

LEGISLATIVE BILL 420

Approved by the Governor June 9, 1993

Introduced by Transportation Committee: Kristensen, 37, Chairperson;
Byars, 30; Day, 19; Fisher, 35; Horgan, 4;
Pedersen, 39; Pirsch, 10; Schmitt, 41

AN ACT relating to commercial drivers' licenses; to amend sections 60-462, 60-463, 60-480, 60-4,131, 60-4,132, 60-4,137, 60-4,138, 60-4,148, 60-4,151, 60-4,169, and 60-4,171, Revised Statutes Supplement, 1992; to define terms; to provide for additional restrictions, licenses, and permits; to authorize waiver of the written knowledge examination; to provide fees and a penalty; to change reinstatement requirements; to harmonize provisions; and to repeal the original sections.

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

Section 1. That section 60-462, Revised Statutes Supplement, 1992, be amended to read as follows:

60-462. Sections 60-462 to 60-4,181 and sections 3, 9, and 13 of this act shall be known and may be cited as the Motor Vehicle Operator's License Act.

Sec. 2. That section 60-463, Revised Statutes Supplement, 1992, be amended to read as follows:

60-463. For purposes of the Motor Vehicle Operator's License Act, the definitions found in sections 60-464 to 60-478 and section 3 of this act shall be used.

Sec. 3. Restricted commercial driver's license shall mean a class of commercial driver's license issued in accordance with the requirements of the Motor Vehicle Operator's License Act.

Sec. 4. That section 60-480, Revised Statutes Supplement, 1992, be amended to read as follows:

60-480. Operators' licenses issued by the Department of Motor Vehicles pursuant to the Motor Vehicle Operator's License Act shall be classified as follows:

(1) Class O license. The operator's license which authorizes the person to whom it is issued to operate on highways any motor vehicle except a commercial motor vehicle or motorcycle;

(2) Class M license. The operator's license or endorsement on a Class O license or commercial driver's license which authorizes the person to whom it is issued to operate a motorcycle on highways;

(3) CDL-commercial driver's license. The operator's license which authorizes the person to whom it is issued to operate a class of commercial motor vehicles or any motor vehicle, except a motorcycle, on highways;

(4) RCDL-restricted commercial driver's license. The class of commercial driver's license which, when held with an annual seasonal permit, authorizes a seasonal commercial motor vehicle operator as defined in section 13 of this act to operate any Class B Heavy Straight Vehicle or Class C Small Vehicle commercial motor vehicle for purposes of a farm-related or ranch-related service industry as defined in such section within one hundred fifty miles of the employer's place of business or the farm or ranch currently being served as provided in such section or any other motor vehicle, except a motorcycle, on highways;

(5) SCP-school permit. A permit issued to a student between fourteen and sixteen years of age for the purpose of driving to and from school in accordance with the requirements of section 60-4,124;

(5) (6) FMP-farm permit. A permit issued to a person for purposes of operating farm tractors and other motorized implements of farm husbandry on highways in accordance with the requirements of section 60-4,126;

(6) (7) LPC-learner's permit. A permit issued to a person at least sixteen years of age which when held in conjunction with a Class O license or commercial driver's license authorizes the person to operate a commercial motor vehicle for learning purposes when accompanied by a person who is at least twenty-one years of age;

(7) (8) LPD-learner's permit. A permit issued to a person at least fifteen years of age which authorizes the person to operate a motor vehicle, except a commercial motor vehicle, for learning purposes when accompanied by a Nebraska-licensed operator who is at least nineteen years of age;

(8) (9) LPE-learner's permit. A permit issued to a person at least fourteen years of age which authorizes the person to operate a motor vehicle, except a commercial motor vehicle, while learning to drive in preparation for application for a school permit; and

(9) (10) EDP-employment driving permit. A permit issued to a person which authorizes the person to operate a motor vehicle, except a commercial motor vehicle, pursuant to the requirements of sections 60-4,129 and 60-4,130; and

(11) SEP-seasonal permit. A permit issued to a person who holds a restricted commercial driver's license authorizing the person to operate a commercial motor vehicle, as prescribed by section 13 of this act, for no more than one hundred eighty consecutive days in any twelve-month period. The seasonal permit shall be valid and run from the date of original issuance of the permit for one hundred eighty days and from the date of annual revalidation of the permit.

Sec. 5. That section 60-4,131, Revised Statutes Supplement, 1992, be amended to read as follows:

60-4,131. (1) Sections 60-4,132 to 60-4,172 and sections 9 and 13 of this act shall apply to the operation of any commercial motor vehicle.

(2) For purposes of such sections:

(a) Employer shall mean any person, including the United

States, a state, or a political subdivision of a state, who or which owns or leases a commercial motor vehicle or assigns employees to operate a commercial motor vehicle; and

(b) State, when applied to different states of the United States, shall be construed to extend to and include any state of the United States, the District of Columbia, and any province of the Dominion of Canada.

Sec. 6. That section 60-4,132, Revised Statutes Supplement, 1992, be amended to read as follows:

60-4,132. The purposes of sections 60-4,133 to 60-4,172 and sections 9 and 13 of this act are to implement the requirements mandated by the Commercial Motor Vehicle Safety Act of 1986, Public Law 99-570, Title XII, and to reduce or prevent commercial motor vehicle accidents, fatalities, and injuries by: (1) Permitting drivers to hold only one operator's license; (2) disqualifying drivers for specified offenses and serious traffic violations; and (3) strengthening licensing and testing standards.

Sec. 7. That section 60-4,137, Revised Statutes Supplement, 1992, be amended to read as follows:

60-4,137. On and after April 1, 1992, any resident of this state operating a commercial motor vehicle shall possess a commercial driver's license issued pursuant to sections 60-4,133 to 60-4,172 and sections 9 and 13 of this act.

Sec. 8. That section 60-4,138, Revised Statutes Supplement, 1992, be amended to read as follows:

60-4,138. (1) Commercial drivers' licenses and restricted commercial driver's licenses shall be issued by the Department of Motor Vehicles, shall be classified as provided in subsection (2) of this section, and shall bear such endorsements and restrictions as are provided in subsections (3) and (4) of this section.

(2) Commercial motor vehicle classifications for purposes of commercial drivers' licenses shall be as follows:

(a) Class A Combination Vehicle -- Any combination of commercial motor vehicles and towed vehicles with a gross vehicle weight rating of more than twenty-six thousand pounds if the gross vehicle weight rating of the vehicles being towed are in excess of ten thousand pounds;

(b) Class B Heavy Straight Vehicle -- Any single commercial motor vehicle with a gross vehicle weight rating of twenty-six thousand one pounds or more or any such commercial motor vehicle towing a vehicle with a gross vehicle weight rating not exceeding ten thousand pounds; and

(c) Class C Small Vehicle -- Any single commercial motor vehicle with a gross vehicle weight rating of less than twenty-six thousand one pounds or any such commercial motor vehicle towing a vehicle with a gross vehicle weight rating not exceeding ten thousand pounds comprising:

(i) Motor vehicles designed to transport sixteen or more passengers, including the driver; and

(ii) Motor vehicles used in the transportation of hazardous

materials and required to be placarded pursuant to section 75-364.

(3) The endorsements to a commercial driver's license shall be as follows:

- (a) T - Double/triple trailers;
- (b) P - Passengers;
- (c) N - Tank vehicles;
- (d) H - Hazardous materials; and
- (e) X - Combination tank vehicle and hazardous materials.

(4) The ~~restriction~~ restrictions to a commercial driver's license shall be as follows:

- (a) K - Operation of a commercial motor vehicle only in intrastate commerce;
- (b) L - Operation of only a commercial motor vehicle which is not equipped with air brakes;
- (c) M - Operation of a commercial motor vehicle which is not a Class A bus;
- (d) N - Operation of a commercial motor vehicle which is not a Class A or Class B bus; and
- (e) O - Operation of a commercial motor vehicle which is not a tractor-trailer combination.

Sec. 9. A commercial driver's license examiner may waive the written knowledge examination, except the hazardous material portion of the test, if the applicant:

(1) Has a valid commercial driver's license from another state which was issued within the two years immediately preceding the date of application for a commercial driver's license from this state; and

(2) Provides suitable evidence that within at least two years immediately preceding the date of application he or she has taken a written test which was given by a state with a classified licensing and testing system, which was the same as the test that would otherwise be given by this state, and which was for the class of commercial motor vehicle the applicant is applying to operate.

Sec. 10. That section 60-4,148, Revised Statutes Supplement, 1992, be amended to read as follows:

60-4,148. All commercial drivers' licenses shall be issued by the Department of Motor Vehicles as provided in section 60-4,149. Successful applicants shall pay to the county treasurer a fee of forty dollars for an original or renewal commercial driver's license, except that the fee for a commercial driver's license which will be valid for one year or less shall be fourteen dollars, the fee for a commercial driver's license which will be valid for more than one year but less than two years shall be twenty-two dollars, and the fee for a commercial driver's license which will be valid for ~~more than~~ two years or more but less than three years shall be thirty-two dollars. Any person making application to add or remove a class of commercial motor vehicle, any endorsement, or any restriction to or from a previously issued and outstanding commercial driver's license shall pay a fee of five dollars. The fee for an original or renewal seasonal permit to revalidate the restricted commercial motor vehicle operating

privilege to a previously issued and outstanding restricted commercial driver's license shall be five dollars. One dollar and seventy-five cents of the fees for each original, renewal, duplicate, or replacement commercial driver's license or restricted commercial driver's license and twenty-five cents of each of the original and renewal fees for LPC-learner's permits and seasonal permits shall be credited to the general fund of the county and shall be included by the county treasurer in his or her report of fees as provided by law. The balance of the fees provided for by this section shall be remitted by the county treasurer to the State Treasurer for credit to the General Fund.

Sec. 11. That section 60-4,151, Revised Statutes Supplement, 1992, be amended to read as follows:

60-4,151. (1) The commercial driver's license shall be conspicuously marked Nebraska Commercial Driver's License, shall be, to the maximum extent practicable, tamper proof, and shall include the following information:

- (1) (a) The name and residential address of the holder;
- (2) (b) The holder's color photograph;
- (3) (c) A physical description of the holder, including sex, height, weight, and eye and hair colors;
- (4) (d) The holder's date of birth;
- (5) (e) The holder's signature;
- (6) (f) The class of commercial motor vehicle or vehicles which the holder is authorized to operate, including any endorsements or restrictions;
- (7) (g) The dates between which the commercial driver's license is valid; and
- (8) (h) The anatomical gift information specified in section 60-494.

(2) The restricted commercial driver's license shall be conspicuously marked Nebraska Restricted Commercial Driver's License and shall be, to the maximum extent practicable, tamper and forgery proof. The restricted commercial driver's license shall contain such additional information as deemed necessary by the director.

(3) The seasonal permit shall contain such information as deemed necessary by the director but shall include the time period during which the commercial motor vehicle operating privilege is effective. The seasonal permit shall be valid only when held in conjunction with a restricted commercial driver's license.

Sec. 12. That section 60-4,169, Revised Statutes Supplement, 1992, be amended to read as follows:

60-4,169. Whenever it comes to the attention of the director that any person when operating a commercial motor vehicle has, based upon the records of the director, been convicted of or administratively determined to have committed an offense for which disqualification is required pursuant to section 60-4,168 or section 13 of this act, the director shall summarily revoke (1) the commercial driver's license and privilege of such person to operate a commercial motor vehicle

in this state or (2) the privilege, if such person is a nonresident, of operating a commercial motor vehicle in this state. Any revocation ordered by the director pursuant to this section shall commence on the date of the signing of the order of revocation or the date of the release of such person from the jail or Department of Correctional Services adult correctional facility, whichever is later.

Sec. 13. (1) Any resident of this state who is a seasonal commercial motor vehicle operator for a farm-related or ranch-related service industry may make application for a restricted commercial driver's license. A restricted commercial driver's license shall authorize the holder to operate any Class B Heavy Straight Vehicle commercial motor vehicle or any Class B Heavy Straight Vehicle or Class C Small Vehicle commercial motor vehicle required to be placarded pursuant to section 75-364 when the hazardous material being transported is (a) diesel fuel in quantities of one thousand gallons or less, (b) liquid fertilizers in vehicles or implements of husbandry with total capacities of three thousand gallons or less, or (c) solid fertilizers that are not transported or mixed with any organic substance within one hundred fifty miles of the employer's place of business or the farm or ranch being served.

(2) Any applicant for a restricted commercial driver's license or seasonal permit shall be eighteen years of age or older, shall have possessed a valid operator's license during the twelve-month period immediately preceding application, and shall demonstrate, in a manner to be prescribed by the director, that:

(a) If the applicant has possessed a valid operator's license for two or more years, that in the two-year period immediately preceding application the applicant:

(i) Has not possessed more than one operator's license at one time;

(ii) Has not been subject to any order of suspension, revocation, or cancellation of any type;

(iii) Has no convictions involving any type or classification of motor vehicle of the disqualification offenses enumerated in section 60-4,168; and

(iv) Has no convictions for traffic law violations that are accident-connected and no record of at-fault accidents; and

(b) If the applicant has possessed a valid operator's license for more than one but less than two years, the applicant shall demonstrate that he or she meets the requirements prescribed in subdivision (a) of this subsection for the entire period of his or her driving record history.

(3) The commercial motor vehicle operating privilege as conferred by the restricted commercial driver's license shall be valid for four years if annually revalidated by the seasonal permit which shall be valid for no more than one hundred eighty consecutive days in any twelve-month period. To revalidate the restricted commercial driver's license, the applicant shall meet the requirements of subsection (2) of this section and shall designate a time period he or she desires the commercial motor vehicle operating privilege to be valid. The time period designated

by the applicant shall appear and be clearly indicated on the seasonal permit. A seasonal permit shall not be issued to any person more than once in any twelve-month period. The holder of a restricted commercial driver's license shall operate commercial motor vehicles in the course or scope of his or her employment within one hundred fifty miles of the employer's place of business or the farm or ranch currently being served.

(4) Any person who violates any provision of this section shall, upon conviction, be guilty of a Class III misdemeanor. In addition to any penalty imposed by the court, the director shall also revoke such person's restricted commercial driver's license and shall disqualify such person from operating any commercial motor vehicle in Nebraska for a period of five years.

(5) The Department of Motor Vehicles shall adopt and promulgate rules and regulations to carry out the requirements of this section.

(6) For purposes of this section:

(a) Agricultural chemical business shall mean any business that transports agricultural chemicals predominately to or from a farm or ranch;

(b) Farm-related or ranch-related service industry shall mean any custom harvester, retail agricultural outlet or supplier, agricultural chemical business, or livestock feeder which operates commercial motor vehicles for the purpose of transporting agricultural products, livestock, farm machinery and equipment, or farm supplies to or from a farm or ranch;

(c) Retail agricultural outlet or supplier shall mean any retail outlet or supplier that transports either agricultural products, farm machinery, farm supplies, or both, predominately to or from a farm or ranch; and

(d) Seasonal commercial motor vehicle operator shall mean any person who, exclusively on a seasonal basis, operates a commercial motor vehicle for a farm-related or ranch-related service industry.

Sec. 14. That section 60-4,171, Revised Statutes Supplement, 1992, be amended to read as follows:

60-4,171. (1) Following any period of revocation ordered by a court, a resident who has had a commercial driver's license revoked pursuant to section 60-4,169 may apply, on a form prescribed by the director, for a Class O or M operator's license. If in the judgment of the director such person is eligible to be issued a Class O or M operator's license, the application shall be presented to the county treasurer of the person's county of residence. The county treasurer shall issue the Class O or M operator's license upon payment of the fee provided for in section 60-4,115.

(2) Any person who has had his or her commercial driver's license revoked pursuant to section 60-4,169 may, at the end of such revocation period, apply to have his or her commercial driver's license reinstated. The applicant shall (a) apply on a form prescribed by the Department of Motor Vehicles, (b) take the written knowledge and driving

skills examinations prescribed pursuant to section 60-4,155, (c) comply with section 60-4,145 regarding physical requirements, (d) be subject to a check of his or her driving record, (e) pay the fees specified in section 60-4,148 and upon payment of a fifty-dollar reinstatement fee, and shall (f) surrender any operator's license issued pursuant to subsection (1) of this section.

Sec. 15. That original sections 60-462, 60-463, 60-480, 60-4,131, 60-4,132, 60-4,137, 60-4,138, 60-4,148, 60-4,151, 60-4,169, and 60-4,171, Revised Statutes Supplement, 1992, are repealed.