sec. 7. Original sections 60-462, 60-498.02, 60-4,131, 60-4,131.01,
11 and 60-4,132, Revised Statutes Cumulative Supplement, 2014, are repealed.