

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 461

Introduced by Friesen, 34.

Read first time January 18, 2019

Committee: Transportation and Telecommunications

1 A BILL FOR AN ACT relating to motor carriers; to amend sections 75-301,
2 75-302, 75-303.01, 75-303.02, 75-303.03, 75-304, 75-304.01, 75-305,
3 75-307, 75-309, 75-309.01, 75-310, 75-311, 75-315, 75-316, 75-318,
4 75-319, 75-320, 75-321, 75-322, and 75-324, Reissue Revised Statutes
5 of Nebraska; to change legislative policy relating to motor carrier
6 regulation; to redefine terms; to eliminate certificates of public
7 convenience and necessity and permits for common and contract
8 carriage; to provide a permit application process for regulated
9 motor carriers; to change provisions relating to rates, insurance
10 and bonding requirements, and permit suspension and revocation; to
11 change a sale, transfer, lease, merger, or consolidation application
12 process; to eliminate provisions relating to household goods mover
13 authority and route authority; to harmonize provisions; to provide
14 an operative date; to repeal the original sections; and to outright
15 repeal sections 75-304.02, 75-313, and 75-314, Reissue Revised
16 Statutes of Nebraska.
17 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 75-301, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 75-301 (1) It is the policy of the Legislature to comply with the
4 laws of the United States, to promote uniformity of regulation, to
5 prevent motor vehicle accidents, deaths, and injuries, to protect the
6 public safety, to reduce redundant regulation, to promote financial
7 responsibility on the part of all motor carriers operating in and through
8 the state, and to foster the development, coordination, and preservation
9 of a safe, sound, adequate, and productive motor carrier system which is
10 vital to the economy of the state.

11 (2) It is the policy of the Legislature to (a) regulate
12 transportation by motor carriers of passengers and household goods in
13 intrastate commerce upon the public highways of Nebraska in such manner
14 as to recognize and preserve the inherent advantages of competition and
15 ~~foster sound economic conditions in such transportation and among such~~
16 ~~carriers,~~ in the public interest, (b) promote adequate economical and
17 efficient service by motor carriers and reasonable charges therefor
18 without unjust discrimination, undue preferences or advantages, and
19 unfair or destructive ~~competitive~~ practices, (c) improve the relations
20 between and coordinate transportation by and regulation of such motor
21 carriers and other carriers, (d) develop and preserve a highway
22 transportation system properly adapted to the needs of the commerce of
23 Nebraska, (e) cooperate with the several states and the duly authorized
24 officials thereof, and (f) cooperate with the United States Government in
25 the administration and enforcement of the unified carrier registration
26 plan and agreement.

27 The commission, the Division of Motor Carrier Services, and the
28 carrier enforcement division shall enforce all provisions of section
29 75-126 and Chapter 75, article 3, so as to promote, encourage, and ensure
30 a safe, dependable, responsive, and adequate transportation system for
31 the public as a whole.

1 Sec. 2. Section 75-302, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 75-302 For purposes of sections 75-301 to 75-343 and in all rules
4 and regulations adopted and promulgated by the commission pursuant to
5 such sections, unless the context otherwise requires:

6 (1) Attended services means an attendant or caregiver accompanying a
7 minor or a person who has a physical, mental, or developmental disability
8 and is unable to travel or wait without assistance or supervision;

9 (2) Carrier enforcement division means the carrier enforcement
10 division of the Nebraska State Patrol or the Nebraska State Patrol;

11 ~~(3) Certificate means a certificate of public convenience and~~
12 ~~necessity issued under Chapter 75, article 3, to common carriers by motor~~
13 ~~vehicle;~~

14 (3) ~~(4)~~ Civil penalty means any monetary penalty assessed by the
15 commission or carrier enforcement division due to a violation of Chapter
16 75, article 3, or section 75-126 as such section applies to any person or
17 carrier specified in Chapter 75, article 3; any term, condition, or
18 limitation of any ~~certificate~~ or permit issued pursuant to Chapter 75,
19 article 3; or any rule, regulation, or order of the commission, the
20 Division of Motor Carrier Services, or the carrier enforcement division
21 issued pursuant to Chapter 75, article 3;

22 (4) ~~(5)~~ Commission means the Public Service Commission;

23 (5) ~~(6)~~ Common carrier means any person who or which undertakes to
24 transport passengers or household goods for the general public in
25 intrastate commerce by motor vehicle for hire, ~~whether over regular or~~
26 ~~irregular routes,~~ upon the highways of this state;

27 (6) ~~(7)~~ Contract carrier means any motor carrier which transports
28 passengers or household goods for hire under contract other than as a
29 common carrier ~~designed to meet the distinct needs of each individual~~
30 ~~customer or a specifically designated class of customers without any~~
31 ~~limitation as to the number of customers it can serve within the class;~~

1 ~~(7)~~ ~~(8)~~ Division of Motor Carrier Services means the Division of
2 Motor Carrier Services of the Department of Motor Vehicles;

3 ~~(8)~~ ~~(9)~~ Highway means the roads, highways, streets, and ways in this
4 state;

5 ~~(9)~~ ~~(10)~~ Household goods means personal effects and property used or
6 to be used in a dwelling, when a part of the equipment or supply of such
7 dwelling, and similar property as the commission may provide by
8 regulation if the transportation of such effects or property, is:

9 (a) Arranged and paid for by the householder, including
10 transportation of property from a factory or store when the property is
11 purchased by the householder with the intent to use in his or her
12 dwelling; or

13 (b) Arranged and paid for by another party;

14 ~~(10)~~ ~~(11)~~ Intrastate commerce means commerce between any place in
15 this state and any other place in this state and not in part through any
16 other state;

17 ~~(11)~~ ~~(12)~~ Licensed care transportation services means transportation
18 provided by an entity licensed by the Department of Health and Human
19 Services as a residential child-caring agency as defined in section
20 71-1926 or child-placing agency as defined in section 71-1926 or a child
21 care facility licensed under the Child Care Licensing Act to a client of
22 the entity or facility when the person providing transportation services
23 also assists and supervises the passenger or, if the client is a minor,
24 to a family member of a minor when it is necessary for agency or facility
25 staff to accompany or facilitate the transportation in order to provide
26 necessary services and support to the minor. Licensed care transportation
27 services must be incidental to and in furtherance of the social services
28 provided by the entity or facility to the transported client;

29 ~~(12)~~ ~~(13)~~ Motor carrier means any person other than a regulated
30 motor carrier who or which owns, controls, manages, operates, or causes
31 to be operated any motor vehicle used to transport passengers or property

1 over any public highway in this state;

2 ~~(13) (14)~~ Motor vehicle means any vehicle, machine, tractor,
3 trailer, or semitrailer propelled or drawn by mechanical power and used
4 upon the highways in the transportation of passengers or property but
5 does not include any vehicle, locomotive, or car operated exclusively on
6 a rail or rails;

7 ~~(14) (15)~~ Permit means a permit issued under Chapter 75, article 3,
8 to regulated motor ~~contract~~ carriers by motor vehicle;

9 ~~(15) (16)~~ Person means any individual, firm, partnership, limited
10 liability company, corporation, company, association, or joint-stock
11 association and includes any trustee, receiver, assignee, or personal
12 representative thereof;

13 ~~(16) (17)~~ Private carrier means any motor carrier which owns,
14 controls, manages, operates, or causes to be operated a motor vehicle to
15 transport passengers or property to or from its facility, plant, or place
16 of business or to deliver to purchasers its products, supplies, or raw
17 materials (a) when such transportation is within the scope of and
18 furthers a primary business of the carrier other than transportation and
19 (b) when not for hire. Nothing in sections 75-301 to 75-322 shall apply
20 to private carriers;

21 ~~(17) (18)~~ Regulated motor carrier means any person who or which
22 owns, controls, manages, operates, or causes to be operated any motor
23 vehicle used to transport passengers, other than those excepted under
24 section 75-303, or household goods over any public highway in this state.
25 Regulated motor carrier includes a common carrier or contract carrier;

26 ~~(18) (19)~~ Residential care means care for a minor or a person who is
27 physically, mentally, or developmentally disabled who resides in a
28 residential home or facility regulated by the Department of Health and
29 Human Services, including, but not limited to, a foster home, treatment
30 facility, residential child-caring agency, or shelter;

31 ~~(19) (20)~~ Residential care transportation services means

1 transportation services to persons in residential care when such
2 residential care transportation services and residential care are
3 provided as part of a services contract with the Department of Health and
4 Human Services or pursuant to a subcontract entered into incident to a
5 services contract with the department;

6 (20) ~~(21)~~ Supported transportation services means transportation
7 services to a minor or for a person who is physically, mentally, or
8 developmentally disabled when the person providing transportation
9 services also assists and supervises the passenger or transportation
10 services to a family member of a minor when it is necessary for provider
11 staff to accompany or facilitate the transportation in order to provide
12 necessary services and support to the minor. Supported transportation
13 services must be provided as part of a services contract with the
14 Department of Health and Human Services or pursuant to a subcontract
15 entered into incident to a services contract with the department, and the
16 driver must meet department requirements for (a) training or experience
17 working with minors or persons who are physically, mentally, or
18 developmentally disabled, (b) training with regard to the specific needs
19 of the client served, (c) reporting to the department, and (d) age.
20 Assisting and supervising the passenger shall not necessarily require the
21 person providing transportation services to stay with the passenger after
22 the transportation services have been provided; and

23 (21) ~~(22)~~ Transportation network company has the definition found in
24 section 75-323. A transportation network company shall not own, control,
25 operate, or manage drivers' personal vehicles.

26 Sec. 3. Section 75-303.01, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 75-303.01 (1) The Department of Health and Human Services, a
29 medicaid-managed care organization under contract with the department, or
30 another agent working on the department's behalf may contract for
31 nonemergency medical transportation for medicaid clients with a regulated

1 motor carrier holding a designation of authority issued pursuant to
2 subsection (2) ~~(3)~~ of section 75-311 to provide medicaid nonemergency
3 medical transportation services or that has been authorized to provide
4 such services by the commission prior to April 28, 2017.

5 (2) While operating under a designation of authority issued pursuant
6 to subsection (2) ~~(3)~~ of section 75-311, a regulated motor carrier shall
7 comply with (a) the requirements of the Department of Health and Human
8 Services to protect the safety and well-being of department clients,
9 including training, driver standards, background checks, and the
10 provision and quality of service and (b) the rules and regulations
11 adopted, promulgated, and enforced by the commission governing insurance
12 requirements, equipment standards, and background checks.

13 Sec. 4. Section 75-303.02, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 75-303.02 (1) The Department of Health and Human Services or any
16 agency organized under the Nebraska Community Aging Services Act may
17 contract for the transportation of clients with a contractor which does
18 not hold a permit certificate or which is not otherwise exempt under
19 section 75-303 only if:

20 (a) The proposed contractor is the individual who will personally
21 drive the vehicle in question;

22 (b) The only compensation to the contractor for the transportation
23 is paid by the department at a rate no greater than that provided for
24 reimbursement of state employees pursuant to section 81-1176 for the
25 costs incurred in the transportation; and

26 (c)(i) There is no regulated motor carrier serving the area in which
27 the client needs transportation, (ii) the regulated motor carrier serving
28 the area is incapable of providing the specific service in question by
29 its own written statement or as determined by the commission upon
30 application of the regulated motor carrier or the department, or (iii)
31 the regulated carrier cannot or will not provide such service at the rate

1 specified in subsection (2) of section 75-303.03.

2 (2) This section does not apply to a regulated motor carrier holding
3 a designation of authority issued pursuant to subsection (2) ~~(3)~~ of
4 section 75-311.

5 Sec. 5. Section 75-303.03, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 75-303.03 (1) The commission, in consultation with the Department of
8 Health and Human Services, shall adopt and promulgate rules and
9 regulations governing minimum liability insurance requirements, equipment
10 standards, driver qualification requirements, and the issuance and filing
11 of notice for any contractor utilized by the department or any agency
12 organized under the Nebraska Community Aging Services Act pursuant to
13 section 75-303.02.

14 (2) The Department of Health and Human Services or any agency
15 organized under the Nebraska Community Aging Services Act shall reimburse
16 regulated motor ~~common and contract~~ carriers for transportation of
17 passengers at a rate not to exceed the rate of reimbursement pursuant to
18 section 81-1176 multiplied by three. The maximum reimbursement rate
19 provided for in this subsection shall not apply when the carrier (a)
20 transports such person wholly within the corporate limits of the city or
21 village where the transportation of the person originated, (b) transports
22 a disabled person as defined by the federal Americans with Disabilities
23 Act of 1990 in a vehicle that is compliant with the regulations providing
24 for the transportation of such disabled person, or (c) provides
25 nonemergency medical transportation of medicaid clients pursuant to
26 subsection (2) ~~(3)~~ of section 75-311.

27 (3) Rates for nonemergency medical transportation service providers
28 with a designation of authority issued pursuant to subsection (2) ~~(3)~~ of
29 section 75-311 are not subject to commission regulation, and regulated
30 motor carriers with such a designation reimbursed under this section are
31 not subject to commission rate regulation for such reimbursement rates.

1 (4)(a) The Department of Health and Human Services may reimburse an
2 individual for the costs incurred by such individual in the
3 transportation of a person eligible to receive transportation services
4 through the department if:

5 (i) The individual is under contract with the department and
6 provides transportation to the eligible person; and

7 (ii) The eligible person has chosen the individual to provide the
8 transportation.

9 (b) The department shall reimburse for the costs incurred in the
10 transportation at a rate no greater than that provided for reimbursement
11 of state employees pursuant to section 81-1176.

12 (c) Transportation provided to an eligible person by an individual
13 pursuant to this section does not constitute transportation for hire.

14 (d) The department may adopt and promulgate rules and regulations to
15 implement this subsection.

16 Sec. 6. Section 75-304, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 75-304 (1) The commission may establish such just and reasonable
19 classifications of groups of regulated motor carriers, ~~included in the~~
20 ~~terms common carrier and contract carrier~~, as the special nature of the
21 services performed by such carriers require and adopt and promulgate such
22 just and reasonable rules, regulations, and requirements, to be observed
23 by the carrier so classified or grouped, as the commission deems
24 necessary or desirable in the public interest and as are consistent with
25 ~~the provisions of~~ sections 75-301 to 75-322. All ~~certificates and permits~~
26 issued by the commission shall be construed and interpreted, and the
27 operations authorized thereunder shall be tested and determined, in
28 accordance with such classification so established and any rule,
29 regulation, or requirement prescribed by the commission relating to such
30 carrier so classified.

31 (2) Regulated motor ~~Contract~~ carriers shall obtain and maintain

1 uninsured and underinsured insurance coverage for each passenger in each
2 motor vehicle in minimum amounts to be established by the commission.

3 (3) The commission shall adopt and promulgate rules and regulations
4 to carry out sections 75-323 to 75-343. The rules and regulations found
5 in chapter 3 of title 291 of the Nebraska Administrative Code shall not
6 apply to transportation network companies. If there is any conflict
7 between sections 75-301 to 75-322 and sections 75-323 to 75-343 regarding
8 the regulation of transportation network companies, the provisions of
9 sections 75-323 to 75-343 shall apply.

10 Sec. 7. Section 75-304.01, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 75-304.01 The commission shall prescribe minimum rates, fares, and
13 charges for regulated motor ~~contract~~ carriers. No reduction shall be made
14 in any such charge, either directly or by means of any change in any
15 rule, regulation, or practice affecting such charge or the value of
16 service thereunder, except after ten days' notice of the proposed change
17 filed in the form and manner provided for regulated motor ~~common~~ carrier
18 rate changes. The notice shall plainly state the change proposed and the
19 time when the change will take effect. ~~No contract carrier shall demand,~~
20 ~~charge, or collect less compensation for such transportation than the~~
21 ~~charges to be made by common carriers for the same transportation in~~
22 ~~accordance with sections 75-118 to 75-155 and 75-301 to 75-322, as~~
23 ~~affected by any rule, regulation, or practice so filed or as prescribed~~
24 ~~by the commission.~~ It is unlawful for any such carrier to charge less
25 than the rates, fares, and charges approved by the commission.

26 Sec. 8. Section 75-305, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 75-305 (1) Every regulated motor carrier subject to sections 75-301
29 to 75-322 other than transportation network companies shall pay an annual
30 fee not exceeding the sum of eighty dollars for each motor vehicle
31 operated, which fee shall be fixed by the commission and shall not exceed

1 the amount actually necessary to sustain the administration and
2 enforcement of such sections. When the applicant has registered his or
3 her motor vehicles under section 60-3,198, such fee shall be payable on
4 whichever shall be the lesser of (a) the proportion of his or her fleet
5 so registered or (b) the number of motor vehicles owned by him or her and
6 actually used in intrajurisdiction business within this state, except
7 that such annual fee for any truck-trailer or tractor-trailer combination
8 shall be one hundred twenty dollars. In the case of a truck-trailer or
9 tractor-trailer combination, only one license plate shall be required for
10 such combination.

11 (2) Every transportation network company shall pay an annual fee.
12 The company may choose to pay either twenty-five thousand dollars or not
13 to exceed eighty dollars for each personal vehicle operated by a driver
14 of the transportation network company. The commission shall establish the
15 amount per vehicle so that the amount collected does not exceed the
16 amount actually necessary to sustain the administration and enforcement
17 of laws, rules, and regulations governing transportation network
18 companies.

19 (3) Such annual fees shall be due and payable on or before January 1
20 and shall be delinquent on March 1 of each year after such permit ~~or~~
21 ~~certificate~~ has been issued. If the initial ~~certificate~~ or permit is
22 issued to a motor carrier on or after July 1, the fee shall be fifty
23 percent of the annual fee. Such fees shall be paid to and collected by
24 the commission and remitted to the State Treasurer within thirty days
25 after ~~of~~ receipt. The State Treasurer shall credit fees received pursuant
26 to subsection (2) of this section to the Transportation Network Company
27 Regulation Cash Fund for enforcement of laws, rules, and regulations
28 governing transportation network companies. The State Treasurer shall
29 credit fees received pursuant to subsection (1) of this section to the
30 General Fund.

31 Sec. 9. Section 75-307, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 75-307 (1) Regulated ~~Certificated~~ intrastate motor carriers
3 operating under a permit in intrastate commerce , ~~including common and~~
4 ~~contract carriers~~, shall comply with reasonable rules and regulations
5 prescribed by the commission governing the filing with the commission,
6 the approval of the filings, and the maintenance of proof at such
7 carrier's principal place of business of surety bonds, policies of
8 insurance, qualifications as a self-insurer, or other securities or
9 agreements, in such reasonable amount as required by the commission,
10 conditioned to pay, within the amount of such surety bonds, policies of
11 insurance, qualifications as a self-insurer, or other securities or
12 agreements, any final judgment recovered against such motor carrier for
13 bodily injuries to or the death of any person resulting from the
14 negligent operation, maintenance, or use of motor vehicles operating
15 under such certificate or permit or for loss or damage to property of
16 others. No ~~certificate or permit~~ shall be issued to a common or contract
17 carrier or remain in force unless such carrier complies with this section
18 and the rules and regulations prescribed by the commission pursuant to
19 this section.

20 (2) The commission may, in its discretion and under its rules and
21 regulations, require any regulated motor carrier operating under a permit
22 ~~certificated carrier~~ to file a surety bond, policies of insurance,
23 qualifications as a self-insurer, or other securities or agreements, in a
24 sum to be determined by the commission, to be conditioned upon such
25 carrier making compensation to shippers or consignees for all property
26 belonging to shippers or consignees and coming into the possession of
27 such carrier in connection with its transportation service. Any carrier
28 which may be required by law to compensate a shipper or consignee for any
29 loss, damage, or default for which a connecting regulated motor ~~common~~
30 carrier is legally responsible shall be subrogated to the rights of such
31 shipper or consignee under any such bond, policies of insurance, or other

1 securities or agreements to the extent of the sum so paid.

2 (3) In carrying out this section, the commission may classify motor
3 carriers and regulated motor carriers taking into consideration the
4 hazards of the operations of such carriers and the value of the household
5 goods carried. Nothing contained in this section shall be construed to
6 authorize the commission to compel motor carriers other than regulated
7 motor ~~common~~ carriers of household goods to carry cargo insurance.

8 (4) This section does not apply to transportation network companies.

9 Sec. 10. Section 75-309, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 75-309 (1) Except for operations pursuant to a contract authorized
12 by sections 75-303.02 and 75-303.03, it shall be unlawful for any
13 regulated motor ~~common or contract~~ carrier by motor vehicle subject to
14 ~~the provisions of~~ sections 75-101 to 75-155 and 75-301 to 75-322 to
15 engage in any intrastate operations on any public highway in Nebraska
16 unless there is in force with respect to such ~~common~~ carrier a
17 ~~certificate of public convenience and necessity,~~ a permit to such
18 ~~contract~~ carrier under such sections, or a permit to a transportation
19 network company under section 75-324, issued by the commission which
20 authorizes such operations.

21 (2) Any certificate of public convenience and necessity issued to a
22 common carrier by motor vehicle or permit issued to a contract carrier by
23 motor vehicle in effect on the operative date of this act shall be deemed
24 a permit in compliance with this section.

25 Sec. 11. Section 75-309.01, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 75-309.01 Each motor vehicle owned, used, or attempted to be used by
28 any person as a regulated motor ~~common or contract~~ carrier to transport
29 passengers for hire in violation of section 75-309 is declared to be a
30 public nuisance and subject to seizure and confiscation by any person
31 charged with the enforcement of this section. Any motor vehicle which is

1 owned, used, or attempted to be used by any person as a regulated motor
2 ~~common or contract~~ carrier to transport passengers for hire in violation
3 of section 75-309 may be seized upon the arrest of the person who uses or
4 owns the motor vehicle, and upon the conviction of the person for the
5 violation of such section, the motor vehicle shall, as a part of the
6 element of the violation, at the discretion of the court, be forfeited to
7 the state and delivered to the commission to be disposed of as provided
8 by law. The sale shall be subject to any liens of record. The commission
9 shall remit the proceeds of the sale to the State Treasurer for
10 distribution in accordance with Article VII, section 5, of the
11 Constitution of Nebraska ~~credit to the permanent school fund.~~

12 Sec. 12. Section 75-310, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 75-310 Except for applications to operate a transportation network
15 company, applications for ~~certificates or permits and petitions for~~
16 ~~relief~~ shall be made to the commission in writing and shall be in such
17 form and contain such information as the commission shall by rule
18 require. ~~A summary of the authority or relief sought in an application or~~
19 ~~petition shall be given to interested persons according to the rules the~~
20 ~~commission shall adopt. After notice of an application or petition has~~
21 ~~been given to interested persons as provided by the rules for notice, the~~
22 ~~commission may process the application or petition without a hearing by~~
23 ~~use of affidavits if the application or petition is not opposed.~~

24 Sec. 13. Section 75-311, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 75-311 ~~(1) A certificate shall be issued to any qualified applicant~~
27 ~~authorizing the whole or any part of the operations covered by the~~
28 ~~application if it is found after notice and hearing that (a) the~~
29 ~~applicant is fit, willing, and able properly to perform the service~~
30 ~~proposed and to conform to the provisions of sections 75-301 to 75-322~~
31 ~~and the requirements, rules, and regulations of the commission under such~~

1 ~~sections and (b) the proposed service, to the extent to be authorized by~~
2 ~~the certificate, whether regular or irregular, passenger or household~~
3 ~~goods, is or will be required by the present or future public convenience~~
4 ~~and necessity. Otherwise the application shall be denied.~~

5 (1) ~~(2)~~ A permit shall be issued by the commission to any qualified
6 applicant upon receipt of a complete application if therefor ~~authorizing~~
7 ~~in whole or in part the operations covered by the application if it~~
8 ~~appears after notice and hearing from the application or from any hearing~~
9 ~~held on the application that (a) the applicant agrees and affirms is fit,~~
10 ~~willing, and able properly to perform the service of a regulated motor~~
11 ~~contract carrier by motor vehicle and to conform to the provisions of~~
12 ~~such sections 75-301 to 75-322 and the lawful requirements, rules, and~~
13 ~~regulations of the commission under such sections and (b) the proposed~~
14 ~~operation, to the extent authorized by the permit, will be consistent~~
15 ~~with the public interest by providing services designed to meet the~~
16 ~~distinct needs of each individual customer or a specifically designated~~
17 ~~class of customers as defined in subdivision (7) of section 75-302.~~
18 Otherwise the application shall be denied.

19 (2) ~~(3)~~ A designation of authority shall be issued to any regulated
20 motor carrier holding a ~~certificate under subsection (1) of this section~~
21 ~~or a permit under subsection (1) (2) of this section~~ authorizing such
22 carrier to provide medicaid nonemergency medical transportation services
23 pursuant to a contract with (i) the Department of Health and Human
24 Services, (ii) a medicaid-managed care organization under contract with
25 the department, or (iii) another agent working on the department's behalf
26 as provided under section 75-303.01, if it is found ~~after notice and~~
27 ~~hearing~~ from the application ~~or from any hearing held on the application~~
28 that the authorization is or will be required ~~by the present or future~~
29 ~~convenience and necessity~~ to serve the distinct needs of medicaid
30 clients. In determining whether the authorization is or will be required
31 ~~by the present or future convenience and necessity~~ to serve the distinct

1 needs of medicaid clients, the commission shall consult with the Director
2 of Medicaid and Long-Term Care of the Division of Medicaid and Long-Term
3 Care of the department or his or her designee.

4 ~~(4) No person shall at the same time hold a certificate as a common
5 carrier and a permit as a contract carrier for transportation of
6 household goods by motor vehicles over the same route or within the same
7 territory unless the commission finds that it is consistent with the
8 public interest and with the policy declared in section 75-301.~~

9 ~~(5) After the issuance of a certificate or permit, the commission
10 shall review the operations of all common or contract carriers who hold
11 authority from the commission to determine whether there are insufficient
12 operations in the transportation of household goods to justify the
13 commission's finding that such common or contract carrier has willfully
14 failed to perform transportation under sections 75-301 to 75-322 and
15 rules and regulations promulgated under such sections. If the commission
16 determines that there are insufficient operations, then the commission
17 shall commence proceedings under section 75-315 to revoke the certificate
18 or permit involved.~~

19 ~~(3) (6)~~ This section shall not apply to transportation network
20 companies holding a permit under section 75-324 or operations pursuant to
21 a contract authorized by sections 75-303.02 and 75-303.03.

22 Sec. 14. Section 75-315, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 75-315 Permits ~~and certificates~~ shall be effective from the dates
25 specified in the permits ~~and certificates~~ and shall remain in effect
26 until terminated as provided in this section and section 75-316. A permit
27 ~~or certificate~~ may, upon application of the permit ~~or certificate~~ holder,
28 in the discretion of the commission, be revoked or may, upon complaint or
29 on the commission's own initiative, after notice and hearing, be
30 suspended, ~~changed,~~ or revoked, ~~in whole or in part,~~ for willful failure
31 to comply with any of the provisions of sections 75-101 to 75-801, or

1 with any lawful order, rule, or regulation of the commission promulgated
2 under such sections, ~~or with any term, condition, or limitation of the~~
3 ~~permit or certificate. The commission may, after notice and a hearing,~~
4 ~~suspend or revoke the permit or certificate of a motor carrier who~~
5 ~~refuses or subjects to any undue or unreasonable delay any pickup,~~
6 ~~delivery, or connecting line service, to any shipper, consignee, carrier,~~
7 ~~or any other person or persons, at any point authorized to be served by~~
8 ~~such carrier, notwithstanding any hot cargo agreement or other agreement~~
9 ~~between such motor carrier and a labor organization or any other~~
10 ~~organization or person.~~

11 Sec. 15. Section 75-316, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 75-316 Except for circumstances beyond the control of the regulated
14 motor carrier, such as strikes against such carrier, acts of God, and the
15 common enemy, service under a ~~certificate of public convenience and~~
16 ~~necessity or a permit~~ may ~~shall not~~ be suspended upon the carrier
17 providing notice to the ~~without first obtaining approval of the~~
18 commission. Nothing in sections 75-101 to 75-801 shall prevent the holder
19 of a ~~certificate or permit~~ from requesting revocation of such ~~certificate~~
20 ~~or permit~~ as provided for in section 75-315.

21 Sec. 16. Section 75-318, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 75-318 It shall be lawful, only under the conditions specified in
24 this section, for any regulated motor carrier or person or for two or
25 more regulated motor carriers to:

26 (1) Consolidate or merge their properties or any part thereof ~~or~~
27 ~~certificates of public convenience and necessity or permits, or any part~~
28 ~~thereof,~~ into one ownership, management, or operation of the properties,
29 ~~certificates,~~ or permits theretofore in separate ownership;

30 (2) Purchase, lease, or contract to operate the properties or any
31 part thereof or the ~~certificates or permits, or any part thereof,~~ of

1 another regulated motor carrier; or

2 (3) Acquire control of another regulated motor carrier or carriers
3 through purchase of stock.

4 Whenever a consolidation, merger, purchase, lease, operating
5 contract, or acquisition of control of the properties, ~~certificates,~~ or
6 permits is proposed, the carrier or carriers or person proposing such
7 transaction ~~seeking authority therefor~~ shall present an application to
8 the commission, and thereupon the commission shall notify such carriers
9 ~~and other parties known to have an interest~~ of the time and place for a
10 public hearing in accordance with the rules of the commission. If, after
11 such hearing, the commission finds that the transaction proposed will be
12 consistent with the public interest and does not unduly restrict
13 ~~competition and that the applicant is fit, willing, and able to properly~~
14 ~~perform the proposed service,~~ it may enter an order approving and
15 authorizing such consolidation, merger, purchase, lease, operating
16 contract, or acquisition of control of the properties, or any part
17 thereof, or ~~certificates or permits of the whole, or any part thereof,~~
18 upon such terms and conditions as it deems just and reasonable. ~~If any of~~
19 ~~the certificates or permits proposed to be merged, consolidated,~~
20 ~~transferred, or leased are dormant, the commission may approve an~~
21 ~~application for consolidation, merger, transfer, or lease only upon proof~~
22 ~~of and a finding that such merger, consolidation, transfer, or lease is~~
23 ~~or will be required by the present and future public convenience and~~
24 ~~necessity, in the same manner as provided in section 75-311. If the~~
25 ~~proposed merger, consolidation, transfer, or lease of the certificates or~~
26 ~~permits will permit or result in a new or different service or operation~~
27 ~~as to territorial scope than that which is or may be rendered or engaged~~
28 ~~in by the respective parties or, as to passenger motor carriers, will~~
29 ~~tend to enlarge competition over that then existing, the commission may~~
30 ~~approve an application for merger, consolidation, transfer, or lease only~~
31 ~~upon proof of and a finding that the proposed merger, consolidation,~~

1 ~~transfer, or lease is or will be required by the present and future~~
2 ~~public convenience and necessity, in the same manner as provided in~~
3 ~~section 75-311. Any restrictions, qualifications, or conditions~~
4 ~~applicable to and contained in a particular certificate of public~~
5 ~~convenience and necessity or a permit at the time of the issuance thereof~~
6 ~~or thereafter made a part of such certificate or permit, excluding any~~
7 ~~restrictions, qualifications, or conditions of general application~~
8 ~~applicable to all regulated motor carriers or a segment thereof as a~~
9 ~~class and imposed by regulation of the commission, proposed to be merged,~~
10 ~~consolidated, transferred, or leased shall not be changed, altered, or~~
11 ~~removed without the proof required in section 75-311 for certificates and~~
12 ~~permits.~~

13 When an order is entered to approve and authorize such
14 consolidation, merger, purchase, lease, operating contract, or
15 acquisition of control of the properties, or any part thereof, or
16 permits, authority is transferred as provided in this section, the
17 commission shall simultaneously cancel any existing permit and reissue a
18 new permit in the name of any newly created regulated motor carrier, as
19 may be necessary based on the particular application the authority of the
20 transferor which is transferred.

21 Sec. 17. Section 75-319, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 75-319 (1) Pending the determination of an application filed under
24 section 75-318, the commission may₇ in its discretion₇ ~~after not less~~
25 ~~than five days'~~ notice to interested carriers₇ and without hearings or
26 other proceedings₇ grant temporary approval₇ for a period not exceeding
27 ninety days₇ of a lease of the regulated motor carrier properties and of
28 the certificates or permits sought to be acquired to the person filing
29 the application₇ if it shall appear that failure to grant such temporary
30 approval may result in destruction of or injury to such regulated motor
31 carrier properties₇ and certificates or permits sought to be acquired₇ or

1 ~~interfere substantially with their future usefulness in the performance~~
2 ~~of adequate and continuous service to the public.~~

3 (2) Transportation service rendered under such temporary authority
4 shall be subject to the ~~provisions of~~ sections 75-101 to 75-801 and to
5 the rules, regulations, and requirements of the commission.

6 ~~(3) The grant of temporary authority and the operations thereunder~~
7 ~~shall not be admissible in evidence to establish or prove the present or~~
8 ~~future public convenience and necessity.~~

9 ~~(3)~~ (4) No renewal or extension of the period of ninety days
10 provided for in this section shall be granted.

11 Sec. 18. Section 75-320, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 75-320 No transfer, assignment, or sale of stock or change of stock
14 ownership or any interest therein which will directly or indirectly
15 result in a transfer, assignment, sale, or change in the control of the
16 corporation holding a ~~certificate or~~ permit, and no change of one or more
17 of the partners or members, when the permit certificate holder is a
18 partnership or a limited liability company, will be effective or valid,
19 unless the carrier or person seeking to acquire control of the
20 corporation or unless the applicant seeking to effect a change in one or
21 more of the partners or members in a partnership or limited liability
22 company holding a ~~certificate or~~ permit, respectively, obtains approval
23 of the commission under such rules and regulations as the commission may
24 prescribe. Approval of the proposed transaction, either in whole or in
25 part, may be given, after notice and hearing, only upon findings by the
26 commission that such transaction will be consistent with the public
27 interest, and that it will not unduly restrict competition, ~~and that the~~
28 ~~applicant is fit, willing, and able to properly perform the proposed~~
29 ~~service.~~

30 Sec. 19. Section 75-321, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 75-321 Upon the death of an individual holder of a ~~certificate or~~
2 permit, or upon an individual ~~certificate or~~ permit holder being legally
3 declared mentally incompetent, the authority conferred by such permit
4 ~~certificate~~ shall continue with the legal representative of the deceased
5 or mentally incompetent holder thereof for a period of one year from the
6 date of the holder's death or the declaration of mental incompetency,
7 after which the authority conferred thereby shall cease and the
8 ~~certificate or~~ permit be revoked and canceled without further order of
9 the commission, unless application has been made to the commission to
10 transfer such permit authority, in which case the permit authority shall
11 continue with the legal representative until there has been a final
12 determination of the application. In the event that application is made
13 by the legal representative not less than thirty days prior to the end of
14 such period of one year, the commission may, at its discretion and for
15 cause shown, allow the transfer of the permit authority to the executors,
16 administrators, guardians, trustees, or other legal representatives of
17 the deceased holder for a period to be fixed by the commission. In
18 considering such application, pertinent orders or decrees of the court
19 having jurisdiction over the estate of the decedent or mentally
20 incompetent person may be deemed cause for the granting thereof. ~~When the~~
21 ~~individual holder of a certificate or permit dies or is declared legally~~
22 ~~incompetent and an application is made to transfer the authority issued~~
23 ~~under the certificate or permit to his or her legal representative, the~~
24 ~~commission may dispose of the application without hearing, if notice is~~
25 ~~given to all interested parties.~~

26 Sec. 20. Section 75-322, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 75-322 If a trustee, receiver, assignee, custodian, or similar
29 officer or officers, shall be appointed by a court of competent
30 jurisdiction, or shall be selected by creditors in accordance with
31 provisions of law, with authority to take or retain possession and to

1 operate the property and business of a ~~certificate or~~ permit holder, such
2 officer or officers shall have authority to perform the service
3 authorized in the ~~certificate or~~ permit of the debtor carrier for a
4 period of ninety days from such ~~his or their~~ appointment or selection.
5 Such officer or officers may petition the commission for authority to
6 conduct the operations for an additional period of time, and the
7 commission may, for good cause shown, grant such authority. If such
8 petition is filed within ninety days after ~~of~~ the appointment or
9 selection of the petitioner or petitioners, the petitioner or petitioners
10 ~~he or they~~ shall have the authority to continue such operations pending
11 decision by the commission on the petition. In considering such
12 petitions, pertinent orders or decrees of the court having jurisdiction
13 may be deemed cause for the granting thereof.

14 Sec. 21. Section 75-324, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 75-324 (1) No person shall operate a transportation network company
17 in Nebraska without first obtaining a permit from the commission. The
18 application for a permit shall be in writing, under oath, submitted to
19 the commission, and accompanied by the fee required under section 75-305.
20 A duly authorized official of the applicant who possesses the full power
21 and authority to make binding representations on the applicant's behalf
22 shall subscribe to the oath on the application. The application shall
23 contain the following information:

- 24 (a) The legal name of the applicant;
- 25 (b) Any name under which the applicant will or does conduct business
26 in Nebraska;
- 27 (c) The applicant's primary business address and telephone number;
- 28 (d) A copy of the articles of organization or certificate to
29 transact business in Nebraska;
- 30 (e) The name, address, and telephone number of the applicant's
31 registered agent in Nebraska; and

1 (f) A statement that the applicant agrees to adhere to the statutes
2 of Nebraska and to the rules and regulations of the commission regulating
3 transportation network companies.

4 (2)(a) The commission shall review the application for completeness
5 and verify the information submitted. If the commission finds any
6 information incomplete or inaccurate, the commission shall notify the
7 applicant and give the applicant the opportunity to complete the
8 application.

9 (b) If an applicant is duly certified or permitted to operate a
10 transportation network company in at least one other state, the
11 commission shall, within sixty days after receiving a complete
12 application, issue a permit to the applicant if the applicant meets the
13 requirements of sections 75-323 to 75-343.

14 (c) If an applicant is not duly certified or permitted to operate a
15 transportation network company in at least one other state, the applicant
16 shall bear the burden of demonstrating that (i) the applicant has
17 sufficient financial resources to provide transportation network company
18 services in the proposed service territory, (ii) the applicant has
19 sufficient technical competency to provide transportation network company
20 services in the proposed service territory, and (iii) the applicant has
21 sufficient managerial resources to provide transportation network company
22 services in the proposed service territory. If the requirements of
23 subdivisions (i) through (iii) of this subdivision are met and the
24 applicant has satisfactorily provided all of the information in the
25 application required under this section, the commission shall, within
26 ninety days after receiving a complete application, issue a permit to the
27 applicant if the applicant meets the requirements of sections 75-323 to
28 75-343.

29 (3) A participating driver contracting with a transportation network
30 company holding a valid permit from the commission under this section
31 shall not be required to obtain a permit ~~or certificate~~ from the

1 commission required under section 75-309 when driving pursuant to the
2 terms of the contract with the transportation network company.

3 Sec. 22. This act becomes operative on January 1, 2020.

4 Sec. 23. Original sections 75-301, 75-302, 75-303.01, 75-303.02,
5 75-303.03, 75-304, 75-304.01, 75-305, 75-307, 75-309, 75-309.01, 75-310,
6 75-311, 75-315, 75-316, 75-318, 75-319, 75-320, 75-321, 75-322, and
7 75-324, Reissue Revised Statutes of Nebraska, are repealed.

8 Sec. 24. The following sections are outright repealed: Sections
9 75-304.02, 75-313, and 75-314, Reissue Revised Statutes of Nebraska.