

LEGISLATURE OF NEBRASKA
 ONE HUNDRED THIRD LEGISLATURE
 FIRST SESSION
LEGISLATIVE BILL 249

Introduced by Dubas, 34.

Read first time January 16, 2013

Committee: Transportation and Telecommunications

A BILL

1 FOR AN ACT relating to motor vehicles; to amend sections 60-463 and
 2 60-465, Reissue Revised Statutes of Nebraska, and
 3 sections 60-462, 75-362, 75-363, 75-364, and 75-366,
 4 Revised Statutes Cumulative Supplement, 2012; to define
 5 and redefine terms in the Motor Vehicle Operator's
 6 License Act and in motor carrier provisions; to change
 7 motor carrier provisions relating to covered farm
 8 vehicles and drivers transporting agricultural
 9 commodities or farm supplies; to update federal
 10 references; to harmonize provisions; to repeal the
 11 original sections; and to declare an emergency.
 12 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 60-462, Revised Statutes Cumulative
2 Supplement, 2012, is amended to read:

3 60-462 Sections 60-462 to 60-4,188 and section 4 of this
4 act shall be known and may be cited as the Motor Vehicle Operator's
5 License Act.

6 Sec. 2. Section 60-463, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 60-463 For purposes of the Motor Vehicle Operator's
9 License Act, the definitions found in sections 60-463.01 to 60-478
10 and section 4 of this act shall be used.

11 Sec. 3. Section 60-465, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 60-465 (1) Commercial motor vehicle means a motor vehicle
14 or combination of motor vehicles used in commerce to transport
15 passengers or property if the motor vehicle:

16 (a) Has a gross combination weight rating of eleven
17 thousand seven hundred ninety-four kilograms or more (twenty-six
18 thousand one pounds or more) inclusive of a towed unit with a gross
19 vehicle weight rating of more than four thousand five hundred thirty-
20 six kilograms (ten thousand pounds);

21 (b) Has a gross vehicle weight rating of eleven thousand
22 seven hundred ninety-four or more kilograms (twenty-six thousand one
23 pounds or more);

24 (c) Is designed to transport sixteen or more passengers,
25 including the driver; or

1 (d) Is of any size and is used in the transportation of
2 materials found to be hazardous for the purposes of the federal
3 Hazardous Materials Transportation Act and which require the motor
4 vehicle to be placarded under 49 C.F.R. part 172, subpart F.

5 (2) Commercial motor vehicle does not include (a) a
6 covered farm vehicle, ~~other than a combination of truck tractors and~~
7 ~~semitrailers, which is (i) controlled and operated by a farmer,~~
8 ~~including operation by employees or family members of the farmer,~~
9 ~~(ii) used to transport either agricultural products, farm machinery,~~
10 ~~farm supplies, or both, to or from a farm or ranch, (iii) not used in~~
11 ~~the operations of a common or contract motor carrier, and (iv) used~~
12 ~~within one hundred fifty miles of the farmer's farm or ranch,~~ (b) any
13 recreational vehicle as defined in section 60-347 or motor vehicle
14 towing a cabin trailer as defined in sections 60-314 and 60-339, (c)
15 any emergency vehicle operated by a public or volunteer fire
16 department, or (d) any motor vehicle owned or operated by the United
17 States Department of Defense or Nebraska National Guard when such
18 motor vehicle is driven by persons identified in section 60-4,131.01.

19 Sec. 4. (1) Covered farm vehicle means a motor vehicle,
20 including an articulated motor vehicle:

21 (a) That:

22 (i) Is traveling in the state in which the vehicle is
23 registered or another state;

24 (ii) Is operated by:

25 (A) A farm owner or operator;

1 (B) A ranch owner or operator; or
2 (C) An employee or family member of an individual
3 specified in subdivision (1)(a)(ii)(A) or (1)(a)(ii)(B) of this
4 section;

5 (iii) Is transporting to or from a farm or ranch:

6 (A) Agricultural commodities;

7 (B) Livestock; or

8 (C) Machinery or supplies;

9 (iv) Except as provided in subsection (2) of this
10 section, is not used in the operations of a for-hire motor carrier;
11 and

12 (v) Is equipped with a special license plate or other
13 designation by the state in which the vehicle is registered to allow
14 for identification of the vehicle as a farm vehicle by law
15 enforcement personnel; and

16 (b) That has a gross vehicle weight rating or gross
17 vehicle weight, whichever is greater, that is:

18 (i) Less than twenty-six thousand one pounds; or

19 (ii) Twenty-six thousand one pounds or more and is
20 traveling within the state or within one hundred fifty air miles of
21 the farm or ranch with respect to which the vehicle is being
22 operated.

23 (2) Covered farm vehicle includes a motor vehicle that
24 meets the requirements of subsection (1) of this section, except for
25 subdivision (1)(a)(iv) of this section, and:

1 (a) Is operated pursuant to a crop share farm lease
2 agreement;

3 (b) Is owned by a tenant with respect to that agreement;
4 and

5 (c) Is transporting the landlord's portion of the crops
6 under that agreement.

7 (3) Covered farm vehicle does not include:

8 (a) A combination of truck-tractor and semitrailer which
9 is operated by a person under eighteen years of age; or

10 (b) A combination of truck-tractor and semitrailer which
11 is used in the transportation of materials found to be hazardous for
12 the purposes of the federal Hazardous Materials Transportation Act
13 and which requires the combination to be placarded under 49 C.F.R.
14 part 172, subpart F.

15 Sec. 5. Section 75-362, Revised Statutes Cumulative
16 Supplement, 2012, is amended to read:

17 75-362 For purposes of sections 75-362 to 75-369.07,
18 unless the context otherwise requires:

19 (1) Accident means:

20 (a) Except as provided in subdivision (b) of this
21 subdivision, an occurrence involving a commercial motor vehicle
22 operating on a highway in interstate or intrastate commerce which
23 results in:

24 (i) A fatality;

25 (ii) Bodily injury to a person who, as a result of the

1 injury, immediately receives medical treatment away from the scene of
2 the accident; or

3 (iii) One or more motor vehicles incurring disabling
4 damage as a result of the accident, requiring the motor vehicles to
5 be transported away from the scene by a tow truck or other motor
6 vehicle.

7 (b) The term accident does not include:

8 (i) An occurrence involving only boarding and alighting
9 from a stationary motor vehicle; or

10 (ii) An occurrence involving only the loading or
11 unloading of cargo;

12 (2) Bulk packaging means a packaging, other than a vessel
13 or a barge, including a transport vehicle or freight container, in
14 which hazardous materials are loaded with no intermediate form of
15 containment and which has:

16 (a) A maximum capacity greater than one hundred nineteen
17 gallons as a receptacle for a liquid;

18 (b) A maximum net mass greater than eight hundred eighty-
19 two pounds and a maximum capacity greater than one hundred nineteen
20 gallons as a receptacle for a solid; or

21 (c) A water capacity greater than one thousand pounds as
22 a receptacle for a gas as defined in 49 C.F.R. 173.115;

23 (3) Cargo tank means a bulk packaging that:

24 (a) Is a tank intended primarily for the carriage of
25 liquids or gases and includes appurtenances, reinforcements,

1 fittings, and closures;

2 (b) Is permanently attached to or forms a part of a motor
3 vehicle or is not permanently attached to a motor vehicle but which,
4 by reason of its size, construction, or attachment to a motor
5 vehicle, is loaded or unloaded without being removed from the motor
6 vehicle; and

7 (c) Is not fabricated under a specification for
8 cylinders, intermediate bulk containers, multi-unit tank-car tanks,
9 portable tanks, or tank cars;

10 (4) Cargo tank motor vehicle means a motor vehicle with
11 one or more cargo tanks permanently attached to or forming an
12 integral part of the motor vehicle;

13 (5) Commercial enterprise means any business activity
14 relating to or based upon the production, distribution, or
15 consumption of goods or services;

16 (6) Commercial motor vehicle means any self-propelled or
17 towed motor vehicle used on a highway in interstate commerce or
18 intrastate commerce to transport passengers or property when the
19 vehicle:

20 (a) Has a gross vehicle weight rating or gross
21 combination weight rating or gross vehicle weight or gross
22 combination weight of ten thousand one pounds or more, whichever is
23 greater;

24 (b) Is designed or used to transport more than eight
25 passengers, including the driver, for compensation;

1 (c) Is designed or used to transport more than fifteen
2 passengers, including the driver, and is not used to transport
3 passengers for compensation; or

4 (d) Is used in transporting material found to be
5 hazardous and such material is transported in a quantity requiring
6 placarding pursuant to section 75-364;

7 (7) Compliance review means an onsite examination of
8 motor carrier operations, such as drivers' hours of service,
9 maintenance and inspection, driver qualification, commercial driver's
10 license requirements, financial responsibility, accidents, hazardous
11 materials, and other safety and transportation records to determine
12 whether a motor carrier meets the safety fitness standard. A
13 compliance review may be conducted in response to a request to change
14 a safety rating, to investigate potential violations of safety
15 regulations by motor carriers, or to investigate complaints or other
16 evidence of safety violations. The compliance review may result in
17 the initiation of an enforcement action with penalties;

18 (8)(a) Covered farm vehicle means a motor vehicle,
19 including an articulated motor vehicle:

20 (i) That:

21 (A) Is traveling in the state in which the vehicle is
22 registered or another state;

23 (B) Is operated by:

24 (I) A farm owner or operator;

25 (II) A ranch owner or operator; or

1 (III) An employee or family member of an individual
2 specified in subdivision (8)(a)(i)(B)(I) or (8)(a)(i)(B)(II) of this
3 section;

4 (C) Is transporting to or from a farm or ranch:

5 (I) Agricultural commodities;

6 (II) Livestock; or

7 (III) Machinery or supplies;

8 (D) Except as provided in subdivision (8)(b) of this
9 section, is not used in the operations of a for-hire motor carrier;
10 and

11 (E) Is equipped with a special license plate or other
12 designation by the state in which the vehicle is registered to allow
13 for identification of the vehicle as a farm vehicle by law
14 enforcement personnel; and

15 (ii) That has a gross vehicle weight rating or gross
16 vehicle weight, whichever is greater, that is:

17 (A) Less than twenty-six thousand one pounds; or

18 (B) Twenty-six thousand one pounds or more and is
19 traveling within the state or within one hundred fifty air miles of
20 the farm or ranch with respect to which the vehicle is being
21 operated.

22 (b) Covered farm vehicle includes a motor vehicle that
23 meets the requirements of subdivision (8)(a) of this section, except
24 for subdivision (8)(a)(i)(D) of this section, and:

25 (i) Is operated pursuant to a crop share farm lease

1 agreement;

2 (ii) Is owned by a tenant with respect to that agreement;

3 and

4 (iii) Is transporting the landlord's portion of the crops
5 under that agreement.

6 (c) Covered farm vehicle does not include:

7 (i) A combination of truck-tractor and semitrailer which
8 is operated by a person under eighteen years of age; or

9 (ii) A combination of truck-tractor and semitrailer which
10 is used in the transportation of materials found to be hazardous for
11 the purposes of the federal Hazardous Materials Transportation Act
12 and which requires the combination to be placarded under 49 C.F.R.
13 part 172, subpart F;

14 ~~(8)~~(9) Disabling damage means damage which precludes
15 departure of a motor vehicle from the scene of the accident in its
16 usual manner in daylight after simple repairs.

17 (a) Inclusions: Damage to motor vehicles that could have
18 been driven but would have been further damaged if so driven.

19 (b) Exclusions:

20 (i) Damage which can be remedied temporarily at the scene
21 of the accident without special tools or parts;

22 (ii) Tire disablement without other damage even if no
23 spare tire is available;

24 (iii) Headlight or taillight damage; and

25 (iv) Damage to turnsignals, horn, or windshield wipers

1 which makes them inoperative;

2 ~~(9)~~ (10) Driver means any person who operates any
3 commercial motor vehicle;

4 ~~(10)~~ (11) Elevated temperature material means a material
5 which, when offered for transportation or transported in a bulk
6 packaging:

7 (a) Is in a liquid phase and at a temperature at or above
8 two hundred twelve degrees Fahrenheit;

9 (b) Is in a liquid phase with a flash point at or above
10 one hundred degrees Fahrenheit that is intentionally heated and
11 offered for transportation or transported at or above its flash
12 point; or

13 (c) Is in a solid phase and at a temperature at or above
14 four hundred sixty-four degrees Fahrenheit;

15 ~~(11)~~ (12) Employee means any individual, other than an
16 employer, who is employed by an employer and who in the course of his
17 or her employment directly affects commercial motor vehicle safety.
18 Such term includes a driver of a commercial motor vehicle, including
19 an independent contractor while in the course of operating a
20 commercial motor vehicle, a mechanic, and a freight handler. Such
21 term does not include an employee of the United States, any state,
22 any political subdivision of a state, or any agency established under
23 a compact between states and approved by the Congress of the United
24 States who is acting within the course of such employment;

25 ~~(12)~~ (13) Employer means any person engaged in a business

1 affecting commerce who owns or leases a commercial motor vehicle in
2 connection with that business or assigns employees to operate it.
3 Such term does not include the United States, any state, any
4 political subdivision of a state, or an agency established under a
5 compact between states approved by the Congress of the United States;

6 ~~(13)~~ (14) Exempt motor carrier means a person engaged in
7 transportation exempt from economic regulation under 49 U.S.C. 13506.

8 An exempt motor carrier is subject to the safety regulations adopted
9 in sections 75-362 to 75-369.07;

10 ~~(14)~~ (15) Farm vehicle driver means a person who drives
11 only a commercial motor vehicle that is controlled and operated by a
12 farmer as a private motor carrier of property;

13 ~~(15)~~ (16) Farmer means any person who operates a farm or
14 is directly involved in the cultivation of land, crops, or livestock
15 which:

16 (a) Are owned by that person; or

17 (b) Are under the direct control of that person;

18 ~~(16)~~ (17) Fatality means any injury which results in the
19 death of a person at the time of the motor vehicle accident or within
20 thirty days after the accident;

21 ~~(17)~~ (18) Fertilizer and agricultural chemical
22 application and distribution equipment means:

23 (a) Self-propelled or towed equipment, designed and used
24 exclusively to apply commercial fertilizer, as that term is defined
25 in section 81-2,162.02, chemicals, or related products to

1 agricultural soil and crops; or

2 (b) Towed equipment designed and used exclusively to
3 carry commercial fertilizer, as that term is defined in section
4 81-2,162.02, chemicals, or related products for use on agricultural
5 soil and crops, which are equipped with implement or floatation
6 tires;

7 ~~(18)~~(19) For-hire motor carrier means a person engaged
8 in the transportation of goods or passengers for compensation;

9 ~~(19)~~(20) Gross combination weight means the sum of the
10 empty weight of a motor vehicle plus the total weight of any load
11 carried thereon and the empty weight of the towed unit or units plus
12 the total weight of any load carried on such towed unit or units;

13 ~~(20)~~(21) Gross combination weight rating means the value
14 specified by the manufacturer as the loaded weight of a combination
15 (articulated) motor vehicle. In the absence of a value specified by
16 the manufacturer, gross combination weight rating will be determined
17 by adding either the gross vehicle weight rating or gross vehicle
18 weight of the motor vehicle plus the gross vehicle weight rating or
19 gross vehicle weight of the towed unit or units;

20 ~~(21)~~(22) Gross vehicle weight means the sum of the empty
21 weight of a motor vehicle plus the total weight of any load carried
22 thereon;

23 ~~(22)~~(23) Gross vehicle weight rating means the value
24 specified by the manufacturer as the loaded weight of a single motor
25 vehicle. In the absence of such value specified by the manufacturer

1 or the absence of any marking of such value on the vehicle, the gross
2 vehicle weight rating shall be determined from the sum of the axle
3 weight ratings of the vehicle or the sum of the tire weight ratings
4 as marked on the sidewall of the tires, whichever is greater. In the
5 absence of any tire sidewall marking, the tire weight ratings shall
6 be determined for the specified tires from any of the publications of
7 any of the organizations listed in 49 C.F.R. 571.119;

8 ~~(23)~~(24) Hazardous material means a substance or
9 material that the Secretary of the United States Department of
10 Transportation has determined is capable of posing an unreasonable
11 risk to health, safety, and property when transported in commerce and
12 has designated as hazardous under 49 U.S.C. 5103. The term includes
13 hazardous substances, hazardous wastes, marine pollutants, elevated
14 temperature materials, materials designated as hazardous in the
15 Hazardous Materials Table, 49 C.F.R. 172.101, and materials that meet
16 the defining criteria for hazard classes and divisions in 49 C.F.R.
17 part 173;

18 ~~(24)~~(25) Hazardous substance means a material, including
19 its mixtures and solutions, that is listed in 49 C.F.R. 172.101,
20 Appendix A, List Of Hazardous Substances and Reportable Quantities,
21 and is in a quantity, in one package, which equals or exceeds the
22 reportable quantity listed in 49 C.F.R. 172.101, Appendix A. This
23 definition does not apply to petroleum products that are lubricants
24 or fuels or to mixtures or solutions of hazardous substances if in a
25 concentration less than that shown in the table in 49 C.F.R. 171.8

1 under the definition of hazardous substance based on the reportable
2 quantity specified for the materials listed in 49 C.F.R. 172.101,
3 Appendix A;

4 ~~(25)~~ (26) Hazardous waste means any material that is
5 subject to the hazardous waste manifest requirements of the United
6 States Environmental Protection Agency specified in 40 C.F.R. 262;

7 ~~(26)~~ (27) Highway means the entire width between the
8 boundary limits of any street, road, avenue, boulevard, or way which
9 is publicly maintained when any part thereof is open to the use of
10 the public for purposes of vehicular travel;

11 ~~(27)~~ (28) Interstate commerce means trade, traffic, or
12 transportation provided in the furtherance of a commercial enterprise
13 in the United States:

14 (a) Between a place in a state and a place outside of
15 such state, including a place outside of the United States;

16 (b) Between two places in a state through another state
17 or a place outside of the United States; or

18 (c) Between two places in a state as part of trade,
19 traffic, or transportation originating or terminating outside the
20 state or the United States;

21 ~~(28)~~ (29) Intrastate commerce means any trade, traffic,
22 or transportation provided in the furtherance of a commercial
23 enterprise between any place in the State of Nebraska and any other
24 place in Nebraska and not through any other state;

25 ~~(29)~~ (30) Marine pollutant means a material which is

1 listed in the Hazardous Materials Table, 49 C.F.R. 172.101, Appendix
2 B, as a marine pollutant (see 49 C.F.R. 171.4 for applicability to
3 marine pollutants) and, when in a solution or mixture of one or more
4 marine pollutants, is packaged in a concentration which equals or
5 exceeds:

6 (a) Ten percent by weight of the solution or mixture for
7 materials listed in 49 C.F.R. 172.101, Appendix B; or

8 (b) One percent by weight of the solution or mixture for
9 materials that are identified as severe marine pollutants in the
10 Hazardous Materials Table, 49 C.F.R. 172.101, Appendix B;

11 ~~(30)~~(31) Motor carrier means a for-hire motor carrier or
12 a private motor carrier. The term includes a motor carrier's agents,
13 officers, and representatives as well as employees responsible for
14 hiring, supervising, training, assigning, or dispatching of drivers
15 and employees concerned with the installation, inspection, and
16 maintenance of motor vehicle equipment or accessories. This
17 definition includes the terms employer and exempt motor carrier;

18 ~~(31)~~(32) Motor vehicle means any vehicle, truck, truck-
19 tractor, trailer, or semitrailer propelled or drawn by mechanical
20 power except (a) farm tractors, (b) vehicles which run only on rails
21 or tracks, and (c) road and general-purpose construction and
22 maintenance machinery which by design and function is obviously not
23 intended for use on a public highway, including, but not limited to,
24 motor scrapers, earthmoving equipment, backhoes, trenchers, motor
25 graders, compactors, tractors, bulldozers, bucket loaders,

1 ditchdigging apparatus, asphalt spreaders, leveling graders, power
2 shovels, and crawler tractors;

3 ~~(32)~~ (33) Nonbulk packaging means a packaging which has:

4 (a) A maximum capacity of one hundred nineteen gallons or
5 less as a receptacle for a liquid;

6 (b) A maximum net mass of eight hundred eighty-two pounds
7 or less and a maximum capacity of one hundred nineteen gallons or
8 less as a receptacle for a solid; or

9 (c) A water capacity of one thousand pounds or less as a
10 receptacle for a gas as defined in 49 C.F.R. 173.115;

11 ~~(33)~~ (34) Out-of-service order means a declaration by an
12 authorized enforcement officer of a federal, state, Canadian,
13 Mexican, or local jurisdiction that a driver, a commercial motor
14 vehicle, or a motor carrier operation is out of service pursuant to
15 49 C.F.R. 386.72, 392.5, 392.9a, 395.13, or 396.9, or compatible laws
16 or the North American Uniform Out-of-Service Criteria;

17 ~~(34)~~ (35) Packaging means a receptacle and any other
18 components or materials necessary for the receptacle to perform its
19 containment function in conformance with the minimum packing
20 requirements of Title 49 of the Code of Federal Regulations. For
21 radioactive materials packaging, see 49 C.F.R. 173.403;

22 ~~(35)~~ (36) Person means any individual, partnership,
23 association, corporation, business trust, or any other organized
24 group of individuals;

25 (37) Planting and harvesting season means the period

1 beginning on February 15 up to and including December 15 of each
2 calendar year;

3 ~~(36)~~—(38) Principal place of business means the single
4 location designated by the motor carrier, normally its headquarters,
5 for purposes of identification. The motor carrier must make records
6 required by the regulations referred to in sections ~~75-363~~—75-362 to
7 75-369.07 and ~~this section~~ available for inspection at this location
8 within forty-eight hours, Saturdays, Sundays, and state or federal
9 holidays excluded, after a request has been made by an officer of the
10 Nebraska State Patrol;

11 ~~(37)~~—(39) Private motor carrier means a person who
12 provides transportation of property or passengers by commercial motor
13 vehicle and is not a for-hire motor carrier;

14 ~~(38)~~—(40) Safety audit means an examination of a motor
15 carrier's operations to provide educational and technical assistance
16 on drivers' hours of service, maintenance and inspection, driver
17 qualification, commercial driver's license requirements, financial
18 responsibility, accidents, hazardous materials, and other safety and
19 transportation records to determine whether a motor carrier meets the
20 safety fitness standard. The purpose of a safety audit is to gather
21 critical safety data needed to make an assessment of the carrier's
22 safety performance and basic safety management controls. Safety
23 audits do not result in safety ratings; and

24 ~~(39)~~—(41) Tank means a container, consisting of a shell
25 and heads, that forms a pressure-tight vessel having openings

1 designed to accept pressure-tight fittings or closures, but excludes
2 any appurtenances, reinforcements, fittings, or closures.

3 Sec. 6. Section 75-363, Revised Statutes Cumulative
4 Supplement, 2012, is amended to read:

5 75-363 (1) The parts, subparts, and sections of Title 49
6 of the Code of Federal Regulations listed below, as modified in this
7 section, or any other parts, subparts, and sections referred to by
8 such parts, subparts, and sections, in existence and effective as of
9 January 1, ~~2012~~, 2013, are adopted as Nebraska law.

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

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

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

16 (i) All vehicles of such motor carriers with a gross
17 vehicle weight rating, gross combination weight rating, gross vehicle
18 weight, or gross combination weight over ten thousand pounds;

19 (ii) All vehicles of such motor carriers designed or used
20 to transport more than eight passengers, including the driver, for
21 compensation, or designed or used to transport more than fifteen
22 passengers, including the driver, and not used to transport
23 passengers for compensation;

24 (iii) All vehicles of such motor carriers transporting
25 hazardous materials required to be placarded pursuant to section

1 75-364; and

2 (iv) All drivers of such motor carriers if the drivers
3 are operating a commercial motor vehicle as defined in section 60-465
4 which requires a commercial driver's license.

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

8 (a) Part 382 - Controlled Substances And Alcohol Use And
9 Testing;

10 (b) Part 385 - Safety Fitness Procedures;

11 (c) Part 386 - Rules Of Practice For Motor Carrier,
12 Intermodal Equipment Provider, Broker, Freight Forwarder, And
13 Hazardous Materials Proceedings;

14 (d) Part 387 - Minimum Levels of Financial Responsibility
15 for Motor Carriers;

16 (e) Part 390 - Federal Motor Carrier Safety Regulations;
17 General;

18 (f) Part 391 - Qualifications Of Drivers And Longer
19 Combination Vehicle (LCV) Driver Instructors;

20 (g) Part 392 - Driving Of Commercial Motor Vehicles;

21 (h) Part 393 - Parts And Accessories Necessary For Safe
22 Operation;

23 (i) Part 395 - Hours Of Service Of Drivers;

24 (j) Part 396 - Inspection, Repair, And Maintenance;

25 (k) Part 397 - Transportation Of Hazardous Materials;

1 Driving And Parking Rules; and

2 (1) Part 398 - Transportation Of Migrant Workers.

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

10 (5) The regulations adopted in subsection (3) of this
11 section shall not apply to farm trucks registered pursuant to section
12 60-3,146 with a gross weight of sixteen tons or less. The following
13 parts and sections of 49 C.F.R. chapter III shall not apply to
14 drivers of farm trucks registered pursuant to section 60-3,146 and
15 operated solely in intrastate commerce:

16 (a) All of part 391;

17 (b) Section 395.8 of part 395; and

18 (c) Section 396.11 of part 396.

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

21 (a) Part 382 - Controlled Substances and Alcohol Use and
22 Testing;

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

25 (c) Part 395 - Hours of Service of Drivers; and

1 (d) Part 396 - Inspection, Repair, and Maintenance.

2 ~~(6)~~(7) Part 393 - Parts And Accessories Necessary For
3 Safe Operation and Part 396 - Inspection, Repair, And Maintenance
4 shall not apply to fertilizer and agricultural chemical application
5 and distribution equipment transported in units with a capacity of
6 three thousand five hundred gallons or less.

7 ~~(7)~~(8) For purposes of this section, intrastate motor
8 carriers shall not include any motor carrier or driver excepted from
9 49 C.F.R. chapter III by section 390.3(f) of part 390.

10 ~~(8)(a)~~(9)(a) Part 395 - Hours Of Service Of Drivers
11 shall apply to motor carriers and drivers who engage in intrastate
12 commerce as defined in section 75-362, except that no motor carrier
13 who engages in intrastate commerce shall permit or require any driver
14 used by it to drive nor shall any driver drive:

15 (i) More than twelve hours following eight consecutive
16 hours off duty; or

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

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

24 (i) Having been on duty seventy hours in any seven
25 consecutive days if the employing motor carrier does not operate

1 every day of the week; or

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

5 ~~(9)–(10)~~ Part 395 - Hours Of Service Of Drivers, as
6 adopted in subsections (3) and ~~(8)–(9)~~ of this section, shall not
7 apply to drivers transporting agricultural commodities or farm
8 supplies for agricultural purposes ~~when the transportation of such~~
9 ~~commodities or supplies occurs within a one hundred air-mile radius~~
10 ~~of the source of the commodities or the distribution point for the~~
11 ~~supplies when such transportation occurs during the period beginning~~
12 ~~on February 15 up to and including December 15 of each calendar year.~~
13 during planting and harvesting season when:

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

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

22 (c) The transportation of such farm supplies is from a
23 wholesale distribution point of the farm supplies to a retail
24 distribution point of the farm supplies which is within a one hundred
25 fifty air-mile radius of the wholesale distribution point.

1 ~~(10)~~(11) 49 C.F.R. 390.21 - Marking Of Self-Propelled
2 CMVs And Intermodal Equipment shall not apply to farm trucks and farm
3 truck-tractors registered pursuant to section 60-3,146 and operated
4 solely in intrastate commerce.

5 ~~(11)~~(12) 49 C.F.R. 392.9a - Operating Authority shall
6 not apply to Nebraska motor carriers operating commercial motor
7 vehicles solely in intrastate commerce.

8 ~~(12)~~(13) No motor carrier shall permit or require a
9 driver of a commercial motor vehicle to violate, and no driver of a
10 commercial motor vehicle shall violate, any out-of-service order.

11 Sec. 7. Section 75-364, Revised Statutes Cumulative
12 Supplement, 2012, is amended to read:

13 75-364 The parts, subparts, and sections of Title 49 of
14 the Code of Federal Regulations listed below, or any other parts,
15 subparts, and sections referred to by such parts, subparts, and
16 sections, in existence and effective as of January 1, ~~2012~~,2013, are
17 adopted as part of Nebraska law and shall be applicable to all motor
18 carriers whether engaged in interstate or intrastate commerce,
19 drivers of such motor carriers, and vehicles of such motor carriers:

20 (1) Part 107 - Hazardous Materials Program Procedures,
21 subpart F-Registration of Cargo Tank and Cargo Tank Motor Vehicle
22 Manufacturers, Assemblers, Repairers, Inspectors, Testers, and Design
23 Certifying Engineers;

24 (2) Part 107 - Hazardous Materials Program Procedures,
25 subpart G-Registration of Persons Who Offer or Transport Hazardous

1 Materials;

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

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

7 (5) Part 173 - SHIPPERS - GENERAL REQUIREMENTS FOR
8 SHIPMENTS AND PACKAGINGS;

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

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

11 (8) Part 180 - CONTINUING QUALIFICATION AND MAINTENANCE
12 OF PACKAGINGS.

13 Sec. 8. Section 75-366, Revised Statutes Cumulative
14 Supplement, 2012, is amended to read:

15 75-366 For the purpose of enforcing Chapter 75, article
16 3, any officer of the Nebraska State Patrol may, upon demand, inspect
17 the accounts, records, and equipment of any motor carrier or shipper.
18 Any officer of the Nebraska State Patrol shall have the authority to
19 enforce the federal motor carrier safety regulations, as such
20 regulations existed on January 1, ~~2012,~~2013, and federal hazardous
21 materials regulations, as such regulations existed on January 1,
22 ~~2012,~~2013, and is authorized to enter upon, inspect, and examine any
23 and all lands, buildings, and equipment of any motor carrier, any
24 shipper, and any other person subject to the federal Interstate
25 Commerce Act, the federal Department of Transportation Act, and other

1 related federal laws and to inspect and copy any and all accounts,
2 books, records, memoranda, correspondence, and other documents of a
3 motor carrier, a shipper, and any other person subject to Chapter 75,
4 article 3, for the purposes of enforcing Chapter 75, article 3. To
5 promote uniformity of enforcement, the carrier enforcement division
6 of the Nebraska State Patrol shall cooperate and consult with the
7 Public Service Commission and the Division of Motor Carrier Services.

8 Sec. 9. Original sections 60-463 and 60-465, Reissue
9 Revised Statutes of Nebraska, and sections 60-462, 75-362, 75-363,
10 75-364, and 75-366, Revised Statutes Cumulative Supplement, 2012, are
11 repealed.

12 Sec. 10. Since an emergency exists, this act takes effect
13 when passed and approved according to law.