

LEGISLATURE OF NEBRASKA
NINETY-SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 303

Introduced by Coordsen, 32; Bromm, 23; Raikes, 25

Read first time January 12, 1999

Committee: Transportation

A BILL

1 FOR AN ACT relating to motor carrier regulations; to amend section
2 75-363, Revised Statutes Supplement, 1998; to clarify
3 provisions; to provide an exemption; and to repeal the
4 original section.

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

1 Section 1. Section 75-363, Revised Statutes Supplement,
2 1998, is amended to read:

3 75-363. (1) The parts of the federal Motor Carrier
4 Safety Regulations, 49 C.F.R., ~~listed in subdivisions (a) through~~
5 ~~(j) of this subsection or~~ as provided in this section and any other
6 parts referred to by such parts, in existence and effective as of
7 July 1, 1998, are adopted as Nebraska law. ~~The~~ Except as otherwise
8 provided in this section, the regulations shall be applicable to
9 all carriers, drivers, and vehicles to which the federal
10 regulations apply, to all vehicles of intrastate motor carriers
11 with a gross vehicle weight rating over ten thousand pounds, to all
12 intrastate motor carriers in the operation of vehicles with a gross
13 vehicle weight rating over ten thousand pounds, and to all drivers
14 of such vehicles if the drivers are operating a commercial motor
15 vehicle as defined in section 60-465 which requires a commercial
16 driver's license. ~~except as provided in subsections (2) and (3) of~~
17 ~~this section.~~ The Legislature hereby adopts, as modified:

18 (a) Part 382 -- Controlled Substances And Alcohol Use And
19 Testing;

20 (b) Part 385 -- Safety Fitness Procedures;

21 (c) Part 390 -- Federal Motor Carrier Safety Regulations:
22 General, except section 390.21 of part 390 is not adopted;

23 (d) Part 391 -- Qualifications Of Drivers;

24 (e) Part 392 -- Driving Of Motor Vehicles;

25 (f) Part 393 -- Parts And Accessories Necessary For Safe
26 Operations;

27 (g) Part 395 -- Hours Of Service Of Drivers;

28 (h) Part 396 -- Inspection, Repair And Maintenance;

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

3 (j) Part 398 -- Transportation Of Migrant Workers.

4 (2) The provisions of subpart E, Physical Qualifications
5 And Examinations, of 49 C.F.R. part 391, Qualifications Of Drivers,
6 shall not apply to any driver subject to this section who: (a)
7 Operates a commercial motor vehicle exclusively in intrastate
8 commerce; and (b) holds, or has held, a commercial driver's license
9 issued by this state prior to July 30, 1996.

10 (3) The regulations adopted in subsection (1) of this
11 section shall not apply to farm trucks registered pursuant to
12 section 60-330 with a gross weight of sixteen tons or less,
13 liquefied petroleum gas tanks with a capacity of three thousand
14 five hundred gallons or less, flammable liquid tanks with a
15 capacity of three thousand gallons or less, and fertilizer and
16 agricultural chemical application and distribution equipment
17 transported in units with a capacity of three thousand five hundred
18 gallons or less. The following parts and sections of the federal
19 Motor Carrier Safety Regulations shall not apply to drivers of farm
20 trucks registered pursuant to section 60-330 and operated solely in
21 intrastate commerce:

22 (a) All of part 391;

23 (b) Section ~~395.08~~ 395.8 of part 395; and

24 (c) Section 396.11 of part 396.

25 (4) For purposes of this section, intrastate motor
26 carriers shall not include any motor carrier or driver excepted
27 from the federal Motor Carrier Safety Regulations by section
28 390.3(f) of part 390 or any nonprofit entity, operating solely in

1 intrastate commerce, organized for the purpose of furnishing
2 electric service.

3 (5) Part 395 -- Hours Of Service Of Drivers, of the
4 federal Motor Carrier Safety Regulations adopted in subsection (1)
5 of this section, shall apply to motor carriers and drivers who
6 engage in intrastate commerce as defined in section 75-302, except
7 that no motor carrier who engages in intrastate commerce shall
8 permit or require any driver used by it to drive nor shall any
9 driver drive:

10 (a) More than twelve hours following eight consecutive
11 hours off duty; or

12 (b) For any period after having been on duty sixteen
13 hours following eight consecutive hours off duty.

14 No motor carrier who engages in intrastate commerce shall
15 permit or require a driver of a commercial motor vehicle,
16 regardless of the number of motor carriers using the driver's
17 services, to drive for any period after:

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

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

24 (6) Part 395 -- Hours Of Service Of Drivers, of the
25 federal Motor Carrier Safety Regulations adopted in subsections (1)
26 and (5) of this section relating to maximum driving and on-duty
27 time for drivers, shall not apply to drivers transporting
28 agricultural commodities or farm supplies for agricultural purposes

1 when the transportation of such commodities or supplies occurs
2 within a one-hundred-air-mile radius of the source of the
3 commodities or the distribution point for the supplies when such
4 transportation occurs during the period beginning on February 15 up
5 to and including December 15 of each calendar year.

6 ~~(7) Part 390 — Federal Motor Carrier Safety Regulations;~~
7 ~~General, of the federal Motor Carrier Safety Regulations, adopted~~
8 ~~in subsection (1) of this section relating to 49 C.F.R. 390.21 —~~
9 ~~Marking of motor vehicles, shall apply to all Nebraska intrastate~~
10 ~~motor carriers operating vehicles solely in intrastate commerce~~
11 ~~and;~~

12 ~~(a) All motor vehicles or combinations of vehicles in~~
13 ~~intrastate commerce that transport property or passengers and have~~
14 ~~a manufacturer's gross vehicle weight rating over ten thousand~~
15 ~~pounds; or~~

16 ~~(b) All farm trucks and farm truck tractors, except for~~
17 ~~those farm trucks and farm truck tractors registered pursuant to~~
18 ~~section 60-330 with a gross weight of sixteen tons or less; or~~

19 ~~(c) All motor vehicles required to be placarded pursuant~~
20 ~~to section 75-364.~~

21 Sec. 2. Original section 75-363, Revised Statutes
22 Supplement, 1998, is repealed.