

LEGISLATIVE BILL 301

Approved by the Governor February 11, 1986

Introduced by Schmit, 23

AN ACT relating to motor carriers; to adopt certain federal regulations concerning motor carrier safety; to provide for inspection of a motor carrier's materials; to provide a penalty; to require a signed declaration as prescribed; to provide an operative date; and to provide for severability.

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

Section 1. (1) The parts of the Federal Motor Carrier Safety Regulations, Title 49, Code of Federal Regulations, listed in subdivisions (a) through (h) of this subsection or any other parts referred to by such parts, in existence as of October 1, 1986, are adopted as Nebraska law. The regulations shall be applicable to all carriers, drivers, and vehicles to which the federal regulations apply and to all vehicles of intrastate motor carriers registered for a gross weight over ten thousand pounds, all intrastate motor carriers in the operation of vehicles registered by such carriers for a gross weight over ten thousand pounds, and all drivers of such vehicles if the drivers are licensed pursuant to sections 60-403.06 to 60-403.10, except as provided in subsection (2) of this section. The Legislature hereby adopts:

- (a) Part 390-Federal Motor Carrier Safety Regulations: General;
- (b) Part 391-Qualifications Of Drivers;
- (c) Part 392-Driving Of Motor Vehicles;
- (d) Part 393-Parts And Accessories Necessary For Safe Operations;
- (e) Part 395-Hours Of Service Of Drivers;
- (f) Part 396-Inspection, Repair And Maintenance;
- (g) Part 397-Transportation Of Hazardous Materials; Driving And Parking Rules; and
- (h) Part 398-Transportation Of Migrant Workers.

(2) The regulations shall not apply to farm trucks registered pursuant to section 60-330 with a gross weight of sixteen tons or less, liquefied petroleum gas tanks with a capacity of three thousand

five hundred gallons or less, and fertilizer and agricultural chemical application and distribution equipment transported in units with a capacity of three thousand five hundred gallons or less. The following parts and sections of the Federal Motor Carrier Safety Regulations shall not apply to drivers of registered farm trucks:

- (a) All of Part 391;
- (b) Section 395.08 of Part 395; and
- (c) Section 396.11 of Part 396.

Sec. 2. (1) The parts of the Federal Hazardous Material Regulations, Title 49, Code of Federal Regulations, listed below or any other parts referred to by such parts, in existence as of October 1, 1986, are adopted as part of Nebraska law and, except as provided in subsection (2) of this section, shall be applicable to all private, common, and contract motor vehicle carriers, drivers of such carriers, and vehicles of such carriers whether engaged in interstate or intrastate commerce:

- (a) Part 171-General Information, Regulations, And Definitions;
- (b) Part 172-Hazardous Materials Tables And Hazardous Materials Communications Regulations;
- (c) Part 173-Shippers-General Requirements For Shipments And Packaging;
- (d) Part 177-Carriage By Public Highway; and
- (e) Part 178-Shipping Container Specifications.

(2) The provisions of subsection (1) of this section shall not apply to the use of fuels, fertilizers, and agricultural chemicals in a normal farming or ranching operation on the farm or ranch.

(3) Liquefied petroleum gas tanks with a capacity of three thousand five hundred gallons or less, anhydrous ammonia tanks with a capacity of three thousand gallons or less, and flammable liquid tanks with a capacity of three thousand gallons or less shall be exempt from the provisions of subsection (1) of this section to the extent provided in Part 173 and Part 177.

(4) Liquefied petroleum gas tanks with a capacity of three thousand five hundred gallons or less shall be exempt from the provisions of section 173.315(k)(5) adopted under subdivision (1)(c) of this section if such tanks have been inspected and tested in accordance with the State Fire Marshal's rules and regulations.

Sec. 3. (1) Definitions contained in the regulations referred to in sections 1 and 2 of this act

shall only apply to such regulations.

(2) When the regulations referred to in sections 1 and 2 of this act require that any person submit a report to the United States Department of Transportation or any other federal agency, that person shall also submit a copy of the report to the Nebraska State Patrol.

Sec. 4. For the purpose of enforcing sections 1 and 2 of this act, the Nebraska State Patrol or the carrier enforcement division may, upon demand, inspect the accounts, records, and equipment of any carrier or shipper.

Sec. 5. Any person violating the provisions adopted under section 1 or 2 of this act shall be guilty of a Class III misdemeanor.

Sec. 6. The Nebraska State Patrol or the carrier enforcement division may adopt and promulgate rules and regulations as are necessary to carry out and enforce sections 1 to 6 of this act.

Sec. 7. The Nebraska State Patrol shall provide each county treasurer and the Department of Motor Vehicles with copies of a declaration which states that the motor carrier safety regulations in sections 1 to 6 of this act have been enacted into state law. The declaration shall be distributed by the county treasurers and the Department of Motor Vehicles to each applicant for registration of commercial motor vehicles subject to sections 1 and 2 of this act. The applicant shall sign the registration form to acknowledge that the applicant has read the declaration and is aware that the motor carrier safety regulations are part of state law. Nothing in this section shall be construed to impose any liability upon any county treasurer or the Department of Motor Vehicles or any employee thereof as a result of any act or failure to act under this section.

Sec. 8. This act shall become operative on October 1, 1986.

Sec. 9. If any section in this act or any part of any section shall be declared invalid or unconstitutional, such declaration shall not affect the validity or constitutionality of the remaining portions thereof.