

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 981

Introduced by Dubas, 34.

Read first time January 17, 2014

Committee: Transportation and Telecommunications

A BILL

1 FOR AN ACT relating to commercial motor vehicles; to amend section
2 60-465, Reissue Revised Statutes of Nebraska, and
3 sections 60-487, 60-4,144.01, 60-4,168, 60-4,182, and
4 60-6,179.02, Revised Statutes Cumulative Supplement,
5 2012; to redefine a term; to change provisions relating
6 to falsified information; to require medical examinations
7 by medical examiners listed on the National Registry of
8 Certified Medical Examiners; to prohibit texting and the
9 use of a handheld mobile telephone and provide for
10 penalties and disqualification as prescribed; to
11 harmonize provisions; to repeal the original sections;
12 and to declare an emergency.

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

1 Section 1. Section 60-465, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 60-465 (1) Commercial motor vehicle means a motor vehicle
4 or combination of motor vehicles used in commerce to transport
5 passengers or property if the motor vehicle:

6 (a) Has a gross combination weight rating of eleven
7 thousand seven hundred ninety-four kilograms or more (twenty-six
8 thousand one pounds or more) inclusive of a towed unit with a gross
9 vehicle weight rating of more than four thousand five hundred thirty-
10 six kilograms (ten thousand pounds);

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

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

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

20 (2) Commercial motor vehicle does not include (a) a farm
21 vehicle, other than a combination of truck-tractors and semitrailers,
22 which is (i) controlled and operated by a farmer, including operation
23 by employees or family members of the farmer, (ii) used to transport
24 either agricultural products, farm machinery, farm supplies, or both,
25 to or from a farm or ranch, (iii) not used in the operations of a

1 common or contract motor carrier, and (iv) used within one hundred
2 fifty miles of the farmer's farm or ranch, (b) any recreational
3 vehicle as defined in section 60-347 or motor vehicle towing a cabin
4 trailer as defined in sections 60-314 and 60-339, (c) any emergency
5 vehicle necessary to the preservation of life or property or the
6 execution of emergency governmental functions which is equipped with
7 audible and visual signals and operated by a public or volunteer fire
8 department, or (d) any motor vehicle owned or operated by the United
9 States Department of Defense or Nebraska National Guard when such
10 motor vehicle is driven by persons identified in section 60-4,131.01.

11 Sec. 2. Section 60-487, Revised Statutes Cumulative
12 Supplement, 2012, is amended to read:

13 60-487 (1) If any magistrate or judge finds in his or her
14 judgment of conviction that the application or issuance certificate
15 pursuant to which the director has issued an operator's license under
16 the Motor Vehicle Operator's License Act contains any false or
17 fraudulent statement deliberately and knowingly made to any officer
18 as to any matter material to the issuance of such license or does not
19 contain required or correct information or that the person to whom
20 the license was issued was not eligible to receive such license, then
21 the license shall be absolutely void from the date of issue and such
22 motor vehicle operator shall be deemed to be not licensed to operate
23 a motor vehicle. Such license shall be at once canceled of record in
24 his or her office by the director upon receipt of a copy of such
25 judgment of conviction. The director may, upon his or her own motion,

1 summarily cancel any license for any of the reasons set forth in this
2 section if such reason or reasons affirmatively appear on his or her
3 official records.

4 (2) If the director determines, in a check of an
5 applicant's license status and record prior to issuing a commercial
6 driver's license or LPC-learner's permit, or at any time after the
7 commercial driver's license or LPC-learner's permit is issued, that
8 the applicant falsified information contained in the application or
9 in the medical examiner's certificate, the director may summarily
10 cancel the person's commercial driver's license or LPC-learner's
11 permit or his or her pending application as provided in subsection
12 (1) of this section and disqualify the person from operating a
13 commercial motor vehicle for sixty days.

14 Sec. 3. Section 60-4,144.01, Revised Statutes Cumulative
15 Supplement, 2012, is amended to read:

16 60-4,144.01 (1) A person must certify that he or she
17 operates or expects to operate a commercial motor vehicle in
18 interstate commerce, is both subject to and meets the qualification
19 requirements under 49 C.F.R. part 391, and is required to obtain a
20 medical examiner's certificate by 49 C.F.R. 391.45. Beginning May 21,
21 2014, the medical examination required in order to obtain a medical
22 examiner's certificate shall be conducted by a medical examiner who
23 is listed on the National Registry of Certified Medical Examiners.
24 Any nonexcepted holder of a commercial driver's license ~~on or after~~
25 ~~January 1, 2012,~~ who certifies that he or she will operate a

1 commercial motor vehicle in nonexcepted, interstate commerce must
2 maintain a current medical examiner's certificate and provide a copy
3 of it to the department in order to maintain his or her medical
4 certification status. †

5 (2) A person must certify that he or she operates or
6 expects to operate a commercial motor vehicle in interstate commerce,
7 but engages exclusively in transportation or operations excepted
8 under 49 C.F.R. 390.3(f), 391.2, 391.68, or 398.3 from all or part of
9 the qualification requirements of 49 C.F.R. part 391, and is therefor
10 not required to obtain a medical examiner's certificate by 49 C.F.R.
11 391.45. †

12 (3) A person must certify that he or she operates a
13 commercial motor vehicle only in intrastate commerce and therefor is
14 subject to state driver qualification requirements as provided in
15 section 75-363. ~~† or~~

16 (4) A person must certify that he or she operates a
17 commercial motor vehicle in intrastate commerce, but engages
18 exclusively in transportation or operations excepted from all or
19 parts of the state driver qualification requirements.

20 Sec. 4. Section 60-4,168, Revised Statutes Cumulative
21 Supplement, 2012, is amended to read:

22 60-4,168 (1) Except as provided in subsections (2) and
23 (3) of this section, a person shall be disqualified from driving a
24 commercial motor vehicle for one year upon his or her first
25 conviction, ~~after April 1, 1992,~~ in this or any other state for:

1 (a) ~~Driving a commercial motor vehicle in violation of~~
2 ~~section 60-6,196 or 60-6,197 or under the influence of a controlled~~
3 ~~substance or, beginning September 30, 2005, driving any motor vehicle~~
4 in violation of section 60-6,196 or 60-6,197 or under the influence
5 of a controlled substance;

6 (b) Driving a commercial motor vehicle in violation of
7 section 60-4,163 or 60-4,164;

8 (c) Leaving the scene of an accident involving a
9 ~~commercial motor vehicle driven by the person or, beginning September~~
10 ~~30, 2005, leaving the scene of an accident involving any motor~~
11 vehicle driven by the person;

12 (d) ~~Using a commercial motor vehicle in the commission of~~
13 ~~a felony other than a felony described in subdivision (3)(b) of this~~
14 ~~section or, beginning September 30, 2005, using any motor vehicle in~~
15 the commission of a felony other than a felony described in
16 subdivision (3)(b) of this section;

17 (e) ~~Beginning September 30, 2005, driving~~ Driving a
18 commercial motor vehicle after his or her commercial driver's license
19 has been suspended, revoked, or canceled or the driver is
20 disqualified from driving a commercial motor vehicle; or

21 (f) ~~Beginning September 30, 2005, causing~~ Causing a
22 fatality through the negligent or criminal operation of a commercial
23 motor vehicle.

24 (2) Except as provided in subsection (3) of this section,
25 if any of the offenses described in subsection (1) of this section

1 occurred while a person was transporting hazardous material in a
2 commercial motor vehicle which required placarding pursuant to
3 section 75-364, the person shall, upon conviction or administrative
4 determination, be disqualified from driving a commercial motor
5 vehicle for three years.

6 (3) A person shall be disqualified from driving a
7 commercial motor vehicle for life if, ~~after April 1, 1992,~~ he or she:

8 (a) Is convicted of or administratively determined to
9 have committed a second or subsequent violation of any of the
10 offenses described in subsection (1) of this section or any
11 combination of those offenses arising from two or more separate
12 incidents; or

13 (b) ~~Beginning September 30, 2005, used~~ Used a commercial
14 motor vehicle in the commission of a felony involving the
15 manufacturing, distributing, or dispensing of a controlled substance.

16 (4)(a) A person is disqualified from driving a commercial
17 motor vehicle for a period of not less than sixty days if he or she
18 is convicted in this or any other state of two serious traffic
19 violations, or not less than one hundred twenty days if he or she is
20 convicted in this or any other state of three serious traffic
21 violations, arising from separate incidents occurring within a three-
22 year period while operating a commercial motor vehicle.

23 (b) A person is disqualified from driving a commercial
24 motor vehicle for a period of not less than sixty days if he or she
25 is convicted in this or any other state of two serious traffic

1 violations, or not less than one hundred twenty days if he or she is
2 convicted in this or any other state of three serious traffic
3 violations, arising from separate incidents occurring within a three-
4 year period while operating a motor vehicle other than a commercial
5 motor vehicle if the convictions have resulted in the revocation,
6 cancellation, or suspension of the person's operator's license or
7 driving privileges.

8 (5)(a) A person who is convicted of operating a
9 commercial motor vehicle in violation of a federal, state, or local
10 law or regulation pertaining to one of the following six offenses at
11 a highway-rail grade crossing shall be disqualified for the period of
12 time specified in subdivision (5)(b) of this section:

13 (i) For drivers who are not required to always stop,
14 failing to slow down and check that the tracks are clear of an
15 approaching train;

16 (ii) For drivers who are not required to always stop,
17 failing to stop before reaching the crossing, if the tracks are not
18 clear;

19 (iii) For drivers who are always required to stop,
20 failing to stop before driving onto the crossing;

21 (iv) For all drivers, failing to have sufficient space to
22 drive completely through the crossing without stopping;

23 (v) For all drivers, failing to obey a traffic control
24 device or the directions of an enforcement official at the crossing;
25 or

1 (vi) For all drivers, failing to negotiate a crossing
2 because of insufficient undercarriage clearance.

3 (b)(i) A person shall be disqualified for not less than
4 sixty days if the person is convicted of a first violation described
5 in this subsection.

6 (ii) A person shall be disqualified for not less than one
7 hundred twenty days if, during any three-year period, the person is
8 convicted of a second violation described in this subsection in
9 separate incidents.

10 (iii) A person shall be disqualified for not less than
11 one year if, during any three-year period, the person is convicted of
12 a third or subsequent violation described in this subsection in
13 separate incidents.

14 (6) For purposes of this section, controlled substance
15 has the same meaning as in section 28-401.

16 (7) For purposes of this section, conviction means an
17 unvacated adjudication of guilt, or a determination that a person has
18 violated or failed to comply with the law, in a court of original
19 jurisdiction or by an authorized administrative tribunal, an
20 unvacated forfeiture of bail or collateral deposited to secure the
21 person's appearance in court, a plea of guilty or nolo contendere
22 accepted by the court, the payment of a fine or court costs, or a
23 violation of a condition of release without bail, regardless of
24 whether or not the penalty is rebated, suspended, or probated.

25 (8) For purposes of this section, serious traffic

1 violation means:

2 (a) Speeding at or in excess of fifteen miles per hour
3 over the legally posted speed limit;

4 (b) Willful reckless driving as described in section
5 60-6,214 or reckless driving as described in section 60-6,213;

6 (c) Improper lane change as described in section
7 60-6,139;

8 (d) Following the vehicle ahead too closely as described
9 in section 60-6,140;

10 (e) A violation of any law or ordinance related to motor
11 vehicle traffic control, other than parking violations or overweight
12 or vehicle defect violations, arising in connection with an accident
13 or collision resulting in death to any person;

14 ~~Beginning September 30, 2005, driving~~ Driving a
15 commercial motor vehicle without a commercial driver's license;

16 ~~Beginning September 30, 2005, driving~~ Driving a
17 commercial motor vehicle without a commercial driver's license in the
18 operator's possession;

19 ~~Beginning September 30, 2005, driving~~ Driving a
20 commercial motor vehicle without the proper class of commercial
21 driver's license and any endorsements, if required, for the specific
22 vehicle group being operated or for the passengers or type of cargo
23 being transported on the vehicle; ~~and~~

24 ~~Beginning October 27, 2013, texting~~ Texting while
25 driving as described in section 60-6,179.02; ~~and~~ -

1 (j) Using a handheld mobile telephone as described in
2 section 60-6,179.02.

3 Sec. 5. Section 60-4,182, Revised Statutes Cumulative
4 Supplement, 2012, is amended to read:

5 60-4,182 In order to prevent and eliminate successive
6 traffic violations, there is hereby provided a point system dealing
7 with traffic violations as disclosed by the files of the director.
8 The following point system shall be adopted:

- 9 (1) Conviction of motor vehicle homicide - 12 points;
- 10 (2) Third offense drunken driving in violation of any
11 city or village ordinance or of section 60-6,196, as disclosed by the
12 records of the director, regardless of whether the trial court found
13 the same to be a third offense - 12 points;
- 14 (3) Failure to stop and render aid as required under
15 section 60-697 in the event of involvement in a motor vehicle
16 accident resulting in the death or personal injury of another - 6
17 points;
- 18 (4) Failure to stop and report as required under section
19 60-696 or any city or village ordinance in the event of a motor
20 vehicle accident resulting in property damage - 6 points;
- 21 (5) Driving a motor vehicle while under the influence of
22 alcoholic liquor or any drug or when such person has a concentration
23 of eight-hundredths of one gram or more by weight of alcohol per one
24 hundred milliliters of his or her blood or per two hundred ten liters
25 of his or her breath in violation of any city or village ordinance or

1 of section 60-6,196 - 6 points;

2 (6) Willful reckless driving in violation of any city or
3 village ordinance or of section 60-6,214 or 60-6,217 - 6 points;

4 (7) Careless driving in violation of any city or village
5 ordinance or of section 60-6,212 - 4 points;

6 (8) Negligent driving in violation of any city or village
7 ordinance - 3 points;

8 (9) Reckless driving in violation of any city or village
9 ordinance or of section 60-6,213 - 5 points;

10 (10) Speeding in violation of any city or village
11 ordinance or any of sections 60-6,185 to 60-6,190 and 60-6,313:

12 (a) Not more than five miles per hour over the speed
13 limit - 1 point;

14 (b) More than five miles per hour but not more than ten
15 miles per hour over the speed limit - 2 points;

16 (c) More than ten miles per hour but not more than
17 thirty-five miles per hour over the speed limit - 3 points, except
18 that one point shall be assessed upon conviction of exceeding by not
19 more than ten miles per hour, two points shall be assessed upon
20 conviction of exceeding by more than ten miles per hour but not more
21 than fifteen miles per hour, and three points shall be assessed upon
22 conviction of exceeding by more than fifteen miles per hour but not
23 more than thirty-five miles per hour the speed limits provided for in
24 subdivision (1)(e), (f), (g), or (h) of section 60-6,186; and

25 (d) More than thirty-five miles per hour over the speed

1 limit - 4 points;

2 (11) Failure to yield to a pedestrian not resulting in
3 bodily injury to a pedestrian - 2 points;

4 (12) Failure to yield to a pedestrian resulting in bodily
5 injury to a pedestrian - 4 points;

6 (13) Using a handheld wireless communication device in
7 violation of section 60-6,179.01 or texting while driving in
8 violation of subsection (1) of section 60-6,179.02 - 3 points;

9 (14) Using a handheld mobile telephone in violation of
10 subsection (2), (3), or (4) of section 60-6,179.02 - 3 points;

11 ~~(14)~~(15) Unlawful obstruction or interference of the
12 view of an operator in violation of section 60-6,256 - 1 point;

13 ~~(15)~~(16) A violation of subsection (1) of section
14 60-6,175 - 3 points; and

15 ~~(16)~~(17) All other traffic violations involving the
16 operation of motor vehicles by the operator for which reports to the
17 Department of Motor Vehicles are required under sections 60-497.01
18 and 60-497.02 - 1 point.

19 Subdivision ~~(16)~~(17) of this section does not include
20 violations involving an occupant protection system pursuant to
21 section 60-6,270, parking violations, violations for operating a
22 motor vehicle without a valid operator's license in the operator's
23 possession, muffler violations, overwidth, overheight, or overlength
24 violations, motorcycle or moped protective helmet violations, or
25 overloading of trucks.

1 All such points shall be assessed against the driving
2 record of the operator as of the date of the violation for which
3 conviction was had. Points may be reduced by the department under
4 section 60-4,188.

5 In all cases, the forfeiture of bail not vacated shall be
6 regarded as equivalent to the conviction of the offense with which
7 the operator was charged.

8 The point system shall not apply to persons convicted of
9 traffic violations committed while operating a bicycle or an electric
10 personal assistive mobility device as defined in section 60-618.02.

11 Sec. 6. Section 60-6,179.02, Revised Statutes Cumulative
12 Supplement, 2012, is amended to read:

13 60-6,179.02 ~~(1) Beginning October 27, 2013, except (1)(a)~~
14 Except as otherwise provided in subsection (2) subdivision (1)(b) of
15 this section, no operator of a commercial motor vehicle or a motor
16 vehicle designed or used to transport between nine and fifteen
17 passengers, including the driver, not for direct compensation,
18 provided the vehicle does not otherwise meet the definition of a
19 commercial motor vehicle, shall engage in texting while driving such
20 vehicle.

21 ~~(2)(b) Texting while driving is permissible by an~~
22 ~~operator of a commercial motor vehicle if such texting is or a motor~~
23 ~~vehicle designed or used to transport between nine and fifteen~~
24 ~~passengers, including the driver, not for direct compensation,~~
25 ~~provided the vehicle does not otherwise meet the definition of a~~

1 commercial motor vehicle, when necessary to communicate with law
2 enforcement officials or other emergency services.

3 (2)(a) Except as otherwise provided in subdivision (2)(b)
4 of this section, no operator of a commercial motor vehicle or a motor
5 vehicle designed or used to transport between nine and fifteen
6 passengers, including the driver, not for direct compensation,
7 provided the vehicle does not otherwise meet the definition of a
8 commercial motor vehicle, shall use a handheld mobile telephone while
9 driving and no motor carrier shall allow or require its operators to
10 use a handheld mobile telephone while driving such vehicle.

11 (b) Using a handheld mobile telephone is permissible by
12 an operator of a commercial motor vehicle or a motor vehicle designed
13 or used to transport between nine and fifteen passengers, including
14 the driver, not for direct compensation, provided the vehicle does
15 not otherwise meet the definition of a commercial motor vehicle, when
16 necessary to communicate with law enforcement officials or other
17 emergency services.

18 (3)(a) Except as otherwise provided in subdivision (3)(b)
19 of this section, no operator of a school bus shall engage in texting
20 during school bus operations.

21 (b) Texting while driving is permissible by an operator
22 of a school bus during school bus operations when necessary to
23 communicate with law enforcement officials or other emergency
24 services.

25 (4)(a) Except as otherwise provided in subdivision (4)(b)

1 of this section, no operator of a school bus shall use a handheld
2 mobile telephone during school bus operations.

3 (b) Using a handheld mobile telephone is permissible by
4 an operator of a school bus during school bus operations when
5 necessary to communicate with law enforcement officials or other
6 emergency services.

7 ~~(3)~~ (5) Any person who violates this section shall be
8 guilty of a traffic infraction. Any person who is found guilty of a
9 traffic infraction under this section shall be subject to
10 disqualification as provided in section 60-4,168, shall be assessed
11 points on his or her motor vehicle operator's license pursuant to
12 section 60-4,182, and shall be fined:

13 (a) Two hundred dollars for the first offense;
14 (b) Three hundred dollars for a second offense; and
15 (c) Five hundred dollars for a third and subsequent
16 offense.

17 ~~(4)~~ (6) For purposes of this section:

18 (a) Driving means operating a commercial motor vehicle,
19 ~~with the motor running,~~ including while temporarily stationary
20 because of traffic, a traffic control device, or other momentary
21 delays. Driving does not include operating a commercial motor vehicle
22 ~~with or without the motor running~~ when the operator moves the vehicle
23 to the side of, or off, a highway and halts in a location where the
24 vehicle can safely remain stationary;

25 (b) Electronic device includes, but is not limited to, a

1 cellular telephone; a personal digital assistant; a pager; a
2 computer; or any other device used to input, write, send, receive, or
3 read text; ~~and~~

4 (c) Mobile telephone means a mobile communication device
5 that falls under or uses any commercial mobile radio service as
6 defined in regulations of the Federal Communications Commission, 47
7 C.F.R. 20.3. It does not include two-way or citizens band radio
8 services;

9 (d) School bus operations means the use of a school bus
10 to transport school children or school personnel;

11 ~~(e)(i)~~ (e)(i) Texting means manually entering
12 alphanumeric text into, or reading text from, an electronic device.
13 ~~Texting~~ This action includes, but is not limited to, short message
14 service, emailing, instant messaging, a command or request to access
15 an Internet web page, pressing more than a single button to initiate
16 or terminate a voice communication using a mobile telephone, or
17 engaging in any other form of electronic text retrieval or ~~electronic~~
18 ~~text~~ entry for present or future communication.

19 (ii) Texting does not include:

20 (A) Inputting, selecting, or reading information on a
21 global positioning system or navigation system;

22 (B) Pressing a single button to initiate or terminate a
23 voice communication using a mobile telephone; or

24 (C) Using a device capable of performing multiple
25 functions, including, but not limited to, fleet management systems,

1 dispatching devices, smartphones, citizens band radios, and music
2 players, for a purpose other than texting; and -

3 (f) Use a handheld mobile telephone means:

4 (i) Using at least one hand to hold a mobile telephone to
5 conduct a voice communication;

6 (ii) Dialing or answering a mobile telephone by pressing
7 more than a single button; or

8 (iii) Reaching for a mobile telephone in a manner that
9 requires a driver to maneuver so that he or she is no longer in a
10 seated driving position, restrained by a seat belt that is installed
11 in accordance with 49 C.F.R. 393.93, and adjusted in accordance with
12 the vehicle manufacturer's instructions.

13 Sec. 7. Original section 60-465, Reissue Revised Statutes
14 of Nebraska, and sections 60-487, 60-4,144.01, 60-4,168, 60-4,182,
15 and 60-6,179.02, Revised Statutes Cumulative Supplement, 2012, are
16 repealed.

17 Sec. 8. Since an emergency exists, this act takes effect
18 when passed and approved according to law.