

LEGISLATIVE BILL 76

Approved by the Governor March 22, 2005

Introduced by Baker, 44

AN ACT relating to motor vehicles; to amend sections 60-462, 60-462.01, 60-465, 60-484, 60-490, 60-4,131, 60-4,132, 60-4,137, 60-4,141, 60-4,143, 60-4,144, 60-4,149.01, 60-4,159, and 60-4,168, Reissue Revised Statutes of Nebraska, and section 29-3608, Revised Statutes Supplement, 2004; to change provisions relating to commercial driver's licenses; to adopt federal provisions for commercial motor vehicles; to change provisions relating to transporting hazardous materials; to eliminate obsolete provisions; to harmonize provisions; to repeal the original sections; and to declare an emergency.

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

Section 1. Section 29-3608, Revised Statutes Supplement, 2004, is amended to read:

29-3608. Any driver holding a commercial driver's license issued pursuant to sections 60-462.01 and 60-4,138 to 60-4,172 and sections 16 to 21 of this act shall not be eligible to participate in a program under sections 29-3605 to 29-3609 if such participation would be in noncompliance with federal law or regulation and subject the state to possible loss of federal funds.

Sec. 2. Section 60-462, Reissue Revised Statutes of Nebraska, is amended to read:

60-462. Sections 60-462 to 60-4,188 and sections 16 to 21 of this act shall be known and may be cited as the Motor Vehicle Operator's License Act.

Sec. 3. Section 60-462.01, Reissue Revised Statutes of Nebraska, is amended to read:

60-462.01. For purposes of the Motor Vehicle Operator's License Act, the following federal regulations are adopted as Nebraska law as they existed on January 1, 2005:

(1) Beginning on an implementation date designated by the director, the federal requirements for interstate shipment of etiologic agents, 42 C.F.R. part 72; and

(2) The parts, subparts, and sections of the federal Motor Carrier Safety Regulations, 49 C.F.R., as referenced in the act and as they existed on January 1, 2004, are adopted as Nebraska law Motor Vehicle Operator's License Act.

Sec. 4. Section 60-465, Reissue Revised Statutes of Nebraska, is amended to read:

60-465. (1) Commercial motor vehicle shall mean a motor vehicle used or designed to transport passengers or property (a) if the motor vehicle has a gross vehicle weight rating of more than twenty-six thousand pounds, (b) if the motor vehicle is designed to transport sixteen or more passengers, including the driver, or (c) if the motor vehicle is transporting hazardous materials and is required to be placarded pursuant to section 75-364 means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

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

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

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

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

(2) Commercial motor vehicle shall does not include (a) a farm truck as defined in section 60-301 other than a combination of truck-tractors and semitrailers when such farm truck is operated within one hundred fifty miles of the registered owner's farm or ranch, (b) any self-propelled mobile home or motor vehicle drawing a cabin trailer as such terms are defined in section

60-301, (c) any emergency vehicle operated by a public or volunteer fire department, or (d) any motor vehicle owned or operated by the United States Department of Defense or Nebraska National Guard when such motor vehicle is driven by uniformed, military operators performing duty in the active service of the United States or this state.

Sec. 5. Section 60-484, Reissue Revised Statutes of Nebraska, is amended to read:

60-484. (1) Except as otherwise provided in the Motor Vehicle Operator's License Act, no resident of the State of Nebraska shall operate a motor vehicle upon the alleys or highways of the State of Nebraska until the person has obtained an operator's license for that purpose.

(2) ~~Application for an operator's license may be made on uniform blanks prepared and furnished by the director to the county treasurers and the examiners of the Department of Motor Vehicles prior to January 1, 2003. Such application may be made to an examiner in any county. The standard application blanks shall be sufficient in form and content to substantially carry out the purposes of the act.~~

~~(3)~~ Application for an operator's license may also be made in a manner prescribed by the ~~department~~ Department of Motor Vehicles. Such application may be made to an examiner in any county. The examiner shall personally conduct the examination of the applicant and deliver to each successful applicant an examiner's certificate containing the statements made pursuant to subsection ~~(4)~~ (3) of this section.

~~(4)~~ (3) In addition to any other information and questions necessary to comply with the requirements and purposes of the act, the applicant (a) shall provide his or her name, age, post office address, place of residence unless the applicant is a program participant under the Address Confidentiality Act, date of birth, sex, social security number, and brief description of himself or herself, (b) may complete the voter registration portion pursuant to section 32-308, (c) shall be provided the advisement language required by subsection (5) of section 60-6,197, (d) shall answer the following:

(i) Have you within the last three months (e.g. due to diabetes, epilepsy, mental illness, head injury, stroke, heart condition, neurological disease, etc.):

- (A) lost voluntary control or consciousness ... yes ... no
- (B) experienced vertigo or multiple episodes of dizziness or fainting ... yes ... no
- (C) experienced disorientation ... yes ... no
- (D) experienced seizures ... yes ... no
- (E) experienced impairment of memory, memory loss ... yes ... no

Please explain:

(ii) Do you experience any condition which affects your ability to operate a motor vehicle? (e.g. due to loss of, or impairment of, foot, leg, hand, arm; neurological or neuromuscular disease, etc.) ... yes ... no

Please explain:

(iii) Since the issuance of your last driver's license/permit has your health or medical condition changed or worsened? ... yes ... no

Please explain, including how the above affects your ability to drive: and (e) may answer the following:

(i) Do you wish to register to vote as part of this application process?

OPTIONAL - YOU ARE NOT REQUIRED TO ANSWER ANY OF THE FOLLOWING QUESTIONS:

- (ii) Do you wish to be an organ and tissue donor?
- (iii) Do you wish to receive any additional specific information regarding organ and tissue donation and the Donor Registry of Nebraska?
- (iv) Do you wish to donate \$1 to promote the Organ and Tissue Donor Awareness and Education Fund?

~~(5)~~ (4) Application for an operator's license shall be made under oath or affirmation of the applicant.

~~(6)~~ (5) The social security number shall not be printed on the operator's license and shall be used only (a) to furnish driver record information to the United States Selective Service System under section 60-483, (b) with the permission of the director in connection with the verification of the status of an individual's driving record in this state or any other state, ~~or~~ (c) for purposes of child support enforcement pursuant to section 42-358.08 or 43-512.06, or (d) beginning on an implementation date designated by the director, to furnish information regarding an applicant for or holder of a commercial driver's license with a hazardous materials endorsement to the Transportation Security Administration of the United States Department of Homeland Security or its agent.

~~(7)(a)~~ (6)(a) Except for an individual under the age of eighteen years, each individual applying for an operator's license or a state identification card shall furnish proof of date of birth and identity by a valid Nebraska operator's license, a valid Nebraska learner's permit, a valid Nebraska school permit, a valid operator's license from another state or jurisdiction of the United States, a certified birth certificate, a certified birth registration, a valid United States passport, a valid United States military identification card, United States military discharge papers, other United States-based identification as approved by the director, or information preserved in the digital system implemented under section 60-484.01.

(b) Any individual under the age of eighteen years applying for an operator's license or a state identification card shall provide a certified copy of his or her birth certificate, a certified birth registration, or other reliable proof of his or her identity and age accompanied by a certification signed by a parent or guardian explaining the inability to produce a copy of such birth certificate. The applicant may be required to furnish proof to the examiner that the parent or guardian signing the certification is in fact the parent or guardian of such applicant.

Sec. 6. Section 60-490, Reissue Revised Statutes of Nebraska, is amended to read:

60-490. (1) ~~Except as otherwise provided in subsection (2) or (6) of this section and except for operators' licenses issued to persons less than twenty-one years of age, all operators' licenses issued pursuant to the Motor Vehicle Operator's License Act prior to January 1, 1999, expire on the licensee's birthday in the first year after issuance in which his or her age is divisible by four. An operator's license issued to a person who is less than twenty-one years of age expires on his or her twenty-first birthday.~~

~~(2) Operators' licenses issued to persons required to use bioptic or telescopic lenses as provided in section 60-4,118 shall expire annually on the licensee's birthday.~~

~~(3) Except as otherwise provided in subsection (6) of this section and except for state identification cards issued to persons less than twenty-one years of age, all state identification cards issued on or after January 1, 1990, and prior to January 1, 1999, expire on the cardholder's birthday in the first year after issuance in which his or her age is divisible by four.~~

(2) Except for state identification cards issued to persons less than twenty-one years of age, all state identification cards issued ~~on or after January 1, 1999,~~ expire on the cardholder's birthday in the fifth year after issuance. A state identification card issued to a person who is less than twenty-one years of age expires on his or her twenty-first birthday, ~~except that beginning on the implementation date designated pursuant to section 60-484.01, a state identification card issued to a person who is less than twenty-one years of age expires on his or her twenty-first birthday or on his or her birthday in the fifth year after issuance, whichever comes first.~~

~~(4)~~ (3) Except as otherwise provided in subsection ~~(2)~~ (1) of this section and section 20 of this act and except for operators' licenses issued to persons less than twenty-one years of age, operators' licenses issued pursuant to the Motor Vehicle Operator's License Act ~~on or after January 1, 1999,~~ expire on the licensee's birthday in the fifth year after issuance. An operator's license issued to a person less than twenty-one years of age expires on his or her twenty-first birthday. Beginning December 1, 2003 Except as otherwise provided in section 20 of this act, the Department of Motor Vehicles shall mail out a renewal notice for each operator's license at least thirty days before the expiration of the operator's license.

~~(5)(a)~~ (4)(a) The expiration date shall be stated on each operator's license or state identification card.

(b) ~~All~~ Except as otherwise provided in section 20 of this act, licenses and state identification cards issued to persons who are twenty-one years of age or older which expire under this section may be renewed within a ninety-day period before the expiration date. Any person who is twenty-one years of age or older and who is the holder of a valid operator's license or state identification card may renew his or her license or card prior to the ninety-day period before the expiration date on such license or card if such applicant furnishes proof that he or she will be absent from the state during the ninety-day period prior to such expiration date.

(c) A person who is twenty years of age may apply for an operator's license or a state identification card within sixty days prior to his or her twenty-first birthday. The operator's license or state identification card may be issued within ten days prior to such birthday.

(d) A person who is under twenty years of age and who holds a state identification card may apply for renewal within a ninety-day period prior to

the expiration date.

(6) In order to ease the transition to a system of five-year operators' licenses and five-year state identification cards, approximately twenty percent of the number of persons in each county whose operators' licenses or state identification cards expire in the years 1999, 2000, 2001, and 2002 shall have the expiration date of their operators' licenses or state identification cards extended to the year 2003. Such persons shall be chosen at random from a list of persons who are less than sixty-five years of age. Extension stickers for the operators' licenses or state identification cards of such persons shall be designed by the department. Beginning August 1, 1998, the department shall provide notice to and mail out or make available through the examiners of the department the extension stickers to the persons who have had the expiration date of their licenses or cards extended. The fee for each Class O or Class M operator's license or identification card extension sticker shall be three dollars and seventy-five cents per year of extension and the fee for each commercial driver's license extension sticker shall be ten dollars per year of extension. The fee shall be collected by the department and remitted to the State Treasurer. Eight dollars and twenty-five cents of each four-year extension fee, six dollars of each three-year extension fee, three dollars and twenty-five cents of each two-year extension fee, and one dollar of each one-year extension fee shall be credited to the General Fund. All remaining fees shall be credited to the Department of Motor Vehicles Cash Fund. For those persons who have had the expiration date of their operators' licenses or state identification cards extended, the department shall note such extended expiration date on its computerized records. This subsection does not apply to an operator's license or state identification card issued to a person less than twenty-one years of age.

Sec. 7. Section 60-4,131, Reissue Revised Statutes of Nebraska, is amended to read:

60-4,131. (1) Sections 60-462.01 and 60-4,132 to 60-4,172 and sections 16 to 21 of this act shall apply to the operation of any commercial motor vehicle.

(2) For purposes of such sections:

(a) Disqualification means either:

(i) The suspension, revocation, cancellation, or any other withdrawal by a state of a person's privilege to drive a commercial motor vehicle; or

(ii) A determination by the Federal Motor Carrier Safety Administration, under the rules of practice for motor carrier safety contained in 49 C.F.R. 386, that a person is no longer qualified to operate a commercial motor vehicle under 49 C.F.R. 391; or

(iii) The loss of qualification which automatically follows conviction of an offense listed in 49 C.F.R. 383.51;

(b) Employee means any operator of a commercial motor vehicle, including full time, regularly employed drivers; casual, intermittent, or occasional drivers; and leased drivers and independent, owner-operator contractors, while in the course of operating a commercial motor vehicle, who are either directly employed by or under lease to an employer;

(c) Employer means any person, including the United States, a state, the District of Columbia, or a political subdivision of a state, that owns or leases a commercial motor vehicle or assigns employees to operate a commercial motor vehicle;

(d) Endorsement means an authorization to an individual's commercial driver's license required to permit the individual to operate certain types of commercial motor vehicles;

(e) Representative vehicle means a motor vehicle which represents the type of motor vehicle that a driver applicant operates or expects to operate;

(f) State means a state of the United States and the District of Columbia;

(g) State of domicile means that state where a person has his or her true, fixed, and permanent home and principal residence and to which he or she has the intention of returning whenever he or she is absent;

(h) Tank vehicle means any commercial motor vehicle that is designed to transport any liquid or gaseous materials within a tank that is either permanently or temporarily attached to the vehicle or the chassis. Such vehicle includes, but is not limited to, a cargo tank and a portable tank, as defined in 49 C.F.R. 171. However, this definition does not include a portable tank that has a rated capacity under one thousand gallons;

(i) United States means the fifty states and the District of Columbia; and

(j) Vehicle group means a class or type of vehicle with certain

operating characteristics.

Sec. 8. Section 60-4,132, Reissue Revised Statutes of Nebraska, is amended to read:

60-4,132. The purposes of sections 60-462.01 and 60-4,137 to 60-4,172 and sections 16 to 21 of this act are to implement the requirements mandated by the federal Commercial Motor Vehicle Safety Act of 1986, ~~Public Law 99-570, Title XII~~ 49 U.S.C. 31100 et seq., the federal Motor Carrier Safety Improvement Act of 1999, Public Law 106-159, section 1012 of the federal Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, USA PATRIOT Act, 49 U.S.C. 5103a, and federal regulations 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. 9. Section 60-4,137, Reissue Revised Statutes of Nebraska, is amended to read:

60-4,137. Any resident of this state operating a commercial motor vehicle on the highways of this state shall possess a commercial driver's license or LPC-learner's permit issued pursuant to sections 60-462.01 and 60-4,138 to 60-4,172 and sections 16 to 21 of this act.

Sec. 10. Section 60-4,141, Reissue Revised Statutes of Nebraska, is amended to read:

60-4,141. (1) Except as provided in subsections (2) and (3) of this section, no person shall operate any class of commercial motor vehicle upon the highways of this state unless such person possesses a valid commercial driver's license authorizing the operation of the class of commercial motor vehicle being operated, except that (a) any person possessing a valid commercial driver's license authorizing the operation of a Class A commercial motor vehicle may lawfully operate any Class B or C commercial motor vehicle and (b) any person possessing a valid commercial driver's license authorizing the operation of a Class B commercial motor vehicle may lawfully operate a Class C commercial motor vehicle. No person shall operate upon the highways of this state any commercial motor vehicle which requires a specific endorsement unless such person possesses a valid commercial driver's license with such endorsement. No person possessing a restricted commercial driver's license shall operate upon the highways of this state any commercial motor vehicle to which such restriction is applicable.

(2) Any person holding an LPC-learner's permit may operate a commercial motor vehicle for learning purposes upon the highways of this state if accompanied by a person who is twenty-one years of age or older, who holds a commercial driver's license valid for the class of commercial motor vehicle being operated, and who occupies the seat beside the person for the purpose of giving instruction in the operation of the commercial motor vehicle. Any person holding an LPC-learner's permit may operate a commercial motor vehicle upon the highways of this state for purposes of taking a driving skills examination if accompanied by an examiner who is designated by the director under section 60-4,149 or employed by a third-party tester certified pursuant to section 60-4,158 and who occupies the seat beside the person for the purpose of giving the examination. A person holding an LPC-learner's permit shall not operate a commercial motor vehicle transporting hazardous materials.

(3) The provisions of subsection (1) of this section shall not apply to any nonresident until the state of residence of such nonresident begins the issuance of commercial drivers' licenses in conformance with the requirements of the Commercial Motor Vehicle Safety Act of 1986, ~~Public Law 99-570, Title XII~~ 49 U.S.C. 31100 et seq., and the Motor Carrier Safety Improvement Act of 1999, 49 U.S.C. 31301 et seq., and section 1012 of the federal Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, USA PATRIOT Act, 49 U.S.C. 5103a, and such nonresident is required by his or her state of residence to possess a commercial driver's license to operate a commercial motor vehicle. Any nonresident who is in this state for a period of thirty consecutive days or more shall apply for a Nebraska-issued commercial driver's license and shall surrender to the Department of Motor Vehicles any operator's license issued to such nonresident by any other state.

(4) Any person who operates a commercial motor vehicle upon the highways of this state in violation of this section shall, upon conviction, be guilty of a Class III misdemeanor.

Sec. 11. Section 60-4,143, Reissue Revised Statutes of Nebraska, is amended to read:

60-4,143. (1) No commercial driver's license or LPC-learner's permit shall, under any circumstances, be issued to any person who has not

attained the age of eighteen years.

(2) A commercial driver's license or LPC-learner's permit shall not be issued to any person during the period the person is subject to a disqualification in this or any other state or while the person's operator's license is suspended, revoked, or canceled in this or any other state.

(3) The Department of Motor Vehicles shall not issue any commercial driver's license to any person unless the person applying for a commercial driver's license first surrenders to the department all operators' licenses issued to such person by this or any other state. Any operator's license issued by another state which is surrendered to the department shall be returned to that state by the director for cancellation.

Sec. 12. Section 60-4,144, Reissue Revised Statutes of Nebraska, is amended to read:

60-4,144. (1) Application for any original or renewal commercial driver's license or application for any change of class of commercial motor vehicle, endorsement, or restriction may be made in a manner prescribed by the department. Such application may be made to an examiner in any county. The examiner shall personally conduct the examination of the applicant and deliver to each successful applicant an examiner's certificate containing the statements made pursuant to subsection (2) of this section.

(2) The application or examiner's certificate shall include the voter registration portion pursuant to section 32-308, the advisement language required by subsection (5) of section 60-6,197, and the following:

(a) The full name, the current mailing address, and the residential address of the applicant, except that if the applicant is a program participant under the Address Confidentiality Act, he or she need not supply his or her residential address;

(b) A physical description of the applicant, including sex, height, weight, and eye and hair colors;

(c) The applicant's date of birth;

(d) The applicant's social security number;

(e) The applicant's signature;

(f) Certification that the commercial motor vehicle in which the applicant takes any driving skills examination is representative of the class of commercial motor vehicle that the applicant operates or expects to operate;

(g) The certification required pursuant to section 60-4,145 or 60-4,146;

(h) Beginning September 30, 2005, the names of all states where the applicant has ~~previously~~ been licensed to operate any type of motor vehicle in the ten years prior to the date of application;

(i) The following specific questions:

(i) Have you within the last three months (e.g. due to diabetes, epilepsy, mental illness, head injury, stroke, heart condition, neurological disease, etc.):

(A) lost voluntary control or consciousness ... yes ... no

(B) experienced vertigo or multiple episodes of dizziness or fainting ... yes ... no

(C) experienced disorientation ... yes ... no

(D) experienced seizures ... yes ... no

(E) experienced impairment of memory, memory loss ... yes ... no

Please explain:

(ii) Do you experience any condition which affects your ability to operate a motor vehicle? (e.g. due to loss of or impairment of foot, leg, hand, or arm; neurological or neuromuscular disease, etc.) ... yes ... no

Please explain:

(iii) Since the issuance of your last driver's license/permit has your health or medical condition changed or worsened? ... yes ... no

Please explain, including how the above affects your ability to drive:

(j) Do you wish to register to vote as part of this application process?

OPTIONAL - YOU ARE NOT REQUIRED TO ANSWER ANY OF THE FOLLOWING QUESTIONS:

(k) Do you wish to be an organ and tissue donor?

(l) Do you wish to receive any additional specific information regarding organ and tissue donation and the Donor Registry of Nebraska?

(m) Do you wish to donate \$1 to promote the Organ and Tissue Donor Awareness and Education Fund?

(3) Application shall be made under oath or affirmation of the applicant.

Sec. 13. Section 60-4,149.01, Reissue Revised Statutes of Nebraska, is amended to read:

60-4,149.01. (1) A commercial driver's license examiner shall not

require the commercial driver's license knowledge examination, except the hazardous material portion of the examination and any knowledge examinations not previously taken for that class of commercial motor vehicle or endorsement, if the applicant renews his or her commercial driver's license prior to its expiration or within one year after its expiration and if the applicant's driving record abstract maintained in the department's computerized records shows that his or her commercial driver's license is not suspended, revoked, canceled, or disqualified.

(2) A nonresident who holds a valid commercial driver's license from another state shall not be required to take the commercial driver's license knowledge examination, except the hazardous material portion of the examination and any knowledge examinations not previously taken for that class of commercial motor vehicle or endorsement, if the nonresident surrenders his or her valid out-of-state commercial driver's license to the commercial driver's license examiner.

(3) The commercial motor vehicle general knowledge examination shall be waived for the commercial driver's license applicant if the applicant holds a Nebraska-issued LPC-learner's permit that is valid or has been expired less than one year that is not canceled, suspended, revoked, or disqualified.

Sec. 14. Section 60-4,159, Reissue Revised Statutes of Nebraska, is amended to read:

60-4,159. (1) Any person possessing a commercial driver's license issued by the Department of Motor Vehicles shall, within ~~thirty~~ ten days of the date of conviction, notify the department of all convictions for violations of state law or local ordinance related to motor vehicle traffic control, except parking violations, when such convictions occur in another state.

(2) Any person possessing a commercial driver's license issued by the department who is convicted of violating any state law or local ordinance related to motor vehicle traffic control in this or any other state, other than parking violations, shall notify his or her employer in writing of the conviction within thirty days of the date of conviction.

(3) Any person possessing a commercial driver's license issued by the department whose commercial driver's license is suspended, revoked, or canceled by any state, who loses the privilege to drive a commercial motor vehicle in any state for any period, or who is disqualified from driving a commercial motor vehicle for any period shall notify his or her employer of that fact before the end of the business day following the day the driver received notice of that fact.

(4) Any person who fails to provide the notifications required in subsection (1), (2), or (3) of this section shall, upon conviction, be guilty of a Class III misdemeanor.

Sec. 15. Section 60-4,168, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

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

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

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

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

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

(2) Except as provided in subsection (3) of this section, if any of the offenses described in subsection (1) of this section occurred while a person was transporting hazardous material in a commercial motor vehicle which required placarding pursuant to section 75-364, the person shall, upon conviction or administrative determination, be disqualified from driving a

commercial motor vehicle for three years.

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

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

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

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

(b) A person is disqualified from driving a commercial motor vehicle for a period of not less than sixty days if he or she is convicted in this or any other state of two serious traffic violations, or not less than one hundred twenty days if he or she is convicted in this or any other state of three serious traffic violations, arising from separate incidents occurring within a three-year period while operating a motor vehicle other than a commercial motor vehicle if the convictions have resulted in the revocation, cancellation, or suspension of the person's operator's license or driving privileges.

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

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

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

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

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

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

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

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

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

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

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

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

(8) For purposes of this section, serious traffic violation means:

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

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

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

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

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

(f) Beginning September 30, 2005, driving a commercial motor vehicle without a commercial driver's license;

(g) Beginning September 30, 2005, driving a commercial motor vehicle without a commercial driver's license in the operator's possession; and

(h) Beginning September 30, 2005, driving a commercial motor vehicle without the proper class of commercial driver's license and any endorsements, if required, for the specific vehicle group being operated or for the passengers or type of cargo being transported on the vehicle.

Sec. 16. The Department of Motor Vehicles, a prosecutor, or a court must not mask, defer imposition of judgment, or allow an individual to enter into a diversion program that would prevent a commercial driver's license driver's conviction for any violation, in any type of motor vehicle, of a state or local traffic control law (except a parking violation) from appearing on the driver's record, whether the driver was convicted for an offense committed in the state where the driver is licensed or another state.

Sec. 17. No endorsement authorizing the driver to operate a commercial motor vehicle transporting hazardous materials shall be issued, renewed, or transferred by the Department of Motor Vehicles unless the endorsement is issued, renewed, or transferred in conformance with the requirements of section 1012 of the federal Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, USA PATRIOT Act, 49 U.S.C. 5103a, including all amendments and federal rules and regulations adopted and promulgated pursuant thereto as of the effective date of this act, for the issuance of licenses to operate commercial motor vehicles transporting hazardous materials.

Sec. 18. Beginning on an implementation date designated by the director, an applicant for a new, renewal, or transferred hazardous materials endorsement shall complete an application process including threat assessment, background check, fingerprints, and payment of fees as prescribed by 49 C.F.R. 1522, 1570, and 1572. Upon receipt of a determination of threat assessment from the Transportation Security Administration of the United States Department of Homeland Security or its agent, the department shall retain the application for not less than one year.

Sec. 19. Before a hazardous materials endorsement is issued, renewed, or transferred, the Department of Motor Vehicles must receive a determination of no security threat from the Transportation Security Administration of the United States Department of Homeland Security or its agent. The Department of Motor Vehicles shall cancel any existing commercial driver's license with a hazardous materials endorsement authorizing a driver to operate a vehicle transporting hazardous materials if it has received a determination that the holder of such endorsement does not meet the standards for security threat assessment as provided in 49 C.F.R. 1572 established by the Transportation Security Administration or its agent. The department may refuse to process an application for a new, renewal, or transferred commercial driver's license with a hazardous materials endorsement if:

(1) The applicant fails to submit to fingerprinting;

(2) The applicant fails to submit to required information and documentations;

(3) The applicant fails to pay the required fees;

(4) The applicant fails to pass any element of the hazardous materials portion of the commercial driver's license examination;

(5) The department receives a final determination of threat assessment from the Transportation Security Administration or its agent; or

(6) The department has not received from the Transportation Security Administration or its agent an advisement regarding the applicant's security threat status.

Sec. 20. (1) A commercial driver's license with a hazardous materials endorsement expires five years after the date of issuance of a determination of no security threat.

(2) When adding a hazardous materials endorsement to an existing Nebraska commercial driver's license before the expiration date of the existing license, the expiration date of the new commercial driver's license with the hazardous materials endorsement added shall be five years from the date of the determination of threat assessment. The license shall be issued upon payment of the appropriate prorated fee prescribed in section 60-4,115 for any additional time period added. If the date of the threat assessment plus five years is earlier than the expiration date of the commercial driver's license before the hazardous materials endorsement was added, the fee for a change of class, endorsement, or restriction shall apply.

(3) The Department of Motor Vehicles shall mail out a renewal notice for each such license at least sixty days before the expiration of the license. An applicant for renewal may initiate the renewal process after

receiving such notice, but the renewal process shall be initiated at least thirty days before the expiration date in order to allow time to process the security threat assessment. The department may extend the expiration date of the endorsement for ninety days if the Transportation Security Administration of the United States Department of Homeland Security or its agent has not provided a determination of threat assessment before the expiration date. Any additional extension must be approved in advance by the designee of the Transportation Security Administration.

Sec. 21. An applicant who transfers from another state shall surrender his or her commercial driver's license with a hazardous material endorsement before the issuance of a commercial driver's license by the State of Nebraska. The renewal period established in the preceding state shall be the expiration date for the Nebraska license if a determination of threat assessment has been completed by the other state prior to issuance of the license. The Department of Motor Vehicles shall issue prorated licenses with appropriate prorated fees prescribed in section 60-4,115 to applicants transferring from another state. Applicants transferring from another state who have completed the determination of threat assessment shall not be required to undergo a determination of threat assessment until the determination of threat assessment established in the preceding state expires.

Sec. 22. Original sections 60-462, 60-462.01, 60-465, 60-484, 60-490, 60-4,131, 60-4,132, 60-4,137, 60-4,141, 60-4,143, 60-4,144, 60-4,149.01, 60-4,159, and 60-4,168, Reissue Revised Statutes of Nebraska, and section 29-3608, Revised Statutes Supplement, 2004, are repealed.

Sec. 23. Since an emergency exists, this act takes effect when passed and approved according to law.