

SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska) Docket No. MT-0002/PI-235
Public Service Commission, on)
its own motion, seeking to) ORDER OPENING DOCKET AND
investigate and implement) ISSUING GUIDANCE
changes to motor carrier)
regulation resulting from the)
passage of LB 461 [2020].) Entered: October 6, 2020

BY THE COMMISSION:

O P I N I O N A N D F I N D I N G S

The Nebraska Public Service Commission ("Commission"), on its own motion, opens the above-captioned docket in response to the passage of LB 461, passed by the Nebraska Legislature and signed by the Governor during the 2020 Legislative session. LB 461 amends Nebraska statutes related to regulated motor carriers that hold either a certificate of public convenience and necessity or a permit issued by the Commission. Among other things, LB 461 creates an exemption of for-hire passenger transportation services that meet the definition of "agritourism" and removes household goods movers and motor carriers that solely provide passenger transportation services to railroad employees from the definition of regulated motor carriers.

Upon review of the legislative changes, the Commission must take steps to ensure that all changes under LB 461 are implemented for the affected carriers. Those changes that require amendment of current Commission rules and regulations will be made in an upcoming rule and regulation proceeding. All other changes will be ordered in this docket or any other docket that the Commission deems necessary.

As an immediate concern are those carriers currently holding either a certificate or permit with the Commission that are providing passenger transportation services that will now be exempt from Commission authority once LB 461 takes effect. Exemptions are found under Neb. Rev. Stat. § 75-303. LB 461 amended this section by adding the following exemption:

(3) A motor carrier for hire providing transportation services for passengers in vehicles with a rated seating capacity of eight or more passengers when (a) such services are incidental to agritourism activities

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as defined in section 82-603, (b) the destination for such agritourism activities is outside any incorporated city or village, and (c) the point of origination and termination is outside a county that includes a city of the metropolitan class or primary class.

Section 82-603 defines agritourism:

(1) Agritourism activities include any one or any combination of the following: Hunting, fishing, swimming, boating, canoeing, kayaking, tubing, water sports, camping, picnicking, hiking, backpacking, bicycling, horseback riding, nature study, birding, farm, ranch, and vineyard tours and activities, harvest-your-own activities, waterskiing, snowshoeing, cross-country skiing, visiting and viewing historical, ecological, archaeological, scenic, or scientific sites, and similar activities.

To be exempted from Commission authority, carriers would need to file an application to request such exemption and cancellation of its certificate or permit of authority. The exemption application would require the carrier to attest that it is only providing the exempted transportation service. If the carrier wishes to provide both exempted and non-exempted for-hire transportation services, the carrier would need to maintain its certificate or permit or apply for such authority if one is interested in providing such combination of services. Those that currently hold Commission authority should be mindful that they are still required to comply with all Nebraska statutes and Commission rules and regulations while holding a certificate or permit of authority. Applications for exemption can be found on the Commission's website or by contacting the Commission's Transportation Department.

Based on the above, the Commission finds that this docket should be opened, and the guidance set forth for possible exemption should be issued.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the above-captioned docket be, and is hereby, opened.

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IT IS FURTHER ORDERED that the guidance set forth regarding exemption for agritourism transportation be, and is hereby, issued.

ENTERED AND MADE EFFECTIVE at Lincoln, Nebraska, this 6th day of October, 2020.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:


Chair

ATTEST:


Executive Director