

AN ACT

ENTITLED, An Act to update certain provisions pertaining to motor carrier safety and transportation of hazardous materials.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 49-28A-3 be amended to read as follows:

49-28A-3. The state hereby adopts Title 49 of the Code of Federal Regulations, subtitle B, chapter I, subchapter C, parts 107 (subparts F and G only) and 171 to 180, inclusive, as amended through January 1, 2004, and Title 49 of the Code of Federal Regulations, subtitle B, chapter III, subchapter B, parts 390 to 397, inclusive, as amended through January 1, 2004, with the following modifications:

- (1) All references to interstate operations shall also include intrastate operations except that drivers and motor carriers operating intrastate vehicles and combinations of vehicles with three axles or less or with a gross vehicle weight rating of not more than twenty-six thousand pounds which are not used to transport hazardous materials requiring placarding under part 177, or designed to transport more than fifteen passengers, including the driver, are not subject to parts 390-397;
- (2) For the purposes of part 391.11(b)(1), a driver shall be at least twenty-one years old if engaged in interstate commerce, or transporting hazardous material of a type or quantity requiring placarding under part 177, or operating a vehicle designed to transport more than fifteen passengers, including the driver. All other drivers shall be at least sixteen years of age;
- (3) Intrastate drivers are exempt from the physical requirements of part 391.41.

Any violation of parts 390 to 396, inclusive, the motor carrier safety requirements governing the qualifications of drivers, driving of motor vehicles, parts and accessories necessary for safe

operation, notification and reporting of accidents, assistance with investigations and special studies, hours of service of drivers, inspection, repair, and maintenance is a Class 2 misdemeanor. Any violation of the hazardous materials regulations pertaining to registration of cargo tank motor vehicles, registration of persons who offer or transport hazardous materials, general information, regulations and definitions, hazardous materials tables, hazardous materials communication regulations, and test and inspection marking requirements found in parts 107 (subparts F and G only), 171, 172, and 178 to 180, inclusive, is a Class 2 misdemeanor. Any violation of the hazardous materials regulations pertaining to packaging, prohibited shipments, loading and unloading, segregation and separation, retesting and inspection of cargo tanks, and other carriage by regulations found in parts 173 to 180, inclusive, or violation of the driving and parking rules in part 397, is a Class 1 misdemeanor.

Section 2. That chapter 49-28A be amended by adding thereto a NEW SECTION to read as follows:

Hours-of-service regulations promulgated by the United States Department of Transportation at 68 Federal Register 22456, in April 2003, (Federal hours-of-service amendments) shall apply to utility service vehicles owned or operated by gas or electric utilities while engaged in intrastate commerce within this state, on or after January 1, 2006. However, hours-of-service regulations that were applicable in the State of South Dakota immediately prior to January 4, 2004, shall remain applicable to gas or electric utility service vehicles until January 1, 2006.

Section 3. That chapter 49-28A be amended by adding thereto a NEW SECTION to read as follows:

If the United States Department of Transportation issues an official formal finding that one or more portions of this statute may result in the loss of Federal Motor Carrier Safety Assistance Program funding, the Department of Public Safety may, by rule promulgated pursuant to chapter 1-

26, implement the 2004 federal hours-of-service amendment as may be appropriate to preserve such federal funding.

If federal law or regulations are amended, or otherwise altered under law, at any time to cause to be exempted a class or group of vehicles, which class or group would include such gas or electric utility service vehicles within this state, from the hours-of-service requirements, any exemption shall be effective in this state immediately for the duration of the federal exemption.

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I certify that the attached Act originated in the  
SENATE as Bill No. 18

\_\_\_\_\_  
Secretary of the Senate  
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\_\_\_\_\_  
President of the Senate

Attest:

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
Speaker of the House

Attest:

\_\_\_\_\_  
Chief Clerk

Senate Bill No. 18  
File No. \_\_\_\_\_  
Chapter No. \_\_\_\_\_

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Received at this Executive Office this \_\_\_\_\_ day of \_\_\_\_\_ ,  
20\_\_\_\_ at \_\_\_\_\_ M.

By \_\_\_\_\_  
for the Governor  
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The attached Act is hereby approved this \_\_\_\_\_ day of \_\_\_\_\_ , A.D., 20\_\_\_\_

\_\_\_\_\_  
Governor

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STATE OF SOUTH DAKOTA,  
ss.  
Office of the Secretary of State

Filed \_\_\_\_\_ , 20\_\_\_\_  
at \_\_\_\_\_ o'clock \_\_ M.

\_\_\_\_\_  
Secretary of State

By \_\_\_\_\_  
Asst. Secretary of State