

## LEGISLATIVE BILL 629

Approved by the Governor May 27, 2015

Introduced by Mello, 5; Harr, 8; Howard, 9; Larson, 40; Lindstrom, 18;  
Nordquist, 7.

A BILL FOR AN ACT relating to transportation; to amend sections 75-304, 75-305, 75-306, 75-307, 75-309, 75-310, and 75-313, Reissue Revised Statutes of Nebraska, and sections 75-109.01, 75-302, and 75-311, Revised Statutes Cumulative Supplement, 2014; to provide for regulation of transportation network companies; to provide and change powers and duties for the Public Service Commission; to define terms; to provide requirements for insurance coverage; to require an annual report to the Legislature; to provide for a fee; to create a fund; to harmonize provisions; to provide a duty for the Revisor of Statutes; to repeal the original sections; and to declare an emergency.

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

Section 1. Section 75-109.01, Revised Statutes Cumulative Supplement, 2014, is amended to read:

75-109.01 Except as otherwise specifically provided by law, the Public Service Commission shall have jurisdiction, as prescribed, over the following subjects:

- (1) Common carriers, generally, pursuant to sections 75-101 to 75-158;
- (2) Grain pursuant to the Grain Dealer Act and the Grain Warehouse Act and sections 89-1,104 to 89-1,108;
- (3) Manufactured homes and recreational vehicles pursuant to the Uniform Standard Code for Manufactured Homes and Recreational Vehicles;
- (4) Modular housing units pursuant to the Nebraska Uniform Standards for Modular Housing Units Act;
- (5) Motor carrier registration and safety pursuant to sections 75-301 to 75-322, 75-369.03, 75-370, and 75-371 and sections 2 to 22 of this act;
- (6) Pipeline carriers and rights-of-way pursuant to the Major Oil Pipeline Siting Act, the State Natural Gas Regulation Act, and sections 75-501 to 75-503. If the provisions of Chapter 75 are inconsistent with the provisions of the Major Oil Pipeline Siting Act, the provisions of the Major Oil Pipeline Siting Act control;
- (7) Railroad carrier safety pursuant to sections 74-918, 74-919, 74-1323, and 75-401 to 75-430;
- (8) Telecommunications carriers pursuant to the Automatic Dialing-Announcing Devices Act, the Emergency Telephone Communications Systems Act, the Enhanced Wireless 911 Services Act, the Intrastate Pay-Per-Call Regulation Act, the Nebraska Telecommunications Regulation Act, the Nebraska Telecommunications Universal Service Fund Act, the Telecommunications Relay System Act, the Telephone Consumer Slamming Prevention Act, and sections 86-574 to 86-580;
- (9) Transmission lines and rights-of-way pursuant to sections 70-301 and 75-702 to 75-724;
- (10) Water service pursuant to the Water Service Regulation Act; and
- (11) Jurisdictional utilities governed by the State Natural Gas Regulation Act. If the provisions of Chapter 75 are inconsistent with the provisions of the State Natural Gas Regulation Act, the provisions of the State Natural Gas Regulation Act control.

Sec. 2. For purposes of sections 75-301 to 75-322 and sections 2 to 22 of this act, unless the context otherwise requires:

- (1) Application open stage means the time period from the moment a participating driver logs on to the transportation network company's online-enabled application or platform until the driver accepts a request to transport a passenger and from the moment the driver completes the transaction on the online-enabled application or platform or the passenger exits the vehicle, whichever is later, until the driver either accepts another ride request on the online-enabled application or platform or logs off the online-enabled application or platform;
- (2) Engaged stage means the time period from the moment a participating driver accepts a ride request on the transportation network company online-enabled application or platform until the driver completes the transaction on the online-enabled application or platform or until the passenger exits the vehicle, whichever is later;
- (3) Insurance policy means a policy placed with an authorized Nebraska insurer or with a surplus lines insurer pursuant to Chapter 44;
- (4) Participating driver or driver means any person who uses a personal vehicle in connection with a transportation network company's online-enabled application or platform to connect with passengers;
- (5) Passenger means a passenger in a personal vehicle for whom a driver provides transportation and who is connected with a driver by a transportation network company's online-enabled application or platform;
- (6) Passengers on board stage means the time period when there are passengers in the vehicle pursuant to the driver's participation in a transportation network company;

(7) Personal vehicle means a passenger car as defined in section 60-345 that a driver owns, leases, or is otherwise authorized to use to provide services on a transportation network company's online-enabled application or platform;

(8) Prearranged ride means a ride in which a participating driver is matched to a passenger through a transportation network company's online-enabled application or platform and does not include the on-demand summoning of a ride or street hail. Prearranged ride does not include shared-expense carpool or vanpool arrangements;

(9) Service means the provision of transportation by a driver to a passenger with whom a transportation network company matches the driver;

(10) Transportation network company means an organization, including a corporation, a limited liability company, a partnership, a sole proprietor, or any other entity, operating in this state that provides prearranged transportation services for compensation using an online-enabled application or platform to connect passengers with participating drivers using a personal vehicle. Transportation network company does not include medicaid nonemergency medical transportation brokerage services provided pursuant to a contract with the Department of Health and Human Services; and

(11) Transportation network company insurance means an insurance policy that covers loss arising from a participating driver's use of a personal vehicle in connection with a transportation network company's online-enabled application or platform.

Sec. 3. (1) No person shall operate a transportation network company in Nebraska without first obtaining a permit from the commission. The application for a permit shall be in writing, under oath, submitted to the commission, and accompanied by the fee required under section 75-305. A duly authorized official of the applicant who possesses the full power and authority to make binding representations on the applicant's behalf shall subscribe to the oath on the application. The application shall contain the following information:

(a) The legal name of the applicant;

(b) Any name under which the applicant will or does conduct business in Nebraska;

(c) The applicant's primary business address and telephone number;

(d) A copy of the articles of organization or certificate to transact business in Nebraska;

(e) The name, address, and telephone number of the applicant's registered agent in Nebraska; and

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

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

(b) If an applicant is duly certified or permitted to operate a transportation network company in at least one other state, the commission shall, within sixty days after receiving a complete application, issue a permit to the applicant if the applicant meets the requirements of sections 2 to 22 of this act.

(c) If an applicant is not duly certified or permitted to operate a transportation network company in at least one other state, the applicant shall bear the burden of demonstrating that (i) the applicant has sufficient financial resources to provide transportation network company services in the proposed service territory, (ii) the applicant has sufficient technical competency to provide transportation network company services in the proposed service territory, and (iii) the applicant has sufficient managerial resources to provide transportation network company services in the proposed service territory. If the requirements of subdivisions (i) through (iii) of this subdivision are met and the applicant has satisfactorily provided all of the information in the application required under this section, the commission shall, within ninety days after receiving a complete application, issue a permit to the applicant if the applicant meets the requirements of sections 2 to 22 of this act.

(3) A participating driver contracting with a transportation network company holding a valid permit from the commission shall not be required to obtain a permit or certificate from the commission when driving pursuant to the terms of the contract with the transportation network company.

Sec. 4. (1) Every transportation network company shall:

(a) Provide the commission with its email address and customer service telephone number;

(b) Display for the passenger either a picture of the driver's personal vehicle and a picture of the driver or the license plate number of the driver's personal vehicle on the online-enabled application or platform that a transportation network company uses to connect drivers and passengers;

(c) Maintain an agent for service of process in Nebraska;

(d) Maintain accurate and up-to-date records of all drivers providing services on behalf of the transportation network company, including the vehicle identification number for all personal vehicles to be operated in connection with the transportation network company;

(e)(i) Implement, enforce, and maintain a zero-tolerance policy on the use of drugs or alcohol applicable to any driver providing service for the transportation network company that prohibits a driver from using any amount of

drugs or alcohol while the driver is providing service, (ii) provide a copy of the policy to the commission promptly upon adoption, and (iii) provide a copy of any revision to the policy promptly upon adoption;

(f) Implement an anti-discrimination policy that prohibits discrimination by any driver providing service for the company on the basis of race, national origin, religion, gender, physical or mental disability, medical condition, marital status, or age and file the policy with the commission;

(g) Maintain a web site that provides a customer service telephone number or email address of the transportation network company and that provides the telephone number and email address of the commission;

(h) Establish a driver training program designed to ensure that each driver safely operates his or her personal vehicle prior to the driver being able to offer services on the transportation network company's online-enabled application or platform;

(i) Maintain records required under sections 75-301 to 75-322 and sections 2 to 22 of this act to be collected by the transportation network company, including records regarding participating drivers; and

(j) Cooperate with the commission and any employees, investigators, or duly authorized agents of the commission in the investigation of complaints received by the commission from the public or in investigations initiated by the commission.

(2) A transportation network company shall not allow a driver to provide service if the company finds the driver to be in violation of its zero-tolerance policy required pursuant to subdivision (1)(e) of this section or if the driver has not successfully completed driver training pursuant to subdivision (1)(h) of this section. The transportation network company shall provide on its web site and its online-enabled application or platform notice of the zero-tolerance policy and the procedures to report a complaint about a driver with whom the passenger was matched when the passenger reasonably suspects the driver was under the influence of drugs or alcohol during the course of the prearranged ride. Upon receiving a complaint, a transportation network company shall immediately suspend the driver against whom the complaint was issued and conduct an investigation of the alleged violation. The suspension shall last for the duration of the investigation.

(3) If the commission has reasonable cause to believe a transportation network company is not enforcing the zero-tolerance policy filed with the commission, the commission shall investigate and, after notice and hearing, may enter an order requiring the transportation network company to enforce such policy, which may include suspension of the participating driver.

Sec. 5. (1) A participating driver must possess a valid driver's license, proof of registration, and proof of automobile liability insurance and be at least twenty-one years of age.

(2) Prior to permitting a person to act as a driver, the transportation network company shall obtain and review a national criminal history record information check. The criminal disposition information retrieved by the transportation network company's national criminal history record information check shall be at least as comprehensive as the criminal disposition information retrieved by a national criminal history record information check performed by the Federal Bureau of Investigation pursuant to section 81-6,120. Nothing in this subsection shall be construed to require fingerprinting as part of the national criminal history record information check.

(3) A person who has four or more moving traffic violations or one or more major traffic violations in the three years prior to the date of the criminal background check shall not serve as a driver. For purposes of this subsection, the following offenses shall constitute major traffic violations:

(a) Failure to stop and report or render aid as required under section 60-696 or 60-697;

(b) Reckless driving in violation of any city or village ordinance or of section 60-6,213, 60-6,214, or 60-6,217;

(c) Speeding of more than thirty-five miles per hour over the speed limit;

and  
(d) Failure to yield to a pedestrian resulting in bodily injury to a pedestrian.

(4) A person who has been convicted of or pled guilty or nolo contendere to driving under the influence of drugs or alcohol in the previous seven years in this state or any other state or territory prior to the date of the criminal background check shall not serve as a driver.

(5) A person who is required to register as a sex offender or who has been convicted of or pled guilty or nolo contendere to any offense involving fraud, use of a motor vehicle to commit a felony, a crime involving property damage, theft, acts of violence, or acts of terror shall not serve as a driver.

Sec. 6. (1) A participating driver shall not provide a ride unless it is a prearranged ride. No person shall be a participating driver for a period of more than twelve hours during each twenty-four-hour period.

(2)(a) A transportation network company may offer service for compensation, no charge, or suggested compensation.

(b) Except as provided in this section, transportation network companies shall not be subject to rate regulation by the commission and shall not be subject to provisions relating to rates and charges prescribed in sections 75-101 to 75-158.

(c) A transportation network company shall file with the commission the rates it uses to determine any compensation or suggested compensation on its online-enabled application or platform, including any use of dynamic pricing.

The transportation network company shall keep the rate filing current and shall charge rates consistent with the rates it files with the commission.

(d) The following requirements apply if the transportation network company uses dynamic pricing through its online-enabled application or platform:

(i) The transportation network company's online-enabled application or platform shall provide clear visible indication that dynamic pricing is in effect prior to the passenger requesting a ride;

(ii) The transportation network company's online-enabled application or platform shall include a feature that requires the passenger to expressly confirm that he or she understands that dynamic pricing will be used in order for the ride request to be completed;

(iii) The transportation network company's online-enabled application or platform shall provide a fare estimator that enables the passenger to estimate the cost under dynamic pricing prior to requesting the ride; and

(iv) Dynamic pricing shall not be permitted during any state of emergency declared by the Governor.

(3) Upon completion of a prearranged ride, a transportation network company shall transmit an electronic receipt to the passenger's email address or online-enabled application documenting the following:

(a) The point of origin and destination of the prearranged ride;

(b) The total duration and distance of the prearranged ride;

(c) The total amount paid, if any, including the base fare and any additional charges incurred for distance traveled or duration of the prearranged ride; and

(d) The driver's first name.

Sec. 7. (1) In order to be used under sections 2 to 22 of this act, a personal vehicle shall be in compliance with the Motor Vehicle Registration Act as required for a passenger car as defined in section 60-345.

(2) A transportation network company or a certified mechanic shall perform an initial safety inspection on each personal vehicle prior to approving it for use as a personal vehicle. The inspection shall include inspection of at least the following components and such components shall be in good working order:

(a) Foot brakes;

(b) Parking or emergency brakes;

(c) Steering mechanism;

(d) Windshield;

(e) Rear window and other glass;

(f) Windshield wipers;

(g) Headlights;

(h) Tail lights;

(i) Turn indicator lights;

(j) Stop lights;

(k) Front seat adjustment mechanism;

(l) The opening, closing, and locking capability of doors;

(m) Horn;

(n) Speedometer;

(o) Bumpers;

(p) Muffler and exhaust system;

(q) Tire conditions, including tread depth;

(r) Interior and exterior rear-view mirrors; and

(s) Safety belts for driver and passengers.

(3) Annually thereafter, a driver shall obtain such an inspection and approval of the driver's personal vehicle in order to continue its use as a personal vehicle. A driver shall maintain proof of the current inspection.

(4) A transportation network company shall make the initial and annual inspection reports available to the commission upon request.

Sec. 8. (1) The commission or the employees or duly authorized agents of the commission may, in a mutually agreed-upon setting, inspect any records held by a transportation network company which the commission determines are necessary to review to ensure public safety, including information obtained pursuant to section 5 of this act. Such inspection of records shall occur no more than once each calendar quarter unless the commission finds it necessary pursuant to rules and regulations adopted and promulgated by the commission. Such inspection shall be conducted on an audit basis rather than a comprehensive basis.

(2) In response to a specific complaint, the commission may inspect any records held by a transportation network company which the commission determines are necessary to investigate and resolve the complaint, including information obtained pursuant to section 5 of this act.

(3) Any records obtained or inspected pursuant to this section shall not be considered public records subject to sections 84-712 to 84-712.09 and shall not be subject to disclosure by the commission except when publicly disclosed as evidence in a civil penalty proceeding pursuant to section 75-156 or in a criminal proceeding prosecuted by the state.

Sec. 9. A transportation network company shall not require a participating driver to sign an agreement not to compete with the company in order to be matched with passengers through the company's online-enabled application or platform.

Sec. 10. The Transportation Network Company Regulation Cash Fund is created. The commission shall use the fund to regulate transportation network companies and enforce sections 2 to 22 of this act and the rules and regulations adopted and promulgated by the commission under such sections. The fund shall contain the fees remitted pursuant to section 75-305. Any money in

the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 11. (1) Prior to permitting a person to act as a driver, a transportation network company shall disclose in writing to each participating driver:

(a) The insurance coverage, the limits of liability, and any deductible amounts that the transportation network company maintains while the driver uses a personal vehicle in connection with a transportation network company's online-enabled application or platform;

(b) That in many personal automobile insurance policies, the driver's policy does not provide coverage for damage to the vehicle used by the driver, uninsured and underinsured motorist coverage, and other first-party claims from the moment the driver logs on to the transportation network company's online-enabled application or platform to the moment the driver logs off the transportation network company's online-enabled application or platform. The driver should contact his or her insurer to determine coverage;

(c) That if the driver is planning to use a vehicle that has a lien against it to provide service in connection with a transportation network company, the driver of the vehicle must notify the lienholder at least seven days prior to using the vehicle to provide such service that the driver intends to use the vehicle to provide service in connection with a transportation network company by complying with subsection (3) of this section; and

(d) That the driver is responsible to know the laws, rules, and regulations that govern the service he or she provides in connection with a transportation network company.

(2) The transportation network company shall make the disclosure required by subdivision (1)(c) of this section a distinctive part of the driver's terms of service and shall require a separate acknowledgment of this disclosure by each driver by electronic or handwritten signature.

(3) The commission shall adopt and promulgate rules and regulations to establish a procedure to confirm that drivers have notified lienholders as required by subdivision (1)(c) of this section. The commission shall keep a record of such confirmation for at least five years and shall make such record available to lienholders.

Sec. 12. (1) Beginning on September 1, 2015, a transportation network company and a participating driver shall maintain transportation network company insurance as provided in this section. Unless otherwise specified, the following requirements shall apply to transportation network company insurance during the engaged stage and during the passengers on board stage:

(a) Primary liability coverage in the amount of at least one million dollars for death, personal injury, and property damage; and

(b) Uninsured and underinsured motorist coverage for both the driver and passengers in the amounts required by the Uninsured and Underinsured Motorist Insurance Coverage Act.

(2) The requirements for the coverage required by this section may be satisfied by any of the following:

(a) Transportation network company insurance maintained by a participating driver;

(b) Transportation network company insurance maintained by a transportation network company; or

(c) Any combination of subdivisions (2)(a) and (b) of this section.

(3) The insurer providing transportation network company insurance under this section shall have the duty to defend and indemnify the insured.

(4) An insurance policy required under sections 11 to 20 of this act shall be placed with an authorized Nebraska insurer or with a surplus-lines insurer pursuant to Chapter 44.

Sec. 13. (1) Beginning on September 1, 2015, the following requirements shall apply to transportation network company insurance during the application open stage:

(a) Transportation network company insurance shall be primary and in the amount of at least twenty-five thousand dollars for death and personal injury per person, fifty thousand dollars for death and personal injury per incident, and twenty-five thousand dollars for property damage; and

(b) Uninsured motorist coverage pursuant to the Uninsured and Underinsured Motorist Insurance Coverage Act.

(2) The requirements for the coverage required by this section may be satisfied by any of the following:

(a) Transportation network company insurance maintained by a participating driver;

(b) Transportation network company insurance maintained by a transportation network company; or

(c) Any combination of subdivisions (2)(a) and (b) of this section.

(3) The insurer providing transportation network company insurance under this section shall have the duty to defend and indemnify the insured.

Sec. 14. (1) Coverage under a transportation network company insurance policy shall not be dependent on a personal automobile insurance policy first denying a claim nor shall a personal automobile insurance policy, including a personal liability umbrella policy, be required to first deny a claim.

(2) When transportation network company insurance maintained by a participating driver to fulfill the insurance obligations of sections 11 to 20 of this act has lapsed or ceased to exist, the transportation network company shall provide the coverage required by sections 11 to 20 of this act beginning

with the first dollar of a claim.

(3) For transportation network company insurance maintained by a transportation network company to meet the requirements of sections 11 to 20 of this act, a certificate of insurance shall be filed with the commission specifying that on cancellation or nonrenewal of the transportation network company insurance, the insurer must send written notice of the cancellation or nonrenewal to the commission at least thirty days before the effective date of the cancellation or nonrenewal.

Sec. 15. (1) Sections 2 to 22 of this act shall not limit the liability of a transportation network company arising out of an automobile accident involving a participating driver in any action for damages against a transportation network company for an amount above the required insurance coverage.

(2) In the event of a loss involving a personal vehicle used in connection with a transportation network company and if such personal vehicle is subject to a lien, the transportation network company insurance carrier shall make payment for a claim covered under collision physical damage coverage or comprehensive physical damage coverage directly to the business repairing the vehicle or jointly to the owner of the vehicle and the primary lienholder on the covered vehicle.

Sec. 16. The owner of any personal vehicle used in connection with a transportation network company shall have the duty to maintain collision physical damage coverage and comprehensive physical damage coverage for transportation network company activity if the vehicle is required to carry such coverage due to a contractual obligation.

Sec. 17. Nothing in sections 2 to 22 of this act shall be construed to require a private passenger automobile insurance policy to provide primary or excess coverage during the period of time from the moment a participating driver logs on to a transportation network company's online-enabled application or platform until the driver logs off the online-enabled application or platform or the passenger exits the personal vehicle, whichever is later.

Sec. 18. Notwithstanding any other law, a personal automobile insurer may, at its discretion, offer an automobile insurance policy, or an amendment or endorsement to an existing policy, that covers a private passenger motor vehicle, station wagon type vehicle, sport utility vehicle, or similar type of motor vehicle with a passenger capacity of eight persons or less, including the driver, while used in connection with a transportation network company's online-enabled application or platform only if the policy expressly provides for the coverage during all or the defined portion of the time periods specified in sections 12 and 13 of this act, with or without a separate charge, or the policy contains an amendment or an endorsement to provide that coverage, for which a separately stated premium may be charged. The policy, amendment, or endorsement may include, but not be limited to:

- (1) Comprehensive physical damage coverage;
- (2) Collision physical damage coverage;
- (3) Liability coverage for bodily injury and property damage;
- (4) Medical payments coverage; and
- (5) Uninsured and underinsured motorist coverage.

Sec. 19. (1) In a claims coverage investigation, a transportation network company or its insurer shall cooperate with insurers that are involved in the claims coverage investigation to facilitate the exchange of information, including the provision of dates and times at which an accident occurred that involved a participating driver and the precise times that the participating driver logged on and off the transportation network company's online-enabled application or platform in the twenty-four-hour period preceding the accident.

(2) All records, including electronic records, showing the time when a driver has logged in as active or logged out as inactive on the transportation network company's online-enabled application or platform, and any data or reports with information about the personal vehicle's involvement in a motor vehicle accident, that are maintained by the transportation network company shall be maintained for a minimum of five years after the date the loss is reported to the transportation network company.

Sec. 20. A participating driver shall carry proof of transportation network company insurance coverage with him or her at all times during his or her use of a vehicle in connection with a transportation network company's online-enabled application or platform. In the event of an accident, a participating driver shall, upon request, provide this insurance coverage information to any other party involved in the accident and to a law enforcement officer.

Sec. 21. No transportation network company or participating driver shall provide transportation for any person under contract with the Department of Health and Human Services or any contractors of the Department of Health and Human Services without specific authorization from the commission. In order to receive such authorization, the transportation network company or participating driver shall demonstrate that such service is or will be required by the present or future public convenience and necessity.

Sec. 22. The commission shall electronically provide the Legislature with an annual report before December 31 of each year on the status of the implementation of sections 2 to 21 of this act. The report shall describe (1) the number of permits issued pursuant to section 3 of this act, (2) a description of any revocation proceedings involving permits issued under sections 2 to 21 of this act, (3) the number of rides provided by taxicab carriers relative to historical numbers, (4) the number of taxicabs operated by

taxicab carriers relative to historical numbers, (5) the number of drivers either employed or contracted by taxicab carriers relative to historical numbers, (6) the number of taxicab carriers authorized by the commission relative to historical numbers, and (7) any other information in its possession that the commission believes will assist the Legislature in evaluating the effectiveness of sections 2 to 21 of this act. The report shall also address the question of the need for further legislation to achieve the purposes of sections 2 to 21 of this act.

Sec. 23. Section 75-302, Revised Statutes Cumulative Supplement, 2014, is amended to read:

75-302 For purposes of sections 75-301 to 75-322 and sections 2 to 22 of this act and in all rules and regulations adopted and promulgated by the commission pursuant to such sections, unless the context otherwise requires:

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

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

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

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

(5) Commission means the Public Service Commission;

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

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

(8) Division of Motor Carrier Services means the Division of Motor Carrier Services of the Department of Motor Vehicles;

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

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

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

(b) Arranged and paid for by another party;

(11) Intrastate commerce means commerce between any place in this state and any other place in this state and not in part through any other state;

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

(13) Motor carrier means any person other than a regulated motor carrier who or which owns, controls, manages, operates, or causes to be operated any motor vehicle used to transport passengers or property over any public highway in this state;

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

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

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

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

(18) Regulated motor carrier means any person who or which owns, controls,

manages, operates, or causes to be operated any motor vehicle used to transport passengers, other than those excepted under section 75-303, or household goods over any public highway in this state;

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

(20) Residential care transportation services means transportation services to persons in residential care when such residential care transportation services and residential care are provided as part of a services contract with the Department of Health and Human Services or pursuant to a subcontract entered into incident to a services contract with the department; ~~and~~

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

(22) Transportation network company has the definition found in section 2 of this act. A transportation network company shall not own, control, operate, or manage drivers' personal vehicles.

Sec. 24. Section 75-304, Reissue Revised Statutes of Nebraska, is amended to read:

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

(2) Contract carriers shall obtain and maintain uninsured and underinsured insurance coverage for each passenger in each motor vehicle in minimum amounts to be established by the commission.

(3) The commission shall adopt and promulgate rules and regulations to carry out sections 2 to 22 of this act. The rules and regulations found in chapter 3 of title 291 of the Nebraska Administrative Code shall not apply to transportation network companies. If there is any conflict between sections 75-301 to 75-322 and sections 2 to 22 of this act regarding the regulation of transportation network companies, the provisions of sections 2 to 22 of this act shall apply.

Sec. 25. Section 75-305, Reissue Revised Statutes of Nebraska, is amended to read:

75-305 (1) Every regulated motor carrier subject to sections 75-301 to 75-322 other than transportation network companies shall pay an annual fee not exceeding the sum of eighty dollars for each motor vehicle operated, which fee shall be fixed by the commission and shall not exceed the amount actually necessary to sustain the administration and enforcement of such sections. When the applicant has registered his or her motor vehicles under section 60-3,198, such fee shall be payable on whichever shall be the lesser of (a) 1) the proportion of his or her fleet so registered or (b) 2) the number of motor vehicles owned by him or her and actually used in intrajurisdiction business within this state, except that such annual fee for any truck-trailer or tractor-trailer combination shall be one hundred twenty dollars. In the case of a truck-trailer or tractor-trailer combination, only one license plate shall be required for such combination.

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

(3) Such annual fees shall be due and payable on or before January 1 and shall be delinquent on March 1 of each year after such permit or certificate has been issued. If the initial certificate or permit is issued to a motor carrier on or after July 1, the fee shall be fifty percent of the annual fee.

Such fees shall be paid to and collected by the commission and remitted to the State Treasurer within thirty days of receipt. The State Treasurer shall credit fees received pursuant to subsection (2) of this section to the Transportation Network Company Regulation Cash Fund for enforcement of laws, rules, and regulations governing transportation network companies. The State Treasurer shall credit fees received pursuant to subsection (1) of this section for credit to the General Fund.

Sec. 26. Section 75-306, Reissue Revised Statutes of Nebraska, is amended to read:

75-306 Receipt for the payment of annual fees shall be issued by the commission. The commission shall issue sufficient license plates and renewal tabs to any regulated motor carrier who is in compliance with sections 75-301 to 75-322 and the rules and regulations of the commission, except contract carriers operating pursuant to section 75-303.01 and transportation network companies, for the purpose of identification of regulated motor carriers subject to such sections 75-301 to 75-322 and to distinguish those regulated motor carriers from other commercial motor carriers not subject to such sections. The Director of Motor Vehicles shall prepare a form of license plate and renewal tab for such regulated motor carriers and furnish a sufficient supply of them to the commission.

Sec. 27. Section 75-307, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

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

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

Sec. 28. Section 75-309, Reissue Revised Statutes of Nebraska, is amended to read:

75-309 Except for operations pursuant to a contract authorized by sections 75-303.01 and 75-303.02, it shall be unlawful for any common or contract carrier by motor vehicle subject to the provisions of sections 75-101 to 75-155 and 75-301 to 75-322 to engage in any intrastate operations on any public highway in Nebraska unless there is in force with respect to such common carrier a certificate of public convenience and necessity, ~~or~~ a permit to such contract carrier, or a permit to a transportation network company under section 3 of this act, issued by the commission which authorizes such operations.

Sec. 29. Section 75-310, Reissue Revised Statutes of Nebraska, is amended to read:

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

Sec. 30. Section 75-311, Revised Statutes Cumulative Supplement, 2014, is amended to read:

75-311 (1) A certificate shall be issued to any qualified applicant authorizing the whole or any part of the operations covered by the application if it is found after notice and hearing that (a) the applicant is fit, willing,

and able properly to perform the service proposed and to conform to the provisions of sections 75-301 to 75-322 and the requirements, rules, and regulations of the commission under such sections and (b) the proposed service, to the extent to be authorized by the certificate, whether regular or irregular, passenger or household goods, is or will be required by the present or future public convenience and necessity. Otherwise the application shall be denied.

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

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

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

(5) This section shall not apply to transportation network companies holding a permit under section 3 of this act or operations pursuant to a contract authorized by sections 75-303.01 and 75-303.02.

Sec. 31. Section 75-313, Reissue Revised Statutes of Nebraska, is amended to read:

75-313 (1) Except as provided in subsection (2) of this section, each ~~Each~~ certificate shall specify the service to be rendered, the routes, the fixed termini, if any, and the intermediate and off-route points, if any, and in case of operations not over specified routes or between fixed termini, the territory within which such carrier is authorized to operate. Each permit shall specify the business of the contract carrier covered thereby and the scope thereof. There shall, at the time of issuance, and from time to time thereafter, be attached to the exercise of the privileges granted by the certificate or permit such reasonable terms, conditions, and limitations as the public convenience and necessity, or the character of the holder as a contract carrier, may from time to time require, including terms, conditions, and limitations as to the extension of the route or routes of the carrier, and such terms and conditions as are necessary to carry out, with respect to the operations of the carrier, the requirements established by the commission. ~~No ; Provided, that no terms, conditions, or limitations shall restrict the right of a contract carrier to substitute or add contracts within the scope of the permit, or to add to the his or its equipment and facilities within the scope of the permit, as the development of the business and the demands of the public may require.~~

(2) This section does not apply to a transportation network company.

Sec. 32. The Revisor of Statutes shall assign sections 2 to 22 of this act to Chapter 75, article 3.

Sec. 33. Original sections 75-304, 75-305, 75-306, 75-307, 75-309, 75-310, and 75-313, Reissue Revised Statutes of Nebraska, and sections 75-109.01, 75-302, and 75-311, Revised Statutes Cumulative Supplement, 2014, are repealed.

Sec. 34. Since an emergency exists, this act takes effect when passed and approved according to law.