

DEPARTMENT OF JUSTICE

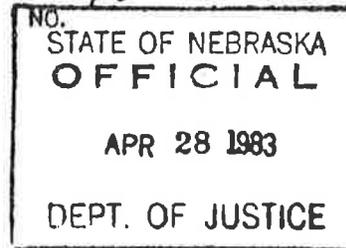
STATE OF NEBRASKA

TELEPHONE 402/471-2682 • STATE CAPITOL • LINCOLN, NEBRASKA 68509

April 28, 1983

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Senator Donald L. Wagner
Nebraska State Legislature
Box 41
State Capitol
Lincoln, Nebraska 68509



Re: Class C and Class CC Operator's Licenses

Dear Senator Wagner:

You have requested an opinion from this Office concerning a possible conflict between Neb.Rev.Stat. §60-403.06 (1982 Supp.) and §60-403.07 (Reissue 1978). Section 60-403.06(1) provides as follows:

Except as provided in subsection (2) of this section, no person shall operate a truck or truck-tractor as defined in section 60-301, which is registered for more than twenty-four thousand pounds gross vehicle weight until such person shall have obtained a class C or a class CC operator's license. Such license will not be necessary if a person has a valid motor vehicle operator's license that has not been required to be renewed since July 1, 1976.

Section 60-403.07 provides that:

For the purposes of sections 60-403.06 to 60-403.10, a class C license shall mean a license required for trucks as defined in subdivision (3) of section 60-301, registered for more than twenty-four thousand pounds gross vehicle weight and carrying cargo, and a class CC license shall mean a license required for a truck-tractor as defined in subdivision (7) of section 60-301, registered for more than twenty-four thousand pounds of gross vehicle weight and drawing another vehicle or vehicles that are carrying cargo.

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Your specific question is whether or not the prohibition contained in §60-403.06 that: "No person shall operate a truck or truck-tractor . . . until such person shall have obtained a class C or a class CC operator's license." On the other hand, from a cursory reading of §60-403.07 it would appear that these licenses are only necessary if a truck or truck-tractor is carrying cargo.

It is well established that in determining legislative intent, the entire act must be considered with regard to the particular topic in question. The intent thus found from a general consideration will prevail over the intent found by a separate consideration of a particular part. Bickels v. State Department of Roads, 178 Neb. 825, 135 N.W.2d 872 (1965). Therefore, it is important to place emphasis on the first phrase of the sentence in §60-403.07 which provides that: "For the purposes of sections 60-403.06 to 60-403.10 . . ." This section obviously then defines class C and class CC licenses for the purpose of §60-403.06. If this definition is then read into the language of §60-403.06, it becomes apparent that the blanket prohibition in that section would contain the qualification that these trucks or truck-tractors are carrying cargo.

While we would submit that the language is perhaps not as clear and concise as it could be, we do not perceive a conflict between these two sections.

Very truly yours,

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REG:ekj

cc: Patrick J. O'Donnell
Clerk of the Legislature