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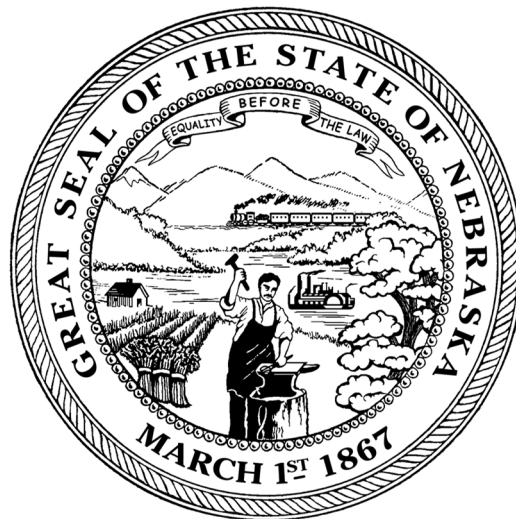


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Revisor of Statutes

For the benefit of the
State of Nebraska

LIVESTOCK

**CHAPTER 54
LIVESTOCK**

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ARTICLE 1

LIVESTOCK BRAND ACT

Section

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§ 54-170**LIVESTOCK**

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54-170 Act, how cited.

Sections 54-170 to 54-1,131 shall be known and may be cited as the Livestock Brand Act.

Source: Laws 1999, LB 778, § 1; Laws 2000, LB 213, § 3; Laws 2013, LB435, § 1; Laws 2014, LB768, § 1; Laws 2014, LB884, § 1.

54-171 Definitions; where found.

For purposes of the Livestock Brand Act, the definitions found in sections 54-172 to 54-190 shall be used.

Source: Laws 1999, LB 778, § 2; Laws 2013, LB435, § 2; Laws 2014, LB768, § 2.

54-172 Bill of sale, defined.

Bill of sale means a formal instrument for the conveyance or transfer of title to livestock or other goods and chattels. The bill of sale shall state the purchaser's name and address, the date of transfer, the guarantee of title, the number of livestock transferred, the sex of such livestock, the brand or brands, the location of the brand or brands or a statement to the effect that the animal is unbranded, and the name and address of the seller. The signature of the seller shall be attested by at least one witness or acknowledged by a notary public or by some other officer authorized by state law to take acknowledgments. For any conveyance or transfer of title to cattle subject to assessment imposed pursuant to the federal Beef Promotion and Research Order, 7 C.F.R. part 1260, for which the purchaser is the collecting person pursuant to 7 C.F.R. 1260.311 for purposes of collecting and remitting such assessment, the bill of sale shall include a notation of the amount the purchaser collected from the

seller or deducted from the sale proceeds for the assessment. A properly executed bill of sale means a bill of sale that is provided by the seller and received by the purchaser.

Source: Laws 1999, LB 778, § 3; Laws 2014, LB768, § 3.

54-175.01 Brand inspection service area, defined.

Brand inspection service area means all Nebraska counties and areas of Nebraska counties contiguous with the brand inspection area designated by section 54-1,109.

Source: Laws 2014, LB768, § 4.

54-179 Certificate of inspection, defined.

Certificate of inspection means the official document issued and signed by a brand inspector authorizing (1) movement of livestock from a point of origin within the brand inspection area to a destination either inside or outside of the brand inspection area or outside of this state, (2) slaughter of livestock as specified on such certificate, or (3) the change of ownership of livestock as specified on such certificate. A certificate of inspection shall designate, as needed, the name of the shipper, consignor, or seller of the livestock, the purchaser or consignee of the livestock, the destination of the livestock, the vehicle license number or carrier number, the miles driven by an inspector to perform inspection, the amount of inspection fees collected, the number and sex of the livestock to be moved or slaughtered, the brands, if any, on the livestock, and the brand owner. A certificate of inspection shall be construed and is intended to be documentary evidence of ownership on all livestock covered by such document.

Source: Laws 1999, LB 778, § 10; Laws 2017, LB600, § 1.

54-186.01 Out-of-state brand permit, defined.

Out-of-state brand permit means an authorization for a one-time use of a brand registered with a state other than Nebraska to brand cattle imminently being exported out of Nebraska.

Source: Laws 2013, LB435, § 3.

54-189 Satisfactory evidence of ownership, defined.

Satisfactory evidence of ownership consists of the brands, tattoos, or marks on the livestock; point of origin of livestock; the physical description of the livestock; the documentary evidence, such as bills of sale, brand clearance, certificates of inspection, breed registration certificates, animal health or testing certificates, genomic testing certificates, recorded brand certificates, purchase sheets, scale tickets, disclaimers of interest, affidavits, court orders, security agreements, powers of attorney, canceled checks, bills of lading, or tags; and such other facts, statements, or circumstances that taken in whole or in part cause an inspector to believe that proof of ownership is established.

Source: Laws 1999, LB 778, § 20; Laws 2017, LB600, § 2.

54-191 Nebraska Brand Committee; created; members; terms; vacancy; bond or insurance; expenses; purpose.

(1) The Nebraska Brand Committee is hereby created. Beginning August 28, 2007, the brand committee shall consist of five members appointed by the Governor. At least three appointed members shall be active cattlemen and at least one appointed member shall be an active cattle feeder. The Secretary of State and the Director of Agriculture, or their designees, shall be nonvoting, ex officio members of the brand committee. The appointed members shall be owners of cattle within the brand inspection area, shall reside within the brand inspection area, shall be owners of Nebraska-recorded brands, and shall be persons whose principal business and occupation is the raising or feeding of cattle within the brand inspection area.

(2) The members of the brand committee shall elect a chairperson and vice-chairperson from among its appointed members during the first meeting held after September 1 each calendar year. A member may be reelected to serve as chairperson or vice-chairperson.

(3) The terms of the members shall be four-year, staggered terms, beginning on August 28 of the year of initial appointment or reappointment and concluding on August 27 of the year of expiration. At the expiration of the term of an appointed member, the Governor shall appoint a successor. If there is a vacancy on the brand committee, the Governor shall fill such vacancy by appointing a member to serve during the unexpired term of the member whose office has become vacant.

(4) The action of a majority of the members shall be deemed the action of the brand committee. No appointed member shall hold any elective or appointive state or federal office while serving as a member of the brand committee. Each member and each brand committee employee who collects or who is the custodian of any funds shall be bonded or insured as required under section 11-201. The appointed members of the brand committee shall be reimbursed for expenses in attending meetings of the brand committee or in performing any other duties that are prescribed in the Livestock Brand Act or section 54-415, as provided for in sections 81-1174 to 81-1177.

The purpose of the Nebraska Brand Committee is to protect Nebraska brand and livestock owners from the theft of livestock through established brand recording, brand inspection, and livestock theft investigation.

Source: Laws 1999, LB 778, § 22; Laws 2004, LB 884, § 26; Laws 2007, LB422, § 1; Laws 2017, LB600, § 3; Laws 2020, LB381, § 48.
Operative date January 1, 2021.

54-192 Nebraska Brand Committee; employees; executive director; duties; chief investigator; brand recorder; grievance procedure.

(1) The Nebraska Brand Committee shall employ such employees as may be necessary to properly carry out the Livestock Brand Act and section 54-415, fix the salaries of such employees, and make such expenditures as are necessary to properly carry out such act and section. Employees of the brand committee shall receive mileage computed at the rate provided in section 81-1176. The brand committee shall select and designate a location or locations where the brand committee shall keep and maintain an office and where records of the brand inspection and investigation proceedings, transactions, communications, brand registrations, and official acts shall be kept.

(2) The brand committee shall employ an executive director who shall be the brand committee head for administrative purposes. The executive director shall

keep a record of all proceedings, transactions, communications, and official acts of the brand committee, shall be custodian of all records of the brand committee, and shall perform such other duties as may be required by the brand committee. The executive director shall call a meeting at the direction of the chairperson of the brand committee, or in his or her absence the vice-chairperson, or upon the written request of two or more members of the brand committee. The executive director shall have supervisory authority to direct and control all full-time and part-time employees of the brand committee. This authority allows the executive director to hire employees as are needed on an interim basis subject to approval or confirmation by the brand committee for regular employment. The executive director may place employees on probation and may discharge an employee.

(3) The brand committee shall employ a chief investigator who shall report to the executive director. The chief investigator shall meet the qualifications of an investigator as defined in section 54-182. Under the direction of the executive director, the chief investigator shall be chief of field operations and supervise brand committee investigators and inspectors.

(4) The brand committee shall employ a brand recorder who shall be responsible for the processing of all applications for new livestock brands, the transfer of ownership of existing livestock brands, the maintenance of accurate and permanent records relating to livestock brands, and such other duties as may be required by the brand committee.

(5) If any employee of the brand committee after having been disciplined, placed on probation, or having had his or her services terminated desires to have a hearing before the entire brand committee, such a hearing shall be granted as soon as is practicable and convenient for all persons concerned. The request for such a hearing shall be made in writing by the employee alleging the grievance and shall be directed to the executive director. After hearing all testimony surrounding the grievance of such employee, the brand committee, at its discretion, may approve, rescind, nullify, or amend all actions as previously taken by the executive director.

Source: Laws 1999, LB 778, § 23; Laws 2007, LB422, § 2; Laws 2017, LB600, § 4; Laws 2019, LB660, § 1.

54-195 Assessments and promotional materials.

(1) The Nebraska Brand Committee may contract to collect assessments made by any public, quasi-public, or private agency or organization on the sale of cattle, beef, and beef products in Nebraska by producers and importers of such cattle, beef, and beef products. The brand committee may charge such agency or organization for collection of the assessments. The charge for collection of assessments shall be used to cover administrative costs of the brand committee, but such charge shall not exceed five percent of the assessments collected.

(2) The brand committee may authorize and direct its employees to disseminate or otherwise distribute various materials promoting the cattle industry.

Source: Laws 1999, LB 778, § 26; Laws 2017, LB600, § 5.

54-198 Recorded livestock brand; requirements; in-herd identification; prohibited act.

(1) Any person may record a brand, which he or she has the exclusive right to use in this state, and it is unlawful to use any brand for branding any livestock unless the person using such brand has recorded that brand with the Nebraska Brand Committee. A brand is a mark consisting of symbols, characters, numerals, or a combination of such intended as a visual means of identification when applied to the hide of an animal or another method of livestock identification approved by rule and regulation of the brand committee, including an electronic device used for livestock identification. Only a hot iron or freeze brand or other method approved by the brand committee shall be used to brand a live animal.

(2) A hot iron brand or freeze brand may be used for in-herd identification purposes such as for year or production records. With respect to hot iron brands used for in-herd identification, the numerals 0, 1, 2, 3, 4, 5, 6, 7, 8, and 9 in singular or triangular position are reserved on both the right and left shoulder of all cattle, except that such shoulder location for a single-number hot iron brand may be used for year branding for in-herd identification purposes, and an alphabetical letter may be substituted for one of the numerals used in a triangular configuration for in-herd identification purposes. Hot iron brands used for in-herd identification shall be used in conjunction with the recorded hot iron brand and shall be on the same side of the animal as the recorded hot iron brand. Freeze branding for in-herd identification may be applied in any location and any configuration with any combination of numerals or alphabetical letters.

(3) It shall be unlawful to knowingly maintain a herd containing one or more animals which the possessor has branded, or caused to be branded, in violation of this section or any other provision of the Livestock Brand Act.

Source: Laws 1999, LB 778, § 29; Laws 2000, LB 213, § 4; Laws 2002, LB 589, § 2; Laws 2017, LB600, § 6.

54-1,100 Recorded brand; transfer; lien or security interest; notice; effect; fee; effect; lease of brand; fee.

(1) A recorded brand is the property of the person causing such record to be made and is subject to sale, assignment, transfer, devise, and descent as personal property. Any instrument of writing evidencing the sale, assignment, or transfer of a recorded brand shall be effective upon its recording with the Nebraska Brand Committee. No such instrument shall be accepted for recording if the brand committee has been duly notified of the existence of a lien or security interest against livestock owned or thereafter acquired by the owner of such brand by the holder of such lien or security interest. Written notification from the holder of such lien or security interest that the lien or security interest has been satisfied or consent from the holder of such lien or security interest shall be required in order for the brand committee to accept for recording an instrument selling, assigning, or transferring such recorded brand. Except as provided in subsection (2) of this section, the fee for recording such an instrument shall be established by the brand committee and shall not be more than forty dollars. Such instrument shall give notice to all third persons of the matter recorded in the instrument and shall be acknowledged by a notary public or any other officer qualified under law to administer oaths.

(2) The owner of a recorded brand may lease the brand to another person upon compliance with this subsection and subject to the approval of the brand

committee. The lessee shall pay a filing fee established by the brand committee not to exceed one hundred dollars. The leased recorded brand may expire as agreed in the lease, but in no event shall such leased recorded brand exceed the original expiration date.

Source: Laws 1999, LB 778, § 31; Laws 2002, LB 589, § 4; Laws 2009, LB142, § 1; Laws 2017, LB600, § 7.

54-1,105 Brands; distinction requirements.

(1) Cattle branded with a Nebraska-recorded visual brand shall be branded so that the recorded brand of the owner shows distinctly.

(2) If the owners of recorded brands which conflict with or closely resemble each other maintain their herds in close proximity to each other, the Nebraska Brand Committee has the authority to decide, after hearing as to which at least ten days' written notice has been given, any dispute arising therefrom and to direct such change or changes in the position or positions where such recorded brand or brands are to be placed as will remove any confusion that might result from such conflict or close resemblance.

Source: Laws 1999, LB 778, § 36; Laws 2002, LB 589, § 6; Laws 2017, LB600, § 8.

54-1,108 Brand inspections; when; fees; surcharge; reinspection; when.

(1) All brand inspections provided for in the Livestock Brand Act or section 54-415 shall be from sunrise to sundown or during such other hours and under such conditions as the Nebraska Brand Committee determines.

(2)(a) An inspection fee, established by the Nebraska Brand Committee, of not more than one dollar and ten cents per head shall be charged for all cattle inspected in accordance with the Livestock Brand Act or section 54-415 or inspected within the brand inspection area or brand inspection service area by court order or at the request of any bank, credit agency, or lending institution with a legal or financial interest in such cattle. Such fee may vary to encourage inspection to be performed at times and locations that reduce the cost of performing the inspection but shall otherwise be uniform. The inspection fee for court-ordered inspections shall be paid from the proceeds of the sale of such cattle if ordered by the court or by either party as the court directs. For other inspections, the person requesting the inspection of such cattle is responsible for the inspection fee. Brand inspections requested by either a purchaser or seller of cattle located within the brand inspection service area shall be provided upon the same terms and charges as brand inspections performed within the brand inspection area. If stray cattle are identified as a result of the inspection, such cattle shall be processed in the manner provided by section 54-415.

(b) A surcharge of not more than twenty dollars, as established by the brand committee, may be charged to cover travel expenses incurred by the brand inspector per inspection location when performing brand inspections. The surcharge shall be collected by the brand inspector and paid by the person requesting the inspection or the person required by law to have the inspection.

(c) Fees for inspections performed outside of the brand inspection area that are not provided for in subdivision (a) of this subsection shall be the inspection fee established in such subdivision plus a fee to cover the actual expense of

performing the inspection, including mileage at the rate established by the Department of Administrative Services and an hourly rate, not to exceed thirty dollars per hour, for the travel and inspection time incurred by the brand committee to perform such inspection. The brand committee shall charge and collect the actual expense fee. Such fee shall apply to inspections performed outside the brand inspection area as part of an investigation into known or alleged violations of the Livestock Brand Act and shall be charged against the person committing the violation.

(3) Any person who has reason to believe that cattle were shipped erroneously due to an inspection error during a brand inspection may request a reinspection. The person making such request shall be responsible for the expenses incurred as a result of the reinspection unless the results of the reinspection substantiate the claim of inspection error, in which case the brand committee shall be responsible for the reinspection expenses.

Source: Laws 1999, LB 778, § 39; Laws 2002, LB 589, § 7; Laws 2005, LB 441, § 2; Laws 2011, LB181, § 1; Laws 2014, LB768, § 5; Laws 2015, LB85, § 1.

54-1,110 Brand inspection area; brand inspection requirements.

(1) Except as provided in subsections (2) and (3) of this section, no person shall move, in any manner, cattle from a point within the brand inspection area to a point outside the brand inspection area unless such cattle first have a brand inspection by the Nebraska Brand Committee and a certificate of inspection is issued. A copy of such certificate shall accompany the cattle and shall be retained by all persons moving such cattle as a permanent record.

(2) Cattle in a registered feedlot registered under sections 54-1,120 to 54-1,122 are not subject to the brand inspection of subsection (1) of this section. Possession by the shipper or trucker of a shipping certificate from the registered feedlot constitutes compliance if the cattle being shipped are as represented on such shipping certificate.

(3) If the line designating the brand inspection area divides a farm or ranch or lies between noncontiguous parcels of land which are owned or operated by the same cattle owner or owners, a permit may be issued, at the discretion of the Nebraska Brand Committee, to the owner or owners of cattle on such farm, ranch, or parcels of land to move the cattle in and out of the brand inspection area without inspection. If the line designating the brand inspection area lies between a farm or ranch and nearby veterinary medical facilities, a permit may be issued, at the discretion of the brand committee, to the owner or owners of cattle on such farm or ranch to move the cattle in and out of the brand inspection area without inspection to obtain care from the veterinary medical facilities. The brand committee shall issue initial permits only after receiving an application which includes an application fee established by the brand committee which shall not be more than fifteen dollars. The brand committee shall mail all current permitholders an annual renewal notice, for January 1 renewal, which requires a renewal fee established by the brand committee which shall not be more than fifteen dollars. If the permit conditions still exist, the cattle owner or owners may renew the permit.

(4) No person shall sell any cattle knowing that the cattle are to be moved, in any manner, in violation of this section. Proof of shipment or removal of the cattle from the brand inspection area by the purchaser or his or her agent is

prima facie proof of knowledge that sale was had for removal from the brand inspection area.

(5) In cases of prosecution for violation of this section, venue may be established in the county of origin or any other county through which the cattle may pass in leaving the brand inspection area.

Source: Laws 1999, LB 778, § 41; Laws 2000, LB 213, § 6; Laws 2002, LB 589, § 8; Laws 2014, LB768, § 6; Laws 2017, LB600, § 9.

54-1,111 Brand inspection area; sale or trade of cattle; requirements.

(1) Except as provided in subsection (2) of this section, no person shall sell or trade any cattle located within the brand inspection area, nor shall any person buy or purchase any such cattle unless the cattle have been inspected for brands and ownership and a certificate of inspection or brand clearance has been issued by the Nebraska Brand Committee. Any person selling such cattle shall present to the brand inspector a properly executed bill of sale, brand clearance, or other satisfactory evidence of ownership which shall be filed with the original certificate of inspection in the records of the brand committee. Any time a brand inspection is required by law, a brand investigator or brand inspector may transfer evidence of ownership of such cattle from a seller to a purchaser by issuing a certificate of inspection.

(2) A brand inspection is not required:

(a) For cattle of a registered feedlot registered under sections 54-1,120 to 54-1,122 shipped for direct slaughter or sale on any terminal market;

(b) For cattle that are:

(i) Transferred to a family corporation when all the shares of capital stock of the corporation are owned by the husband, wife, children, or grandchildren of the transferor and there is no consideration for the transfer other than the issuance of stock of the corporation to such family members; or

(ii) Transferred to a limited liability company in which membership is limited to the husband, wife, children, or grandchildren of the transferor and there is no consideration paid for the transfer other than a membership interest in the limited liability company;

(c) When the change of ownership of cattle is a change in form only and the surviving interests are in the exact proportion as the original interests of ownership. When there is a change of ownership described in subdivision (2)(b) or (c) of this section, an affidavit, on a form prescribed by the Nebraska Brand Committee, signed by the transferor and stating the nature of the transfer and the number of cattle involved and the brands presently on the cattle, shall be filed with the brand committee;

(d) For cattle sold or purchased for educational or exhibition purposes or other recognized youth activities if a properly executed bill of sale is exchanged and presented upon demand. Educational or exhibition purpose means cattle sold or purchased for the purpose of being fed, bred, managed, or tended in a program designed to demonstrate or instruct in the use of various feed rations, the selection of individuals of certain physical conformation or breeds, the measurement and recording of rate of gain in weight or fat content of meat or milk produced, or the preparation of cattle for the purpose of exhibition or for judging as to quality and conformation;

(e) For calves under the age of thirty days sold or purchased at private treaty if a bill of sale is exchanged and presented upon demand; and

(f) For seedstock cattle raised by the seller and individually registered with an organized breed association if a properly executed bill of sale is exchanged and presented upon demand.

Source: Laws 1999, LB 778, § 42; Laws 2000, LB 213, § 7; Laws 2014, LB768, § 7; Laws 2017, LB600, § 10.

54-1,115 Livestock transportation authority form; requirements.

(1) Any person, other than the owner or the owner's employee, using a motor vehicle or trailer to transport livestock or carcasses over any land within the State of Nebraska not owned or rented by such person or who is so transporting such livestock upon a highway, public street, or thoroughfare within the State of Nebraska shall have in his or her possession a livestock transportation authority form, certificate of inspection, or shipping certificate from a registered feedlot, authorizing such movement as to each head of livestock transported by such vehicle.

(2) A livestock transportation authority form shall be in writing and shall state the name of the owner of the livestock, the owner's post office address, the place from which the livestock are being moved, including the name of the ranch, if any, the destination, the name and address of the carrier, the license number and make of motor vehicle to which consigned, together with the number of livestock and a description thereof including kind, sex, breed, color, and marks, if any, and in the case of livestock shipments originating within the brand inspection area, the brands, if there are any. The authority form shall be signed by the owner of the livestock or the owner's authorized agent.

(3) Any peace officer, based upon probable cause to question the ownership of the livestock being transported, may stop a motor vehicle or motor vehicle and trailer and request exhibition of any authority form or certificate required by this section.

Source: Laws 1999, LB 778, § 46; Laws 2000, LB 213, § 8; Laws 2017, LB600, § 11.

Cross References

Duty to care for livestock, violation, penalty, see section 54-7,104.

54-1,119 Open market; designation; brand inspection requirements.

(1) Any livestock market, whether within or outside of the state, or any meat packing plant which maintains brand inspection under the supervision of the Nebraska Brand Committee and under such rules and regulations as are specified by the United States Department of Agriculture, may be designated by the brand committee as an open market.

(2) When cattle originating from within the brand inspection area are consigned for sale to any commission company at any open market designated as such by the Nebraska Brand Committee where brand inspection is maintained, no brand inspection is required at the point of origin but is required at the point of destination unless the point of origin is a registered feedlot. If cattle are consigned to a commission company at an open market, the carrier transporting the cattle shall not allow the owner, shipper, or party in charge to change the billing to any point other than the commission company at the open

market designated on the original billing, unless the carrier secures from the brand committee a certificate of inspection on the cattle so consigned. Any cattle originating in a registered feedlot consigned to a commission company at any terminal market destined for direct slaughter may be shipped in accordance with rules and regulations governing registered feedlots.

(3) Until the cattle are inspected for brands on the premises by the Nebraska Brand Committee, no person shall sell or cause to be sold or offer for sale (a) any cattle at a livestock auction market located within the brand inspection area or at a farm or ranch sale located within the brand inspection area or (b) any cattle originating within the brand inspection area consigned to an open market.

Source: Laws 1999, LB 778, § 50; Laws 2000, LB 213, § 9; Laws 2017, LB600, § 12.

54-1,120 Registered feedlot; application; requirements; fees; inspections; records.

(1) Any person who operates a cattle feeding operation located within the brand inspection area may make application to the Nebraska Brand Committee for registration as a registered feedlot. The application form shall be prescribed by the brand committee and shall be made available by the director of the brand committee for this purpose upon written request. If the applicant is an individual, the application shall include the applicant's social security number. After the brand committee has received a properly completed application, an agent of the brand committee shall within thirty days make an investigation to determine if the following requirements are satisfied:

- (a) The operator's feedlot must be permanently fenced; and
- (b) The operator must commonly practice feeding cattle to finish for slaughter.

If the application is satisfactory, and upon payment of an initial registration fee by the applicant, the brand committee shall issue a registration number and registration certificate valid for one year unless rescinded for cause. If the registration is rescinded for cause, any registration fee shall be forfeited by the applicant. The initial fee for a registered feedlot shall be an amount for a registered feedlot having one thousand head or less capacity and an equal amount for each additional one thousand head capacity, or part thereof, of such registered feedlot. For each subsequent year, the renewal fee for a registered feedlot shall be an amount for the first one thousand head or portion thereof of average annual inventory of cattle on feed of the registered feedlot and an equal amount for each additional one thousand head or portion thereof of average annual inventory of cattle on feed of the registered feedlot. The brand committee shall set the fee per one thousand head capacity or average annual inventory so as to correspond with the inspection fee provided under section 54-1,108. The registration fee shall be paid on an annual basis.

(2) The brand committee may adopt and promulgate rules and regulations for the operation of registered feedlots to assure that brand laws are complied with, that registered feedlot shipping certificates are available, and that proper records are maintained. Violation of sections 54-1,120 to 54-1,122 subjects the operator to revocation or suspension of the feedlot registration issued. Sections 54-1,120 to 54-1,122 shall not be construed as prohibiting the operation of nonregistered feedlots.

(3) Registered feedlots are subject to inspection at any reasonable time at the discretion of the brand committee and its authorized agents, and the operator shall show cattle purchase records or certificates of inspection to cover all cattle in his or her feedlot. Cattle having originated from such registered feedlots may from time to time, at the discretion of the committee, be subject to a spot-check inspection and audit at destination to enable the brand committee to assure satisfactory compliance with the brand laws by the registered feedlot operator.

(4) The operator of a registered feedlot shall keep cattle inventory records. A form for such purpose shall be prescribed by the brand committee. The brand committee and its employees may from time to time make spot checks and audits of the registered feedlots and the records of cattle on feed in such feedlots.

(5) The brand committee may rescind the registration of any registered feedlot operator who fails to cooperate or violates the laws or rules and regulations of the brand committee covering registered feedlots.

Source: Laws 1999, LB 778, § 51; Laws 2014, LB768, § 8.

54-1,121 Registered feedlot; cattle shipment; requirements.

Cattle sold or shipped from a registered feedlot, for purposes other than direct slaughter or sale on any terminal market, are subject to the brand inspection under sections 54-1,110 to 54-1,119, and the seller or shipper shall bear the cost of such inspection at the regular fee.

Any other cattle shipped from a registered feedlot are not subject to brand inspection at origin or destination, but the shipper must have a shipping certificate from the registered feedlot. The shipping certificate form shall be prescribed by the Nebraska Brand Committee and shall show the registered feedlot operator's name and registration number, date shipped, destination, agency receiving the cattle, number of head in the shipment, and sex of the cattle. The shipping certificate shall be completed in triplicate by the registered feedlot operator at the time of shipment. One copy thereof shall be delivered to the brand inspector at the market along with shipment, if applicable, one copy shall be sent to the brand committee by the tenth day of the following month, and one copy shall be retained by the registered feedlot operator. If a shipping certificate does not accompany a shipment of cattle from a registered feedlot to any destination where brand inspection is maintained by the brand committee, all such cattle shall be subject to a brand inspection and the inspection fees and surcharge provided under section 54-1,108 shall be charged for the service.

Source: Laws 1999, LB 778, § 52; Laws 2000, LB 213, § 10; Laws 2011, LB181, § 2.

54-1,122 Registered feedlot; cattle received; requirements.

Any cattle originating in a state that has a brand inspection agency and which are accompanied by a certificate of inspection or brand clearance issued by such agency may be moved directly from the point of origin into a registered feedlot. Any cattle not accompanied by such a certificate of inspection or brand clearance or by satisfactory evidence of ownership from states or portions of states not having brand inspection shall be inspected for brands by the Nebraska Brand Committee within a reasonable time after arrival at a registered feedlot, and the inspection fee and surcharge provided under section 54-1,108

shall be collected by the brand inspector at the time the inspection is performed.

Source: Laws 1999, LB 778, § 53; Laws 2011, LB181, § 3.

54-1,122.01 Repealed. Laws 2017, LB600, § 14.

54-1,122.02 Repealed. Laws 2017, LB600, § 14.

54-1,128 Brand with brand recorded or registered in another state; application for out-of-state brand permit; contents; fee.

(1) An owner may brand cattle with a brand recorded or registered in another state when:

(a) Cattle are purchased at a livestock auction market licensed under the Livestock Auction Market Act or congregated at another location approved by the Nebraska Brand Committee;

(b) The cattle will be imminently exported from Nebraska;

(c) The cattle are branded at the livestock auction market or other approved location; and

(d) An out-of-state brand permit has been obtained prior to branding the cattle.

(2) An application for an out-of-state brand permit shall be made to a brand inspector and shall include a description of the brand, a written application, and a fee not to exceed fifty dollars as determined by the Nebraska Brand Committee. A brand inspector shall evaluate and may approve an out-of-state brand permit within a reasonable period of time.

(3) Cattle branded under an out-of-state brand permit shall remain subject to all other brand inspection requirements under the Livestock Brand Act.

Source: Laws 2013, LB435, § 4.

Cross References

Livestock Auction Market Act, see section 54-1156.

54-1,129 Livestock auction market or packing plant; brand inspection; election to provide.

The owner or operator of any livestock auction market, as defined in section 54-1158, or packing plant located in any county outside the brand inspection area may voluntarily elect to provide brand inspection for all cattle brought to such livestock auction market or packing plant from within the brand inspection area upon compliance with sections 54-1,129 to 54-1,131.

Source: Laws 1963, c. 319, § 28, p. 972; Laws 1987, LB 450, § 9; Laws 1999, LB 778, § 76; R.S.1943, (2010), § 54-1183; Laws 2014, LB884, § 2.

54-1,130 Livestock auction market or packing plant; election; how made.

The election provided for by section 54-1,129 shall be made by (1) filing with the Secretary of State, in form to be prescribed by the secretary, a written notice of such election and agreement to be bound by section 54-1,131 and (2)

posting conspicuously on the premises a notice of the fact that brand inspection is provided at such livestock auction market or packing plant.

Source: Laws 1963, c. 319, § 29, p. 973; Laws 1987, LB 450, § 10; R.S.1943, (2010), § 54-1184; Laws 2014, LB884, § 3.

54-1,131 Livestock auction market or packing plant; brand inspection; how conducted; fees; guarantee.

Inspection provided for in sections 54-1,129 to 54-1,131 shall be conducted in the manner established by the Livestock Brand Act. The owner or operator making such election may be required to guarantee to the Nebraska Brand Committee that inspection fees derived from such livestock auction market or packing plant will be sufficient, in each twelve-month period, to pay the per diem and mileage of the inspectors required and that he or she will reimburse the committee for any deficit incurred in any such twelve-month period. Such guarantee shall be secured by a corporate surety bond, to be approved by the Secretary of State, in a penal sum to be established by the Nebraska Brand Committee.

Source: Laws 1963, c. 319, § 30, p. 973; Laws 1987, LB 450, § 11; Laws 1999, LB 778, § 77; Laws 2000, LB 213, § 11; R.S.1943, (2010), § 54-1185; Laws 2014, LB884, § 4.

ARTICLE 2

LIENS

Section

- 54-201. Agister's lien; domestic and foreign; perfection; financing statement; filing; enforcement; fee.
 54-208. Lien for feed, feed ingredients, and related costs; perfection; financing statement; filing; enforcement; fee.
 54-209. Lien satisfied; financing statement; termination.

54-201 Agister's lien; domestic and foreign; perfection; financing statement; filing; enforcement; fee.

(1) When any person, firm, corporation, partnership, or limited liability company not provided for in subsection (2) of this section procures, contracts with, or hires any other person, firm, corporation, partnership, or limited liability company to feed and take care of any kind of livestock, the person, firm, corporation, partnership, or limited liability company so procured, contracted with, or hired shall have a first, paramount, and prior lien upon such livestock for the feed and care furnished for the contract price agreed upon or, in case no price has been agreed upon, for the reasonable value of such feed and care, as long as the holders of any prior liens shall have agreed in writing to the contract for the feed and care of the livestock involved. A lien created under this subsection shall be treated in all respects as an agricultural lien as provided in article 9, Uniform Commercial Code, and may be enforced in the manner and form provided for the enforcement of secured transactions as provided in article 9, Uniform Commercial Code. A lien created under this subsection shall be perfected as provided in article 9, Uniform Commercial Code. Any financing statement filed to perfect such lien shall be filed prior to removal of such livestock from the premises of the person, firm, corporation, partnership, or limited liability company entitled to a lien and shall contain or have attached thereto (a) the name and address and the social security number

or federal tax identification number of the person, firm, corporation, partnership, or limited liability company claiming the lien, (b) the name and address and the social security number or federal tax identification number, if known, of the person, firm, corporation, partnership, or limited liability company for whom the feeding and care were furnished, (c) a description of the livestock fed and furnished care, and (d) the amount justly due for the feeding and care. The failure to include the social security number or federal tax identification number shall not render any filing unperfected. At the time the lien is filed, the lienholder shall send a copy to the person, firm, corporation, partnership, or limited liability company for whom the feeding and care were furnished. The fee for filing, amending, or releasing such lien shall be the same as set forth in section 9-525, Uniform Commercial Code.

(2) When any person, firm, corporation, partnership, or limited liability company whose residence or principal place of business is located outside the State of Nebraska procures, contracts with, or hires any other person, firm, corporation, partnership, or limited liability company within the State of Nebraska to feed and take care of any kind of livestock, the person, firm, corporation, partnership, or limited liability company so procured, contracted with, or hired shall have a first, paramount, and prior lien upon such livestock for the feed and care furnished for the contract price agreed upon or, in case no price has been agreed upon, for the reasonable value of such feed and care. A lien created under this subsection shall be treated in all respects as an agricultural lien as provided in article 9, Uniform Commercial Code, and may be enforced in the manner and form provided for the enforcement of secured transactions as provided in article 9, Uniform Commercial Code. A lien created under this subsection shall be perfected as provided in article 9, Uniform Commercial Code. Any financing statement filed to perfect such lien shall be filed prior to removal of such livestock from the premises of the person, firm, corporation, partnership, or limited liability company entitled to a lien and shall contain or have attached thereto (a) the name and address and the social security number or federal tax identification number of the person, firm, corporation, partnership, or limited liability company claiming the lien, (b) the name and address and the social security number or federal tax identification number, if known, of the person, firm, corporation, partnership, or limited liability company for whom the feeding and care were furnished, (c) a description of the livestock fed and furnished care, and (d) the amount justly due for the feeding and care. The failure to include the social security number or federal tax identification number shall not render any filing unperfected. At the time the lien is filed, the lienholder shall send a copy to the person, firm, corporation, partnership, or limited liability company for whom the feeding and care were furnished. The fee for filing, amending, or releasing such lien shall be the same as set forth in section 9-525, Uniform Commercial Code.

(3) Effective January 1, 2015, this section applies to a lien created under this section regardless of when the lien was created.

Source: Terr. Laws 1867, § 1, p. 12; Laws 1889, c. 31, § 1, p. 378; R.S.1913, § 89; C.S.1922, § 97; C.S.1929, § 54-201; Laws 1935, c. 118, § 1, p. 433; C.S.Supp.,1941, § 54-201; R.S.1943, § 54-201; Laws 1982, LB 962, § 2; Laws 1984, LB 808, § 7; Laws 1988, LB 943, § 18; Laws 1993, LB 121, § 335; Laws 1998, LB 1321, § 96; Laws 1999, LB 550, § 36; Laws 2001, LB 54, § 25; Laws 2014, LB750, § 16.

54-208 Lien for feed, feed ingredients, and related costs; perfection; financing statement; filing; enforcement; fee.

When any person, firm, partnership, limited liability company, or corporation contracts or agrees with another person, firm, partnership, limited liability company, or corporation to deliver any feed or feed ingredients for any kind of livestock, the person, firm, partnership, limited liability company, or corporation so contracted or agreed with shall have a lien upon such livestock for the feed or feed ingredients and related costs incurred in the delivery of such feed or feed ingredients for the agreed-upon contract price or, in case no price has been agreed upon, for the reasonable value of such feed or feed ingredients and related delivery costs, which shall be a first, paramount, and prior lien if the holders of any prior liens have agreed in writing to the contract for the feed or feed ingredients and related delivery costs. The lien may only be enforced against the person, firm, partnership, limited liability company, or corporation who has contracted or agreed for such feed or feed ingredients and related costs incurred in the delivery of such feed or feed ingredients.

A lien created under this section shall be perfected as provided in article 9, Uniform Commercial Code. Any financing statement filed to perfect such lien shall contain or have attached thereto:

- (1) The name and address and the social security number or federal tax identification number of the person, firm, partnership, limited liability company, or corporation claiming the lien;
- (2) The name and address and the social security number or federal tax identification number, if known, of the person, firm, partnership, limited liability company, or corporation for whom such feed or feed ingredients were delivered;
- (3) The amount due for such feed or feed ingredients and related delivery costs covered by the lien;
- (4) The place where such livestock are located;
- (5) A reasonable description of such livestock including the number and type of such livestock; and
- (6) The last date on which such feed or feed ingredients were delivered.

The failure to include the social security number or federal tax identification number shall not render any filing unperfected. At the time the lien is filed, the lienholder shall send a copy to the person, firm, partnership, limited liability company, or corporation for whom the feed or feed ingredients were delivered.

Such lien shall attach and have priority as of the date of the filing if filed in the manner provided in this section. Such lien shall be treated in all respects as an agricultural lien as provided in article 9, Uniform Commercial Code, and may be enforced in the manner and form provided for the enforcement of secured transactions as provided in article 9, Uniform Commercial Code.

The fee for filing, amending, or releasing such lien shall be the same as set forth in section 9-525, Uniform Commercial Code.

Effective January 1, 2015, this section applies to a lien created under this section regardless of when the lien was created.

Nothing in this section shall be construed to amend or repeal section 54-201 relating to agisters' liens.

Source: Laws 1984, LB 1064, § 1; Laws 1988, LB 943, § 19; Laws 1993, LB 121, § 336; Laws 1998, LB 1321, § 97; Laws 1999, LB 550, § 37; Laws 2001, LB 54, § 26; Laws 2014, LB750, § 17.

54-209 Lien satisfied; financing statement; termination.

When a lien created under section 54-201 or 54-208 is satisfied, any financing statement filed to perfect that lien shall be terminated in the manner and form provided in article 9, Uniform Commercial Code.

Source: Laws 1985, LB 606, § 16; Laws 1988, LB 943, § 20; Laws 1999, LB 550, § 38; Laws 2001, LB 54, § 27; Laws 2014, LB750, § 18.

ARTICLE 4

ESTRAYS AND TRESPASSING ANIMALS

Section

54-415. Estrays; report; sale; procedure; disposition of proceeds; violations; penalty.

54-415 Estrays; report; sale; procedure; disposition of proceeds; violations; penalty.

Any person taking up an estray within the brand inspection area or brand inspection service area shall report the same within seven days thereafter to the Nebraska Brand Committee. Any person taking up an estray in any other area of the state shall report the same to the county sheriff of the county where the estray was taken. If the animal is determined to be an estray by a representative of the Nebraska Brand Committee or the county sheriff, as the case may be, such animal shall, as promptly as may be practicable, be sold through the most convenient livestock auction market. The proceeds of such sale, after deducting the selling expenses, shall be paid over to the Nebraska Brand Committee to be placed in the estray fund identified in section 54-1,118, if such estray was taken up within the brand inspection area or brand inspection service area, and otherwise to the treasurer of the county in which such estray was taken up. During the time such proceeds are impounded, any person taking up such estray may file claim with the Nebraska Brand Committee or the county treasurer, as the case may be, for the expense of feeding and keeping such estray while in his or her possession. When such claim is filed it shall be the duty of the Nebraska Brand Committee or the county board, as the case may be, to decide on the validity of the claim so filed and allow the claim for such amount as may be deemed equitable. When the estray is taken up within the brand inspection area or brand inspection service area, such proceeds shall be impounded for one year, unless ownership is determined sooner by the Nebraska Brand Committee, and if ownership is not determined within such one-year period, the proceeds shall be paid into the permanent school fund, less the actual expenses incurred in the investigation and processing of the estray fund. Any amount deducted as actual expenses incurred shall be deposited in the Nebraska Brand Inspection and Theft Prevention Fund. When the estray is taken up outside the brand inspection area or brand inspection service area and ownership cannot be determined by the county board, the county board shall then order payment of the balance of the sale proceeds less expenses, to the permanent school fund. If the brand committee or the county board determines

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ownership of an estray sold in accordance with this section by means of evidence of ownership other than the owner's recorded Nebraska brand, an amount not to exceed the actual investigative costs or expenses may be deducted from the proceeds of the sale. Any person who violates this section is guilty of a Class II misdemeanor. The definitions found in sections 54-172 to 54-190 apply to this section.

Source: R.S.1866, p. 154; R.S.1913, § 123; C.S.1922, § 131; C.S.1929, § 54-415; R.S.1943, § 54-415; Laws 1965, c. 333, § 1, p. 953; Laws 1967, c. 344, § 1, p. 920; Laws 1977, LB 39, § 19; Laws 1979, LB 564, § 19; Laws 1980, LB 797, § 23; Laws 1983, LB 536, § 5; Laws 1999, LB 778, § 61; Laws 2014, LB768, § 10.

**ARTICLE 6
DOGS AND CATS**

(a) DOGS

Section

54-603. Dogs; license tax; amount; service animal; license; county, city, or village; collect fee; disposition.

(c) COMMERCIAL DOG AND CAT OPERATOR INSPECTION ACT

54-625. Act, how cited.

54-626. Terms, defined.

54-627. License requirements; fees; premises available for inspection.

54-628. Inspection program; department; powers; reinspection fee; prohibited acts; penalty.

54-628.01. Director; stop-movement order; issuance; contents; hearing; department; powers; costs; reinspection; hearing.

54-628.02. Violation of act, rule or regulation, or order of director; proceedings authorized.

54-630. Application; denial; grounds; appeal.

54-632. Notice or order; service requirements; hearing; appeal.

54-633. Enforcement powers; administrative fine.

54-633.01. Special investigator; powers; referral to another law enforcement officer.

54-635. Commercial Dog and Cat Operator Inspection Program Cash Fund; created; use; investment.

54-637. Information on spaying and neutering; requirements.

54-640. Commercial dog or cat breeder; duties.

54-641. Licensees; primary enclosures; requirements.

54-641.01. Commercial dog breeder; dogs; opportunity for exercise.

54-641.02. Commercial dog breeder; veterinary care; review of health records; duties of breeder.

54-641.03. Breeding dog; microchip; identification.

54-642. Department; submit report of costs and revenue.

(d) DOG AND CAT PURCHASE PROTECTION ACT

54-645. Terms, defined.

54-646. Seller; written disclosure statement; contents; receipt; notice of purchaser's rights and responsibilities; health certificate; retention of records.

(a) DOGS

54-603 Dogs; license tax; amount; service animal; license; county, city, or village; collect fee; disposition.

(1) Any county, city, or village shall have authority by ordinance or resolution to impose a license tax, in an amount which shall be determined by the appropriate governing body, on the owner or harbinger of any dog or dogs, to be

paid under such regulations as shall be provided by such ordinance or resolutions.

(2) Every service animal shall be licensed as required by local ordinances or resolutions, but no license tax shall be charged. Upon the retirement or discontinuance of the animal as a service animal, the owner of the animal shall be liable for the payment of a license tax as prescribed by local ordinances or resolutions.

(3) Any county, city, or village that imposes a license tax on the owner or harbinger of any cat or cats or any dog or dogs under this section shall, in addition to the license tax imposed by the licensing jurisdiction, collect from the licensee a fee of one dollar and twenty-five cents. The person designated by the licensing jurisdiction to collect and administer the license tax shall act as agent for the State of Nebraska in the collection of the fee. From each fee of one dollar and twenty-five cents collected, such person shall retain three cents and remit the balance to the State Treasurer for credit to the Commercial Dog and Cat Operator Inspection Program Cash Fund. If the person collecting the fee is the licensing jurisdiction, the three cents shall be credited to the licensing jurisdiction's general fund. If the person collecting the fee is a private contractor, the three cents shall be credited to an account of the private contractor. The remittance to the State Treasurer shall be made at least annually at the conclusion of the licensing jurisdiction's fiscal year, except that any licensing jurisdiction or private contractor that collects fifty dollars or less of such fees during the fiscal year may remit the fees when the cumulative amount of fees collected reaches fifty dollars.

Source: Laws 1877, § 3, p. 156; R.S.1913, § 174; C.S.1922, § 171; C.S. 1929, § 54-603; R.S.1943, § 54-603; Laws 1976, LB 515, § 2; Laws 1997, LB 814, § 7; Laws 2008, LB806, § 13; Laws 2010, LB910, § 3; Laws 2015, LB360, § 12.

Cross References

For other provisions authorizing municipalities to impose license tax on dogs, see sections 14-102, 15-220, 16-206, and 17-526.

(c) COMMERCIAL DOG AND CAT OPERATOR INSPECTION ACT

54-625 Act, how cited.

Sections 54-625 to 54-643 shall be known and may be cited as the Commercial Dog and Cat Operator Inspection Act.

Source: Laws 2000, LB 825, § 1; Laws 2003, LB 274, § 1; Laws 2006, LB 856, § 13; Laws 2007, LB12, § 1; Laws 2009, LB241, § 1; Laws 2012, LB427, § 1; Laws 2015, LB360, § 13.

54-626 Terms, defined.

For purposes of the Commercial Dog and Cat Operator Inspection Act:

(1) Animal control facility means a facility operated by or under contract with the state or any political subdivision of the state for the purpose of impounding or harboring seized, stray, homeless, abandoned, or unwanted animals;

(2) Animal rescue means a person or group of persons who hold themselves out as an animal rescue, accept or solicit for dogs or cats with the intention of finding permanent adoptive homes or providing lifelong care for such dogs or cats, or who use foster homes as the primary means of housing dogs or cats;

(3) Animal shelter means a facility used to house or contain dogs or cats and owned, operated, or maintained by an incorporated humane society, an animal welfare society, a society for the prevention of cruelty to animals, or another nonprofit organization devoted to the welfare, protection, and humane treatment of such animals;

(4) Boarding kennel means a facility which is primarily used to house or contain dogs or cats owned by persons other than the operator of such facility. The primary function of a boarding kennel is to temporarily harbor dogs or cats when the owner of the dogs or cats is unable to do so or to provide training, grooming, or other nonveterinary service for consideration before returning the dogs or cats to the owner. A facility which provides such training, grooming, or other nonveterinary service is not a boarding kennel for the purposes of the act unless dogs or cats owned by persons other than the operator of such facility are housed at such facility overnight. Veterinary clinics, animal control facilities, animal rescues, and nonprofit animal shelters are not boarding kennels for the purposes of the act;

(5) Breeding dog means any sexually intact male or female dog six months of age or older owned or harbored by a commercial dog breeder;

(6) Cat means any animal which is wholly or in part of the species *Felis domesticus*;

(7) Commercial cat breeder means a person engaged in the business of breeding cats:

(a) Who sells, exchanges, leases, or in any way transfers or offers to sell, exchange, lease, or transfer thirty-one or more cats in a twelve-month period beginning on April 1 of each year;

(b) Who owns or harbors four or more cats, intended for breeding, in a twelve-month period beginning on April 1 of each year;

(c) Whose cats produce a total of four or more litters within a twelve-month period beginning on April 1 of each year; or

(d) Who knowingly sells, exchanges, or leases cats for later retail sale or brokered trading;

(8) Commercial dog breeder means a person engaged in the business of breeding dogs:

(a) Who sells, exchanges, leases, or in any way transfers or offers to sell, exchange, lease, or transfer thirty-one or more dogs in a twelve-month period beginning on April 1 of each year;

(b) Who owns or harbors four or more dogs, intended for breeding, in a twelve-month period beginning on April 1 of each year;

(c) Whose dogs produce a total of four or more litters within a twelve-month period beginning on April 1 of each year; or

(d) Who knowingly sells, exchanges, or leases dogs for later retail sale or brokered trading;

(9) Dealer means any person who is not a commercial dog or cat breeder or a pet shop but is engaged in the business of buying for resale or selling or exchanging dogs or cats as a principal or agent or who claims to be so engaged. A person who purchases, sells, exchanges, or leases thirty or fewer dogs or cats in a twelve-month period is not a dealer;

(10) Department means the Department of Agriculture with the State Veterinarian in charge, subordinate only to the director;

(11) Director means the Director of Agriculture or his or her designated employee;

(12) Dog means any animal which is wholly or in part of the species *Canis familiaris*;

(13) Foster home means any person who provides temporary housing for twenty or fewer dogs or cats that are six months of age or older in any twelve-month period and is affiliated with a person operating as an animal rescue that uses foster homes as its primary housing of dogs or cats. To be considered a foster home, a person shall not participate in the acquisition of the dogs or cats for which temporary care is provided. Any foster home which houses more than twenty dogs or cats that are six months of age or older in any twelve-month period or who participates in the acquisition of dogs or cats shall be licensed as an animal rescue;

(14) Harbor means:

(a) Providing shelter or housing for a dog or cat regulated under the act; or

(b) Maintaining the care, supervision, or control of a dog or cat regulated under the act;

(15) Housing facility means any room, building, or areas used to contain a primary enclosure;

(16) Inspector means any person who is employed by the department and who is authorized to perform inspections pursuant to the act;

(17) Licensee means a person who has qualified for and received a license from the department pursuant to the act;

(18) Normal business hours means daily between 7 a.m. and 7 p.m. unless an applicant, a licensee, or any other person the department has reasonable cause to believe is required by the act to be licensed provides in writing to the department a description of his or her own normal business hours which reasonably allows the department to make inspections;

(19) Operator means a person performing the activities of an animal control facility, an animal rescue, an animal shelter, a boarding kennel, a commercial cat breeder, a commercial dog breeder, a dealer, or a pet shop;

(20) Pet animal means an animal kept as a household pet for the purpose of companionship, which includes, but is not limited to, dogs, cats, birds, fish, rabbits, rodents, amphibians, and reptiles;

(21) Pet shop means a retail establishment which sells pet animals and related supplies;

(22) Premises means all public or private buildings, vehicles, equipment, containers, kennels, pens, and cages used by an operator and the public or private ground upon which an operator's facility is located if such buildings, vehicles, equipment, containers, kennels, pens, cages, or ground are used by the owner or operator in the usual course of business;

(23) Primary enclosure means any structure used to immediately restrict a dog or cat to a limited amount of space, such as a room, pen, cage, or compartment;

(24) Secretary of Agriculture means the Secretary of Agriculture of the United States Department of Agriculture;

(25) Significant threat to the health or safety of dogs or cats means:

(a) Not providing shelter or protection from extreme weather resulting in life-threatening conditions predisposing to hyperthermia or hypothermia in dogs or cats that are not acclimated to the temperature;

(b) Acute injuries involving potentially life-threatening medical emergencies in which the owner refuses to seek immediate veterinary care;

(c) Not providing food or water resulting in conditions of potential starvation or severe dehydration;

(d) Egregious human abuse such as trauma from beating, torturing, mutilating, burning, or scalding; or

(e) Failing to maintain sanitation resulting in egregious situations where a dog or cat cannot avoid walking, lying, or standing in feces;

(26) Stop-movement order means a directive preventing the movement of any dog or cat onto or from the premises; and

(27) Unaltered means any male or female dog or cat which has not been neutered or spayed or otherwise rendered incapable of reproduction.

Source: Laws 2000, LB 825, § 2; Laws 2003, LB 233, § 1; Laws 2003, LB 274, § 2; Laws 2004, LB 1002, § 1; Laws 2009, LB241, § 2; Laws 2010, LB910, § 5; Laws 2012, LB427, § 2; Laws 2015, LB360, § 14; Laws 2020, LB344, § 64.

Effective date November 14, 2020.

54-627 License requirements; fees; premises available for inspection.

(1) A person shall not operate as a commercial dog or cat breeder, a dealer, a boarding kennel, an animal control facility, an animal shelter, an animal rescue, or a pet shop unless the person obtains the appropriate license. A pet shop shall only be subject to the Commercial Dog and Cat Operator Inspection Act and the rules and regulations adopted and promulgated pursuant thereto in any area or areas of the establishment used for the keeping and selling of pet animals. If a facility listed in this subsection is not located at the owner's residence, the name and address of the owner shall be posted on the premises.

(2) An applicant for a license shall submit an application for the appropriate license to the department, on a form prescribed by the department, together with a one-time license fee of one hundred twenty-five dollars. Such fee is nonreturnable. Any license issued on or before November 30, 2015, shall remain valid after expiration unless it lapses pursuant to this section, is revoked pursuant to section 54-631, or is voluntarily surrendered. Upon receipt of an application and the license fee and upon completion of a qualifying inspection, the appropriate license may be issued by the department. The department may enter the premises of any applicant for a license to determine if the applicant meets the requirements for licensure under the act. If an applicant does not at the time of inspection harbor any dogs or cats, the inspection shall be of the applicant's records and the planned housing facilities. Such license shall not be transferable to another person or location and shall lapse automatically upon a change of ownership or location.

(3)(a) In addition to the license fee required in subsection (2) of this section, an annual fee shall also be charged. Except as otherwise provided in this subsection, the annual fee shall be determined according to the following fee

schedule based upon the daily average number of dogs or cats harbored by the licensee over the previous twelve-month period:

- (i) Ten or fewer dogs or cats, one hundred seventy-five dollars;
 - (ii) Eleven to fifty dogs or cats, two hundred twenty-five dollars;
 - (iii) Fifty-one to one hundred dogs or cats, two hundred seventy-five dollars;
 - (iv) One hundred one to one hundred fifty dogs or cats, three hundred twenty-five dollars;
 - (v) One hundred fifty-one to two hundred dogs or cats, three hundred seventy-five dollars;
 - (vi) Two hundred one to two hundred fifty dogs or cats, four hundred twenty-five dollars;
 - (vii) Two hundred fifty-one to three hundred dogs or cats, four hundred seventy-five dollars;
 - (viii) Three hundred one to three hundred fifty dogs or cats, five hundred twenty-five dollars;
 - (ix) Three hundred fifty-one to four hundred dogs or cats, five hundred seventy-five dollars;
 - (x) Four hundred one to four hundred fifty dogs or cats, six hundred twenty-five dollars;
 - (xi) Four hundred fifty-one to five hundred dogs or cats, six hundred seventy-five dollars; and
 - (xii) More than five hundred dogs or cats, two thousand one hundred dollars.
- (b) If a person operates with more than one type of license at the same location, the person shall pay only one annual fee based on the primary licensed activity occurring at that location as determined by the number of dogs or cats affected by the licensed activity.
- (c) The annual fee for a licensee that does not own or harbor dogs or cats shall be one hundred fifty dollars.
- (d) The annual fee for an animal rescue shall be one hundred fifty dollars.
- (e) The annual fee for a commercial dog or cat breeder shall be determined according to the fee schedule set forth in subdivision (a) of this subsection based upon the total number of breeding dogs or cats owned or harbored by the commercial breeder over the previous twelve-month period.
- (f) In addition to the fee as prescribed in the fee schedule set forth in subdivision (a) of this subsection, the annual fee for a commercial dog or cat breeder, pet shop, dealer, or boarding kennel shall include a fee of two dollars times the daily average number of dogs or cats owned or harbored by the licensee over the previous twelve-month period numbering more than ten dogs or cats subject to subdivision (g) of this subsection.
- (g) The fees charged under subdivision (a) of this subsection may be increased or decreased by rule and regulation as adopted and promulgated by the department, but the maximum fee that may be charged shall not result in a fee for any license category that exceeds the annual fee set forth in subdivision (a) of this subsection by more than one hundred dollars. The fee charged under subdivision (f) of this subsection may be increased or decreased by rule and regulation as adopted and promulgated by the department, but such fee shall not exceed three dollars times the number of dogs or cats harbored by the

licensee over the previous twelve-month period numbering more than ten dogs or cats.

(4) A commercial dog or cat breeder, dealer, boarding kennel, or pet shop shall pay the annual fee to the department on or before April 1 of each year. An animal control facility, animal rescue, or animal shelter shall pay the annual fee to the department on or before October 1 of each year. Failure to pay the annual fee by the due date shall result in a late fee equal to twenty percent of the annual fee due and payable each month, not to exceed one hundred percent of such fee, in addition to the annual fee. The purpose of the late fee is to pay for the administrative costs associated with the collection of fees under this section. The assessment of the late fee shall not prohibit the director from taking any other action as provided in the act.

(5) An applicant, a licensee, or a person the department has reason to believe is an operator and required to obtain a license under this section shall make any applicable premises available for inspection pursuant to section 54-628 during normal business hours.

(6) The state or any political subdivision of the state which contracts out its animal control duties to a facility not operated by the state or any political subdivision of the state may be exempted from the licensing requirements of this section if such facility is licensed as an animal control facility, animal rescue, or animal shelter for the full term of the contract with the state or its political subdivision.

(7) Any fees collected pursuant to this section shall be remitted to the State Treasurer for credit to the Commercial Dog and Cat Operator Inspection Program Cash Fund.

Source: Laws 2000, LB 825, § 3; Laws 2003, LB 233, § 2; Laws 2003, LB 274, § 3; Laws 2004, LB 1002, § 2; Laws 2006, LB 856, § 14; Laws 2007, LB12, § 2; Laws 2009, LB241, § 3; Laws 2010, LB910, § 6; Laws 2012, LB427, § 3; Laws 2015, LB360, § 15.

54-628 Inspection program; department; powers; reinspection fee; prohibited acts; penalty.

(1) The department shall inspect all licensees at least once in a twenty-four-month period to determine whether the licensee is in compliance with the Commercial Dog and Cat Operator Inspection Act.

(2) Any additional inspector or other field personnel employed by the department to carry out inspections pursuant to the act that are funded through General Fund appropriations to the department shall be available for temporary reassignment as needed to other activities and functions of the department in the event of a livestock disease emergency or any other threat to livestock or public health.

(3) When an inspection produces evidence of a violation of the act or the rules and regulations of the department, a copy of a written report of the inspection and violations shown thereon, prepared by the inspector, shall be given to the applicant, licensee, or person the department has reason to believe is an operator, together with written notice to comply within the time limit established by the department and set out in such notice. If the department performs a reinspection for the purpose of determining if an operator has complied within the time limit for compliance established pursuant to this

subsection or has complied with section 54-628.01 or if the inspector must return to the operator's location because the operator was not available within a reasonable time as required by subsection (4) of this section, the applicant, licensee, or person the department has reason to believe is an operator shall pay a reinspection fee of one hundred fifty dollars together with the mileage of the inspector at the rate provided in section 81-1176. The purpose of the reinspection fee is to pay for the administrative costs associated with the additional inspection. Any fees collected pursuant to this section shall be remitted to the State Treasurer for credit to the Commercial Dog and Cat Operator Inspection Program Cash Fund. The assessment of the reinspection fee shall not prohibit the director from taking any other action as provided in the act.

(4) The department, at its discretion, may make unannounced inspections of any applicant, licensee, or person the department has reason to believe is an operator during normal business hours. An applicant, a licensee, and any person the department has reason to believe is an operator shall provide the department, in writing, and keep updated if there is any change, a telephone number where the operator can be reached during normal business hours. The applicant, licensee, or person the department has reason to believe is an operator shall provide a person over the age of nineteen to be available at the operation for the purpose of allowing the department to perform an inspection.

(5) If deemed necessary under the act or any rule or regulation adopted and promulgated pursuant to the act, the department may, for purposes of inspection, enter, without being subject to any action for trespass or damages, the premises of any applicant, licensee, or person the department has reason to believe is an operator, during normal business hours and in a reasonable manner, including all premises in or upon which dogs or cats are housed, harbored, sold, exchanged, or leased or are suspected of being housed, harbored, sold, exchanged, or leased.

(6) Pursuant to an inspection under the act, the department may:

(a) Enter and have full access to all premises where dogs or cats regulated under the act are harbored or housed or are suspected of being harbored or housed;

(b) Access all records pertaining to dogs or cats regulated under the act or suspected of pertaining to such dogs or cats and examine and copy all records pertaining to compliance with the act and the rules or regulations adopted and promulgated under the act. The department shall have authority to gather evidence, including, but not limited to, photographs;

(c) Inspect or reinspect any vehicle or carrier transporting or holding dogs or cats that is in the state to determine compliance with the act or any rules or regulations adopted and promulgated under the act;

(d) Obtain an inspection warrant in the manner prescribed in sections 29-830 to 29-835 if any person refuses to allow the department to conduct an inspection pursuant to the act; or

(e) Issue and enforce a written stop-movement order pursuant to section 54-628.01.

(7) For purposes of this section, the private residence of any applicant, licensee, or person the department has reason to believe is an operator shall be available for purposes of inspection only if dogs or cats are housed in a primary

enclosure within the residence, including a room in such residence, and only such portion of the residence that is used as a primary enclosure shall be open to an inspection pursuant to this section.

(8) An applicant, licensee, or person the department has reason to believe is an operator shall not seek to avoid inspection by hiding dogs or cats regulated under the act in a private residence, on someone else's property, or at any other location. An applicant, licensee, or person the department has reason to believe is an operator shall provide full and accurate information to the department regarding the location of all dogs or cats harbored by the operator.

(9) Any applicant, licensee, or person the department has reason to believe is an operator who intentionally refuses to answer the door, fails to be available as provided in subsection (4) of this section, fails to comply with subsection (8) of this section, or otherwise obstructs the department's attempt to perform an inspection shall be in violation of section 54-634 and subject to an administrative fine or other proceedings as provided in section 54-633 or 54-634.

Source: Laws 2000, LB 825, § 4; Laws 2007, LB12, § 3; Laws 2009, LB241, § 5; Laws 2015, LB360, § 16.

54-628.01 Director; stop-movement order; issuance; contents; hearing; department; powers; costs; reinspection; hearing.

(1) The director may issue a stop-movement order if he or she has reasonable cause to believe that there exists (a) noncompliance with the Commercial Dog and Cat Operator Inspection Act or any rule or regulation adopted and promulgated pursuant to the act, including, but not limited to, unreasonable sanitation or housing conditions, failure to comply with standards for handling, care, treatment, or transportation for dogs or cats, operating without a license, or interfering with the department in the performance of its duties, or (b) any condition that, without medical attention, provision of shelter, facility maintenance or improvement, relocation of animals, or other management intervention, poses a significant threat to the health or safety of the dogs or cats owned or harbored by a violator.

(2) Such stop-movement order may require the violator to maintain the dogs or cats subject to the order at the existing location or other department-approved premises until such time as the director has issued a written release from the stop-movement order. The stop-movement order shall clearly advise the violator that he or she may request in writing a hearing before the director pursuant to section 54-632. The order issued pursuant to this section shall be final unless modified or rescinded by the director pursuant to section 54-632 at a hearing requested under this subsection.

(3) Pursuant to the stop-movement order, the department shall have the authority to enter the premises to inspect and determine if the dogs or cats subject to the order or the facilities used to house or transport such dogs or cats are kept and maintained in compliance with the requirements of the act and the rules and regulations adopted and promulgated pursuant to the act or if any management intervention imposed by the stop-movement order is being implemented to mitigate conditions posing a significant threat to the health or safety of dogs or cats harbored or owned by a violator. The department shall not be liable for any costs incurred by the violator or any personnel of the violator due to such departmental action or in enforcing the stop-movement order. The

department shall be reimbursed by the violator for the actual costs incurred by the department in issuing and enforcing any stop-movement order.

(4) A stop-movement order shall include:

(a) A description of the nature of the violations of the act or any rule or regulation adopted and promulgated pursuant to the act;

(b) If applicable, a description of conditions that pose a significant threat to the health or safety of the dogs or cats owned or harbored by the violator;

(c) The action necessary to bring the violator into compliance with the act and the rules and regulations adopted and promulgated pursuant to the act or, if applicable, to mitigate conditions posing a significant threat to the health and safety of the dogs or cats harbored or owned by the violator;

(d) Notice that if violations of the act or any rule or regulation or any conditions that pose a significant threat to the health or safety of the dogs or cats owned or harbored by the violator persist, the department may refer the matter to appropriate law enforcement for investigation and potential prosecution pursuant to Chapter 28, article 10; and

(e) The name, address, and telephone number of the violator who owns or harbors the dogs or cats subject to the order.

(5) Before receipt of a written release, the person to whom the stop-movement order was issued shall:

(a) Provide the department with an inventory of all dogs or cats on the premises at the time of the issuance of the order;

(b) Provide the department with the identification tag number, the tattoo number, the microchip number, or any other approved method of identification for each individual dog or cat;

(c) Notify the department within forty-eight hours of the death or euthanasia of any dog or cat subject to the order. Such notification shall include the dog's or cat's individual identification tag number, tattoo number, microchip number, or other approved identification;

(d) Notify the department within forty-eight hours of any dog or cat giving birth after the issuance of the order, including the size of the litter; and

(e) Maintain on the premises any dog or cat subject to the order, except that a dog or cat under one year of age under contract to an individual prior to the issuance of the order may be delivered to the individual pursuant to the contractual obligation. The violator shall provide to the department information identifying the dog or cat and the name, address, and telephone number of the individual purchasing the dog or cat. The department may contact the purchaser to ascertain the date of the purchase agreement to ensure that the dog or cat was sold prior to the stop-movement order and to determine that he or she did purchase such dog or cat. No additional dogs or cats shall be transferred onto the premises without written approval of the department.

(6) The department shall reinspect the premises to determine compliance within ten business days after the initial inspection that resulted in the stop-movement order. At the time of reinspection pursuant to this subsection, if conditions that pose a significant threat to the health or safety of the dogs or cats harbored or owned by the violator or noncompliant conditions continue to exist, further reinspections shall be at the discretion of the department. The

violator may request an immediate hearing with the director pursuant to any findings under this subsection.

Source: Laws 2009, LB241, § 6; Laws 2015, LB360, § 17.

54-628.02 Violation of act, rule or regulation, or order of director; proceedings authorized.

Whenever the director has reason to believe that any person has violated any provision of the Commercial Dog and Cat Operator Inspection Act, any rule or regulation adopted and promulgated pursuant to the act, or any order of the director, the director may issue a notice of hearing as provided in section 54-632 requiring the person to appear before the director to (1) show cause why an order should not be entered requiring such person to cease and desist from the violation charged, (2) determine whether an administrative fine should be imposed or levied against the person pursuant to subsection (2) of section 54-633, or (3) determine whether the person fails to qualify for a license pursuant to section 54-630. Proceedings initiated pursuant to this section shall not preclude the department from pursuing other administrative, civil, or criminal actions according to law.

Source: Laws 2015, LB360, § 18.

54-630 Application; denial; grounds; appeal.

(1) Before the department approves an application for a license, an inspector of the department shall inspect the operation of the applicant to determine whether the applicant qualifies to hold a license pursuant to the Commercial Dog and Cat Operator Inspection Act. Except as provided in subsection (2) of this section, an applicant who qualifies shall be issued a license.

(2) The department may deny an application for a license as a commercial dog or cat breeder, a dealer, a boarding kennel, an animal control facility, an animal shelter, an animal rescue, or a pet shop upon a finding that the applicant is unsuited to perform the obligations of a licensee. The applicant shall be determined unsuited to perform the obligations of a licensee if the department finds that the applicant has deliberately misrepresented or concealed any information provided on or with the application or any other information provided to the department under this section or that within the previous five years the applicant:

(a) Has been convicted of any law regarding the disposition or treatment of dogs or cats in any jurisdiction; or

(b) Has operated a breeder facility under a license or permit issued by any jurisdiction that has been revoked, suspended, or otherwise subject to a disciplinary proceeding brought by the licensing authority in that jurisdiction if such proceeding resulted in the applicant having voluntarily surrendered a license or permit to avoid disciplinary sanctions.

(3) In addition to the application, the department may require the applicant to provide additional documentation pertinent to the department's determination of the applicant's suitability to perform the duties of a licensee under the act.

(4) An applicant who is denied a license under this section shall be afforded the opportunity for a hearing before the director or the director's designee to present evidence that the applicant is qualified to hold a license pursuant to the

act and the rules and regulations adopted and promulgated by the department and should be issued a license. All such hearings shall be in accordance with the Administrative Procedure Act.

Source: Laws 2000, LB 825, § 6; Laws 2007, LB12, § 5; Laws 2012, LB427, § 4; Laws 2015, LB360, § 19.

Cross References

Administrative Procedure Act, see section 84-920.

54-632 Notice or order; service requirements; hearing; appeal.

(1) Any notice or order provided for in the Commercial Dog and Cat Operator Inspection Act shall be properly served when it is personally served on the applicant, licensee, or violator or on the person authorized by the applicant or licensee to receive notices and orders of the department or when it is sent by certified or registered mail, return receipt requested, to the last-known address of the applicant, licensee, or violator or the person authorized to receive such notices and orders. A copy of the notice and the order shall be filed in the records of the department.

(2) A notice to comply with the act or the rules and regulations adopted and promulgated pursuant to the act shall set forth the acts or omissions with which the applicant, licensee, or violator is charged.

(3) A notice of the right to a hearing shall set forth the time and place of the hearing except as otherwise provided in subsection (4) of this section and section 54-631. A notice of the right to such hearing shall include notice that such right to a hearing may be waived pursuant to subsection (6) of this section. A notice of the licensee's right to a hearing shall include notice to the licensee that the license may be subject to sanctions as provided in section 54-631.

(4) A request for a hearing under subsection (2) of section 54-628.01 shall request that the director set forth the time and place of the hearing. The director shall consider the interests of the violator in establishing the time and place of the hearing. Within three business days after receipt by the director of the hearing request, the director shall set forth the time and place of the hearing on the stop-movement order. A notice of the violator's right to such hearing shall include notice that such right to a hearing may be waived pursuant to subsection (6) of this section.

(5) The hearings provided for in the act shall be conducted by the director at the time and place he or she designates. The director shall make a final finding based on the complete hearing record and issue an order. If the director has suspended a license pursuant to subsection (4) of section 54-631, the director shall sustain, modify, or rescind the order after the hearing. If the department has issued a stop-movement order under section 54-628.01, the director may sustain, modify, or rescind the order after the hearing. All hearings shall be in accordance with the Administrative Procedure Act.

(6) An applicant, a licensee, or a violator waives the right to a hearing if such applicant, licensee, or violator does not attend the hearing at the time and place set forth in the notice described in subsection (3) or (4) of this section, without requesting that the director, at least two days before the designated time, change the time and place for the hearing, except that before an order of the director becomes final, the director may designate a different time and place for the hearing if the applicant, licensee, or violator shows the director that the

applicant, licensee, or violator had a justifiable reason for not attending the hearing and not timely requesting a change of the time and place for such hearing. If the applicant, licensee, or violator waives the right to a hearing, the director shall make a final finding based upon the available information and issue an order. If the director has suspended a license pursuant to subsection (4) of section 54-631, the director may sustain, modify, or rescind the order after the hearing. If the department has issued a stop-movement order under section 54-628.01, the director may sustain, modify, or rescind the order after the hearing.

(7) Any person aggrieved by the finding of the director has ten days after the entry of the director's order to request a new hearing if such person can show that a mistake of fact has been made which affected the director's determination. Any order of the director becomes final upon the expiration of ten days after its entry if no request for a new hearing is made.

Source: Laws 2000, LB 825, § 8; Laws 2007, LB12, § 7; Laws 2009, LB241, § 8; Laws 2015, LB360, § 20.

Cross References

Administrative Procedure Act, see section 84-920.

54-633 Enforcement powers; administrative fine.

(1) In order to ensure compliance with the Commercial Dog and Cat Operator Inspection Act, the department may apply for a restraining order, temporary or permanent injunction, or mandatory injunction against any person violating or threatening to violate the act, the rules and regulations, or any order of the director issued pursuant thereto. The district court of the county where the violation is occurring or is about to occur shall have jurisdiction to grant relief upon good cause shown. Relief may be granted notwithstanding the existence of any other remedy at law and shall be granted without bond.

The county attorney of the county in which such violations are occurring or about to occur shall, when notified of such violation or threatened violation, cause appropriate proceedings under this section to be instituted and pursued without delay.

(2) The department may impose an administrative fine of not more than five thousand dollars for any violation of the act or the rules and regulations adopted and promulgated under the act. Each violation of the act or such rules and regulations shall constitute a separate offense for purposes of this subsection.

Source: Laws 2000, LB 825, § 9; Laws 2006, LB 856, § 15; Laws 2007, LB12, § 8; Laws 2015, LB360, § 21.

54-633.01 Special investigator; powers; referral to another law enforcement officer.

If the director has reason to believe that any alleged violation of the Commercial Dog and Cat Operator Inspection Act, any alleged violation of the rules and regulations of the department, any alleged violation of an order of the director, or any other existing condition posing a significant threat to the health or safety of the dogs or cats harbored or owned by an applicant or a licensee constitutes cruel neglect, abandonment, or cruel mistreatment pursuant to

section 28-1009, the director may direct a special investigator employed by the department as authorized pursuant to section 81-201 to exercise the authorities of a law enforcement officer pursuant to sections 28-1011 and 28-1012 with respect to the dogs or cats or may request any other law enforcement officer as defined in section 28-1008 to inspect, care for, or impound the dogs or cats pursuant to sections 28-1011 and 28-1012. Any assignment of a special investigator by the director or referral to another law enforcement officer pursuant to this section shall be in cooperation and coordination with appropriate law enforcement agencies, political subdivisions, animal shelters, humane societies, and other appropriate entities, public or private, to provide for the care, shelter, and disposition of animals impounded pursuant to this section.

Source: Laws 2015, LB360, § 22.

54-635 Commercial Dog and Cat Operator Inspection Program Cash Fund; created; use; investment.

The Commercial Dog and Cat Operator Inspection Program Cash Fund is created and shall consist of money appropriated by the Legislature, gifts, grants, costs, fees, or charges from any source, including federal, state, public, and private sources. The money shall be used to carry out the Commercial Dog and Cat Operator Inspection Act. 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.

Source: Laws 2000, LB 825, § 11; Laws 2016, LB909, § 3.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

54-637 Information on spaying and neutering; requirements.

(1) Every dealer, commercial dog or cat breeder, animal shelter, animal rescue, animal control facility, or pet shop or any other retailer, who transfers ownership of a dog or cat to an ultimate consumer, shall deliver to the ultimate consumer of each dog or cat at the time of sale, written material, in a form determined by such seller, containing information on the benefits of spaying and neutering. The written material shall include recommendations on establishing a relationship with a veterinarian, information on early-age spaying and neutering, the health benefits associated with spaying and neutering pets, the importance of minimizing the risk of homeless or unwanted animals, and the need to comply with applicable license laws.

(2) The delivering of any model materials prepared by the Pet Industry Joint Advisory Council or the Nebraska Humane Society shall satisfy the requirements of subsection (1) of this section.

Source: Laws 2003, LB 274, § 4; Laws 2010, LB910, § 8; Laws 2012, LB427, § 5.

54-640 Commercial dog or cat breeder; duties.

A commercial dog or cat breeder shall:

(1) Maintain housing facilities and primary enclosures in a sanitary condition;

(2) Enable all dogs and cats to remain dry and clean;

(3) Provide shelter and protection from extreme temperatures and weather conditions that may be uncomfortable or hazardous to the dogs and cats;

(4) Provide sufficient shade to shelter all the dogs and cats housed in the primary enclosure at one time;

(5) Provide dogs and cats with easy and convenient access to adequate amounts of clean food and water;

(6) Provide dogs with adequate socialization. For purposes of this subdivision, adequate socialization means physical contact with other dogs and with human beings, other than being fed;

(7) Assure that a handler's hands are washed before and after handling each infectious or contagious cat;

(8) Maintain a written veterinary care plan developed in conjunction with an attending veterinarian; and

(9) Provide veterinary care without delay when necessary.

Source: Laws 2003, LB 274, § 7; Laws 2009, LB241, § 10; Laws 2012, LB427, § 6.

54-641 Licensees; primary enclosures; requirements.

The primary enclosures of all licensees shall meet the following requirements:

(1) A primary enclosure shall provide adequate space appropriate to the age, size, weight, and breed of each dog or cat. For purposes of this subdivision, adequate space means sufficient room to allow each dog or cat to turn around without touching another animal, to stand, sit, and lie in a comfortable, normal position, and to walk in a normal manner without the head of such animal touching the top of the enclosure, which shall be at least six inches above the head of the tallest animal when the animal is standing;

(2) A primary enclosure shall have solid surface flooring or a flooring material that protects the dogs' and cats' feet and legs from injury and that, if of mesh or slatted construction, do not allow the dogs' and cats' feet to pass through any openings in the floor;

(3) If a primary enclosure has a suspended floor constructed of metal strands, the strands shall either be greater than one-eighth of an inch in diameter (nine gauge) or coated with a material such as plastic or fiberglass; and

(4) The suspended floor of any primary enclosure shall be strong enough so that the floor does not sag or bend between the structural supports.

Source: Laws 2003, LB 274, § 8; Laws 2012, LB427, § 7.

54-641.01 Commercial dog breeder; dogs; opportunity for exercise.

(1) A commercial dog breeder shall provide dogs with the opportunity for exercise as follows:

(a) A primary enclosure shall have an entry that allows each dog unfettered access to an exercise area that is at least three times the size of the requirements for a primary enclosure. The entry may be closed during cleaning, under direction of a licensed veterinarian, or in the case of inclement weather. The exercise area shall have solid surface flooring or a flooring material that if of mesh or slatted construction does not allow the dog's feet to pass through any openings in the floor. Any exercise area suspended floor constructed of metal strands shall be required to have strands that are greater than one-eighth of an

inch in diameter (nine gauge) or coated with a material such as plastic or fiberglass. All suspended flooring shall be strong enough so as not to sag or bend between any structural supports and be of a surface that is easily cleaned and disinfected. The exercise area shall have protection available from wind, rain, and snow if access to the primary enclosure is unavailable; and

(b) Any dog not housed in a primary enclosure that meets the exercise area requirements of subdivision (a) of this subsection shall be provided with the opportunity for exercise according to a plan approved by the attending veterinarian, in writing. The opportunity for exercise shall be accomplished by:

(i) Providing access to a run or open area at a frequency and duration prescribed by the attending veterinarian; or

(ii) Removal of the dogs from the primary enclosure at least twice daily to be walked, allowed to move about freely in an open area, or placed in an exercise area that meets the requirements of subdivision (a) of this subsection.

(2) Subsection (1) of this section shall not apply to:

(a) Any dog that is less than six months of age;

(b) The primary enclosure of a nursing facility that houses any female dog that is due to give birth within the following two weeks or a nursing dog and her puppies;

(c) Any dog that is injured or displays any clinical signs of disease. In such case, any injury or clinical signs of disease shall be noted in the dog's health records and the dog shall be returned to exercise upon recovery from such injury or disease; or

(d) Any dog that is excluded from the exercise requirements of subsection (1) of this section pursuant to a written directive of a licensed veterinarian.

(3) Any primary enclosure newly constructed after October 1, 2012, shall comply with subdivision (1)(a) of this section. A primary enclosure in existence on October 1, 2012, shall not be required to comply with subdivision (1)(a) of this section for the life of such facility.

Source: Laws 2012, LB427, § 8.

54-641.02 Commercial dog breeder; veterinary care; review of health records; duties of breeder.

(1) A commercial dog breeder shall ensure that each dog under his or her care, supervision, or control receives adequate veterinary care. A commercial dog breeder's written veterinary care plan shall provide for, in addition to requirements prescribed by rule and regulation of the department:

(a) The maintenance of individual health records for each dog bought, raised, or otherwise obtained, held, kept, maintained, sold, donated, or otherwise disposed of, including by death or euthanasia, except that litter health records may be kept on litters when litter mates are treated with the same medication or procedure;

(b) Establishment of a program of disease control and prevention, pest and parasite control, before and after procedure care, nutrition, and euthanasia supervised by the attending veterinarian. Such program shall provide for regularly scheduled onsite visits to the facility by the veterinarian and shall be annually reviewed and updated by the veterinarian at the time of an onsite visit that includes the veterinarian's walk-through of the facility and observation by

the veterinarian of dogs under the commercial dog breeder's care, supervision, or control; and

(c) A wellness examination by a licensed veterinarian of each breeding dog at least once every three years, to include a basic physical and dental examination and corresponding notations entered into the dog's health records. Such examination shall not require laboratory analysis unless directed by the veterinarian.

(2) During regularly scheduled inspections of a commercial dog breeder's facility conducted by the department, the health records of a random sample of at least five percent of the breeding dogs shall be reviewed to verify that such records correspond to the dog's permanent identification and verify that the health records are properly maintained.

(3) For each dog under the commercial dog breeder's care, supervision, or control, the breeder shall:

(a) Ensure that all breeding dogs receive regular grooming. Coat matting shall not exceed ten percent, and nails shall be trimmed short enough to ensure the comfort of the dog;

(b) Contact a licensed veterinarian without delay after an occurrence of a serious or life-threatening injury or medical condition of such dog. The dog shall be treated as prescribed by the veterinarian;

(c) Ensure that all surgical births or other surgical procedures shall be performed by a licensed veterinarian using anesthesia. Commercial dog breeders may remove dew claws and perform tail docking under sterile conditions within the first seven days of the dog's life. Wounds shall be treated and monitored by the breeder; and

(d) Ensure that, if euthanasia is necessary, it shall be performed by a licensed veterinarian in accordance with recommendations for the humane euthanization of dogs as published by the American Veterinary Medical Association.

Source: Laws 2012, LB427, § 9.

54-641.03 Breeding dog; microchip; identification.

Each breeding dog shall be identified by the implantation of a microchip, and each dog's health records shall accurately record the appropriate identification. The department may by rule or regulation require identification of any dog by tag, tattoo, or other method if the microchip system is determined to be ineffective. A commercial dog breeder licensed prior to October 1, 2012, who utilizes a method or methods of identification other than microchipping as authorized by rule and regulation of the department prior to October 1, 2012, may continue to utilize such method or methods.

Source: Laws 2012, LB427, § 10.

54-642 Department; submit report of costs and revenue.

On or before November 1 of each year, the department shall submit electronically a report to the Legislature in sufficient detail to document all costs incurred in the previous fiscal year in carrying out the Commercial Dog and Cat Operator Inspection Act. The report shall identify costs incurred by the department to administer the act and shall detail costs incurred by primary activity. The department shall also provide a breakdown by category of all revenue credited to the Commercial Dog and Cat Operator Inspection Program

Cash Fund in the previous fiscal year. The Agriculture Committee and Appropriations Committee of the Legislature shall review the report to ascertain program activity levels and to determine funding requirements of the program.

Source: Laws 2006, LB 856, § 16; Laws 2012, LB782, § 82.

(d) DOG AND CAT PURCHASE PROTECTION ACT

54-645 Terms, defined.

For purposes of the Dog and Cat Purchase Protection Act:

(1) Casual breeder means any person, other than a commercial dog or cat breeder as such terms are defined in section 54-626, who offers for sale, sells, trades, or receives consideration for one or more pet animals from a litter produced by a female dog or cat owned by such casual breeder;

(2) Clinical symptom means indication of an illness or dysfunction that is apparent to a veterinarian based on the veterinarian's observation, examination, or testing of an animal or on a review of the animal's medical records;

(3) Health certificate means the official small animal certificate of veterinary inspection of the Department of Agriculture;

(4) Pet animal means a dog, wholly or in part of the species *Canis familiaris*, or a cat, wholly or in part of the species *Felis domesticus*, that is under fifteen months of age;

(5) Purchaser means the final owner of a pet animal purchased from a seller. Purchaser does not include a person who purchases a pet animal for resale;

(6) Seller means a casual breeder or any commercial establishment, including a commercial dog or cat breeder, dealer, or pet shop as such terms are defined in section 54-626, that engages in a business of selling pet animals to a purchaser. A seller does not include an animal control facility, animal rescue, or animal shelter as defined in section 54-626 or any animal adoption activity that an animal control facility, animal rescue, or animal shelter conducts offsite at any pet store or other commercial establishment; and

(7)(a) Serious health problem means a congenital or hereditary defect or contagious disease that causes severe illness or death of the pet animal.

(b) Serious health problem does not include (i) parvovirus if the diagnosis of parvovirus is made after the seven-business-day requirement in subsection (1) of section 54-647 or (ii) any other contagious disease that causes severe illness or death after ten calendar days after delivery of the pet animal to the purchaser.

Source: Laws 2009, LB241, § 12; Laws 2010, LB910, § 10; Laws 2012, LB427, § 11; Laws 2020, LB344, § 65.
Effective date November 14, 2020.

54-646 Seller; written disclosure statement; contents; receipt; notice of purchaser's rights and responsibilities; health certificate; retention of records.

(1) A seller shall deliver to the purchaser at the time of sale of a pet animal a written disclosure statement containing the following information regarding the pet animal:

(a) The name, address, and license number of any commercial dog or cat breeder or dealer as such terms are defined in section 54-626 or, if applicable,

the United States Department of Agriculture license number of the breeder or any broker who has had possession of the animal prior to the seller's possession;

(b) The date of the pet animal's birth, if known, the state in which the pet animal was born, if known, and the date the seller received the pet animal;

(c) The sex and color of the pet animal, any other identifying marks apparent upon the pet animal, and the breed of the pet animal, if known, or a statement that the breed of the pet animal is unknown or the pet animal is of mixed breed;

(d) The pet animal's individual identifying tag, tattoo, microchip number, or collar number;

(e) The names and registration numbers of the sire and dam and the litter number, if applicable and if known;

(f) A record of any vaccination, worming treatment, or medication administered to the pet animal while in the possession of the seller and, if known, any such vaccination, treatment, or medication administered to the pet animal prior to the date the seller received the pet animal; and

(g) The date or dates of any examination of the pet animal by a licensed veterinarian while in the possession of the seller.

(2) The seller may include any of the following with the written disclosure statement required by subsection (1) of this section:

(a) A statement that a veterinarian examined the pet animal and, at the time of the examination, the pet animal had no apparent or clinical symptoms of a serious health problem that would adversely affect the health of the pet animal at the time of sale or that is likely to adversely affect the health of the pet animal in the future; and

(b) A record of any serious health problem that adversely affects the pet animal at the time of sale or that is likely to adversely affect the health of the pet animal in the future.

(3) The written disclosure statement made pursuant to this section shall be signed by the seller certifying the accuracy of the written disclosure statement and by the purchaser acknowledging receipt of the written disclosure statement. In addition to information required to be given to a purchaser under this section, at the time of sale the seller shall provide the purchaser with written notice of the existence of the purchaser's rights and responsibilities under the Dog and Cat Purchase Protection Act or a legible copy of the act.

(4) If the pet animal is sold to a purchaser who resides outside of the state or intends that the pet animal will be relocated or permanently domiciled outside of the state, the seller shall provide the purchaser with a health certificate signed by a licensed veterinarian who has examined the pet animal and is authorized to certify such certificate.

(5) The seller shall maintain a copy of any written disclosure statements made and any other records on the health, status, or disposition of each pet animal for at least one year after the date of sale to a purchaser.

Source: Laws 2009, LB241, § 13; Laws 2012, LB427, § 12.

PROTECTION OF HEALTH

ARTICLE 7

PROTECTION OF HEALTH

(a) GENERAL POWERS AND DUTIES OF DEPARTMENT OF AGRICULTURE

Section

54-701. Repealed. Laws 2020, LB344, § 82.
54-701.01. Repealed. Laws 2020, LB344, § 82.
54-701.02. Repealed. Laws 2020, LB344, § 82.
54-701.03. Repealed. Laws 2020, LB344, § 82.
54-702. Repealed. Laws 2020, LB344, § 82.
54-702.01. Repealed. Laws 2020, LB344, § 82.
54-703. Repealed. Laws 2020, LB344, § 82.
54-704. Repealed. Laws 2020, LB344, § 82.
54-705. Repealed. Laws 2020, LB344, § 82.

(b) BOVINE TUBERCULOSIS ACT

54-706.01. Repealed. Laws 2020, LB344, § 82.
54-706.02. Repealed. Laws 2020, LB344, § 82.
54-706.03. Repealed. Laws 2020, LB344, § 82.
54-706.04. Repealed. Laws 2020, LB344, § 82.
54-706.05. Repealed. Laws 2020, LB344, § 82.
54-706.06. Repealed. Laws 2020, LB344, § 82.
54-706.07. Repealed. Laws 2020, LB344, § 82.
54-706.08. Repealed. Laws 2020, LB344, § 82.
54-706.09. Repealed. Laws 2020, LB344, § 82.
54-706.10. Repealed. Laws 2020, LB344, § 82.
54-706.11. Repealed. Laws 2020, LB344, § 82.
54-706.12. Bovine Tuberculosis Cash Fund; created; use; investment; termination.
54-706.13. Repealed. Laws 2020, LB344, § 82.
54-706.14. Repealed. Laws 2020, LB344, § 82.
54-706.15. Repealed. Laws 2020, LB344, § 82.
54-706.16. Repealed. Laws 2020, LB344, § 82.
54-706.17. Repealed. Laws 2020, LB344, § 82.

(c) SCABIES

54-724.01. Repealed. Laws 2015, LB 91, § 1.
54-724.02. Repealed. Laws 2015, LB 91, § 1.

(d) GENERAL PROVISIONS

54-726.04. Repealed. Laws 2015, LB 91, § 1.
54-742. Repealed. Laws 2020, LB344, § 82.
54-743. Repealed. Laws 2020, LB344, § 82.
54-744. Repealed. Laws 2020, LB344, § 82.
54-744.01. Repealed. Laws 2020, LB344, § 82.
54-745. Repealed. Laws 2020, LB344, § 82.
54-746. Repealed. Laws 2020, LB344, § 82.
54-747. Repealed. Laws 2020, LB344, § 82.
54-750. Repealed. Laws 2020, LB344, § 82.
54-751. Repealed. Laws 2020, LB344, § 82.
54-752. Repealed. Laws 2020, LB344, § 82.
54-753. Repealed. Laws 2020, LB344, § 82.
54-753.01. Repealed. Laws 2020, LB344, § 82.
54-753.04. Repealed. Laws 2020, LB344, § 82.
54-753.06. Transferred to section 54-7,109.

(e) ANTHRAX

54-764. Repealed. Laws 2020, LB344, § 82.
54-765. Repealed. Laws 2020, LB344, § 82.
54-766. Repealed. Laws 2020, LB344, § 82.
54-767. Repealed. Laws 2020, LB344, § 82.
54-768. Repealed. Laws 2020, LB344, § 82.

§ 54-701**LIVESTOCK**

Section

- 54-769. Repealed. Laws 2020, LB344, § 82.
54-770. Repealed. Laws 2020, LB344, § 82.
54-771. Repealed. Laws 2020, LB344, § 82.
54-772. Repealed. Laws 2020, LB344, § 82.
54-773. Repealed. Laws 2020, LB344, § 82.
54-774. Repealed. Laws 2020, LB344, § 82.
54-775. Repealed. Laws 2020, LB344, § 82.
54-776. Repealed. Laws 2020, LB344, § 82.
54-777. Repealed. Laws 2020, LB344, § 82.
54-778. Anthrax Control Act Cash Fund; created; use; investment; termination.
54-779. Repealed. Laws 2020, LB344, § 82.
54-780. Repealed. Laws 2020, LB344, § 82.
54-781. Repealed. Laws 2020, LB344, § 82.

(f) IMPORT CONTROL

- 54-784.01. Repealed. Laws 2020, LB344, § 82.
54-785. Repealed. Laws 2020, LB344, § 82.
54-786. Repealed. Laws 2020, LB344, § 82.
54-787. Repealed. Laws 2020, LB344, § 82.
54-788. Repealed. Laws 2020, LB344, § 82.
54-789. Repealed. Laws 2020, LB344, § 82.
54-790. Repealed. Laws 2020, LB344, § 82.
54-791. Repealed. Laws 2020, LB344, § 82.
54-792. Repealed. Laws 2020, LB344, § 82.
54-793. Repealed. Laws 2020, LB344, § 82.
54-794. Repealed. Laws 2020, LB344, § 82.
54-795. Repealed. Laws 2020, LB344, § 82.
54-796. Repealed. Laws 2020, LB344, § 82.

(g) LIVESTOCK CERTIFICATION PROGRAM

- 54-797. Livestock certification program; department; duties; registry.

(i) EXOTIC ANIMAL AUCTIONS AND SWAP MEETS

- 54-7,105. Act, how cited; purpose.
54-7,105.01. Terms, defined.
54-7,106. Permit; notification requirements; application; denial; grounds; prohibited acts.
54-7,107. Records; contents; access by department.
54-7,108. Prohibited transfers; certificate of veterinary inspection; duties of exotic animal auction or exchange venue organizer; requirements for certain animals.
54-7,109. Compliance with game laws required.
54-7,110. Repealed. Laws 2020, LB344, § 82.

(a) GENERAL POWERS AND DUTIES OF
DEPARTMENT OF AGRICULTURE

54-701 Repealed. Laws 2020, LB344, § 82.

54-701.01 Repealed. Laws 2020, LB344, § 82.

54-701.02 Repealed. Laws 2020, LB344, § 82.

54-701.03 Repealed. Laws 2020, LB344, § 82.

54-702 Repealed. Laws 2020, LB344, § 82.

54-702.01 Repealed. Laws 2020, LB344, § 82.

54-703 Repealed. Laws 2020, LB344, § 82.

54-704 Repealed. Laws 2020, LB344, § 82.

54-705 Repealed. Laws 2020, LB344, § 82.

(b) BOVINE TUBERCULOSIS ACT

54-706.01 Repealed. Laws 2020, LB344, § 82.

54-706.02 Repealed. Laws 2020, LB344, § 82.

54-706.03 Repealed. Laws 2020, LB344, § 82.

54-706.04 Repealed. Laws 2020, LB344, § 82.

54-706.05 Repealed. Laws 2020, LB344, § 82.

54-706.06 Repealed. Laws 2020, LB344, § 82.

54-706.07 Repealed. Laws 2020, LB344, § 82.

54-706.08 Repealed. Laws 2020, LB344, § 82.

54-706.09 Repealed. Laws 2020, LB344, § 82.

54-706.10 Repealed. Laws 2020, LB344, § 82.

54-706.11 Repealed. Laws 2020, LB344, § 82.

54-706.12 Bovine Tuberculosis Cash Fund; created; use; investment; termination.

The Bovine Tuberculosis Cash Fund is created. The fund shall consist of money appropriated by the Legislature and gifts, grants, costs, or charges from any source, including federal, state, public, and private sources. The fund shall be used to carry out the Bovine Tuberculosis Act. 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. The fund terminates on November 14, 2020, and the State Treasurer shall transfer any money in the fund on such date to the Animal Health and Disease Control Cash Fund.

Source: Laws 2007, LB110, § 12; Laws 2020, LB344, § 66.
Effective date November 14, 2020.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

54-706.13 Repealed. Laws 2020, LB344, § 82.

54-706.14 Repealed. Laws 2020, LB344, § 82.

54-706.15 Repealed. Laws 2020, LB344, § 82.

54-706.16 Repealed. Laws 2020, LB344, § 82.

54-706.17 Repealed. Laws 2020, LB344, § 82.

(c) SCABIES

54-724.01 Repealed. Laws 2015, LB 91, § 1.

54-724.02 Repealed. Laws 2015, LB 91, § 1.

(d) GENERAL PROVISIONS

54-726.04 Repealed. Laws 2015, LB 91, § 1.

54-742 Repealed. Laws 2020, LB344, § 82.

54-743 Repealed. Laws 2020, LB344, § 82.

54-744 Repealed. Laws 2020, LB344, § 82.

54-744.01 Repealed. Laws 2020, LB344, § 82.

54-745 Repealed. Laws 2020, LB344, § 82.

54-746 Repealed. Laws 2020, LB344, § 82.

54-747 Repealed. Laws 2020, LB344, § 82.

54-750 Repealed. Laws 2020, LB344, § 82.

54-751 Repealed. Laws 2020, LB344, § 82.

54-752 Repealed. Laws 2020, LB344, § 82.

54-753 Repealed. Laws 2020, LB344, § 82.

54-753.01 Repealed. Laws 2020, LB344, § 82.

54-753.04 Repealed. Laws 2020, LB344, § 82.

54-753.06 Transferred to section 54-7,109.

(e) ANTHRAX

54-764 Repealed. Laws 2020, LB344, § 82.

54-765 Repealed. Laws 2020, LB344, § 82.

54-766 Repealed. Laws 2020, LB344, § 82.

54-767 Repealed. Laws 2020, LB344, § 82.

54-768 Repealed. Laws 2020, LB344, § 82.

54-769 Repealed. Laws 2020, LB344, § 82.

54-770 Repealed. Laws 2020, LB344, § 82.

54-771 Repealed. Laws 2020, LB344, § 82.

54-772 Repealed. Laws 2020, LB344, § 82.

54-773 Repealed. Laws 2020, LB344, § 82.

54-774 Repealed. Laws 2020, LB344, § 82.

54-775 Repealed. Laws 2020, LB344, § 82.

54-776 Repealed. Laws 2020, LB344, § 82.

54-777 Repealed. Laws 2020, LB344, § 82.

54-778 Anthrax Control Act Cash Fund; created; use; investment; termination.

The Anthrax Control Act Cash Fund is created. The fund shall consist of money appropriated by the Legislature and gifts, grants, costs, or charges from any source, including federal, state, public, and private sources. The fund shall be used to carry out the Anthrax Control Act. 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. The fund terminates on November 14, 2020, and the State Treasurer shall transfer any money in the fund on such date to the Animal Health and Disease Control Cash Fund.

Source: Laws 2009, LB99, § 15; Laws 2020, LB344, § 67.
Effective date November 14, 2020.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

54-779 Repealed. Laws 2020, LB344, § 82.

54-780 Repealed. Laws 2020, LB344, § 82.

54-781 Repealed. Laws 2020, LB344, § 82.

(f) IMPORT CONTROL

54-784.01 Repealed. Laws 2020, LB344, § 82.

54-785 Repealed. Laws 2020, LB344, § 82.

54-786 Repealed. Laws 2020, LB344, § 82.

54-787 Repealed. Laws 2020, LB344, § 82.

54-788 Repealed. Laws 2020, LB344, § 82.

54-789 Repealed. Laws 2020, LB344, § 82.

54-790 Repealed. Laws 2020, LB344, § 82.

54-791 Repealed. Laws 2020, LB344, § 82.

54-792 Repealed. Laws 2020, LB344, § 82.

54-793 Repealed. Laws 2020, LB344, § 82.

54-794 Repealed. Laws 2020, LB344, § 82.

54-795 Repealed. Laws 2020, LB344, § 82.

54-796 Repealed. Laws 2020, LB344, § 82.

(g) LIVESTOCK CERTIFICATION PROGRAM

54-797 Livestock certification program; department; duties; registry.

The Department of Agriculture shall provide voluntary livestock certification programs when requested by a livestock health committee and others when deemed by the department to be beneficial and appropriate for the livestock industry. The department shall work together with the appropriate livestock producers or groups and the Department of Veterinary and Biomedical Sciences of the University of Nebraska to establish procedures for the certification of participating herds. The Department of Agriculture may maintain a livestock certification registry for each livestock certification program that provides information regarding the voluntary certification program and may include the names of participating livestock producers who have a herd or flock enrolled in the voluntary livestock certification program.

Source: Laws 2001, LB 438, § 10; Laws 2020, LB344, § 68.
Effective date November 14, 2020.

Cross References

Definitions, see section 54-701.03.

(i) EXOTIC ANIMAL AUCTIONS AND SWAP MEETS

54-7,105 Act, how cited; purpose.

(1) Sections 54-7,105 to 54-7,109 shall be known and may be cited as the Exotic Animal Auction or Exchange Venue Act.

(2) The purpose of the Exotic Animal Auction or Exchange Venue Act is to require an exotic animal auction or exchange venue organizer to obtain a permit from the department before conducting an exotic animal auction or exchange venue and to maintain records for animal disease tracking purposes. Exotic animals sold at an exotic animal auction or exchange venue are often foreign to the United States or to the State of Nebraska. These exotic animals may carry dangerous, infectious, contagious, or otherwise transmissible diseases, including foreign animal diseases, which could pose a threat to Nebraska's livestock health and the livestock industry.

Source: Laws 2006, LB 856, § 6; Laws 2014, LB884, § 13; Laws 2020, LB344, § 69.
Effective date November 14, 2020.

Cross References

Definitions, see section 54-701.03.

Department of Agriculture, State Veterinarian, powers, see sections 54-703 to 54-705.

Violations, penalties, see section 54-752.

54-7,105.01 Terms, defined.

For purposes of the Exotic Animal Auction or Exchange Venue Act:

- (1) Accredited veterinarian has the same meaning as in section 54-2903;
- (2) Animal has the same meaning as in section 54-2906;
- (3) Animal welfare organization has the same meaning as in section 54-2503;
- (4) Certificate of veterinary inspection means a legible document approved by the department, either paper copy or electronic, issued by an accredited veterinarian at the point of origin of an animal movement which records the (a)

name and address of both consignor and consignee, (b) purpose of animal's movement, (c) destination in the state which includes the street address or enhanced-911 address of the premises, (d) age, breed, sex, and number of animals in the shipment, (e) description of the animals, (f) individual identification, when required, and (g) health examination date of the animals. The certificate of veterinary inspection is an acknowledgment by the accredited veterinarian of the apparent absence of any infectious, dangerous, contagious, or otherwise transmissible disease of any animal sold or offered for sale, purchased, bartered, or other change of ownership at an exotic animal auction or exchange venue;

(5) Change of ownership means the transfer within the State of Nebraska of possession or control of an animal allowed to be transferred through consignment, sale, purchase, barter, lease, exchange, trade, gift, or any other transfer of possession or control at an exotic animal auction or exchange venue;

(6) Dangerous disease has the same meaning as in section 54-2911;

(7) Department means the Department of Agriculture of the State of Nebraska;

(8) Domesticated cervine animal has the same meaning as in section 54-2914;

(9) Exotic animal means any animal which is not commonly sold through licensed livestock auction markets pursuant to the Livestock Auction Market Act. Such animals shall include, but not be limited to, miniature cattle (bovine), miniature horses, miniature donkeys, sheep (ovine), goats (caprine), alpacas (camelid), llamas (camelid), pot-bellied pigs (porcine), and small mammals, with the exception of cats of the *Felis domesticus* species and dogs of the *Canis familiaris* species. The term also includes birds and poultry. The term does not include beef and dairy cattle, calves, swine, bison, or domesticated cervine animals;

(10) Exotic animal auction or exchange venue means any event or location, other than a livestock auction market as defined in section 54-1158 or events by an animal welfare organization or at an animal welfare organization location, where (a) an exotic animal is consigned, purchased, sold, traded, bartered, given away, or otherwise transferred, (b) an offer to purchase an exotic animal is made, (c) an exotic animal is offered to be consigned, sold, traded, bartered, given away, or otherwise transferred, or (d) any other event or location where there is a change of ownership of an exotic animal;

(11) Exotic animal auction or exchange venue organizer means a person in charge of organizing an exotic animal auction or exchange venue event, and may include any person who: (a) Arranges events for third parties to have private sales or trades of exotic animals; (b) organizes or coordinates exotic animal auctions or exchange venues; (c) leases out areas for exotic animal auctions or exchange venues; (d) provides or coordinates other similar arrangements involving exotic animals at retail establishments such as feed and supply stores, farm implement stores, and farm and ranch stores, which allow such sales in or on the premises; or (e) takes exotic animals for consignment on behalf of third parties;

(12) Officially identified means the application of an official identification device or method approved by the United States Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services; and

(13) Poultry has the same meaning as in section 54-2926.

Source: Laws 2014, LB884, § 14; Laws 2020, LB344, § 70.
Effective date November 14, 2020.

Cross References

Livestock Auction Market Act, see section 54-1156.

54-7,106 Permit; notification requirements; application; denial; grounds; prohibited acts.

(1) Each exotic animal auction or exchange venue organizer shall apply for a permit and notify the department at least thirty days prior to the date on which the exotic animal auction or exchange venue is to be held. An applicant for a permit shall verify upon the application that the applicant has contracted the services of an accredited veterinarian to be present during the exotic animal auction or exchange venue as required under subsection (4) of section 54-7,108. Notification shall include the location, time, and dates of the exotic animal auction or exchange venue and the name and address of the exotic animal auction or exchange venue organizer. Notification shall be made in writing or by facsimile transmission. If a livestock auction market holds an exotic animal auction or exchange venue through its licensed livestock auction market, such livestock auction market shall comply with the Exotic Animal Auction or Exchange Venue Act for purposes of the exotic animal auction or exchange venue.

(2) The department may deny an application for a permit if the application does not satisfy the requirements of subsection (1) of this section, for previous acts or omissions of the applicant in noncompliance with the Exotic Animal Auction or Exchange Venue Act, or upon a determination that the applicant is unable to fulfill the duties and responsibilities of a permittee under the act.

(3) No person shall conduct an exotic animal auction or exchange venue without a permit issued pursuant to this section.

(4) No change of ownership of bovine, camelid, caprine, ovine, or porcine animals may occur at private treaty on the premises where the exotic animal auction or exchange venue is being held for the twenty-four-hour period prior to commencement of the exotic animal auction or exchange venue, nor for twenty-four hours following such event, unless such animals have a certificate of veterinary inspection at change of ownership.

Source: Laws 2006, LB 856, § 7; Laws 2014, LB884, § 15.

Cross References

Definitions, see section 54-701.03.

Department of Agriculture, State Veterinarian, powers, see sections 54-703 to 54-705.

Violations, penalties, see section 54-752.

54-7,107 Records; contents; access by department.

(1) An exotic animal auction or exchange venue organizer shall maintain records for each exotic animal auction or exchange venue such organizer arranges, organizes, leases areas for, consigns, or otherwise coordinates at least five years after the date of the exotic animal auction or exchange venue. The records shall include:

(a) The name, address, and telephone number of the exotic animal auction or exchange venue organizer;

(b) The name and address of all persons who purchased, sold, traded, bartered, gave away, or otherwise transferred an exotic animal at the exotic animal auction or exchange venue;

(c) The number of and species or type of each exotic animal purchased, sold, traded, bartered, given away, or otherwise transferred at the exotic animal auction or exchange venue;

(d) The date of purchase, sale, trade, barter, or other transfer of an exotic animal at the exotic animal auction or exchange venue; and

(e) When required by the Animal Health and Disease Control Act or the Exotic Animal Auction or Exchange Venue Act, a copy of the completed certificate of veterinary inspection for each exotic animal purchased, sold, traded, bartered, given away, or otherwise transferred at the exotic animal auction or exchange venue.

(2) An exotic animal auction or exchange venue organizer shall, during all reasonable times, permit authorized employees and agents of the department to have access to and to copy any or all records relating to his or her exotic animal auction or exchange venue business.

(3) When necessary for the enforcement of the Exotic Animal Auction or Exchange Venue Act or any rules and regulations adopted and promulgated pursuant to such act, the authorized employees and agents of the department may access the records required by this section.

Source: Laws 2006, LB 856, § 8; Laws 2014, LB884, § 16; Laws 2020, LB344, § 71.

Effective date November 14, 2020.

Cross References

Animal Health and Disease Control Act, see section 54-2901.

Definitions, see section 54-701.03.

Department of Agriculture, State Veterinarian, powers, see sections 54-703 to 54-705.

Violations, penalties, see section 54-752.

54-7,108 Prohibited transfers; certificate of veterinary inspection; duties of exotic animal auction or exchange venue organizer; requirements for certain animals.

(1) No beef or dairy cattle, calves, swine, bison, or domesticated cervine animals shall be, or offered to be, consigned, purchased, sold, bartered, traded, given away, or otherwise transferred at an exotic animal auction or exchange venue.

(2) An exotic animal auction or exchange venue organizer shall contact the department if a particular animal cannot be readily identified as an animal that is prohibited from being consigned, purchased, sold, bartered, traded, given away, or otherwise transferred at an exotic animal auction or exchange venue under this section.

(3) No bovine, camelid, caprine, ovine, or porcine animal shall be, or be offered to be, consigned, purchased, sold, bartered, traded, given away, or otherwise transferred at an exotic animal auction or exchange venue unless, prior to a change of ownership or other transfer of the animal, a completed certificate of veterinary inspection for such animal is presented to the exotic animal auction or exchange venue organizer. Such certificate of veterinary inspection shall be signed by an accredited veterinarian on the date of or no

more than thirty days prior to the date the exotic animal auction or exchange venue is held.

(4) An exotic animal auction or exchange venue organizer shall contract with an accredited veterinarian to be present during the exotic animal auction or exchange venue for visually inspecting such exotic animals and to issue necessary certificates of veterinary inspection for change of ownership when required by the Animal Health and Disease Control Act or the Exotic Animal Auction or Exchange Venue Act.

(5) All dairy goats imported into Nebraska shall have an official tuberculin test prior to import into Nebraska. All sheep and goats shall have official identification as required under the Animal Health and Disease Control Act.

(6) A copy of the certificate of veterinary inspection shall be submitted to the department by the exotic animal auction or exchange venue organizer within seven days from the date the exotic animal auction or exchange venue was held.

(7) Any bovine, camelid, caprine, ovine, or porcine animal which is not prohibited from transfer at an exotic animal auction or exchange venue shall be officially identified prior to change of ownership.

Source: Laws 2006, LB 856, § 9; Laws 2014, LB884, § 17; Laws 2020, LB344, § 72.

Effective date November 14, 2020.

Cross References

Animal Health and Disease Control Act, see section 54-2901.

Definitions, see section 54-701.03.

Department of Agriculture, State Veterinarian, powers, see sections 54-703 to 54-705.

Violations, penalties, see section 54-752.

54-7,109 Compliance with game laws required.

Compliance with the Exotic Animal Auction or Exchange Venue Act does not relieve a person of the requirement to comply with the provisions of sections 37-477 to 37-479.

Source: Laws 2006, LB 856, § 10; R.S.1943, (2010), § 54-753.06; Laws 2014, LB884, § 18.

54-7,110 Repealed. Laws 2020, LB344, § 82.

ARTICLE 8 COMMERCIAL FEED

Section

54-850. Manufacturer or distributor; license required; application; fee; posting; exception; cancellation.

54-856. Inspection fees; administrative fee; statement and records required.

54-857. Commercial Feed Administration Cash Fund; created; use; investment.

54-850 Manufacturer or distributor; license required; application; fee; posting; exception; cancellation.

(1) No person shall manufacture or distribute commercial feed in this state unless such person holds a valid license for each manufacturing and distribution facility in this state. Any out-of-state manufacturer or distributor who has

no distribution facility within this state shall obtain a license for his or her principal out-of-state office if he or she markets or distributes commercial feed in the State of Nebraska.

(2) Application for a license shall be made to the department on forms prescribed and furnished by the department. The application shall be accompanied by an annual license fee of fifteen dollars. Licenses shall be renewed on or before January 1 of each year.

(3) A copy of the valid license shall be posted in a conspicuous place in each manufacturing or distribution facility.

(4) This section shall not apply to any person who distributes less than a five-ton volume of commercial feed annually.

(5) The director may refuse to issue a license for any commercial feed facility not in compliance with the Commercial Feed Act and may cancel any license subsequently found not in compliance with such act. No license shall be refused or canceled unless the applicant has been given an opportunity to be heard before the director.

Source: Laws 1986, LB 322, § 4; Laws 1997, LB 752, § 133; Laws 2016, LB909, § 4.

54-856 Inspection fees; administrative fee; statement and records required.

(1) There shall be paid to the director an inspection fee of ten cents per ton on all commercial feed distributed in the State of Nebraska during the six-month period following January 1, 1987. After the first six months of operation, the fee may be raised or lowered by the director after a public hearing is held outlining the reason for any proposed change in the rate. The maximum rate fixed by the director shall not exceed fifteen cents per ton. The inspection fee shall be paid on commercial feed distributed by the person whose name appears on the label as the manufacturer, guarantor, or distributor, except that a person other than the manufacturer, guarantor, or distributor may assume liability for the inspection fee, subject to the following:

(a) No fee shall be paid on a commercial feed if the payment has been made by a previous distributor;

(b) No fee shall be paid on customer-formula feed if the inspection fee is paid on the commercial feed which is used as ingredients therein;

(c) No fee shall be paid on commercial feed used as ingredients for the manufacture of other commercial feed. If the fee has already been paid, credit shall be given for such payment;

(d) In the case of a commercial feed which is distributed in the state only in packages of ten pounds or less, an annual fee fixed by the director, not to exceed twenty-five dollars, shall be paid in lieu of the inspection fee. The annual fee shall be paid not later than the last day of January each year; and

(e) The minimum inspection fee shall be five dollars for any six-month reporting period.

(2) If the director determines that it is necessary to adjust the rate of the inspection fee being paid to the department, all persons holding a valid license issued pursuant to section 54-850 shall be so notified and shall be given an opportunity to offer comment at a public hearing which shall be required prior to any inspection fee rate change.

(3) Each person who is liable for the payment of such fee shall:

(a) File, not later than January 31 and July 31 of each year, a semiannual statement setting forth the number of tons of commercial feed distributed in this state during the preceding six-month period, which statement shall cover the periods from July 1 to December 31 and January 1 to June 30, and upon filing such statement, pay the inspection fee at the rate specified by this section. Any person who holds a valid license issued pursuant to section 54-850 and whose name appears on the label as the manufacturer, guarantor, or distributor shall file such statement regardless of whether any inspection fee is due. Inspection fees which are due and owing and have not been remitted to the director within fifteen days following the date due shall have an administrative fee of twenty-five percent of the fees due added to the amount due when payment is made, and an additional administrative fee of twenty-five percent of the fees due shall be added if such inspection and administrative fees are not paid within thirty days of the due date. The purpose of the additional administrative fees is to cover the administrative costs associated with collecting fees. All money collected as an additional administrative fee shall be remitted to the State Treasurer for credit to the Commercial Feed Administration Cash Fund. The assessment of this administrative fee shall not prevent the director from taking other actions as provided in the Commercial Feed Act; and

(b) Keep such records as may be necessary or required by the director to indicate accurately the tonnage of commercial feed distributed in this state. The director shall have the right to examine such records to verify statements of tonnage. Failure to make an accurate statement, to pay the inspection fee, or to comply as provided in this section shall constitute sufficient cause for the cancellation of all licenses on file.

Source: Laws 1986, LB 322, § 10; Laws 1992, LB 366, § 18; Laws 2016, LB909, § 5.

54-857 Commercial Feed Administration Cash Fund; created; use; investment.

All money received pursuant to the Commercial Feed Act shall be remitted by the director to the State Treasurer for credit to the Commercial Feed Administration Cash Fund which is hereby created. Such fund shall be used by the department to aid in defraying the expenses of administering the act and to aid in defraying the expenses related to a cooperative agreement with the United States Department of Agriculture Market News reporting program. Transfers may be made from the fund to the General Fund at the direction of the Legislature. Any money in the Commercial Feed Administration Cash 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.

Source: Laws 1986, LB 322, § 11; Laws 1995, LB 7, § 57; Laws 2008, LB961, § 3; Laws 2009, First Spec. Sess., LB3, § 29; Laws 2011, LB305, § 1; Laws 2012, LB782, § 83; Laws 2014, LB941, § 2; Laws 2017, LB2, § 1.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

ARTICLE 9

LIVESTOCK ANIMAL WELFARE ACT

Section

- 54-901. Act, how cited.
54-902. Terms, defined.
54-905. Court order for reimbursement of expenses; liability for expenses; lien.
54-906. Law enforcement officer; warrant authorizing entry upon property; issue citation; seizure of animal and property; custody agreement; law enforcement officer; powers; duties; liability.
54-913. Livestock animal seized; hearing to determine disposition and cost; notice; court order; appeal; euthanasia.

54-901 Act, how cited.

Sections 54-901 to 54-913 shall be known and may be cited as the Livestock Animal Welfare Act.

Source: Laws 2010, LB865, § 1; Laws 2013, LB423, § 5.

54-902 Terms, defined.

For purposes of the Livestock Animal Welfare Act:

- (1) Abandon means to leave a livestock animal in one's care, whether as owner or custodian, for any length of time without making effective provision for the livestock animal's feed, water, or other care as is reasonably necessary for the livestock animal's health;
- (2) Animal welfare practice means veterinarian practices and animal husbandry practices common to the livestock animal industry, including transport of livestock animals from one location to another;
- (3) Bovine means a cow, an ox, or a bison;
- (4) Cruelly mistreat means to knowingly and intentionally kill or cause physical harm to a livestock animal in a manner that is not consistent with animal welfare practices;
- (5) Cruelly neglect means to fail to provide a livestock animal in one's care, whether as owner or custodian, with feed, water, or other care as is reasonably necessary for the livestock animal's health;
- (6) Equine means a horse, pony, donkey, mule, or hinny;
- (7) Euthanasia means the destruction of a livestock animal by commonly accepted veterinary practices;
- (8) Law enforcement officer means any member of the Nebraska State Patrol, any county or deputy sheriff, any member of the police force of any city or village, or any other public official authorized by a city or village to enforce state or local laws, rules, regulations, or ordinances;
- (9) Livestock animal means any bovine, equine, swine, sheep, goats, domesticated cervine animals, ratite birds, llamas, or poultry;
- (10) Owner or custodian means any person owning, keeping, possessing, harboring, or knowingly permitting an animal to remain on or about any premises owned or occupied by such person; and
- (11) Serious injury or illness includes any injury or illness to any livestock animal which creates a substantial risk of death or which causes broken bones,

prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ.

Source: Laws 2010, LB865, § 2; Laws 2013, LB423, § 6.

54-905 Court order for reimbursement of expenses; liability for expenses; lien.

(1) In addition to any other sentence given for a violation of section 54-903 or 54-904, the sentencing court may order the defendant to reimburse a public or private agency for any unreimbursed expenses incurred in conjunction with the care, seizure, or disposal of a livestock animal involved in the violation of such section. Whenever the court believes that such reimbursement is a proper sentence or at the prosecuting attorney's request, the court shall order that the presentence investigation report include documentation regarding the nature and amount of the expenses incurred. The court may order that reimbursement be made immediately, in specified installments, or within a specified period of time, not to exceed five years after the date of judgment.

(2) Even if reimbursement for expenses is not ordered under subsection (1) of this section, the defendant shall be liable for all expenses incurred by a public or private agency in conjunction with the care, seizure, or disposal of a livestock animal. The expenses shall be a lien upon the livestock animal.

Source: Laws 2010, LB865, § 5; Laws 2013, LB423, § 7.

54-906 Law enforcement officer; warrant authorizing entry upon property; issue citation; seizure of animal and property; custody agreement; law enforcement officer; powers; duties; liability.

(1) A law enforcement officer who has reason to believe that a livestock animal has been abandoned or is being cruelly neglected or cruelly mistreated may seek a warrant authorizing entry upon private property to inspect, care for, or impound the livestock animal.

(2) A law enforcement officer who has reason to believe that a livestock animal has been abandoned or is being cruelly neglected or cruelly mistreated may issue a citation to the owner or custodian as prescribed in sections 29-422 to 29-429.

(3) A law enforcement officer may specify in a custody agreement the terms and conditions by which the owner or custodian may maintain custody of the livestock animal to provide care for such animal at the expense of the owner or custodian. The custody agreement shall be signed by the owner or custodian of the livestock animal. A copy of the signed agreement shall be provided to the owner or custodian of the livestock animal. A violation of the custody agreement may result in the seizure of the livestock animal.

(4) Any equipment, device, or other property or things involved in a violation of section 54-903 or 54-904 shall be subject to seizure, and distribution or disposition may be made in such manner as the court may direct. Any livestock animal involved in a violation of section 54-903 or 54-904 shall be subject to seizure. Distribution or disposition shall be made under section 54-913 as the court may direct. Any livestock animal seized under this subsection may be kept by the law enforcement officer on the property of the owner or custodian of such livestock animal.

(5) A law enforcement officer may euthanize or cause a livestock animal seized or kept pursuant to this section to be euthanized if the animal is severely emaciated, injured, disabled, or diseased past recovery for any useful purpose. The law enforcement officer shall notify the owner or custodian prior to the euthanasia if practicable under the circumstances. An owner or custodian may request that a veterinarian of the owner's or custodian's choosing view the livestock animal and be present upon examination of the livestock animal, and no livestock animal shall be euthanized without reasonable accommodation to provide for the presence of the owner's or custodian's veterinarian when requested. However, attempted notification of the owner or custodian or the presence of the owner's or custodian's veterinarian shall not unduly delay euthanasia when necessary. The law enforcement officer may forgo euthanasia if the care of the livestock animal is placed with the owner's or custodian's veterinarian.

(6) A law enforcement officer acting under this section shall not be liable for damage to property if such damage is not the result of the officer's negligence.

Source: Laws 2010, LB865, § 6; Laws 2013, LB423, § 8.

54-913 Livestock animal seized; hearing to determine disposition and cost; notice; court order; appeal; euthanasia.

(1) After a livestock animal has been seized, the agency that took custody of the livestock animal shall, within seven days after the date of seizure, file a complaint with the district court in the county in which the animal was seized for a hearing to determine the disposition and the cost for the care of the livestock animal. Notice of such hearing shall be given to the owner or custodian from whom such livestock animal was seized and to any holder of a lien or security interest of record in such livestock animal, specifying the date, time, and place of such hearing. Such notice shall be served by personal or residential service or by certified mail. If such notice cannot be served by such methods, service may be made by publication in the county where such livestock animal was seized. Such publication shall be made after application and order of the court. The hearing shall be held as soon as practicable and not more than ten business days after the date of application for the hearing unless otherwise determined and ordered by the court.

(2) If the court finds that probable cause exists that the livestock animal has been abandoned or cruelly neglected or mistreated, the court may:

(a) Order immediate forfeiture of the livestock animal to the agency that took custody of the livestock animal and authorize appropriate disposition of the livestock animal, including sale at public auction, adoption, donation to a suitable shelter, humane destruction, or any other manner of disposition approved by the court. With respect to sale of a livestock animal, the proceeds shall first be applied to the cost of sale and then to the expenses for the care of the livestock animal and the remaining proceeds, if any, shall be paid to the holder of a lien or security interest of record in such livestock animal and then to the owner of the livestock animal;

(b) Issue an order to the owner or custodian setting forth the conditions under which custody of the livestock animal shall be returned to the owner or custodian from whom the livestock animal was seized or to any other person claiming an interest in the livestock animal. Such order may include any management actions deemed necessary and prudent by the court, including

culling by sale, humane disposal, or forfeiture and securing necessary care, including veterinary care, sufficient for the maintenance of any remaining livestock animal; or

(c) Order the owner or custodian from whom the livestock animal was seized to post a bond or other security, or to otherwise order payment, in an amount that is sufficient to reimburse all reasonable expenses, as determined by the court, for the care of the livestock animal, including veterinary care, incurred by the agency from the date of seizure and necessitated by the possession of the livestock animal. Payments shall be for a succeeding thirty-day period with the first payment due on or before the tenth day following the hearing. Payments for each subsequent succeeding thirty-day period, if any, shall be due on or before the tenth day of such period. The bond or security shall be placed with, or payments ordered under this subdivision shall be paid to, the agency that took custody of the livestock animal. The agency shall provide an accounting of expenses to the court when the livestock animal is no longer in the custody of the agency or upon request by the court. The agency may petition the court for a subsequent hearing under this subsection at any time. The hearing shall be held as soon as practicable and not more than ten business days after the date of application for the hearing unless otherwise determined and ordered by the court. When all expenses covered by the bond or security are exhausted and subsequent bond or security has not been posted or if a person becomes delinquent in his or her payments for the expenses of the livestock animal, the livestock animal shall be forfeited to the agency.

(3) If custody of a livestock animal is returned to the owner or custodian of the livestock animal prior to seizure, any proceeds of a bond or security or any payment or portion of payment ordered under this section not used for the care of the livestock animal during the time the animal was held by the agency shall be returned to the owner or custodian.

(4) Nothing in this section shall prevent the euthanasia of a seized livestock animal at any time as determined necessary by a law enforcement officer or as authorized by court order.

(5) An appeal may be entered within ten days after a hearing under this section. Any person filing an appeal shall post a bond or security sufficient to pay reasonable costs of care of the livestock animal for thirty days. Such payment will be required for each succeeding thirty-day period until the appeal is final.

(6) If the owner or custodian from whom the livestock animal was seized is found not guilty in an associated criminal proceeding, all funds paid for the expenses of the livestock animal remaining after the actual expenses incurred by the agency have been paid shall be returned to such person.

(7) This section shall not preempt any ordinance of a city of the metropolitan or primary class.

Source: Laws 2013, LB423, § 9.

ARTICLE 11

LIVESTOCK AUCTION MARKET ACT

Section

54-1156. Act, how cited.
54-1158. Terms, defined.
54-1159. Exemptions from act.

Section	
54-1160.	Repealed. Laws 2013, LB 78, § 23.
54-1160.01.	Brand inspection.
54-1161.	License required; application for license; contents.
54-1162.	Hearing; notice.
54-1163.	Hearing; determination; factors; issuance of license.
54-1165.	License fee; payments; disposition.
54-1166.	Livestock auction markets; license personal to holder; transfer; posting; termination.
54-1168.	Records required; available for inspection.
54-1169.	Department; complaint; notice of hearing; process; hearings; findings; suspension or revocation of license.
54-1170.	Director; audio recording; appeal; procedure.
54-1172.	Livestock Auction Market Fund; creation; use; investment.
54-1173.	Livestock Auction Market Fund; license and permit fees; occupation tax; use.
54-1174.	Repealed. Laws 2014, LB 884, § 34.
54-1177.	Repealed. Laws 2014, LB 884, § 34.
54-1180.	Inspection of livestock; duties; fees; use; disposition; notice of change.
54-1181.	Veterinarians; agreement for services; contents; compensation; liability.
54-1182.	Livestock sold; treatment by veterinarians; release; documentation; rules and regulations.
54-1183.	Transferred to section 54-1,129.
54-1184.	Transferred to section 54-1,130.
54-1185.	Transferred to section 54-1,131.

54-1156 Act, how cited.

Sections 54-1156 to 54-1182 shall be known and may be cited as the Livestock Auction Market Act.

Source: Laws 1963, c. 319, § 32, p. 973; Laws 1985, LB 97, § 3; R.S.1943, (1998), § 54-1186; Laws 1999, LB 778, § 78; Laws 2001, LB 197, § 5; Laws 2014, LB884, § 20.

54-1158 Terms, defined.

As used in the Livestock Auction Market Act, unless the context otherwise requires:

- (1) Accredited veterinarian has the same meaning as in section 54-2903;
- (2) Department means the Department of Agriculture;
- (3) Designated veterinarian means an accredited veterinarian who has been designated and authorized by the State Veterinarian to make inspections of livestock at livestock auction markets as may be required by law or regulation whether such livestock is moved in interstate or intrastate commerce;
- (4) Director means the Director of Agriculture;
- (5) Livestock means cattle, calves, swine, sheep, and goats;
- (6) Livestock auction market means any place, establishment, or facility commonly known as a livestock auction market, sales ring, or the like, conducted or operated for compensation as an auction market for livestock, consisting of pens or other enclosures, and their appurtenances, in which livestock are received, held, sold, or kept for sale or shipment;
- (7) Livestock auction market operator means any person engaged in the business of conducting or operating a livestock auction market, whether personally or through agents or employees;

(8) Market license means the license for a livestock auction market authorized to be issued under the act;

(9) Person means any individual, firm, association, partnership, limited liability company, or corporation; and

(10) State Veterinarian means the veterinarian appointed pursuant to section 81-202, or his or her designee, subordinate to the director.

Source: Laws 1963, c. 319, § 2, p. 962; Laws 1993, LB 121, § 340; Laws 1999, LB 778, § 63; Laws 2001, LB 197, § 7; Laws 2013, LB78, § 1; Laws 2014, LB884, § 21; Laws 2020, LB344, § 73.
Effective date November 14, 2020.

54-1159 Exemptions from act.

(1) The Livestock Auction Market Act shall not be construed to include:

(a) Any place or operation where Future Farmers of America, 4-H groups, or private fairs conduct sales of livestock;

(b) An animal welfare organization as defined in section 54-2503;

(c) Any place or operation conducted for a dispersal sale of the livestock of farmers, dairypersons, or livestock breeders or feeders, where no other livestock is sold or offered for sale; or

(d) Any place or operation where a breeder or an association of breeders of livestock assemble and offer for sale and sell under their own management any livestock, when such breeders assume all responsibility of such sale and the title of livestock sold. This shall apply to all purebred livestock association sales.

(2) An exotic animal auction or exchange venue or an exotic animal auction or exchange venue organizer as defined in section 54-7,105.01 is not required to be licensed under the Livestock Auction Market Act if any bovine, camelid, caprine, ovine, or porcine allowed to be sold under the Exotic Animal Auction or Exchange Venue Act are accompanied by a certificate of veterinary inspection issued by an accredited veterinarian and the exotic animal auction or exchange venue organizer contracts for the services of an accredited veterinarian to issue such certificates onsite during the auction or exchange venue for bovine, camelid, caprine, ovine, or porcine present.

Source: Laws 1963, c. 319, § 3, p. 962; Laws 1999, LB 778, § 64; Laws 2001, LB 197, § 8; Laws 2014, LB884, § 22.

Cross References

Exotic Animal Auction or Exchange Venue Act, see section 54-7,105.

54-1160 Repealed. Laws 2013, LB 78, § 23.

54-1160.01 Brand inspection.

The owner or operator of any livestock auction market located in any county outside the brand inspection area created in section 54-1,109 may voluntarily elect to provide brand inspection as provided in sections 54-1,129 to 54-1,131.

Source: Laws 2014, LB884, § 23.

54-1161 License required; application for license; contents.

No person shall conduct or operate a livestock auction market unless he or she holds a market license therefor, upon which the current annual market license fee has been paid. Any person making application for a new market

license shall do so to the director in writing, verified by the applicant, on a form prescribed by the department, showing the following:

- (1) The name and address of the applicant with a statement of the names and addresses of all persons having any financial interest in the applicant and the amount of such interest;
- (2) Financial responsibility of the applicant in the form of a statement of all assets and liabilities;
- (3) A legal description of the property and its exact location with a complete description of the facilities proposed to be used in connection with such livestock auction market;
- (4) The schedule of charges an applicant proposes for all services proposed to be rendered; and
- (5) A detailed statement of the facts upon which the applicant relies showing the general confines of the trade area proposed to be served by such livestock auction market, the benefits to be derived by the livestock industry, and the services proposed to be rendered.

Such application shall be accompanied by the annual fee as prescribed in section 54-1165.

Source: Laws 1963, c. 319, § 5, p. 964; Laws 1997, LB 752, § 134; Laws 2013, LB78, § 2; Laws 2014, LB884, § 24.

54-1162 Hearing; notice.

Upon the filing of the application as provided in section 54-1161, the director shall fix a reasonable time for the hearing at a place designated by him or her at which time a hearing shall be held on the proposed location of the livestock auction market. The director forthwith shall cause a copy of such application, together with notice of the time and place of hearing, to be served by mail not less than fifteen days prior to such hearing, upon the following:

- (1) All duly organized statewide livestock associations in the state who have filed written requests with the department to receive notice of such hearings and such other livestock associations as in the opinion of the director would be interested in such application; and
- (2) All livestock auction market operators in the state.

The director shall give further notice of such hearing by publication of the notice thereof once in a daily or weekly newspaper circulated in the city or village where such hearing is to be held, as in the opinion of the director will give reasonable public notice of such time and place of hearing to persons interested therein.

Source: Laws 1963, c. 319, § 6, p. 964; Laws 2001, LB 197, § 10; Laws 2013, LB78, § 3.

54-1163 Hearing; determination; factors; issuance of license.

The hearing required by section 54-1162 shall be heard by the director. If the director determines, after such hearing, that the proposed livestock auction market would beneficially serve the livestock economy, the department shall issue a market license to the applicant. In determining whether or not the application should be granted or denied, reasonable consideration shall be given to:

(1) The ability of the applicant to comply with the federal Packers and Stockyards Act, 1921, 7 U.S.C. 181 et seq., as amended;

(2) The financial stability, business integrity, and fiduciary responsibility of the applicant;

(3) The adequacy of the facilities described to permit the performance of market services proposed in the application;

(4) The present needs for market services or additional services as expressed by livestock growers and feeders in the community; and

(5) Whether the proposed livestock auction market would be permanent and continuous.

Source: Laws 1963, c. 319, § 7, p. 965; Laws 1999, LB 778, § 66; Laws 2013, LB78, § 4; Laws 2014, LB884, § 25.

54-1165 License fee; payments; disposition.

Every livestock auction market operator shall pay annually, on or before August 1, a market license fee of one hundred fifty dollars to the department for each livestock auction market operated by him or her, which payment shall constitute a renewal for one year. Fees so paid shall be remitted to the State Treasurer for credit to the Livestock Auction Market Fund for the expenses of administration of the Livestock Auction Market Act.

Source: Laws 1963, c. 319, § 9, p. 966; Laws 1983, LB 617, § 9; Laws 1999, LB 778, § 67; Laws 2001, LB 197, § 11; Laws 2013, LB78, § 5.

54-1166 Livestock auction markets; license personal to holder; transfer; posting; termination.

Except as otherwise provided in this section, each market license shall be personal to the holder and the facilities covered thereby and transferable without a hearing. The original or a certified copy of such license shall be posted during sale periods in a conspicuous place on the premises where the livestock auction market is conducted. The market license covering any livestock auction market which does not hold a sale for a period of one year shall terminate automatically one year from the date of the last sale conducted by the livestock auction market, and the license holder whose license is so terminated may request a hearing by filing a written request for such hearing within twenty days after the termination of the license.

Source: Laws 1963, c. 319, § 10, p. 966; Laws 1985, LB 97, § 2; Laws 2014, LB884, § 26.

54-1168 Records required; available for inspection.

Every market license holder under the Livestock Auction Market Act shall keep an accurate record of all transactions conducted in the ordinary course of his or her business. Such records shall be available for examination of the director, or his or her duly authorized representative, in respect to a market license issued under such act.

Source: Laws 1963, c. 319, § 12, p. 966; Laws 1999, LB 778, § 68; Laws 2001, LB 197, § 12; Laws 2013, LB78, § 6.

54-1169 Department; complaint; notice of hearing; process; hearings; findings; suspension or revocation of license.

(1) The department may, upon its own motion, whenever it has reason to believe the Livestock Auction Market Act has been violated, or upon verified complaint of any person in writing, investigate the actions of any market license holder, and if the department finds probable cause to do so, shall file a complaint against the market license holder which shall be set down for hearing before the director upon fifteen days' notice served upon such market license holder either by personal service upon him or her or by registered or certified mail prior to such hearing.

(2) The director shall have the power to administer oaths, certify to all official acts, and subpoena any person in this state as a witness, to compel the producing of books and papers, and to take the testimony of any person on deposition in the same manner as is prescribed by law in the procedure before the courts of this state in civil cases. Processes issued by the director shall extend to all parts of the state and may be served by any person authorized to serve processes. Each witness who shall appear by the order of the director at any hearing shall receive for such attendance the same fees allowed by law to witnesses in civil cases appearing in the district court and mileage at the same rate provided in section 81-1176, which amount shall be paid by the party at whose request such witness is subpoenaed. When any witness has not been required to attend at the request of any party, but has been subpoenaed by the director, his or her fees and mileage shall be paid by the director in the same manner as other expenses are paid under the Livestock Auction Market Act.

(3) All powers of the director as provided in this section shall likewise be applicable to hearings held on applications for the issuance of a market license.

(4) Formal finding by the director after due hearing that any market license holder (a) has ceased to conduct a livestock auction market business, (b) has been guilty of fraud or misrepresentation as to the titles, charges, number, brands, weights, proceeds of sale, or ownership of livestock, (c) has violated any of the provisions of the Livestock Auction Market Act, or (d) has violated any of the rules or regulations adopted and promulgated under the act, shall be sufficient cause for the suspension or revocation of the market license of the offending livestock auction market operator.

Source: Laws 1963, c. 319, § 13, p. 966; Laws 1981, LB 204, § 95; Laws 1999, LB 778, § 69; Laws 2001, LB 197, § 13; Laws 2013, LB78, § 7; Laws 2014, LB884, § 27.

54-1170 Director; audio recording; appeal; procedure.

The director shall keep an audio recording of all proceedings and evidence presented in any hearing under the Livestock Auction Market Act. The applicant for a market license, any protestant formally appearing in the hearing for such market license, the holder of any market license suspended or revoked, or any party to a transfer application may appeal the order, and the appeal shall be in accordance with the Administrative Procedure Act.

Source: Laws 1963, c. 319, § 14, p. 968; Laws 1988, LB 352, § 95; Laws 2013, LB78, § 8; Laws 2014, LB884, § 28.

Cross References

Administrative Procedure Act, see section 84-920.

54-1172 Livestock Auction Market Fund; creation; use; investment.

Salaries and expenses of employees, costs of hearings, and all other costs of administration of the Livestock Auction Market Act shall be paid from the Livestock Auction Market Fund which is hereby created. Any money in the Livestock Auction Market 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.

Source: Laws 1963, c. 319, § 16, p. 969; Laws 1999, LB 778, § 71; Laws 2001, LB 197, § 15; Laws 2013, LB78, § 9.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

54-1173 Livestock Auction Market Fund; license and permit fees; occupation tax; use.

The license and permit fees collected as provided by the Livestock Auction Market Act are an occupation tax and shall be remitted to the State Treasurer for credit to the Livestock Auction Market Fund. All money so collected shall be appropriated to the uses of the Department of Agriculture for the purpose of administering such act and shall be paid out only on vouchers approved by the director and upon the warrant or warrants issued by the Director of Administrative Services. Any unexpended balance in such fund at the close of any biennium shall, when reappropriated, be available for the uses and purposes of the fund for the succeeding biennium.

Source: Laws 1963, c. 319, § 17, p. 969; Laws 1969, c. 584, § 54, p. 2379; Laws 1995, LB 7, § 58; Laws 1999, LB 778, § 72; Laws 2001, LB 197, § 16; Laws 2014, LB884, § 29.

54-1174 Repealed. Laws 2014, LB 884, § 34.**54-1177 Repealed. Laws 2014, LB 884, § 34.****54-1180 Inspection of livestock; duties; fees; use; disposition; notice of change.**

All cattle, calves, swine, sheep, and goats, upon entering a livestock auction market, shall be inspected for health before being offered for sale. Such inspection shall be made by a designated veterinarian. The fees for such inspection shall be established by rules and regulations of the department and shall be collected by the operator of the livestock auction market. Such fees shall be used to pay the fees of necessary inspections and for no other purpose and shall be remitted as may be provided by regulation. The fees shall be remitted to the State Treasurer for credit to the Livestock Auction Market Fund and shall be expended exclusively to pay the fees of providing necessary inspections at the livestock auction market which has remitted such fees. Each designated veterinarian making market inspections shall be paid twenty-five dollars for each regularly scheduled sale day in each calendar month as a guaranteed minimum salary for providing adequate inspection services. If the fees collected each calendar month by the market operator do not equal such amount, the market operator shall make up the difference in his or her remittance to the state. The rules and regulations establishing fees for such inspection shall not be adopted, amended, or repealed until after notice by mail

to each market licensee and designated veterinarian of the time and place of hearing on the question of adoption, amendment, or repeal of such rules and regulations; such notice shall be mailed at least ten days prior to the date of hearing and shall be sufficient if addressed to the last-known address of each market licensee and designated veterinarian shown on the records of the department.

Source: Laws 1963, c. 319, § 24, p. 971; Laws 1965, c. 334, § 5, p. 956; Laws 1969, c. 454, § 1, p. 1543; Laws 2001, LB 197, § 20; Laws 2014, LB884, § 30.

54-1181 Veterinarians; agreement for services; contents; compensation; liability.

The State Veterinarian shall make the designation of the veterinarians required by sections 54-1180 and 54-1182 by entering into an agreement with any accredited veterinarian for his or her professional services in performing necessary inspections. Such agreement shall provide that the State Veterinarian may terminate it at any time for what he or she deems to be just cause and shall further provide that the state pay such veterinarian a fee as established by section 54-1180, which amount shall be paid monthly from the Livestock Auction Market Fund. Such agreement shall make the designated veterinarian an agent for the Department of Agriculture to perform the duties assigned by sections 54-1180 and 54-1182, and the rules and regulations prescribed by the department, but shall not be deemed to make the designated veterinarian an officer or employee of the state. The orders of such designated veterinarian, issued in the performance of the duties assigned under sections 54-1180 and 54-1182 and the rules and regulations prescribed by the department, shall have the same force and effect as though such order had been made by the State Veterinarian. Designated veterinarians shall not be liable for reasonable acts performed to carry out the duties as set forth in sections 54-1180 and 54-1182 and the rules and regulations prescribed by the department pursuant to such sections.

Source: Laws 1963, c. 319, § 25, p. 971; Laws 1965, c. 334, § 6, p. 957; Laws 1969, c. 454, § 2, p. 1544; Laws 2001, LB 197, § 21; Laws 2014, LB884, § 31.

54-1182 Livestock sold; treatment by veterinarians; release; documentation; rules and regulations.

Any livestock sold or disposed of at a livestock auction market, before removal therefrom, shall be released by the designated veterinarian and treated to conform with the health requirements of the rules and regulations prescribed by the department for the movement of livestock. When required, the designated veterinarian shall furnish each owner with documentation showing such inspection, treatment, or quarantine. No such livestock for interstate or intra-state shipment shall be released until all the requirements of the state of its destination have been complied with. Any diseased or exposed livestock shall be handled in accordance with the rules and regulations as prescribed by the department.

Source: Laws 1963, c. 319, § 26, p. 972; Laws 1965, c. 334, § 7, p. 957; Laws 1999, LB 778, § 75; Laws 2001, LB 197, § 22; Laws 2003, LB 160, § 8; Laws 2014, LB884, § 32.

54-1183 Transferred to section 54-1,129.

54-1184 Transferred to section 54-1,130.

54-1185 Transferred to section 54-1,131.

**ARTICLE 13
BRUCELLOSIS**

(b) NEBRASKA SWINE BRUCELLOSIS ACT

Section

- 54-1348. Repealed. Laws 2020, LB344, § 82.
- 54-1349. Repealed. Laws 2020, LB344, § 82.
- 54-1350. Repealed. Laws 2020, LB344, § 82.
- 54-1351. Repealed. Laws 2020, LB344, § 82.
- 54-1352. Repealed. Laws 2020, LB344, § 82.
- 54-1353. Repealed. Laws 2020, LB344, § 82.
- 54-1354. Repealed. Laws 2020, LB344, § 82.
- 54-1355. Repealed. Laws 2020, LB344, § 82.
- 54-1356. Repealed. Laws 2020, LB344, § 82.
- 54-1357. Repealed. Laws 2020, LB344, § 82.
- 54-1358. Repealed. Laws 2020, LB344, § 82.
- 54-1359. Repealed. Laws 2020, LB344, § 82.
- 54-1360. Repealed. Laws 2020, LB344, § 82.
- 54-1361. Repealed. Laws 2020, LB344, § 82.
- 54-1362. Repealed. Laws 2020, LB344, § 82.
- 54-1363. Repealed. Laws 2020, LB344, § 82.
- 54-1364. Repealed. Laws 2020, LB344, § 82.
- 54-1365. Repealed. Laws 2020, LB344, § 82.
- 54-1366. Repealed. Laws 2020, LB344, § 82.

(c) NEBRASKA BOVINE BRUCELLOSIS ACT

- 54-1367. Repealed. Laws 2020, LB344, § 82.
- 54-1368. Repealed. Laws 2020, LB344, § 82.
- 54-1369. Repealed. Laws 2020, LB344, § 82.
- 54-1370. Repealed. Laws 2020, LB344, § 82.
- 54-1371. Brucellosis Control Cash Fund; created; use; investment; termination date.
- 54-1372. Repealed. Laws 2020, LB344, § 82.
- 54-1373. Repealed. Laws 2020, LB344, § 82.
- 54-1374. Repealed. Laws 2020, LB344, § 82.
- 54-1375. Repealed. Laws 2020, LB344, § 82.
- 54-1376. Repealed. Laws 2020, LB344, § 82.
- 54-1377. Repealed. Laws 2020, LB344, § 82.
- 54-1378. Repealed. Laws 2020, LB344, § 82.
- 54-1379. Repealed. Laws 2020, LB344, § 82.
- 54-1380. Repealed. Laws 2020, LB344, § 82.
- 54-1381. Repealed. Laws 2020, LB344, § 82.
- 54-1382. Repealed. Laws 2020, LB344, § 82.
- 54-1383. Repealed. Laws 2020, LB344, § 82.
- 54-1384. Repealed. Laws 2020, LB344, § 82.

(b) NEBRASKA SWINE BRUCELLOSIS ACT

54-1348 Repealed. Laws 2020, LB344, § 82.

54-1349 Repealed. Laws 2020, LB344, § 82.

54-1350 Repealed. Laws 2020, LB344, § 82.

54-1351 Repealed. Laws 2020, LB344, § 82.

54-1352 Repealed. Laws 2020, LB344, § 82.

54-1353 Repealed. Laws 2020, LB344, § 82.

54-1354 Repealed. Laws 2020, LB344, § 82.

54-1355 Repealed. Laws 2020, LB344, § 82.

54-1356 Repealed. Laws 2020, LB344, § 82.

54-1357 Repealed. Laws 2020, LB344, § 82.

54-1358 Repealed. Laws 2020, LB344, § 82.

54-1359 Repealed. Laws 2020, LB344, § 82.

54-1360 Repealed. Laws 2020, LB344, § 82.

54-1361 Repealed. Laws 2020, LB344, § 82.

54-1362 Repealed. Laws 2020, LB344, § 82.

54-1363 Repealed. Laws 2020, LB344, § 82.

54-1364 Repealed. Laws 2020, LB344, § 82.

54-1365 Repealed. Laws 2020, LB344, § 82.

54-1366 Repealed. Laws 2020, LB344, § 82.

(c) NEBRASKA BOVINE BRUCELLOSIS ACT

54-1367 Repealed. Laws 2020, LB344, § 82.

54-1368 Repealed. Laws 2020, LB344, § 82.

54-1369 Repealed. Laws 2020, LB344, § 82.

54-1370 Repealed. Laws 2020, LB344, § 82.

54-1371 Brucellosis Control Cash Fund; created; use; investment; termination date.

The Brucellosis Control Cash Fund is hereby created. Expenditures from the fund may be made to conduct brucellosis testing under the Nebraska Bovine Brucellosis Act. 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. The fund terminates on November 14, 2020, and the State Treasurer shall transfer any money in the fund on such date to the Animal Health and Disease Control Cash Fund.

Source: Laws 1983, LB 573, § 5; Laws 1995, LB 7, § 59; Laws 2016, LB909, § 6; Laws 2020, LB344, § 74.
Effective date November 14, 2020.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

54-1372 Repealed. Laws 2020, LB344, § 82.

- 54-1373 Repealed. Laws 2020, LB344, § 82.**
- 54-1374 Repealed. Laws 2020, LB344, § 82.**
- 54-1375 Repealed. Laws 2020, LB344, § 82.**
- 54-1376 Repealed. Laws 2020, LB344, § 82.**
- 54-1377 Repealed. Laws 2020, LB344, § 82.**
- 54-1378 Repealed. Laws 2020, LB344, § 82.**
- 54-1379 Repealed. Laws 2020, LB344, § 82.**
- 54-1380 Repealed. Laws 2020, LB344, § 82.**
- 54-1381 Repealed. Laws 2020, LB344, § 82.**
- 54-1382 Repealed. Laws 2020, LB344, § 82.**
- 54-1383 Repealed. Laws 2020, LB344, § 82.**
- 54-1384 Repealed. Laws 2020, LB344, § 82.**

ARTICLE 14

SCABIES

Section

- 54-1401. Repealed. Laws 2015, LB 91, § 1.
- 54-1402. Repealed. Laws 2015, LB 91, § 1.
- 54-1403. Repealed. Laws 2015, LB 91, § 1.
- 54-1404. Repealed. Laws 2015, LB 91, § 1.
- 54-1405. Repealed. Laws 2015, LB 91, § 1.
- 54-1406. Repealed. Laws 2015, LB 91, § 1.
- 54-1407. Repealed. Laws 2015, LB 91, § 1.
- 54-1408. Repealed. Laws 2015, LB 91, § 1.
- 54-1409. Repealed. Laws 2015, LB 91, § 1.
- 54-1410. Repealed. Laws 2015, LB 91, § 1.
- 54-1411. Repealed. Laws 2015, LB 91, § 1.

- 54-1401 Repealed. Laws 2015, LB 91, § 1.**
- 54-1402 Repealed. Laws 2015, LB 91, § 1.**
- 54-1403 Repealed. Laws 2015, LB 91, § 1.**
- 54-1404 Repealed. Laws 2015, LB 91, § 1.**
- 54-1405 Repealed. Laws 2015, LB 91, § 1.**
- 54-1406 Repealed. Laws 2015, LB 91, § 1.**
- 54-1407 Repealed. Laws 2015, LB 91, § 1.**
- 54-1408 Repealed. Laws 2015, LB 91, § 1.**
- 54-1409 Repealed. Laws 2015, LB 91, § 1.**
- 54-1410 Repealed. Laws 2015, LB 91, § 1.**

54-1411 Repealed. Laws 2015, LB 91, § 1.

**ARTICLE 15
HOG CHOLERA**

(a) DESTRUCTION OF HOGS

Section

- 54-1501. Repealed. Laws 2015, LB 91, § 1.
- 54-1503. Repealed. Laws 2015, LB 91, § 1.
- 54-1505. Repealed. Laws 2015, LB 91, § 1.
- 54-1508. Repealed. Laws 2015, LB 91, § 1.
- 54-1509. Repealed. Laws 2015, LB 91, § 1.
- 54-1510. Repealed. Laws 2015, LB 91, § 1.
- 54-1511. Repealed. Laws 2015, LB 91, § 1.
- 54-1512. Repealed. Laws 2015, LB 91, § 1.

(b) CONTROL AND ERADICATION

- 54-1513. Repealed. Laws 2015, LB 91, § 1.
- 54-1514. Repealed. Laws 2015, LB 91, § 1.
- 54-1515. Repealed. Laws 2015, LB 91, § 1.
- 54-1516. Repealed. Laws 2015, LB 91, § 1.
- 54-1517. Repealed. Laws 2015, LB 91, § 1.
- 54-1518. Repealed. Laws 2015, LB 91, § 1.
- 54-1519. Repealed. Laws 2015, LB 91, § 1.
- 54-1520. Repealed. Laws 2015, LB 91, § 1.
- 54-1521. Repealed. Laws 2015, LB 91, § 1.

(c) SALES AND SHIPMENTS

- 54-1522. Repealed. Laws 2015, LB 91, § 1.
- 54-1523. Repealed. Laws 2015, LB 91, § 1.

(a) DESTRUCTION OF HOGS

54-1501 Repealed. Laws 2015, LB 91, § 1.

54-1503 Repealed. Laws 2015, LB 91, § 1.

54-1505 Repealed. Laws 2015, LB 91, § 1.

54-1508 Repealed. Laws 2015, LB 91, § 1.

54-1509 Repealed. Laws 2015, LB 91, § 1.

54-1510 Repealed. Laws 2015, LB 91, § 1.

54-1511 Repealed. Laws 2015, LB 91, § 1.

54-1512 Repealed. Laws 2015, LB 91, § 1.

(b) CONTROL AND ERADICATION

54-1513 Repealed. Laws 2015, LB 91, § 1.

54-1514 Repealed. Laws 2015, LB 91, § 1.

54-1515 Repealed. Laws 2015, LB 91, § 1.

54-1516 Repealed. Laws 2015, LB 91, § 1.

54-1517 Repealed. Laws 2015, LB 91, § 1.

54-1518 Repealed. Laws 2015, LB 91, § 1.

54-1519 Repealed. Laws 2015, LB 91, § 1.

54-1520 Repealed. Laws 2015, LB 91, § 1.

54-1521 Repealed. Laws 2015, LB 91, § 1.

(c) SALES AND SHIPMENTS

54-1522 Repealed. Laws 2015, LB 91, § 1.

54-1523 Repealed. Laws 2015, LB 91, § 1.

ARTICLE 17

LIVESTOCK DEALER LICENSING ACT

Section

54-1704. Livestock dealer; license; application; bond; form; renewal; fee; disposition.

54-1704 Livestock dealer; license; application; bond; form; renewal; fee; disposition.

No person as defined in the Nebraska Livestock Dealer Licensing Act as a livestock dealer shall:

(1) Engage in the business of buying, selling, or otherwise dealing in livestock in this state without a valid and effective license issued by the Director of Agriculture under the provisions of this section. All applications for a livestock dealer license or renewal of such license shall be made on forms prescribed for that purpose by the State Veterinarian. The department may by rule and regulation prescribe additional information to be contained in such application. The application shall be filed annually with the department on or before October 1 of each year with the applicable fee of fifty dollars. The license fees collected as provided by the Nebraska Livestock Dealer Licensing Act shall be deposited in the state treasury, and by the State Treasurer placed in the Livestock Auction Market Fund. All money so collected shall be appropriated to the uses of the Department of Agriculture for the purpose of administering the provisions of the Nebraska Livestock Dealer Licensing Act;

(2)(a) Engage in the business of buying, selling, or otherwise dealing in livestock in this state without filing with the department, in connection with his or her application for a license, a fully executed duplicate of a valid and effective bond: (i) If he or she is registered and bonded under the provisions of the federal Packers and Stockyards Act of 1921, 7 U.S.C. 181 et seq., he or she shall file a statement in the form prescribed by the department evidencing that he or she is maintaining a valid and effective bond or its equivalent under such act; or (ii) if he or she is not registered and bonded under the provisions of the federal Packers and Stockyards Act, he or she shall furnish in connection with his or her application for a license a fully executed duplicate of a valid and effective bond in the amount of five thousand dollars or such larger amount as may be specified by regulations promulgated by the department. (b) The bond shall contain the following conditions: (i) That the principal shall pay when due to the person or persons entitled thereto the purchase price of all livestock purchased by such principal for his or her own account or for the accounts of

others and such principal shall safely keep and properly disburse all funds, if any, which come into his or her hands for the purpose of paying for livestock purchased for the accounts of others; (ii) that any person damaged by failure of the principal to comply with the condition clause of the bond may maintain suit to recover on the bond; and (iii) that at least thirty days' notice in writing shall be given to the department by the party terminating the bond; or

(3) Continue in the business of a dealer after his or her license or bond has expired, or has been suspended or revoked.

Source: Laws 1969, c. 447, § 4, p. 1494; Laws 1972, LB 1361, § 2; Laws 1983, LB 617, § 10; Laws 1997, LB 752, § 136; Laws 2016, LB909, § 8.

ARTICLE 19

MEAT AND POULTRY INSPECTION

(a) NEBRASKA MEAT AND POULTRY INSPECTION LAW

Section

54-1904. License; application; inspection; renewal; fee; suspension; when.

(b) STATE PROGRAM OF MEAT AND POULTRY INSPECTION

54-1916. Repealed. Laws 2012, LB 782, § 253.

(a) NEBRASKA MEAT AND POULTRY INSPECTION LAW

54-1904 License; application; inspection; renewal; fee; suspension; when.

It shall be unlawful for any person to operate or maintain any establishment unless first licensed by the department. A license may be obtained by application to the director upon forms prescribed by him or her for that purpose. The license shall authorize and restrict the licensee to the operation or operations requested in his or her application and approved by the director.

Application for a livestock establishment or a poultry establishment license shall be accompanied by a fee of fifty dollars for each establishment. A license application for a rendering establishment or for a pet feed establishment shall be accompanied by a fee of three hundred dollars for each establishment. Such fee shall be deposited in the state treasury and deposited in the Livestock Auction Market Fund.

No license shall be issued until an inspection of the facilities described in the license application is completed showing the proposed facilities to be in conformity with the Nebraska Meat and Poultry Inspection Law and the rules and regulations adopted and promulgated thereunder by the director.

Licenses shall be renewable annually on or before their expiration. No license shall be transferable with respect to licensee or location. The renewal fee shall be the same as the application fee for each license.

Each license shall by order be summarily suspended whenever an inspection reveals that conditions in any establishment constitute a menace to the public health and shall remain suspended until such conditions are corrected, subject to review by the department and courts as is provided for in the Nebraska Meat and Poultry Inspection Law.

In addition, the director may, upon ten days' notice in writing, suspend or revoke any license issued hereunder or refuse to renew the same for violation of any of the provisions of the Nebraska Meat and Poultry Inspection Law or any

rule or regulation duly adopted and promulgated by the director. The notice shall specify in writing the charges relied on, and the hearings, disposition, and court review shall be as prescribed by the Nebraska Meat and Poultry Inspection Law.

Source: Laws 1969, c. 449, § 4, p. 1507; Laws 1982, LB 928, § 43; Laws 1983, LB 617, § 11; Laws 1988, LB 352, § 98; Laws 1997, LB 752, § 137; Laws 2016, LB909, § 9.

(b) STATE PROGRAM OF MEAT AND POULTRY INSPECTION

54-1916 Repealed. Laws 2012, LB 782, § 253.

**ARTICLE 22
PSEUDORABIES**

Section

- 54-2235. Repealed. Laws 2020, LB344, § 82.
- 54-2236. Repealed. Laws 2020, LB344, § 82.
- 54-2237. Repealed. Laws 2020, LB344, § 82.
- 54-2238. Repealed. Laws 2020, LB344, § 82.
- 54-2239. Repealed. Laws 2020, LB344, § 82.
- 54-2240. Repealed. Laws 2020, LB344, § 82.
- 54-2241. Repealed. Laws 2020, LB344, § 82.
- 54-2242. Repealed. Laws 2020, LB344, § 82.
- 54-2243. Repealed. Laws 2020, LB344, § 82.
- 54-2244. Repealed. Laws 2020, LB344, § 82.
- 54-2245. Repealed. Laws 2020, LB344, § 82.
- 54-2246. Repealed. Laws 2020, LB344, § 82.
- 54-2247. Repealed. Laws 2020, LB344, § 82.
- 54-2248. Repealed. Laws 2020, LB344, § 82.
- 54-2249. Repealed. Laws 2020, LB344, § 82.
- 54-2250. Repealed. Laws 2020, LB344, § 82.
- 54-2251. Repealed. Laws 2020, LB344, § 82.
- 54-2252. Repealed. Laws 2020, LB344, § 82.
- 54-2253. Repealed. Laws 2020, LB344, § 82.
- 54-2254. Repealed. Laws 2020, LB344, § 82.
- 54-2255. Repealed. Laws 2020, LB344, § 82.
- 54-2256. Repealed. Laws 2020, LB344, § 82.
- 54-2257. Repealed. Laws 2020, LB344, § 82.
- 54-2258. Repealed. Laws 2020, LB344, § 82.
- 54-2259. Repealed. Laws 2020, LB344, § 82.
- 54-2260. Repealed. Laws 2020, LB344, § 82.
- 54-2262. Repealed. Laws 2020, LB344, § 82.
- 54-2262.01. Repealed. Laws 2020, LB344, § 82.
- 54-2263. Repealed. Laws 2020, LB344, § 82.
- 54-2264. Repealed. Laws 2020, LB344, § 82.
- 54-2265. Repealed. Laws 2020, LB344, § 82.
- 54-2266. Repealed. Laws 2020, LB344, § 82.
- 54-2267. Repealed. Laws 2020, LB344, § 82.
- 54-2268. Repealed. Laws 2020, LB344, § 82.
- 54-2269. Repealed. Laws 2020, LB344, § 82.
- 54-2270. Repealed. Laws 2020, LB344, § 82.
- 54-2271. Repealed. Laws 2020, LB344, § 82.
- 54-2276. Repealed. Laws 2020, LB344, § 82.
- 54-2277. Repealed. Laws 2020, LB344, § 82.
- 54-2278. Repealed. Laws 2020, LB344, § 82.
- 54-2279. Repealed. Laws 2020, LB344, § 82.
- 54-2280. Repealed. Laws 2020, LB344, § 82.
- 54-2281. Repealed. Laws 2020, LB344, § 82.

Section

54-2283.	Repealed. Laws 2020, LB344, § 82.
54-2286.	Repealed. Laws 2020, LB344, § 82.
54-2287.	Repealed. Laws 2020, LB344, § 82.
54-2288.	Repealed. Laws 2020, LB344, § 82.
54-2289.	Repealed. Laws 2020, LB344, § 82.
54-2290.	Repealed. Laws 2020, LB344, § 82.
54-2291.	Repealed. Laws 2020, LB344, § 82.
54-2292.	Repealed. Laws 2020, LB344, § 82.
54-2293.	Pseudorabies Control Cash Fund; use; investment; termination.
54-2294.	Repealed. Laws 2020, LB344, § 82.
54-2295.	Repealed. Laws 2020, LB344, § 82.
54-2296.	Repealed. Laws 2020, LB344, § 82.
54-2297.	Repealed. Laws 2020, LB344, § 82.
54-2298.	Repealed. Laws 2020, LB344, § 82.
54-2299.	Repealed. Laws 2020, LB344, § 82.
54-22,100.	Repealed. Laws 2020, LB344, § 82.

54-2235 Repealed. Laws 2020, LB344, § 82.

54-2236 Repealed. Laws 2020, LB344, § 82.

54-2237 Repealed. Laws 2020, LB344, § 82.

54-2238 Repealed. Laws 2020, LB344, § 82.

54-2239 Repealed. Laws 2020, LB344, § 82.

54-2240 Repealed. Laws 2020, LB344, § 82.

54-2241 Repealed. Laws 2020, LB344, § 82.

54-2242 Repealed. Laws 2020, LB344, § 82.

54-2243 Repealed. Laws 2020, LB344, § 82.

54-2244 Repealed. Laws 2020, LB344, § 82.

54-2245 Repealed. Laws 2020, LB344, § 82.

54-2246 Repealed. Laws 2020, LB344, § 82.

54-2247 Repealed. Laws 2020, LB344, § 82.

54-2248 Repealed. Laws 2020, LB344, § 82.

54-2249 Repealed. Laws 2020, LB344, § 82.

54-2250 Repealed. Laws 2020, LB344, § 82.

54-2251 Repealed. Laws 2020, LB344, § 82.

54-2252 Repealed. Laws 2020, LB344, § 82.

54-2253 Repealed. Laws 2020, LB344, § 82.

54-2254 Repealed. Laws 2020, LB344, § 82.

54-2255 Repealed. Laws 2020, LB344, § 82.

54-2256 Repealed. Laws 2020, LB344, § 82.

- 54-2257 Repealed. Laws 2020, LB344, § 82.
- 54-2258 Repealed. Laws 2020, LB344, § 82.
- 54-2259 Repealed. Laws 2020, LB344, § 82.
- 54-2260 Repealed. Laws 2020, LB344, § 82.
- 54-2262 Repealed. Laws 2020, LB344, § 82.
- 54-2262.01 Repealed. Laws 2020, LB344, § 82.
- 54-2263 Repealed. Laws 2020, LB344, § 82.
- 54-2264 Repealed. Laws 2020, LB344, § 82.
- 54-2265 Repealed. Laws 2020, LB344, § 82.
- 54-2266 Repealed. Laws 2020, LB344, § 82.
- 54-2267 Repealed. Laws 2020, LB344, § 82.
- 54-2268 Repealed. Laws 2020, LB344, § 82.
- 54-2269 Repealed. Laws 2020, LB344, § 82.
- 54-2270 Repealed. Laws 2020, LB344, § 82.
- 54-2271 Repealed. Laws 2020, LB344, § 82.
- 54-2276 Repealed. Laws 2020, LB344, § 82.
- 54-2277 Repealed. Laws 2020, LB344, § 82.
- 54-2278 Repealed. Laws 2020, LB344, § 82.
- 54-2279 Repealed. Laws 2020, LB344, § 82.
- 54-2280 Repealed. Laws 2020, LB344, § 82.
- 54-2281 Repealed. Laws 2020, LB344, § 82.
- 54-2283 Repealed. Laws 2020, LB344, § 82.
- 54-2286 Repealed. Laws 2020, LB344, § 82.
- 54-2287 Repealed. Laws 2020, LB344, § 82.
- 54-2288 Repealed. Laws 2020, LB344, § 82.
- 54-2289 Repealed. Laws 2020, LB344, § 82.
- 54-2290 Repealed. Laws 2020, LB344, § 82.
- 54-2291 Repealed. Laws 2020, LB344, § 82.
- 54-2292 Repealed. Laws 2020, LB344, § 82.

54-2293 Pseudorabies Control Cash Fund; use; investment; termination.

The Pseudorabies Control Cash Fund shall consist of money appropriated by the Legislature and gifts, grants, costs, or charges from any source, including

federal, state, public, and private sources. The fund shall be utilized for the purpose of carrying out the Pseudorabies Control and Eradication Act. 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. The fund terminates on November 14, 2020, and the State Treasurer shall transfer any money in the fund on such date to the Animal Health and Disease Control Cash Fund.

Source: Laws 1986, LB 775, § 28; Laws 1990, LB 1004, § 40; R.S.Supp.,1990, § 54-2228; Laws 1991, LB 359, § 59; Laws 1994, LB 1066, § 43; Laws 2020, LB344, § 75.
Effective date November 14, 2020.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

54-2294 Repealed. Laws 2020, LB344, § 82.

54-2295 Repealed. Laws 2020, LB344, § 82.

54-2296 Repealed. Laws 2020, LB344, § 82.

54-2297 Repealed. Laws 2020, LB344, § 82.

54-2298 Repealed. Laws 2020, LB344, § 82.

54-2299 Repealed. Laws 2020, LB344, § 82.

54-22,100 Repealed. Laws 2020, LB344, § 82.

ARTICLE 23

DOMESTICATED CERVINE ANIMAL ACT

Section

54-2304. Terms, defined.

54-2306. Permit; application; fee; administrative fee; expiration of permit.

54-2314. Quarantine; department; powers.

54-2320. Domesticated Cervine Animal Cash Fund; created; use; investment.

54-2304 Terms, defined.

For purposes of the Domesticated Cervine Animal Act, unless the context otherwise requires:

(1) Commission means the Game and Parks Commission or its authorized agent;

(2) Department means the Department of Agriculture or its authorized agent;

(3) Director means the Director of Agriculture or his or her designee;

(4) Domesticated cervine animal has the same meaning as in section 54-2914; and

(5) Person means any individual, firm, group of individuals, partnership, limited liability company, corporation, unincorporated association, cooperative, or other entity, public or private.

Source: Laws 1999, LB 404, § 3; Laws 2020, LB344, § 76.
Effective date November 14, 2020.

54-2306 Permit; application; fee; administrative fee; expiration of permit.

(1) On and after August 1, 1999, any person required to obtain a permit under section 54-2305 shall file an application with the department in the manner established by the department. Such application shall include:

- (a) The name, residence, and place of business of the applicant;
- (b) The exact description of the land upon which the domesticated cervine animal facility is to be located and the nature of the applicant's title to the land, whether in fee or under lease; and
- (c) The kind and number of domesticated cervine animals authorized to be kept or reared in such facility.

(2) The department may by rule and regulation prescribe additional information to be contained in such application. The application shall be filed annually with the department on or before October 1 of each year. The annual fee for a domesticated cervine animal facility permit shall not be less than ten dollars nor more than two hundred dollars, as established by the department. Permittees not filing by October 1 shall be considered delinquent. The department may assess an administrative fee for delinquency, not to exceed one hundred dollars per month or a portion of a month, in addition to the permit fees. The purpose of the additional administrative fee is to cover the administrative costs associated with collecting fees. Such permits shall expire on December 31 of the year of issuance.

Source: Laws 1999, LB 404, § 5; Laws 2016, LB909, § 10.

54-2314 Quarantine; department; powers.

(1) In order to prevent, suppress, control, and eradicate dangerous transmissible diseases among the domesticated cervine animals of this state, the department may place in quarantine any county, or part of any county, any private premises, or any private or public stockyards and may quarantine any domesticated cervine animal infected with such disease or which has been or is suspected of having been exposed to such disease. Such animals shall remain under quarantine until released by the department. An infected animal may be destroyed as provided in the Animal Health and Disease Control Act.

(2) The department may regulate or prohibit the arrival into, departure from, and movement within the state of any domesticated cervine animal infected with a dangerous transmissible disease or exposed or suspected of having been exposed to such disease.

Source: Laws 1999, LB 404, § 13; Laws 2020, LB344, § 77.

Effective date November 14, 2020.

Cross References

Animal Health and Disease Control Act, see section 54-2901.

54-2320 Domesticated Cervine Animal Cash Fund; created; use; investment.

The department may assess and collect costs and fees for services provided, fees assessed, and expenses incurred pursuant to its responsibilities under the Domesticated Cervine Animal Act. All costs and fees assessed and collected pursuant to the act shall be remitted to the State Treasurer for credit to the Domesticated Cervine Animal Cash Fund, which fund is hereby created. The fund shall be utilized by the department for the purpose of carrying out the act.

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.

Source: Laws 1999, LB 404, § 19; Laws 2016, LB909, § 11.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

ARTICLE 24

LIVESTOCK WASTE MANAGEMENT ACT

Section

- 54-2417. Terms, defined.
 54-2421. Cold water class A streams; designation.
 54-2428. National Pollutant Discharge Elimination System permit; construction and operating permit; application and modification; fees; Livestock Waste Management Cash Fund; created; use; investment; report.
 54-2429. National Pollutant Discharge Elimination System permit; construction and operating permit; application; approval from Department of Natural Resources; Department of Environment and Energy; powers; applicability of Engineers and Architects Regulation Act.

54-2417 Terms, defined.

For purposes of the Livestock Waste Management Act:

(1) Animal feeding operation means a location where beef cattle, dairy cattle, horses, swine, sheep, poultry, or other livestock have been, are, or will be stabled or confined and fed or maintained for a total of forty-five days or more in any twelve-month period and crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the location. Two or more animal feeding operations under common ownership are deemed to be a single animal feeding operation if they are adjacent to each other or if they utilize a common area or system for the disposal of livestock waste. Animal feeding operation does not include aquaculture as defined in section 2-3804.01;

(2) Best management practices means schedules of activities, prohibitions, maintenance procedures, and other management practices found to be the most effective methods based on the best available technology achievable for specific sites to prevent or reduce the discharge of pollutants to waters of the state and control odor where appropriate. Best management practices also includes operating procedures and practices to control site runoff, spillage, leaks, sludge or waste disposal, or drainage from raw material storage;

(3) Construct means the initiation of physical onsite activities;

(4) Construction and operating permit means the state permit to construct and operate a livestock waste control facility, including conditions imposed on the livestock waste control facility and the associated animal feeding operation;

(5) Construction approval means an approval issued prior to December 1, 2006, by the department allowing construction of a livestock waste control facility;

(6) Council means the Environmental Quality Council;

(7) Department means the Department of Environment and Energy;

(8) Discharge means the spilling, leaking, pumping, pouring, emitting, emptying, or dumping of pollutants into any waters of the state or in a place which will likely reach waters of the state;

(9) Existing livestock waste control facility means a livestock waste control facility in existence prior to April 15, 1998, that does not hold a permit and which has requested an inspection prior to January 1, 2000;

(10) Livestock waste control facility means any structure or combination of structures utilized to control livestock waste at an animal feeding operation until it can be used, recycled, or disposed of in an environmentally acceptable manner. Such structures include, but are not limited to, diversion terraces, holding ponds, debris basins, liquid manure storage pits, lagoons, and other such devices utilized to control livestock waste;

(11) Major modification means an expansion or increase to the lot area or feeding area; change in the location of the animal feeding operation; change in the methods of waste treatment, waste storage, or land application of waste; increase in the number of animals; change in animal species; or change in the size or location of the livestock waste control facility;

(12) National Pollutant Discharge Elimination System permit means either a general permit or an individual permit issued by the department pursuant to subsection (11) of section 81-1505. A general permit authorizes categories of disposal practices or livestock waste control facilities and covers a geographic area corresponding to existing geographic or political boundaries, though it may exclude specified areas from coverage. General permits are limited to the same or similar types of animal feeding operations or livestock waste control facilities which require the same or similar monitoring and, in the opinion of the Director of Environment and Energy, are more appropriately controlled under a general permit than under an individual permit;

(13) New animal feeding operation means an animal feeding operation constructed after July 16, 2004;

(14) New livestock waste control facility means any livestock waste control facility for which a construction permit, an operating permit, a National Pollutant Discharge Elimination System permit, a construction approval, or a construction and operating permit, or an application therefor, is submitted on or after April 15, 1998;

(15) Operating permit means a permit issued prior to December 1, 2006, by the department after the completion of the livestock waste control facility in accordance with the construction approval and the submittal of a completed certification form to the department;

(16) Person has the same meaning as in section 81-1502; and

(17) Waters of the state has the same meaning as in section 81-1502.

Source: Laws 1998, LB 1209, § 2; Laws 1999, LB 870, § 5; R.S.Supp.,2002, § 54-2402; Laws 2004, LB 916, § 6; Laws 2006, LB 975, § 2; Laws 2009, LB56, § 1; Laws 2019, LB302, § 57.

54-2421 Cold water class A streams; designation.

A map delineating segments and watershed boundaries for cold water class A streams, as designated prior to May 25, 1999, and prepared by the Department of Environment and Energy and the Department of Natural Resources, shall be

maintained by the Department of Environment and Energy and used by the department for determinations made concerning cold water class A streams and stream watersheds under the Livestock Waste Management Act unless changed by the council. Beginning on May 25, 1999, the council may designate and may redesignate previously designated waters of this state as cold water class A streams for purposes of the act based on the determination by the council that the waters provide or could provide habitat of sufficient water volume or flow, water quality, substrate composition, and water temperature capable of maintaining year-round populations of cold water biota, including reproduction of a salmonoid (trout) population. The council shall not designate or redesignate a stream as a cold water class A stream unless the stream has supported the reproduction of a salmonoid (trout) population within the previous five years. The department shall revise and maintain the cold water class A stream and stream watershed map to incorporate all designations and redesignations of the council.

Source: Laws 1999, LB 822, § 9; Laws 2000, LB 900, § 242; R.S.Supp.,2002, § 54-2404.02; Laws 2004, LB 916, § 10; Laws 2019, LB302, § 58.

54-2428 National Pollutant Discharge Elimination System permit; construction and operating permit; application and modification; fees; Livestock Waste Management Cash Fund; created; use; investment; report.

(1) Any person required to obtain a National Pollutant Discharge Elimination System permit for an animal feeding operation or a construction and operating permit for a livestock waste control facility shall file an application with the department accompanied by the appropriate fees in the manner established by the department. The application fee shall be established by the council with a maximum fee of two hundred dollars. For major modifications to an application or a permit, the fee shall equal the amount of the application fee.

(2) On or before March 1, 2006, and each year thereafter, each person who has a National Pollutant Discharge Elimination System permit or who has a large concentrated animal feeding operation, as defined in 40 C.F.R. 122 and 123, as such regulations existed on January 1, 2004, and a state operating permit, a construction and operating permit, or a construction approval issued pursuant to the Environmental Protection Act or the Livestock Waste Management Act shall pay a per head annual fee based on the permitted capacity identified in the permit for that facility. The department shall invoice each permittee by February 1, 2006, and February 1 of each year thereafter.

(3) The initial annual fee shall be: Beef cattle, ten cents per head; veal calves, ten cents per head; dairy cows, fifteen cents per head; swine larger than fifty-five pounds, four dollars per one hundred head or fraction thereof; swine less than fifty pounds, one dollar per one hundred head or fraction thereof; horses, twenty cents per head; sheep or lambs, one dollar per one hundred head or fraction thereof; turkeys, two dollars per one thousand head or fraction thereof; chickens or ducks with liquid manure facility, three dollars per one thousand head or fraction thereof; and chickens or ducks with other than liquid manure facility, one dollar per one thousand head or fraction thereof. This fee structure may be reviewed in fiscal year 2007-08.

(4) Beginning in fiscal year 2007-08, the department shall annually review and adjust the fee structure in this section and section 54-2423 to ensure that

fees are adequate to meet twenty percent of the program costs from the previous fiscal year. All fees collected under this section and sections 54-2423, 54-2435, and 54-2436 shall be remitted to the State Treasurer for credit to the Livestock Waste Management Cash Fund which is created for the purposes described in the Livestock Waste Management Act. Transfers may be made from the fund to the General Fund at the direction of the Legislature. Any money in the Livestock Waste Management Cash 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.

(5) On or before January 1 of each year, the department shall submit electronically a report to the Legislature in sufficient detail to document all direct and indirect costs incurred in the previous fiscal year in carrying out the Livestock Waste Management Act, including the number of inspections conducted, the number of animal feeding operations with livestock waste control facilities, the number of animal feeding operations inspected, the size of the livestock waste control facilities, the results of water quality monitoring programs, and other elements relating to carrying out the act. The Appropriations Committee of the Legislature shall review the report in its analysis of executive programs in order to verify that the revenue generated from fees was used solely to offset appropriate and reasonable costs associated with carrying out the act.

Source: Laws 1998, LB 1209, § 8; Laws 1999, LB 870, § 10; R.S.Supp.,2002, § 54-2408; Laws 2004, LB 916, § 17; Laws 2006, LB 975, § 10; Laws 2009, First Spec. Sess., LB3, § 30; Laws 2012, LB782, § 84.

Cross References

Environmental Protection Act, see section 81-1532.

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

54-2429 National Pollutant Discharge Elimination System permit; construction and operating permit; application; approval from Department of Natural Resources; Department of Environment and Energy; powers; applicability of Engineers and Architects Regulation Act.

(1) An applicant for a National Pollutant Discharge Elimination System permit or a construction and operating permit under the Environmental Protection Act or the Livestock Waste Management Act shall, before issuance by the Department of Environment and Energy, obtain any necessary approvals from the Department of Natural Resources under the Safety of Dams and Reservoirs Act and certify such approvals to the Department of Environment and Energy. The Department of Environment and Energy, with the concurrence of the Department of Natural Resources, may require the applicant to obtain approval from the Department of Natural Resources for any dam, holding pond, or lagoon structure which would not otherwise require approval under the Safety of Dams and Reservoirs Act but which in the event of a failure could result in a significant discharge into waters of the state and have a significant impact on the environment. The Department of Environment and Energy may provide for the payment of such costs of the Department of Natural Resources with revenue generated under section 54-2428.

(2) An applicant required to obtain a National Pollutant Discharge Elimination System permit is subject to the requirements of the Engineers and Architects Regulation Act.

(3) An applicant who has a large concentrated animal feeding operation, as defined in 40 C.F.R. 122 and 123, as such regulations existed on January 1, 2004, and who is required to obtain a construction and operating permit is subject to the requirements of the Engineers and Architects Regulation Act.

(4) An applicant who has a small or medium animal feeding operation, as defined in 40 C.F.R. 122 and 123, as such regulations existed on January 1, 2004, and who is required to obtain a construction and operating permit, but not required to obtain a National Pollutant Discharge Elimination System permit, is exempt from the Engineers and Architects Regulation Act.

(5) The department may require an engineering evaluation or assessment performed by a licensed professional engineer for a livestock waste control facility if after an inspection: (a) The department determines that the facility has (i) visible signs of structural breakage below the permanent pool, (ii) signs of discharge or proven discharge due to structural weakness, (iii) improper maintenance, or (iv) inadequate capacity; or (b) the department has reason to believe that an animal feeding operation with a livestock waste control facility has violated or threatens to violate the Environmental Protection Act, the Livestock Waste Management Act, or any rules or regulations adopted and promulgated under such acts. Animal feeding operations not required to have a permit under the Environmental Protection Act, the Livestock Waste Management Act, or the rules and regulations adopted and promulgated pursuant to such acts are exempt from the Engineers and Architects Regulation Act.

Source: Laws 1998, LB 1209, § 12; Laws 1999, LB 870, § 13; Laws 2000, LB 900, § 243; Laws 2003, LB 619, § 16; R.S.Supp.,2003, § 54-2412; Laws 2004, LB 916, § 18; Laws 2005, LB 335, § 80; Laws 2006, LB 975, § 11; Laws 2007, LB313, § 1; Laws 2019, LB302, § 59.

Cross References

Engineers and Architects Regulation Act, see section 81-3401.

Environmental Protection Act, see section 81-1532.

Safety of Dams and Reservoirs Act, see section 46-1601.

ARTICLE 26

COMPETITIVE LIVESTOCK MARKETS ACT

Section

- 54-2601. Act, how cited.
- 54-2602. Terms, defined.
- 54-2603. Repealed. Laws 2016, LB176, § 7.
- 54-2604. Packers; acts prohibited.
- 54-2604.01. Swine production contract; contents; cancellation; procedure; violations; Attorney General; duties; fine; Department of Agriculture; rules and regulations.
- 54-2627.01. Preemption by federal Livestock Mandatory Reporting Act of 1999; legislative findings; purpose of act; director; duties.

54-2601 Act, how cited.

Sections 54-2601 to 54-2631 shall be known and may be cited as the Competitive Livestock Markets Act.

Source: Laws 1999, LB 835, § 1; Laws 2006, LB 856, § 25; Laws 2016, LB176, § 1.

54-2602 Terms, defined.

For purposes of the Competitive Livestock Markets Act:

(1) Animal unit means one head of cattle, three calves under four hundred fifty pounds, or five swine;

(2) Contract swine operation means a livestock operation in which swine owned or controlled by a packer are produced according to a written agreement that does not contain a confidentiality clause and that is agreed to by the packer and a person other than the packer who owns, leases, or holds a legal interest in the livestock operation;

(3) Department means the Department of Agriculture;

(4) Director means the Director of Agriculture or his or her designee;

(5) Livestock means live cattle or swine;

(6) Livestock operation means a location, including buildings, land, lots, yard corrals, and improvements, adapted to and utilized for the purpose of feeding, keeping, or otherwise providing for the care and maintenance of livestock;

(7) Packer means a person, or agent of such person, engaged in the business of slaughtering livestock in Nebraska in excess of one hundred fifty thousand animal units per year; and

(8) Person includes individuals, firms, associations, limited liability companies, and corporations and officers or limited liability company members thereof.

Source: Laws 1999, LB 835, § 2; Laws 2016, LB176, § 2.

54-2603 Repealed. Laws 2016, LB176, § 7.

54-2604 Packers; acts prohibited.

(1) Except as provided in subsection (2) of this section, a packer shall not:

(a) Directly or indirectly own, control, or operate a livestock operation in this state; or

(b) Directly or indirectly be engaged in the ownership, keeping, or feeding of livestock, other than temporary ownership, keeping, and feeding not to exceed fourteen days which is necessary and incidental to, and immediately prior to, the process of slaughter.

(2) Subdivision (1)(b) of this section does not apply to the ownership, keeping, or feeding of swine by a packer at one or more contract swine operations in this state if the packer does not own, keep, or feed swine in this state except for the purpose of the slaughtering of swine or the manufacturing or preparation of carcasses of swine or goods originating from the carcasses in one or more processing facilities owned or controlled by the packer. Any agreement that establishes such a contract swine operation shall be subject to section 54-2604.01.

(3) For purposes of this section, indirectly own, control, or operate a livestock operation and indirectly be engaged in the ownership, keeping, or feeding of livestock includes:

(a) Receiving the net revenue or a share of the net revenue derived from a livestock operation or from a person who contracts for the care and feeding of livestock in this state, unless the packer is not involved in the management of the livestock operation;

(b) Assuming a morbidity or mortality production risk if the livestock are fed or otherwise maintained as part of a livestock operation in this state, unless the packer is not involved in the management of the livestock operation; and

(c) Loaning money for or guaranteeing, acting as a surety for, or otherwise financing a livestock operation in this state or a person who contracts for the care and feeding of livestock in this state. For purposes of this subdivision, loaning money for or guaranteeing, acting as a surety for, or otherwise financing a livestock operation does not include executing a contract for the purchase of livestock by a packer, including, but not limited to, forward contracts, marketing agreements, long-term arrangements, formula arrangements, other noncash sales arrangements, contracts that contain a ledger balance unsecured by collateral of the debtor or other price-risk-sharing arrangements, or providing an open account or loan unsecured by collateral of the debtor or a ledger balance or loan secured by collateral of the debtor so long as the amount due from the debtor does not exceed one million dollars.

Source: Laws 1999, LB 835, § 4; Laws 2016, LB176, § 3.

54-2604.01 Swine production contract; contents; cancellation; procedure; violations; Attorney General; duties; fine; Department of Agriculture; rules and regulations.

(1) For purposes of this section:

(a) Swine production contract means the agreement between a packer and a swine production contract grower which establishes a contract swine operation; and

(b) Swine production contract grower means the person who enters into a swine production contract with a packer to establish a contract swine operation.

(2) A swine production contract grower may cancel a swine production contract by mailing a cancellation notice to the packer not later than the later of:

(a) Three business days after the date on which the swine production contract is executed; or

(b) Any cancellation date specified in the swine production contract.

(3) A swine production contract shall clearly disclose:

(a) The right of the swine production contract grower to cancel the swine production contract;

(b) The method by which the swine production contract grower may cancel the swine production contract; and

(c) The deadline for canceling the swine production contract.

(4) A swine production contract shall contain on the first page a statement identified as the Additional Capital Investments Disclosure Statement, which

shall conspicuously state that additional large capital investments may be required of the swine production contract grower during the term of the swine production contract. This subsection shall apply to any swine production contract entered into, amended, altered, modified, renewed, or extended after July 21, 2016.

(5) The forum for resolving any dispute among the parties to a swine production contract shall be a court of competent jurisdiction within the state in which the principal part of the performance takes place under the swine production contract.

(6) Any swine production contract that contains a provision requiring the use of arbitration to resolve any controversy that may arise under the contract shall contain a provision that allows a swine production contract grower, prior to entering the contract, to decline to be bound by the arbitration provision.

(7) Any swine production contract grower that declines a requirement of arbitration pursuant to subsection (6) of this section has the right to seek to resolve any controversy that may arise under the swine production contract using arbitration if, after the controversy arises, both parties consent in writing to use arbitration to settle the controversy.

(8) Subsections (6) and (7) of this section shall apply to any swine production contract entered into, amended, altered, modified, renewed, or extended after July 21, 2016.

(9) A swine production contract shall not contain any obligations of confidentiality, or any other provisions, that limit a swine production contract grower from sharing and reviewing the swine production contract with anyone, including, but not limited to, his or her business partners, employees, or agents, his or her financial and legal advisors, and his or her spouse and family members.

(10) Whenever the Attorney General has reason to believe that a packer is violating this section, he or she shall commence an action in district court to enjoin the violation. The court, upon determination that such packer is in violation of this section, shall assess the packer a fine of not less than one thousand dollars for each day of violation.

(11) The Department of Agriculture may adopt and promulgate such rules and regulations regarding swine production contracts as are needed to further protect swine production contract growers from unfair business practices and coercion.

Source: Laws 2016, LB176, § 4.

54-2627.01 Preemption by federal Livestock Mandatory Reporting Act of 1999; legislative findings; purpose of act; director; duties.

(1) Sections 54-2607 to 54-2627 are preempted by the federal Livestock Mandatory Reporting Act of 1999, 7 U.S.C. 1635 to 1636h, when such federal act is in effect.

(2) The Legislature finds that the mandatory reporting of price and other terms in negotiated or contract procurement of livestock that has been in place under the federal Livestock Mandatory Reporting Act of 1999 is an important reform of livestock markets that contributes to greater market transparency, enhances the ability of livestock sellers to more competently and confidently market livestock, and lessens the existence of conditions under which market price manipulation and unfair preference or advantage in packer procurement

practices can occur. It is a purpose of the Competitive Livestock Markets Act to provide for the continuation of mandatory price reporting for the benefit of Nebraska producers and protection of the integrity of livestock markets in Nebraska in the event of termination of the federal Livestock Mandatory Reporting Act of 1999 and its preemption of similar state price reporting laws as well as to provide for an orderly implementation of the state price reporting system authorized by the Competitive Livestock Markets Act, should Congress fail to reauthorize the federal Livestock Mandatory Reporting Act of 1999.

(3)(a) If Congress does not reauthorize the federal Livestock Mandatory Reporting Act of 1999 before December 1, 2006, the director shall, on December 1, 2006, or as soon before or after as practicable, prepare a budget and an appropriation request from the General Fund, from the Competitive Livestock Markets Cash Fund, or from other cash funds under the control of the director, for submission to the Legislature in an amount sufficient to enable the department to carry out its duties under sections 54-2607 to 54-2627, and such sections shall become applicable on October 1, 2007.

(b) If, on or after December 1, 2006, Congress does not reauthorize the federal Livestock Mandatory Reporting Act of 1999, the director shall prepare such budget and appropriation request on or before a date that is twelve calendar months after the date such federal act expires or is terminated, and sections 54-2607 to 54-2627 shall become applicable on the first day of the calendar quarter that is eighteen months after the date such sections are not preempted by the federal act. No General Funds shall be appropriated for implementation of sections 54-2607 to 54-2627 after the date of commencement provided for in this section of reporting of price and other data regarding livestock transactions pursuant to sections 54-2613 and 54-2623. It is the intent of the Legislature that any General Funds appropriated for purposes of this section shall be reimbursed to the General Fund.

Source: Laws 2006, LB 856, § 27; Laws 2016, LB176, § 5.

ARTICLE 27

SCRAPIE CONTROL AND ERADICATION ACT

- Section
- 54-2701. Repealed. Laws 2020, LB344, § 82.
- 54-2702. Repealed. Laws 2020, LB344, § 82.
- 54-2703. Repealed. Laws 2020, LB344, § 82.
- 54-2704. Repealed. Laws 2020, LB344, § 82.
- 54-2705. Repealed. Laws 2020, LB344, § 82.
- 54-2706. Repealed. Laws 2020, LB344, § 82.
- 54-2707. Repealed. Laws 2020, LB344, § 82.
- 54-2708. Repealed. Laws 2020, LB344, § 82.
- 54-2709. Repealed. Laws 2020, LB344, § 82.
- 54-2710. Repealed. Laws 2020, LB344, § 82.
- 54-2711. Repealed. Laws 2020, LB344, § 82.
- 54-2712. Repealed. Laws 2020, LB344, § 82.
- 54-2713. Repealed. Laws 2020, LB344, § 82.
- 54-2714. Repealed. Laws 2020, LB344, § 82.
- 54-2715. Repealed. Laws 2020, LB344, § 82.
- 54-2716. Repealed. Laws 2020, LB344, § 82.
- 54-2717. Repealed. Laws 2020, LB344, § 82.
- 54-2718. Repealed. Laws 2020, LB344, § 82.
- 54-2719. Repealed. Laws 2020, LB344, § 82.
- 54-2720. Repealed. Laws 2020, LB344, § 82.
- 54-2721. Repealed. Laws 2020, LB344, § 82.

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Section

- 54-2722. Repealed. Laws 2020, LB344, § 82.
54-2723. Repealed. Laws 2020, LB344, § 82.
54-2724. Repealed. Laws 2020, LB344, § 82.
54-2725. Repealed. Laws 2020, LB344, § 82.
54-2726. Repealed. Laws 2020, LB344, § 82.
54-2727. Repealed. Laws 2020, LB344, § 82.
54-2728. Repealed. Laws 2020, LB344, § 82.
54-2729. Repealed. Laws 2020, LB344, § 82.
54-2730. Repealed. Laws 2020, LB344, § 82.
54-2731. Repealed. Laws 2020, LB344, § 82.
54-2732. Repealed. Laws 2020, LB344, § 82.
54-2733. Repealed. Laws 2020, LB344, § 82.
54-2734. Repealed. Laws 2020, LB344, § 82.
54-2735. Repealed. Laws 2020, LB344, § 82.
54-2736. Repealed. Laws 2020, LB344, § 82.
54-2737. Repealed. Laws 2020, LB344, § 82.
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54-2744. Repealed. Laws 2020, LB344, § 82.
54-2745. Repealed. Laws 2020, LB344, § 82.
54-2746. Repealed. Laws 2020, LB344, § 82.
54-2747. Repealed. Laws 2020, LB344, § 82.
54-2748. Repealed. Laws 2020, LB344, § 82.
54-2749. Repealed. Laws 2020, LB344, § 82.
54-2750. Repealed. Laws 2020, LB344, § 82.
54-2751. Repealed. Laws 2020, LB344, § 82.
54-2752. Repealed. Laws 2020, LB344, § 82.
54-2753. Repealed. Laws 2020, LB344, § 82.
54-2754. Repealed. Laws 2020, LB344, § 82.
54-2755. Repealed. Laws 2020, LB344, § 82.
54-2756. Repealed. Laws 2020, LB344, § 82.
54-2757. Scrapie Control Cash Fund; created; use; investment; termination.
54-2758. Repealed. Laws 2020, LB344, § 82.
54-2759. Repealed. Laws 2020, LB344, § 82.
54-2760. Repealed. Laws 2020, LB344, § 82.
54-2761. Repealed. Laws 2020, LB344, § 82.

54-2701 Repealed. Laws 2020, LB344, § 82.

54-2702 Repealed. Laws 2020, LB344, § 82.

54-2703 Repealed. Laws 2020, LB344, § 82.

54-2704 Repealed. Laws 2020, LB344, § 82.

54-2705 Repealed. Laws 2020, LB344, § 82.

54-2706 Repealed. Laws 2020, LB344, § 82.

54-2707 Repealed. Laws 2020, LB344, § 82.

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54-2719 Repealed. Laws 2020, LB344, § 82.
54-2720 Repealed. Laws 2020, LB344, § 82.
54-2721 Repealed. Laws 2020, LB344, § 82.
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54-2730 Repealed. Laws 2020, LB344, § 82.
54-2731 Repealed. Laws 2020, LB344, § 82.
54-2732 Repealed. Laws 2020, LB344, § 82.
54-2733 Repealed. Laws 2020, LB344, § 82.
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54-2741 Repealed. Laws 2020, LB344, § 82.

54-2742 Repealed. Laws 2020, LB344, § 82.

54-2743 Repealed. Laws 2020, LB344, § 82.

54-2744 Repealed. Laws 2020, LB344, § 82.

54-2745 Repealed. Laws 2020, LB344, § 82.

54-2746 Repealed. Laws 2020, LB344, § 82.

54-2747 Repealed. Laws 2020, LB344, § 82.

54-2748 Repealed. Laws 2020, LB344, § 82.

54-2749 Repealed. Laws 2020, LB344, § 82.

54-2750 Repealed. Laws 2020, LB344, § 82.

54-2751 Repealed. Laws 2020, LB344, § 82.

54-2752 Repealed. Laws 2020, LB344, § 82.

54-2753 Repealed. Laws 2020, LB344, § 82.

54-2754 Repealed. Laws 2020, LB344, § 82.

54-2755 Repealed. Laws 2020, LB344, § 82.

54-2756 Repealed. Laws 2020, LB344, § 82.

54-2757 Scrapie Control Cash Fund; created; use; investment; termination.

The Scrapie Control Cash Fund is created. The fund shall consist of money appropriated by the Legislature and gifts, grants, costs, or charges from any source, including federal, state, public, and private sources. The fund shall be utilized for the purpose of carrying out the Scrapie Control and Eradication Act. 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. The fund terminates on November 14, 2020, and the State Treasurer shall transfer any money in the fund on such date to the Animal Health and Disease Control Cash Fund.

Source: Laws 2003, LB 158, § 57; Laws 2020, LB344, § 78.
Effective date November 14, 2020.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

54-2758 Repealed. Laws 2020, LB344, § 82.

54-2759 Repealed. Laws 2020, LB344, § 82.

54-2760 Repealed. Laws 2020, LB344, § 82.

54-2761 Repealed. Laws 2020, LB344, § 82.

**ARTICLE 28
LIVESTOCK PRODUCTION**

Section

- 54-2801. Legislative findings; act, how cited.
54-2802. Director of Agriculture; duties; designation of livestock friendly county; process; county board; powers.
54-2803. Grant program; applications; purposes.
54-2804. Livestock Growth Act Cash Fund; created; use; investment.
54-2805. Rules and regulations.

54-2801 Legislative findings; act, how cited.

(1) Sections 54-2801 to 54-2805 shall be known and may be cited as the Livestock Growth Act.

(2) The Legislature finds that livestock production has traditionally served a significant role in the economic vitality of rural areas of the state and in the state's overall economy and that the growth and vitality of the state's livestock sector are critical to the continued prosperity of the state and its citizens. The Legislature further finds that a public interest exists in assisting efforts of the livestock industry and rural communities to preserve and enhance livestock development as an essential element of economic development and that a need exists to provide aid, resources, and assistance to rural communities and counties seeking opportunities in the growth of livestock production. It is the intent of the Legislature to seek reasonable means to nurture and support the livestock sector of this state.

Source: Laws 2003, LB 754, § 1; Laws 2015, LB175, § 1.

54-2802 Director of Agriculture; duties; designation of livestock friendly county; process; county board; powers.

(1) The Director of Agriculture shall establish a process, including criteria and standards, to recognize and assist efforts of counties to maintain or expand their livestock sector. A county that meets the criteria may apply to the director to be designated a livestock friendly county. A county may remove itself from the process at any time. Such criteria and standards may include, but are not limited to, the following factors: Consideration of the diversity of activities currently underway or being initiated by counties; a formal expression of interest by a county board, by a duly enacted resolution following a public hearing, in developing the livestock production and processing sectors of such county's economy; an assurance that such county intends to work with all other governmental jurisdictions within its boundaries in implementing livestock development within the county; flexible and individual treatment allowing each county to design its own development program according to its own timetable; and a commitment to compliance with the Livestock Waste Management Act.

(2) The designation of any county or counties as a livestock friendly county shall not be an indication nor shall it suggest that any county that does not seek or obtain such a designation is not friendly to livestock production.

(3) In order to assist any county with information and technology, the Department of Agriculture shall establish a resource data base to provide, upon written request of the county zoning authority or county board, information

sources that may be useful to the county in evaluating and crafting livestock facility conditional use permits that meet the objectives of the county and the livestock producer applicant.

(4) Nothing in this section shall prohibit or prevent any county board from adopting a resolution that designates the county a livestock friendly county.

Source: Laws 2003, LB 754, § 2; Laws 2015, LB175, § 2.

Cross References

Livestock Waste Management Act, see section 54-2416.

54-2803 Grant program; applications; purposes.

(1) From funds available in the Livestock Growth Act Cash Fund, the Director of Agriculture may administer a grant program to assist counties designated by the director as livestock friendly counties pursuant to section 54-2802 in livestock development planning and associated public infrastructure improvements. The director shall receive applications submitted by county boards or county planning authorities for assistance under this section and award grants for any of the following eligible purposes:

(a) Strategic planning to accommodate and encourage investment in livestock production, including one or more of the following activities:

(i) Reviewing zoning and land-use regulations;

(ii) Evaluating workforce availability, educational, institutional, public infrastructure, marketing, transportation, commercial service, natural resource, and agricultural assets, and needs of the county and surrounding areas to support livestock development;

(iii) Identifying livestock development goals and opportunities for the county;

(iv) Identifying and evaluating a location or locations suitable for placement of livestock production facilities; and

(v) Developing a marketing strategy to promote and attract investment in new or expanded livestock production and related livestock service and marketing businesses within the county; and

(b) Improvements to public infrastructure to accommodate one or more livestock development projects, including modifications to roads and bridges, drainage, and sewer and water systems. An application for a grant under this subdivision shall identify specific infrastructure improvements relating to a project for the establishment, expansion, or relocation of livestock production to which the grant funds would be applied and shall include a copy of the county conditional use permit issued for the livestock operation if required by county zoning regulations.

(2) A grant award under subdivision (1)(a) of this section shall not exceed fifteen thousand dollars. A grant award under subdivision (1)(b) of this section shall not exceed one-half of the unobligated balance of the Livestock Growth Act Cash Fund or two hundred thousand dollars, whichever is less.

Source: Laws 2015, LB175, § 3.

54-2804 Livestock Growth Act Cash Fund; created; use; investment.

The Livestock Growth Act Cash Fund is created. The fund may be used to carry out the Livestock Growth Act. The State Treasurer shall credit to the fund any funds transferred or appropriated to the fund by the Legislature and funds

received as gifts or grants or other private or public funds obtained for the purposes of the act. 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.

Source: Laws 2015, LB175, § 4.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

54-2805 Rules and regulations.

The Department of Agriculture may adopt and promulgate rules and regulations to carry out the Livestock Growth Act.

Source: Laws 2015, LB175, § 5.

ARTICLE 29

ANIMAL HEALTH AND DISEASE CONTROL ACT

Section

- 54-2901. Act, how cited.
- 54-2902. Definitions, where found.
- 54-2903. Accredited veterinarian, defined.
- 54-2904. Affected animal, herd, or flock, defined.
- 54-2905. Affected premises, defined.
- 54-2906. Animal, defined.
- 54-2907. Approved laboratory, defined.
- 54-2908. Cattle, defined.
- 54-2909. Certificate of veterinary inspection, defined.
- 54-2910. Controlled movement, defined.
- 54-2911. Dangerous disease, defined.
- 54-2912. Department, defined.
- 54-2913. Director, defined.
- 54-2914. Domesticated cervine animal, defined.
- 54-2915. Embargo, defined.
- 54-2916. Exposed, defined.
- 54-2917. Foreign animal or transboundary disease, defined.
- 54-2918. Herd or flock, defined.
- 54-2919. Herd or flock management plan, defined.
- 54-2920. Infected or positive animal, herd, or flock, defined.
- 54-2921. Livestock, defined.
- 54-2922. Negative animal, herd, or flock, defined.
- 54-2923. Official test, defined.
- 54-2924. Permit for entry or permit, defined.
- 54-2925. Person, defined.
- 54-2926. Poultry, defined.
- 54-2927. Premises, defined.
- 54-2928. Program disease, defined.
- 54-2929. Program disease activity or surveillance, defined.
- 54-2930. Program standards, defined.
- 54-2931. Quarantine, defined.
- 54-2932. Ratite bird, defined.
- 54-2933. Regulated article, defined.
- 54-2934. Responder or suspect, defined.
- 54-2935. Sale, defined.
- 54-2936. State Veterinarian, defined.
- 54-2937. Trace or tracing, defined.
- 54-2938. USDA/APHIS/VS, defined.
- 54-2939. Legislative findings; department; powers.

§ 54-2901**LIVESTOCK**

Section

- 54-2940. Animal Health and Disease Control Act and Exotic Animal Auction or Exchange Venue Act; department; powers.
- 54-2941. Veterinary inspector or agent of the USDA/APHIS/VS; act as agent of the department, when.
- 54-2942. Department; animal disease control and eradication responsibilities; cooperate and contract; agreements authorized.
- 54-2943. Failure to carry out program disease activities; department powers and duties; costs; reimbursement; late fee; funds; expenditures authorized.
- 54-2944. Affected animal, herd, or flock; affected premises; owner or custodian; duties; duty to report.
- 54-2945. Bovine trichomoniasis; prohibited acts; duty to report; notice to adjacent landowner or land manager; form or affidavit submitted to department; department; duties; costs.
- 54-2946. Dead animal; proper disposal; what constitutes; effect; owner or custodian; duties; sheriff; powers and duties; suspicion of anthrax; owner or custodian; duties; acts prohibited; department powers.
- 54-2947. Pre-entry certificate of veterinary inspection; required; exceptions; permits, required when; prohibited acts; department powers.
- 54-2948. Livestock; official identification; compliance with federal regulations; device or method; use; device removal, prohibited; exceptions.
- 54-2949. Premises registration; animal disease traceability; information; restrictions on disclosure; violations; penalty.
- 54-2950. Records or reports; requirements.
- 54-2951. Vaccine; sale and use restrictions.
- 54-2952. Waste animal products, defined; feed to animals; unlawful; exceptions.
- 54-2953. Violation of Animal Health and Disease Control Act or Exotic Animal Auction or Exchange Venue Act; cease and desist order; administrative fine; injunctions; procedures.
- 54-2954. Violation of Animal Health and Disease Control Act or Exotic Animal Auction or Exchange Venue Act; orders of department; arrests; law enforcement officer; county attorney; powers and duties.
- 54-2955. Animal Health and Disease Control Act or Exotic Animal Auction or Exchange Venue Act; embargo or importation order; required herd management plan; violations; penalties.
- 54-2956. Animal Health and Disease Control Act and Exotic Animal Auction or Exchange Venue Act; prohibited acts.
- 54-2957. Animal Health and Disease Control Act Cash Fund; created; use; investment.

54-2901 Act, how cited.

Sections 54-2901 to 54-2957 shall be known and may be cited as the Animal Health and Disease Control Act.

Source: Laws 2020, LB344, § 1.

Effective date November 14, 2020.

54-2902 Definitions, where found.

For purposes of sections 54-753.05 and 54-797 to 54-7,103 and the Animal Health and Disease Control Act, unless the context otherwise requires, the definitions found in sections 54-2903 to 54-2938 shall be used.

Source: Laws 2020, LB344, § 2.

Effective date November 14, 2020.

54-2903 Accredited veterinarian, defined.

Accredited veterinarian means a veterinarian duly licensed by the State of Nebraska and approved by the administrator of the Animal and Plant Health Inspection Service of the United States Department of Agriculture.

Source: Laws 2020, LB344, § 3.

Effective date November 14, 2020.

54-2904 Affected animal, herd, or flock, defined.

Affected animal, herd, or flock means an animal, herd, or flock which contains an animal infected with or exposed to a dangerous disease.

Source: Laws 2020, LB344, § 4.
Effective date November 14, 2020.

54-2905 Affected premises, defined.

Affected premises means premises upon which is or was located an affected animal, herd, or flock or suspected affected animal, herd, flock, or disease agent of a dangerous disease.

Source: Laws 2020, LB344, § 5.
Effective date November 14, 2020.

54-2906 Animal, defined.

Animal means all vertebrate members of the animal kingdom except humans or wild animals at large.

Source: Laws 2020, LB344, § 6.
Effective date November 14, 2020.

54-2907 Approved laboratory, defined.

Approved laboratory means an animal disease diagnostic laboratory accredited by the American Association of Veterinary Laboratory Diagnosticians to conduct animal disease testing.

Source: Laws 2020, LB344, § 7.
Effective date November 14, 2020.

54-2908 Cattle, defined.

Cattle means all domestic bovine animals, including beef cattle, dairy cattle, and bison.

Source: Laws 2020, LB344, § 8.
Effective date November 14, 2020.

54-2909 Certificate of veterinary inspection, defined.

Certificate of veterinary inspection means a legible document, paper, or electronic submission, issued by an accredited veterinarian at the point of origin of an animal movement which meets federal and state requirements for interstate or intrastate movement of animals. Certificate of veterinary inspection does not include Form 7001 of the Animal and Plant Health Inspection Service of the United States Department of Agriculture.

Source: Laws 2020, LB344, § 9.
Effective date November 14, 2020.

54-2910 Controlled movement, defined.

Controlled movement means a temporary movement restriction controlling the movement of animals, animal products, and fomites into, within, and out of

a regulatory control area where affected animals, herds, or flocks are or were located.

Source: Laws 2020, LB344, § 10.
Effective date November 14, 2020.

54-2911 Dangerous disease, defined.

Dangerous disease means an infectious, contagious, or otherwise transmissible disease, infestation, or exposure which has the potential for rapid spread, serious economic impact, or serious threat to livestock health, and is of major importance in the trade of livestock and livestock products.

Source: Laws 2020, LB344, § 11.
Effective date November 14, 2020.

54-2912 Department, defined.

Department means the Department of Agriculture.

Source: Laws 2020, LB344, § 12.
Effective date November 14, 2020.

54-2913 Director, defined.

Director means the Director of Agriculture or his or her designee.

Source: Laws 2020, LB344, § 13.
Effective date November 14, 2020.

54-2914 Domesticated cervine animal, defined.

Domesticated cervine animal means any elk, deer, or other member of the family cervidae legally obtained from a facility which has a license, permit, or registration authorizing domesticated cervine animals which has been issued by the state in which such facility is located and such animal is raised in a confined area.

Source: Laws 2020, LB344, § 14.
Effective date November 14, 2020.

54-2915 Embargo, defined.

Embargo means a temporary movement restriction of any affected or suspect animal, herd, or flock.

Source: Laws 2020, LB344, § 15.
Effective date November 14, 2020.

54-2916 Exposed, defined.

Exposed means an animal, herd, flock, or premises which has come into contact with a disease agent which affects livestock.

Source: Laws 2020, LB344, § 16.
Effective date November 14, 2020.

54-2917 Foreign animal or transboundary disease, defined.

Foreign animal or transboundary disease means a disease not endemic to the United States or which has been eradicated in the United States, and which is of significant economic, trade, and food security importance.

Source: Laws 2020, LB344, § 17.
Effective date November 14, 2020.

54-2918 Herd or flock, defined.

Herd or flock means one or more groups of livestock under common ownership or supervision, maintained on common ground for any purpose, or which are geographically separated but which have an interchange of livestock or equipment.

Source: Laws 2020, LB344, § 18.
Effective date November 14, 2020.

54-2919 Herd or flock management plan, defined.

Herd or flock management plan means a written disease management plan that is designed by the herd owner or the owner's representative in conjunction with the State Veterinarian or federal area veterinarian in charge to eradicate or reduce exposure to a dangerous disease from an affected herd or flock. Such plan may require additional disease management practices deemed necessary by the State Veterinarian to eradicate such disease.

Source: Laws 2020, LB344, § 19.
Effective date November 14, 2020.

54-2920 Infected or positive animal, herd, or flock, defined.

Infected or positive animal, herd, or flock means an animal that has tested positive to an official test.

Source: Laws 2020, LB344, § 20.
Effective date November 14, 2020.

54-2921 Livestock, defined.

Livestock means cattle, swine, sheep, horses, mules, donkeys, goats, domesticated cervine animals, ratite birds, poultry, llamas, and alpacas.

Source: Laws 2020, LB344, § 21.
Effective date November 14, 2020.

54-2922 Negative animal, herd, or flock, defined.

Negative animal, herd, or flock means any animal, herd, or flock which has been tested and found negative to an official test.

Source: Laws 2020, LB344, § 22.
Effective date November 14, 2020.

54-2923 Official test, defined.

Official test means a diagnostic test approved by USDA/APHIS/VS or the department for determining the presence or absence of a program disease.

Source: Laws 2020, LB344, § 23.
Effective date November 14, 2020.

54-2924 Permit for entry or permit, defined.

Permit for entry or permit means a pre-movement authorization for entry into the State of Nebraska obtained from the department which states the conditions under which the animal movement may be made and the location where the animal or animals are going and includes a permit authorization number which is required to be recorded on the certificate of veterinary inspection.

Source: Laws 2020, LB344, § 24.
Effective date November 14, 2020.

54-2925 Person, defined.

Person means any individual, governmental entity, corporation, society, firm, association, partnership, limited liability company, joint stock company, association, or any other corporate body or legal entity.

Source: Laws 2020, LB344, § 25.
Effective date November 14, 2020.

54-2926 Poultry, defined.

Poultry means domesticated birds that serve as a source of eggs or meat and includes, but is not limited to, chickens, turkeys, ducks, and geese.

Source: Laws 2020, LB344, § 26.
Effective date November 14, 2020.

54-2927 Premises, defined.

Premises means land, buildings, vehicles, equipment, pens, holding facilities, and grounds upon which an animal, herd, or flock is or was, housed, kept, located, grazed, or transported.

Source: Laws 2020, LB344, § 27.
Effective date November 14, 2020.

54-2928 Program disease, defined.

Program disease means a dangerous disease for which specific state or federal legislation exists for disease control or eradication, or is classified as a program disease by the department or USDA/APHIS/VS.

Source: Laws 2020, LB344, § 28.
Effective date November 14, 2020.

54-2929 Program disease activity or surveillance, defined.

Program disease activity or surveillance means determining the presence, control, eradication, surveillance, or monitoring of program diseases and may include, but is not limited to, testing, taking of diagnostic samples, treating, vaccinating, monitoring, or surveillance of any animals, affected animals, or suspected affected animals or any premises, affected premises, or suspected affected premises.

Source: Laws 2020, LB344, § 29.
Effective date November 14, 2020.

54-2930 Program standards, defined.

Program standards means the supplemental guidelines and uniform methods and rules adopted and approved by USDA/APHIS/VS for further clarification of established procedures for the regulation, control, eradication, and enforcement of livestock program diseases.

Source: Laws 2020, LB344, § 30.
Effective date November 14, 2020.

54-2931 Quarantine, defined.

Quarantine means a restriction imposed on animal movement, premises, or regulated articles issued by the department.

Source: Laws 2020, LB344, § 31.
Effective date November 14, 2020.

54-2932 Ratite bird, defined.

Ratite bird means any ostrich, emu, rhea, kiwi, or cassowary.

Source: Laws 2020, LB344, § 32.
Effective date November 14, 2020.

54-2933 Regulated article, defined.

Regulated article means any item capable of transmitting a dangerous disease including conveyances, equipment, feed, or any other item established by the department.

Source: Laws 2020, LB344, § 33.
Effective date November 14, 2020.

54-2934 Responder or suspect, defined.

Responder or suspect means any animal which exhibits a response to an official test, and such animal is classified as a responder or suspect by the testing veterinarian or laboratory.

Source: Laws 2020, LB344, § 34.
Effective date November 14, 2020.

54-2935 Sale, defined.

Sale means a sale, lease, loan, trade, barter, or gift.

Source: Laws 2020, LB344, § 35.
Effective date November 14, 2020.

54-2936 State Veterinarian, defined.

State Veterinarian means the veterinarian appointed pursuant to section 81-202 or his or her designee, subordinate to the director.

Source: Laws 2020, LB344, § 36.
Effective date November 14, 2020.

54-2937 Trace or tracing, defined.

Trace or tracing means the epidemiological investigative process of determining the origin and movements of animals, animal products, and possible vectors that may be involved in the spread or transmissibility of a disease agent.

Source: Laws 2020, LB344, § 37.

Effective date November 14, 2020.

54-2938 USDA/APHIS/VS, defined.

USDA/APHIS/VS means the United States Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services.

Source: Laws 2020, LB344, § 38.

Effective date November 14, 2020.

54-2939 Legislative findings; department; powers.

The Legislature finds and declares it is the policy of this state that animal health and disease control are essential to the livestock industry and the health of the economy of Nebraska. The purpose of the Animal Health and Disease Control Act is to further the best interests of Nebraska's livestock industry and to grow Nebraska agriculture. In carrying out its duty to protect the health of Nebraska's livestock, the department may use USDA/APHIS/VS program standards to determine and employ the most efficient and practical means for the prevention, suppression, control, and eradication of dangerous diseases among livestock and transmissible from other animals to livestock.

Source: Laws 2020, LB344, § 39.

Effective date November 14, 2020.

54-2940 Animal Health and Disease Control Act and Exotic Animal Auction or Exchange Venue Act; department; powers.

In carrying out its duties to prevent, suppress, control, and eradicate dangerous diseases the department may:

(1) Issue quarantines to any person or public or private premises within the state where an affected animal, suspected affected animal, or regulated article is or was located, and upon any animal imported into Nebraska in violation of the Animal Health and Disease Control Act, the Exotic Animal Auction or Exchange Venue Act, and any importation rules or regulations until such quarantine is released by the State Veterinarian. Whenever additional animals are placed within a quarantined premises or area, such quarantine may be amended accordingly by the department. Births and death loss shall be included on inventory documentation pursuant to the quarantine;

(2) Regulate or prohibit animal or regulated article movement into, within, or through the state through quarantines, controlled movement orders, importation orders, or embargoes as deemed necessary by the State Veterinarian;

(3) Require an affected animal or suspected affected animal to be (a) euthanized, detained, slaughtered, or sold for immediate slaughter at a federally inspected slaughter establishment or (b) inspected, tested, treated, subjected to an epidemiological investigation, monitored, or vaccinated. The department may require tested animals to be identified by an official identification eartag. Costs for confinement, restraint, and furnishing the necessary assistance and facilities for such activities shall be the responsibility of the owner or custodian of the animal;

(4) Seek an emergency proclamation by the Governor in accordance with section 81-829.40 when deemed appropriate. All state agencies and political subdivisions of the state shall cooperate with the implementation of any emergency procedures and measures developed pursuant to such proclamation;

(5)(a) Access records or animals and enter any premises related to the purposes of the Animal Health and Disease Control Act or the Exotic Animal Auction or Exchange Venue Act without being subject to any action for trespass or reasonable damages if reasonable care is exercised; and

(b) Obtain an inspection warrant in the manner prescribed in sections 29-830 to 29-835 if any person refuses to allow the department access or entry as authorized under this subdivision;

(6) Adopt and promulgate rules and regulations to enforce and effectuate the general purpose and provisions of the Animal Health and Disease Control Act, the Exotic Animal Auction or Exchange Venue Act, and any other provisions the department deems necessary for carrying out its duties under such acts including:

(a) Standards for program diseases to align with USDA/APHIS/VS program standards;

(b) Provisions for maintaining a livestock disease reporting system;

(c) Procedures for establishing and maintaining accredited, certified, validated, or designated disease-free animals, herds, or flocks;

(d) In consultation with the Department of Environment and Energy and the Department of Health and Human Services, best management practices for the disposal of carcasses of dead livestock;

(e) In consultation with the Department of Environment and Energy and the University of Nebraska, operating procedures governing composting of livestock carcasses;

(f) Recommendations of where and how any available federal funds and state personnel and materials are to be allocated for the purpose of program disease activities; and

(g) Provisions for secure food supply plans to ensure the continuity of business is maintained during a foreign animal or transboundary disease outbreak;

(7) When funds are available, develop a livestock emergency response system capable of coordinating and executing a rapid response to the incursion or potential incursion of a dangerous livestock disease episode which poses a threat to the health of the state's livestock and could cause a serious economic impact on the state, international trade, or both;

(8) Allow animals intended for direct slaughter to move to a controlled feedlot for qualified purposes; and

(9) Approve qualified commuter herd agreements and livestock producer plans and, when appropriate, allow for exceptions to requirements by written compliance agreements.

Source: Laws 2020, LB344, § 40.

Effective date November 14, 2020.

Cross References

Exotic Animal Auction or Exchange Venue Act, see section 54-7,105.

54-2941 Veterinary inspector or agent of the USDA/APHIS/VS; act as agent of the department, when.

Any veterinary inspector or agent of the USDA/APHIS/VS who has been officially assigned by the United States Department of Agriculture for service in Nebraska may be officially authorized by the department to perform and exercise such powers and duties as may be prescribed by the department, and when so authorized shall have and exercise all rights and powers under the Animal Health and Disease Control Act and the Exotic Animal Auction or Exchange Venue Act as agents of the department.

Source: Laws 2020, LB344, § 41.
Effective date November 14, 2020.

Cross References

Exotic Animal Auction or Exchange Venue Act, see section 54-7,105.

54-2942 Department; animal disease control and eradication responsibilities; cooperate and contract; agreements authorized.

In carrying out its animal disease control and eradication responsibilities, the department may cooperate and contract with public or private persons and enter into agreements with other state or federal agencies to allow personnel from such agencies to work in Nebraska and to allow department personnel to work in other states or with federal agencies under a cooperative work program.

Source: Laws 2020, LB344, § 42.
Effective date November 14, 2020.

54-2943 Failure to carry out program disease activities; department powers and duties; costs; reimbursement; late fee; funds; expenditures authorized.

(1) Whenever any person fails to carry out program disease activities or other responsibilities required under the Animal Health and Disease Control Act, the department may perform such functions. Upon completion of any such required program disease activities, the department shall determine its actual administrative costs incurred in handling the affected animal, herd, or flock or affected premises and conducting necessary and related activities and notify the owner or custodian in writing. Such owner or custodian shall reimburse the department its actual administrative costs within thirty days following the date of the notice.

(2) Any person failing to reimburse the department shall be assessed a late fee of twenty-five percent of the amount due for each thirty days of delinquent nonpayment up to one hundred percent of the original amount. The purpose of the late fee is to cover administrative costs associated with collecting the amount overdue. All such payments assessed and collected pursuant to this section shall be remitted to the State Treasurer for credit to the Animal Health and Disease Control Cash Fund.

(3) The department may provide funds from the Animal Health and Disease Control Cash Fund to or on behalf of herd owners for program disease activities or any portion thereof in connection with the implementation of the Animal Health and Disease Control Act if funds for such activities or any portion have been appropriated. The department may develop statewide priorities for the expenditure of state funds available for animal disease control and

eradication program activities. If funds are not available, the owner of such animal shall continue the program at his or her own expense. A portion of such state funds may be used by the department to pay a portion of the costs of testing done by or for accredited veterinarians if such work is approved by the department.

(4) In administering program disease activities pursuant to this section, the department shall not pay for:

(a) Testing done for a change of ownership at private treaty or at concentration points;

(b) Costs of gathering, confining, and restraining animals subject to testing or costs of providing necessary facilities and assistance;

(c) Costs of testing to qualify or maintain herd accreditation, certification, validation, and monitored status; or

(d) Indemnity for any animal destroyed as a result of being affected with a program disease or other dangerous disease unless funding is specifically appropriated by the Legislature for such purpose.

(5) The department shall not be liable for actual or incidental costs incurred by any person due to departmental actions in enforcing this section, including any action for trespass or damages.

Source: Laws 2020, LB344, § 43.

Effective date November 14, 2020.

54-2944 Affected animal, herd, or flock; affected premises; owner or custodian; duties; duty to report

(1) The owner or custodian of an affected animal, herd, or flock or affected premises may be required by the department to develop a written animal, herd, or flock management plan.

(2) Any affected premises may be required to be cleaned, disinfected, destroyed, or disposed of, or any combination thereof, to prevent transmission and spread of dangerous disease from one premises to another, or from one group of animals to another, when deemed necessary by the State Veterinarian.

(3) It is the duty of any person who discovers, suspects, or has reason to believe that any animal belonging to him or her, or which he or she has in his or her possession or custody, or which belonging to another person may come under his or her observation, is an affected animal to immediately report such fact, belief, or suspicion to the department or its agent, employee, or appointee.

Source: Laws 2020, LB344, § 44.

Effective date November 14, 2020.

54-2945 Bovine trichomoniasis; prohibited acts; duty to report; notice to adjacent landowner or land manager; form or affidavit submitted to department; department; duties; costs.

(1) Any person who reasonably suspects that any beef or dairy breeding bull belonging to him or her, or which he or she has in his or her possession or custody, is infected with bovine trichomoniasis shall not sell or transport such animal except for consignment directly to a federally recognized slaughter establishment unless such person causes such animal to be tested for bovine trichomoniasis.

(2) Any person who owns or has possession or custody of a beef or dairy breeding bull, or who has a beef or dairy breeding bull belonging to another under his or her observation, for which an approved laboratory confirmed diagnosis of bovine trichomoniasis has been made shall report such diagnosis to the department within five business days after receipt of the laboratory confirmation.

(3) Any such breeding bull for which a laboratory confirmation of bovine trichomoniasis has been made shall not be sold or transported except for consignment directly to a federally recognized slaughter establishment. The department may issue an order for such trichomoniasis positive bull to go directly to slaughter if the owner or custodian of such animal does not comply as set forth in this section.

(4) An owner or manager of any beef or dairy breeding bull for which an approved laboratory confirmed diagnosis of bovine trichomoniasis has been made shall notify each adjacent landowner or land manager of the diagnosis if such land is capable of maintaining livestock susceptible to bovine trichomoniasis. Such notification shall be made to each landowner or land manager within fourteen days after the diagnosis even if cattle are not currently maintained on the owner's or manager's land.

(5) The owner or manager of the cattle shall submit to the department a form or affidavit attesting to the fact that the notification required under this section has occurred. The form or affidavit shall be submitted to the department within fourteen days after the diagnosis and shall include the names of adjacent landowners or land managers who were notified and their contact information. If an owner or a manager does not within such fourteen-day period submit the form or affidavit indicating that adjacent landowners or land managers have been notified as required under this subsection, the department shall notify such adjacent landowners or land managers of the diagnosis.

(6) The department shall assess the administrative costs of the department to notify the adjacent landowners or land managers against the owner or manager that failed to comply with subsection (5) of this section. The department shall determine the scope of adjacent land based on the disease characteristics and modes of transmission. The department shall remit any administrative costs collected under this subsection to the State Treasurer for credit to the Animal Health and Disease Control Act Cash Fund.

Source: Laws 2020, LB344, § 45.

Effective date November 14, 2020.

54-2946 Dead animal; proper disposal; what constitutes; effect; owner or custodian; duties; sheriff; powers and duties; suspicion of anthrax; owner or custodian; duties; acts prohibited; department powers.

(1) It is the duty of the owner or custodian of any dead animal to properly dispose of the animal within thirty-six hours after receiving knowledge of the animal's death unless a different timeframe is established in a herd or flock management plan or otherwise allowed by the State Veterinarian. Proper disposal of a dead animal is limited to:

(a) Burial on the premises where such animal died or on any adjacent property under the control of the animal's owner or custodian and coverage to a depth of at least four feet below the surface of the ground except as required in subsection (7) of this section;

- (b) Complete incineration;
 - (c) Composting on the premises where such animal died or on an adjacent property under the ownership and control of the owner or custodian;
 - (d) Alkaline hydrolysis tissue digestion by a veterinary clinic or laboratory;
 - (e) Transportation by a licensed rendering establishment or other hauler approved by the State Veterinarian;
 - (f) Transportation to a veterinary clinic or laboratory for purposes of diagnostic testing; or
 - (g) Transportation with written permission of the State Veterinarian:
 - (i) To a rendering establishment licensed under the Nebraska Meat and Poultry Inspection Law;
 - (ii) To a compost site approved by the State Veterinarian;
 - (iii) To a facility with a permit to operate as a landfill under the Integrated Solid Waste Management Act so long as the operator of the landfill agrees to accept the dead animal;
 - (iv) To any facility which lawfully disposes of dead animals; or
 - (v) As specified in a herd or flock management plan.
- (2) A dead animal properly disposed of pursuant to this section is exempt from the requirements for disposal of solid waste under the Integrated Solid Waste Management Act.
- (3) Any vehicle used by the owner or custodian to transport a dead animal shall be constructed in such a manner that the contents are covered and will not fall, leak, or spill from the vehicle. Violation of this subsection is a traffic infraction as defined in section 60-672.
- (4) It is hereby made the duty of the sheriff of each county to cause the proper disposal of the carcass of any animal or carcass part remaining unburied or otherwise disposed of after notice from the department that any such carcass has not been properly buried or disposed of in violation of this section. The sheriff may enter any premises where any such carcass is located for the purpose of carrying out this section and may cause each carcass to be properly buried or disposed of on such premises. The county board of commissioners or supervisors shall allow such sums for the services as it may deem reasonable, and such sums shall be paid to the persons rendering the services upon vouchers as other claims against the county are paid. The owner of such animal shall be liable to the county for the expense of such burial or disposal, to be recovered in a civil action, unless the owner pays such expenses within thirty days after notice and demand therefor.
- (5) If anthrax is suspected in any animal death, the owner or custodian of the animal or herd shall be responsible to have samples submitted to an approved laboratory for confirmation.
- (6) If an animal has or is suspected to have died of anthrax, it shall be unlawful to:
- (a) Transport such animal or animal carcass, except as directed and approved by the department;
 - (b) Use the flesh or organs of such animal or animal carcass for food for livestock or human consumption; or
 - (c) Remove the skin or hide of such animal or animal carcass.

(7) The disposition of any anthrax-infected animal carcass shall be carried out under the direction of the department. It shall be the duty of the owner or custodian of an animal that has died of anthrax to bury or burn the carcass on the premises where the carcass is found, unless directed otherwise by the State Veterinarian. If such carcass is buried, no portion of the carcass shall be interred closer than six feet from the surface of the ground. The department may direct the owner or custodian of an infected herd to treat the herd and to clean and disinfect the premises in accordance with the herd plan.

Source: Laws 2020, LB344, § 46.
Effective date November 14, 2020.

Cross References

Integrated Solid Waste Management Act, see section 13-2001.
Nebraska Meat and Poultry Inspection Law, see section 54-1901.

54-2947 Pre-entry certificate of veterinary inspection; required; exceptions; permits, required when; prohibited acts; department powers.

(1) All animals brought into this state shall be accompanied by a pre-entry certificate of veterinary inspection, except:

(a) Animals brought directly to slaughter as defined in 9 C.F.R. 86.1 to a recognized slaughtering establishment as defined in 9 C.F.R. 78.1, as such regulations existed on January 1, 2020;

(b) Cattle, swine, horses, sheep, and goats brought from the farm or ranch of origin directly to an establishment approved under 9 C.F.R. 71.20, as such regulation existed on January 1, 2020;

(c) Poultry under eight weeks of age accompanied by a VS Form 9-3, Report of Sales of Hatching Eggs, Chicks, and Poults, and classified prior to movement into Nebraska as pullorum and typhoid clean or equivalent status pursuant to 9 C.F.R. part 145, the National Poultry Improvement Plan, as such plan existed on January 1, 2020; and

(d) Animals moving directly to a veterinary clinic or approved laboratory for diagnosis, treatment, or health examination, except that live animals without a pre-entry certificate of veterinary inspection shall not stay in Nebraska longer than the duration of such diagnosis, treatment, or health examination and during such stay shall be separated from other animals.

(2) The department may require that a prior entry permit be obtained for animals if it deems such permit is necessary for the protection of the health of domestic animals in the state.

(3) Except as provided in the Animal Health and Disease Control Act or the Exotic Animal Auction or Exchange Venue Act, no person shall move from a premises any animal which is affected or suspected of being affected with any dangerous disease without first having obtained a permit from the department.

(4) It shall be unlawful for any person to cause any animal to be diverted from the destination stated on the certificate of veterinary inspection except by written permission of the State Veterinarian.

(5) Any animal which does not qualify for entry into Nebraska pursuant to department rules and regulations may, at the discretion of the State Veterinarian, be subject to the department powers outlined in section 54-2940.

Source: Laws 2020, LB344, § 47.
Effective date November 14, 2020.

Cross References

Exotic Animal Auction or Exchange Venue Act, see section 54-7,105.

54-2948 Livestock; official identification; compliance with federal regulations; device or method; use; device removal, prohibited; exceptions.

(1) Livestock imported into Nebraska shall comply with federal animal disease traceability requirements for official identification of animals as set forth in 9 C.F.R. part 86, as such part existed on January 1, 2020, which the Legislature hereby adopts by reference. If there is an inconsistency between such federal regulations and the Animal Health and Disease Control Act, and any adopted and promulgated rules or regulations or order issued by the department, the requirements of the act, rules or regulations, or order control.

(2) An official identification device or method may be applied by an animal's owner, the owner's representative, an accredited veterinarian, or an approved tagging site. Official identification devices are intended to provide permanent identification of livestock and to ensure the ability to find the source of animal disease outbreaks. Removal of these devices is prohibited except at the time of slaughter, upon the death of the animal at any location, when an area veterinarian in charge replaces a device, or as otherwise approved by the department.

Source: Laws 2020, LB344, § 48.

Effective date November 14, 2020.

54-2949 Premises registration; animal disease traceability; information; restrictions on disclosure; violations; penalty.

(1) Any information that a person provides to the department for purposes of premises registration or for voluntary participation in or compliance with animal disease traceability shall not be a public record subject to disclosure under sections 84-712 to 84-712.09. The department and its employees or agents shall not disclose such information to any other person or agency, except when such disclosure:

(a) Is authorized by the person who provided the information; or

(b) Is necessary for purposes of disease surveillance or to carry out epidemiological investigations related to incidences of animal disease.

(2) The department may disclose information as authorized by this section subject to any confidentiality requirements that the department determines are appropriate under the circumstances.

(3) Any person who violates this section shall be subject to prosecution for official misconduct pursuant to section 28-924.

(4) Nothing in this section shall be construed to prohibit the department from discussing, reporting, or otherwise disclosing the progress or results of disease surveillance activities or epidemiological investigations related to incidence of animal disease.

Source: Laws 2020, LB344, § 49.

Effective date November 14, 2020.

54-2950 Records or reports; requirements.

Any person subject to the Animal Health and Disease Control Act or any rule or regulation adopted and promulgated under the act shall keep records or reports pertaining to vaccination of animals, herds, or flocks, official diagnostic

test results, and movement of affected animals, herds, or flocks infected with, exposed to, or suspected of being infected with or exposed to a program disease for five years. Such person shall keep any other records or make any other reports the department deems necessary to enforce the act.

Source: Laws 2020, LB344, § 50.
Effective date November 14, 2020.

54-2951 Vaccine; sale and use restrictions.

(1) The State Veterinarian may restrict the sale and use of vaccine as he or she deems appropriate.

(2) The sale and use of vaccines which are licensed and approved by the United States Department of Agriculture, Animal and Plant Health Inspection Service, Center for Veterinary Biologics, shall be used for the vaccination of livestock and such vaccines shall be distributed and administered by an accredited veterinarian licensed to practice in Nebraska.

(3) An affected animal, herd, or flock shall only be vaccinated by or under approval by an accredited veterinarian licensed to practice in Nebraska.

(4) Owners or custodians of animals, herds, or flocks not affected due to anthrax may purchase anthrax vaccine from an accredited veterinarian licensed to practice in Nebraska for purposes of treating such animals.

Source: Laws 2020, LB344, § 51.
Effective date November 14, 2020.

54-2952 Waste animal products, defined; feed to animals; unlawful; exceptions.

As used in this section, waste animal products means all meat or other materials derived in whole or in part from animals that are the result of handling, preparing, cooking, or consumption of human food. For purposes of controlling the spread of dangerous diseases of animals, it shall be unlawful for any person to feed waste animal products to animals except as follows:

(1) The material is regulated and approved as feed under the Commercial Feed Act; and

(2) A person may feed waste animal products to his or her own animals so long as such waste animal products are obtained from the person's own household, and the animals so fed, if consumed, are consumed by no one other than the members of that household.

Source: Laws 2020, LB344, § 52.
Effective date November 14, 2020.

Cross References

Commercial Feed Act, see section 54-847.

54-2953 Violation of Animal Health and Disease Control Act or Exotic Animal Auction or Exchange Venue Act; cease and desist order; administrative fine; injunctions; procedures.

(1) Whenever the director has reason to believe that any person has violated the Animal Health and Disease Control Act, the Exotic Animal Auction or Exchange Venue Act, any rule or regulation adopted and promulgated under such acts, or any order of the director, the director may issue a cease and desist

order. Proceedings initiated pursuant to this section shall not preclude the department from pursuing other administrative, civil, or criminal sanctions according to law.

(2) Any notice or order issued pursuant to the Animal Health and Disease Control Act, the Exotic Animal Auction or Exchange Venue Act, or any rule or regulation adopted and promulgated under such acts shall be properly served when it is personally served on the alleged violator or when it is sent by certified or regular United States mail to the last-known address of the alleged violator.

(3) A notice of the right to a hearing shall include notice that such right to a hearing may be waived by the alleged violator.

(4) All hearings shall be conducted by the director at the time and place he or she designates. The director shall make findings of fact and conclusions of law based on the complete hearing record and issue an order.

(5) Any person aggrieved by the findings and conclusions of the director shall have ten days after the entry of the director's order to request a new hearing if such person can show that a mistake of fact has been made which affected the director's determination. Any order of the director becomes final upon the expiration of ten days after its entry if no request for a new hearing is made.

(6) When a person, including a nonresident of this state, engages in conduct prohibited or made actionable by the Animal Health and Disease Control Act, the Exotic Animal Auction or Exchange Venue Act, any rule or regulation adopted and promulgated under such acts, or any order of the director, the engagement in such conduct shall constitute sufficient contact with this state for the exercise of personal jurisdiction over such person in any action which arises under this section.

(7) The department may assess an administrative fine of up to five thousand dollars for any violation of the Animal Health and Disease Control Act, the Exotic Animal Auction or Exchange Venue Act, any rule or regulation adopted and promulgated under such acts, or any order of the director. Each violation shall constitute a separate offense. Whenever a violation has occurred, the following shall be considered when determining the amount of any administrative fine:

- (a) The culpability and good faith of the violator and any past violations;
- (b) The seriousness of the violation, including the amount of any actual or potential risk to the health of Nebraska's livestock or livestock industry; and
- (c) The extent to which the violator derived financial gain as a result of committing or permitting the violation, including a determination of the size of the violator's business and the impact of the administrative fine on such business.

(8) The director shall advise the Attorney General of the failure of any person to pay an administrative fine imposed under this section. The Attorney General shall bring an action in the district court of Lancaster County to recover the fine.

(9) The department may apply for a temporary restraining order, a temporary or permanent injunction, or a mandatory injunction against any person violating or threatening to violate the Animal Health and Disease Control Act, the Exotic Animal Auction or Exchange Venue Act, or any rules and regulations adopted and promulgated under either act. It shall be the duty of the Attorney

General or the county attorney of the county in which the violation occurred or is about to occur, when notified by the director of such violation, to pursue appropriate proceedings without delay pursuant to this section.

(10) Nothing in this section shall be construed to require the director to report all acts for prosecution if in the opinion of the director the public interest will best be served through other administrative or civil procedures.

(11) All money collected by the department pursuant to this section shall be remitted to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

Source: Laws 2020, LB344, § 53.

Effective date November 14, 2020.

Cross References

Exotic Animal Auction or Exchange Venue Act, see section 54-7,105.

54-2954 Violation of Animal Health and Disease Control Act or Exotic Animal Auction or Exchange Venue Act; orders of department; arrests; law enforcement officer; county attorney; powers and duties.

(1) For purposes of this section, law enforcement officer has the same meaning as in section 54-902. Special investigator means a special investigator appointed as a deputy state sheriff and employed by the department for state law enforcement purposes pursuant to section 81-201.

(2) The department or any officer, special investigator, agent, employee, or appointee thereof may request any law enforcement officer to execute the orders of the department, and such law enforcement officer shall have authority to execute the orders of the department.

(3) Any special investigator, or any law enforcement officer whose assistance is requested pursuant to subsection (2) of this section, may arrest any person found violating the Animal Health and Disease Control Act, the Exotic Animal Auction or Exchange Venue Act, or any rule or regulation adopted and promulgated under such acts, and such officer or special investigator shall immediately notify the county attorney of such arrest. The county attorney shall prosecute the arrested person according to the law.

Source: Laws 2020, LB344, § 54.

Effective date November 14, 2020.

Cross References

Exotic Animal Auction or Exchange Venue Act, see section 54-7,105.

54-2955 Animal Health and Disease Control Act or Exotic Animal Auction or Exchange Venue Act; embargo or importation order; required herd management plan; violations; penalties.

(1) Any person who imports livestock or causes livestock to be imported into the State of Nebraska in violation of an embargo or importation order issued by the State Veterinarian shall be guilty of a Class IV felony.

(2) Any person who violates any provision of the Animal Health and Disease Control Act, the Exotic Animal Auction or Exchange Venue Act, or any rules and regulations duly adopted and promulgated thereunder, for which no other criminal penalty is provided by such acts, shall be deemed guilty of a Class II misdemeanor.

(3) An owner or custodian of an affected animal, herd, or flock or affected premises who fails to develop a required herd management plan or who fails to follow such a plan is guilty of a Class I misdemeanor.

Source: Laws 2020, LB344, § 55.

Effective date November 14, 2020.

Cross References

Exotic Animal Auction or Exchange Venue Act, see section 54-7,105.

54-2956 Animal Health and Disease Control Act and Exotic Animal Auction or Exchange Venue Act; prohibited acts.

It shall be unlawful for any person to violate the Animal Health and Disease Control Act and the Exotic Animal Auction or Exchange Venue Act or any rule or regulation adopted and promulgated pursuant to such acts. It is a violation for any person to:

(1) Deny access to any officer, agent, employee, or appointee of the department or offer any resistance to, thwart, or hinder such persons by misrepresentation or concealment;

(2) Violate a controlled movement order or quarantine or remove an animal which has been placed under a controlled movement order or quarantine until such controlled movement order or quarantine is released by the State Veterinarian;

(3) Fail to pay any administrative fine levied pursuant to section 54-2953;

(4) Interfere in any way with or obstruct an officer, agent, employee, or appointee of the department from entering any premises to carry out his or her duties under the Animal Health and Disease Control Act, the Exotic Animal Auction or Exchange Venue Act, or any rules or regulations promulgated under such acts, or to interfere in any way with the department in the performance of its duties;

(5) If an owner or a custodian of an affected animal, refuse to perform program disease activities, refuse to perform any other duty required by the State Veterinarian under the Animal Health and Disease Control Act, or refuse to dispose of such affected animal if ordered to do so by the State Veterinarian;

(6) Knowingly harbor, sell, or otherwise dispose of any affected animal or any part thereof except as provided by the Animal Health and Disease Control Act and the rules and regulations adopted and promulgated by the department under the act;

(7) Except by permit issued by the department, bring, cause to be brought, or aid in bringing into this state any animal which he or she knows to be infected with, exposed to, or suspected of being exposed to any dangerous disease, or which he or she knows has originated from a quarantined area, herd, or flock;

(8) Violate a disease control requirement established through livestock herd agreements or health plans, compliance agreements, or controlled feedlot agreements; or

(9) Bring, cause to be brought, or aid in bringing into this state any animal in violation of section 54-2947 or 54-2948 or any rule or regulation adopted and promulgated by the department.

Source: Laws 2020, LB344, § 56.

Effective date November 14, 2020.

Cross References

Exotic Animal Auction or Exchange Venue Act, see section 54-7,105.

54-2957 Animal Health and Disease Control Act Cash Fund; created; use; investment.

The Animal Health and Disease Control Act Cash Fund is created. The fund shall consist of administrative costs collected and money appropriated or transferred by the Legislature and gifts, grants, costs, or charges received or collected from any source, including federal, state, public, and private sources. The fund shall be used to carry out the Animal Health and Disease Control Act. 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.

Source: Laws 2020, LB344, § 57.
Effective date November 14, 2020.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

CHAPTER 55

MILITIA

Article.

1. Military Code. 55-120 to 55-183.
4. Nebraska Code of Military Justice. 55-401 to 55-481.
6. Commission on Military and Veteran Affairs. 55-601 to 55-606.
7. Consumer Protection and Civil Relief. 55-701 to 55-704.

ARTICLE 1

MILITARY CODE

Section

- 55-120. National Guard; Military Department; officers; personnel; rank.
 55-125. Adjutant General; assistants; qualifications.
 55-126. Adjutant General; assistants; duties; bond or insurance; salary.
 55-157. Militia; active duty; personnel; compensation; travel expenses; health insurance reimbursement.
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 55-182. Nebraska National Guard; rights.
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55-120 National Guard; Military Department; officers; personnel; rank.

The Military Department shall consist of the Adjutant General in the minimum grade of lieutenant colonel, one deputy adjutant general with a minimum grade of colonel, or a civilian deputy director, one assistant director for Nebraska Emergency Management Agency affairs, and such other officers and enlisted personnel in the number and grade as prescribed by the United States Department of the Army and Department of the Air Force personnel documents provided to the National Guard or as otherwise authorized.

Source: Laws 1917, c. 205, § 3, p. 483; Laws 1919, c. 121, § 1, p. 288; C.S.1922, § 3304; Laws 1929, c. 189, § 19, p. 661; C.S.1929, § 55-124; R.S.1943, § 55-139; Laws 1953, c. 188, § 17, p. 598; Laws 1963, c. 321, § 2, p. 975; R.R.S.1943, § 55-139; Laws 1969, c. 459, § 18, p. 1587; Laws 1974, LB 983, § 3; Laws 1996, LB 43, § 10; Laws 2010, LB550, § 2; Laws 2014, LB806, § 1.

55-125 Adjutant General; assistants; qualifications.

(1) The Adjutant General shall appoint a deputy adjutant general or a civilian deputy director. An officer appointed as a deputy adjutant general shall hold the minimum grade of colonel as provided in section 55-120. No person shall be eligible for appointment and service as the deputy adjutant general unless he or she is an active member of the Nebraska National Guard. The deputy adjutant general shall have had at least four years of commissioned service in the Nebraska National Guard immediately prior to appointment and shall have

attained at least the grade of lieutenant colonel and be eligible for promotion to colonel prior to his or her appointment as deputy adjutant general.

(2) The chief of the National Guard Bureau shall appoint a United States property and fiscal officer. The officer shall hold the minimum grade of colonel. The Governor shall nominate one or more officers for the position of United States property and fiscal officer after consultation with the Adjutant General. All nominees shall have attained at least the grade of lieutenant colonel and be eligible for promotion to colonel prior to his or her nomination. The United States property and fiscal officer may appoint, with the approval of the Adjutant General, one or more assistant United States property and fiscal officers, each with the minimum grade of captain. The United States property and fiscal officer and each assistant United States property and fiscal officer shall be appointed from among the active officers of the Nebraska National Guard and shall have been commissioned officers in the Nebraska National Guard for a period of at least four years immediately prior to appointment.

(3) The Adjutant General shall appoint all additional officers, clerks, and caretakers as may be required.

Source: Laws 1917, c. 205, § 4, p. 485; Laws 1919, c. 121, § 2, p. 290; Laws 1921, c. 234, § 1, p. 833; C.S.1922, § 3305; C.S.1929, § 55-125; R.S.1943, § 55-143; Laws 1953, c. 188, § 20, p. 600; Laws 1963, c. 321, § 3, p. 976; R.R.S.1943, § 55-143; Laws 1969, c. 459, § 23, p. 1589; Laws 1974, LB 983, § 5; Laws 1976, LB 614, § 1; Laws 2004, LB 963, § 2; Laws 2010, LB550, § 4; Laws 2014, LB806, § 2.

55-126 Adjutant General; assistants; duties; bond or insurance; salary.

The deputy adjutant general or civilian deputy director shall aid the Adjutant General by the performance of such duties as may be assigned by the Adjutant General. In case of absence or inability of the Adjutant General, the deputy adjutant general or civilian deputy director shall perform all or such portion of the duties of the Adjutant General as the latter may expressly delegate to him or her. If the Adjutant General has appointed a civilian deputy director the Adjutant General may, in the event of the Adjutant General's absence, delegate the authority to perform the military duties of the Adjutant General to any active officer of the Nebraska National Guard who shall hold the minimum grade of colonel. In the case of absence of both the Adjutant General and the deputy adjutant general or civilian deputy director, the Adjutant General may delegate the authority to perform the military duties of the Adjutant General to any active officer of the Nebraska National Guard who shall hold the minimum grade of colonel and the Adjutant General may delegate the authority to perform state duties to any member of his or her appointed executive staff. The deputy adjutant general or civilian deputy director shall be bonded or insured as required by section 11-201. The deputy adjutant general or civilian deputy director shall receive such salary as the Adjutant General shall direct, payable biweekly. Such salary for the deputy adjutant general shall not exceed the annual pay and allowances of regular military officers of equal rank and time in service, except that when funds made available by the federal government are in excess of the amount payable as directed by the Adjutant General, the excess shall be used to reduce the amount required to be paid by the State of Nebraska. Except when called or ordered to active duty of the United States

under 10 U.S.C. in support of missions authorized by the President of the United States or Secretary of Defense, the deputy adjutant general shall not be required to take either paid or unpaid leave, or a leave of absence or a reduction in salary, when performing his or her federal duties whether or not under federal orders.

Source: Laws 1917, c. 205, § 4, p. 486; Laws 1919, c. 121, § 2, p. 290; Laws 1921, c. 234, § 1, p. 834; C.S.1922, § 3305; C.S.1929, § 55-125; R.S.1943, § 55-144; Laws 1947, c. 196, § 2, p. 639; Laws 1951, c. 182, § 2, p. 685; Laws 1963, c. 321, § 4, p. 976; R.R.S.1943, § 55-144; Laws 1969, c. 459, § 24, p. 1589; Laws 1978, LB 653, § 16; Laws 1993, LB 170, § 1; Laws 2004, LB 884, § 28; Laws 2004, LB 963, § 3; Laws 2010, LB550, § 5; Laws 2014, LB806, § 3.

55-157 Militia; active duty; personnel; compensation; travel expenses; health insurance reimbursement.

(1) When an active or retired officer or enlisted person of the National Guard is ordered to active service of the state by the Governor or Adjutant General, he or she shall receive compensation as provided in this subsection. For service during a disaster or emergency, an officer or enlisted person shall be entitled to the same pay, subsistence, and quarters allowance as officers and enlisted personnel of corresponding grades of the Army and Air Force of the United States and shall be reimbursed for travel expenses in accordance with the Joint Federal Travel Regulations. For advice, counsel, duties, or service to the Governor or Adjutant General, an officer or enlisted person may, at the discretion of the Adjutant General, be in a pay or nonpay status. If in a pay status, the officer or enlisted person shall be entitled to the same pay, subsistence, and quarters allowance as officers and enlisted personnel of corresponding grades of the Army and Air Force of the United States and shall be reimbursed for travel expenses in accordance with the Joint Federal Travel Regulations.

(2) For any period of active service of the state in excess of thirty consecutive days, performed at the order of the Governor or Adjutant General or at the request of the federal government, a state, or other agency or entity, an officer or enlisted person shall be entitled to reimbursement of one hundred percent of the cost of his or her privately purchased health insurance or up to one hundred two percent of the cost of his or her employer-provided health insurance. The officer or enlisted person shall provide evidence of payment and shall be reimbursed to the extent that evidence of payment can be provided. The reimbursement for health insurance shall be treated as an allowance but may be paid separately once received by the State of Nebraska from the federal government, a state, or other agency or entity requesting the services of the officer or enlisted person. The State of Nebraska will not pay or advance the cost of such health insurance reimbursement for the federal government, a state, or other agency or entity. The State of Nebraska is exempt from the requirement under this subsection to reimburse officers and enlisted persons for their health insurance costs.

Source: Laws 1909, c. 90, § 44, p. 380; R.S.1913, § 3943; C.S.1922, § 3343; C.S.1929, § 55-170; R.S.1943, § 55-184; Laws 1953, c.

188, § 33, p. 606; R.R.S.1943, § 55-184; Laws 1969, c. 459, § 55, p. 1599; Laws 1984, LB 934, § 5; Laws 1990, LB 930, § 2; Laws 2004, LB 963, § 4; Laws 2012, LB1141, § 1.

55-160 Military leave of absence without loss of pay; limitations.

(1) All employees, including elected officials of the State of Nebraska, or any political subdivision thereof, who are members of the National Guard, Army Reserve, Naval Reserve, Marine Corps Reserve, Air Force Reserve, and Coast Guard Reserve, shall be entitled to a military leave of absence from their respective duties, without loss of pay, when employed with or without pay under the orders or authorization of competent authority in the active service of the state or of the United States. Members who normally work or are normally scheduled to work one hundred fifty-nine hours or more in three consecutive weeks and scheduled to work twenty-four hour shifts shall receive a military leave of absence of one hundred sixty-eight hours each calendar year. Members who normally work or are normally scheduled to work one hundred twenty hours or more but less than one hundred fifty-nine hours in three consecutive weeks shall receive a military leave of absence of one hundred twenty hours each calendar year. Members who normally work or are normally scheduled to work less than one hundred twenty hours in three consecutive weeks shall receive a military leave of absence each calendar year equal to the number of hours they normally work or would normally be scheduled to work, whichever is greater, in three consecutive weeks. Such military leave of absence may be taken in hourly increments and shall be in addition to the regular annual leave of the persons named in this section.

(2) When the Governor of this state declares that a state of emergency exists and any of the persons named in this section are ordered to active service of the state, a state of emergency leave of absence will be granted until such member is released from active service of the state by competent authority. A military leave of absence shall not be used during a state of emergency declared by the Governor. Other forms of leave may be granted. During a state of emergency leave of absence because of the call of the Governor, any official or employee subject to this section shall receive his or her normal salary or compensation minus the state active duty base pay he or she receives in active service of the state. Governmental officers serving a term of office shall receive their compensation as provided by law.

Source: Laws 1947, c. 198, § 1, p. 642; Laws 1953, c. 188, § 26, p. 602; R.R.S.1943, § 55-156.01; Laws 1969, c. 459, § 58, p. 1600; Laws 2002, LB 722, § 3; Laws 2018, LB1003, § 1.

55-161 Military leave of absence; rights of officer or employee.

(1) The parts of the federal Uniformed Services Employment and Reemployment Rights Act of 1994, 38 U.S.C. Chapter 43, listed in subdivisions (a) through (j) of this subsection or any other parts referred to by such parts, in existence and effective as of January 1, 2001, are adopted as Nebraska law. This section shall be applicable to all persons employed in the State of Nebraska and shall include all officers and permanent employees, including teachers employed on a one-year contract basis and elected officials, of the state or of any of its agencies or political subdivisions. The Legislature hereby adopts:

(a) Section 4301(a) — Purposes;

- (b) Section 4302 — Relation to other law and plans or agreements;
- (c) Section 4303(2),(4),(7) through (13),(15), and (16) and those portions of subparagraph (3) not relating to employment in a foreign country — Definitions;
- (d) Section 4304 — Character of service;
- (e) Section 4311 — Discrimination against persons who serve in the uniformed services and acts of reprisal prohibited;
- (f) Section 4312 — Reemployment rights of persons who serve in the uniformed services;
- (g) Section 4313 with the exception of that portion of subparagraph (a) dealing with reemployment of federal employees — Reemployment positions;
- (h) Section 4316 — Rights, benefits, and obligations of persons absent from employment for service in a uniformed service;
- (i) Section 4317 — Health plans; and
- (j) Section 4318 — Employee pension benefit plans.

(2) This section applies to all members performing duty in active service of the state and to any person employed in Nebraska who is a member of the National Guard of another state and who is called into active service by the Governor of that state.

(3) The proper appointing authority or employer may make a temporary appointment to fill any vacancy created by the absence of an officer or employee pursuant to this section. Such officer or employee shall not be discharged from his or her former or new position without justifiable cause within one year after reinstatement.

(4) The Commissioner of Labor shall enforce this section.

(5) The Adjutant General shall perform duties assigned to the Secretary of Defense, Secretary of Veterans Affairs, or Secretary of Labor in the portions of 38 U.S.C. Chapter 43 adopted under this section.

Source: Laws 1951, c. 183, § 1, p. 686; Laws 1953, c. 189, § 1, p. 609; R.R.S.1943, § 55-156.02; Laws 1969, c. 459, § 59, p. 1600; Laws 1969, c. 751, § 8, p. 2828; Laws 1972, LB 1510, § 1; Laws 2002, LB 722, § 4; Laws 2016, LB753, § 1.

55-181 Department; contract with Nebraska Wing of Civil Air Patrol; purposes; funding agreement.

The Military Department may contract with the Nebraska Wing of the Civil Air Patrol, the civilian auxiliary of the United States Air Force, for the following purposes:

- (1) To encourage and aid American citizens in the contribution of their efforts, services, and resources in the development of aviation and the maintenance of aerospace supremacy;
- (2) To encourage and develop, by example, the voluntary contribution of private citizens to the public welfare;
- (3) To provide aviation and aerospace education and training;
- (4) To foster and encourage civil aviation in local communities throughout the state; and
- (5) To assist in meeting emergencies within the state.

The Division of Aeronautics of the Department of Transportation and the Military Department shall enter into an agreement that will continue the funding of the contract under this section from the Aeronautics Cash Fund in an amount equal to the appropriation by the Legislature for such purpose.

Source: Laws 1976, LB 847, § 1; R.S.1943, (1997), § 3-125.01; Laws 2003, LB 69, § 1; Laws 2017, LB339, § 178.

55-182 Nebraska National Guard; rights.

The rights of a member of the Nebraska National Guard in the State of Nebraska shall include, but not be limited to, the right to:

- (1) Seek employment with state, county, and local government;
- (2) Not have membership in the Nebraska National Guard impact such member's right to donate to political parties when not on duty status;
- (3) Participate with state, county, or local government in a law enforcement function as prescribed by that government;
- (4) Receive the same protections a law enforcement officer is afforded under section 23-3211 if the member is acting as a law enforcement officer pursuant to subdivision (3) of this section; and
- (5) Protection of such member's personal information as afforded personnel of public bodies pursuant to subdivision (7) of section 84-712.05, if the member is acting as a law enforcement officer pursuant to subdivision (3) of this section.

Source: Laws 2019, LB152, § 1.

55-183 National Guard; state-sponsored life insurance program; Adjutant General; powers and duties.

(1) For purposes of this section, state-sponsored life insurance program means the life insurance program exclusively offered to all members of the Nebraska National Guard through the National Guard Association of Nebraska pursuant to the federal Veterans' Insurance Act of 1974, Public Law 93-289.

(2) Pursuant to this section, the Adjutant General shall:

- (a) Allow efforts to make the state-sponsored life insurance program available to all members of the Nebraska National Guard;
- (b) Provide an opportunity for members of the Nebraska National Guard to purchase state-sponsored life insurance program products; and
- (c) Allow state-sponsored life insurance program representatives to provide Nebraska National Guard members with state-sponsored life insurance program briefings during annual training and inactive duty training periods to educate members on the state-sponsored life insurance program.

Source: Laws 2019, LB223, § 1.

ARTICLE 4

NEBRASKA CODE OF MILITARY JUSTICE

Section

- 55-401. Code, how cited.
 55-402. Terms, defined.
 55-416. Commanding officer's nonjudicial punishment.
 55-418. Court-martial; jurisdiction.
 55-419. Court-martial; jurisdiction; not exclusive.

Section

- 55-427. Statute of limitations.
55-428. Witness; failure to appear; procedure.
55-452. Attempt to commit an offense.
55-480. Disorders and prejudice of good order and discipline.
55-481. Summarized administrative discipline for minor offenses; procedure; appeal; notice; contents.

55-401 Code, how cited.

Sections 55-401 to 55-481 shall be known and may be cited as the Nebraska Code of Military Justice.

Source: Laws 1969, c. 458, § 1, p. 1553; Laws 2016, LB754, § 7.

55-402 Terms, defined.

As used in the Nebraska Code of Military Justice, unless the context otherwise requires:

- (1) Military forces shall mean the National Guard, also called the Nebraska National Guard and also hereinafter referred to as the Army National Guard and Air National Guard, and in addition thereto, the militia when called into active service of this state;
- (2) Officer shall mean a commissioned officer including a commissioned warrant officer;
- (3) Superior officer shall mean an officer superior in rank or command;
- (4) Enlisted person shall mean any person who is serving in an enlisted grade in any military force;
- (5) Accuser shall mean a person who signs and swears to charges, to any person who directs that charges nominally be signed and sworn by another, and to any other person who has an interest other than an official interest in prosecution of the accused;
- (6) Military judge shall mean an official of court-martial detailed in accordance with section 55-422; and
- (7) Code shall mean the Nebraska Code of Military Justice.

Source: Laws 1969, c. 458, § 2, p. 1553; Laws 2016, LB754, § 8.

55-416 Commanding officer's nonjudicial punishment.

(1) Under such regulations as the Governor may prescribe, limitations may be placed on the powers granted by this section with respect to the kind and amount of punishment authorized, the categories of commanding officers and warrant officers exercising command authorized to exercise those powers, the applicability of the code to an accused who demands trial by court-martial, but punishment may not be imposed upon any member of the military forces under this section if the member has, before the imposition of such punishment, demanded trial by court-martial in lieu of such punishment. Under similar regulations, rules may be prescribed with respect to the suspension of punishments authorized hereunder.

(2) Subject to subsection (1) of this section, any commanding officer may, in addition to or in lieu of admonition or reprimand, impose one or more of the following disciplinary punishments for minor offenses without the intervention of a court-martial:

(a) Upon officers of his or her command:

(i) Restriction to certain specified limits, with or without suspension from duty, for not more than ten consecutive days; or

(ii) If imposed by a general officer in command, arrest in quarters for not more than fourteen consecutive days; forfeiture of not more than one-half of one month's pay per month for two months; restriction to certain specified limits, with or without suspension from duty, for not more than fourteen consecutive days; or detention of not more than one-half of one month's pay per month for three months; and

(b) Upon other personnel of his or her command:

(i) Correctional custody for not more than seven consecutive days;

(ii) Forfeiture of not more than seven days' pay;

(iii) Reduction to the next inferior pay grade, if the grade from which demoted is within the promotion authority of the officer imposing the reduction or any officer subordinate to the one who imposes the reduction;

(iv) Extra duties, including fatigue or other duties, for not more than ten consecutive days;

(v) Restriction to certain specified limits, with or without suspension from duty, for not more than ten consecutive days;

(vi) Detention of not more than fourteen days' pay; or

(vii) If imposed by an officer of the grade of major or above, correctional custody for not more than fourteen consecutive days; forfeiture of not more than one-half of one month's pay per month for two months; reduction to the lowest or any intermediate pay grade, if the grade from which demoted is within the promotion authority of the officer imposing the reduction or any officer subordinate to the one who imposes the reduction, but an enlisted member in a pay grade above E-4 may not be reduced more than two pay grades; extra duties, including fatigue or other duties, for not more than fourteen consecutive days; restrictions to certain specified limits, with or without suspension from duty, for not more than fourteen consecutive days; or detention of not more than one-half of one month's pay per month for three months.

Detention of pay shall be for a stated period, but if the offender's term of service expires earlier, the detention shall terminate upon that expiration. No two or more of the punishments of arrest in quarters, correctional custody, extra duties, and restriction may be combined to run consecutively in the maximum amount imposable for each. Whenever any of those punishments are combined to run consecutively, there must be an apportionment. In addition, forfeiture of pay may not be combined with detention of pay without an apportionment. For the purposes of this subsection, correctional custody is the physical restraint of a person during duty or nonduty hours and may include extra duties, fatigue duties, or hard labor. If practicable, correctional custody will not be served in immediate association with persons awaiting trial or held in confinement pursuant to trial by court-martial.

(3) An officer in charge may impose upon enlisted members assigned to the unit of which he or she is in charge such of the punishments authorized under subsection (2)(b) of this section as the Governor may specifically prescribe by regulation.

(4) The officer who imposes the punishment authorized in subsection (2) of this section, or his or her successor in command, may, at any time, suspend probationally any part or amount of the unexecuted punishment imposed and may suspend probationally a reduction in grade or a forfeiture imposed under subsection (2) of this section, whether or not executed. In addition, he or she may, at any time, remit or mitigate any part or amount of the unexecuted punishment imposed and may set aside in whole or in part the punishment, whether executed or unexecuted, and restore all rights, privileges, and property affected. He or she may also mitigate reduction in grade to forfeiture or detention of pay. When mitigating:

- (a) Arrest in quarters to restriction;
- (b) Confinement on bread and water or diminished rations to correctional custody;
- (c) Correctional custody or confinement on bread and water or diminished rations to extra duties or restriction, or both; or
- (d) Extra duties to restriction, the mitigated punishment shall not be for a greater period than the punishment mitigated. When mitigating forfeiture of pay to detention of pay, the amount of the detention shall not be greater than the amount of the forfeiture. When mitigating reduction in grade to forfeiture or detention of pay, the amount of the forfeiture or detention shall not be greater than the amount that could have been imposed initially under this section by the officer who imposed the punishment mitigated.

(5) A person punished under this section who considers his or her punishment unjust or disproportionate to the offense may, through the proper channel, appeal to the next superior authority. The appeal shall be promptly forwarded and decided, but the person punished may in the meantime be required to undergo the punishment adjudged. The superior authority may exercise the same powers with respect to the punishment imposed as may be exercised under subsection (4) of this section by the officer who imposed the punishment. Before acting on an appeal from a punishment of:

- (a) Arrest in quarters for more than seven days;
- (b) Correctional custody for more than seven days;
- (c) Forfeiture of more than seven days' pay;
- (d) Reduction of one or more pay grades from the fourth or a higher pay grade;
- (e) Extra duties for more than ten days;
- (f) Restriction for more than ten days; or
- (g) Detention of more than fourteen days' pay, the authority who is to act on the appeal shall refer the case to a judge advocate for consideration and advice, and may so refer the case upon appeal from any punishment imposed under subsection (2) of this section.

(6) The imposition and enforcement of disciplinary punishment under this section for any act or omission is not a bar to trial by court-martial for a serious crime or offense growing out of the same act or omission, and not properly punishable under this section; but the fact that a disciplinary punishment has been enforced may be shown by the accused upon trial, and when so shown shall be considered in determining the measure of punishment to be adjudged in the event of a finding of guilty.

(7) The Governor may, by regulation, prescribe the form of records to be kept of proceedings under this section and may also prescribe that certain categories of those proceedings shall be in writing.

(8) Any punishment authorized by this section which is measured in terms of days shall, when served in a status other than annual field training, be construed to mean consecutive active service days.

Source: Laws 1969, c. 458, § 16, p. 1557; Laws 2016, LB754, § 9.

55-418 Court-martial; jurisdiction.

A court-martial as defined in the code shall have jurisdiction to try persons subject to the code for any offense defined and made punishable by the code and may, under such limitations and regulations as the Governor may prescribe, adjudge any of the following penalties:

- (1) Confinement at hard labor for not more than six months;
- (2) Hard labor without confinement for not more than three months;
- (3) Forfeitures or detentions of pay not exceeding two-thirds pay per month for six months;
- (4) Bad conduct discharge;
- (5) Dishonorable discharge;
- (6) Reprimand; or
- (7) Reduction of noncommissioned officers to the ranks, and to combine any two or more of such punishments in the sentence imposed.

Source: Laws 1969, c. 458, § 18, p. 1562; Laws 2016, LB754, § 11.

55-419 Court-martial; jurisdiction; not exclusive.

The jurisdiction of a court-martial is limited to the trial of persons accused of military offenses as described in the code. Persons subject to the code who are accused of offenses cognizable by the civil courts of this state or any other state where the military forces are present in that state may, upon accusation, be promptly surrendered to civil authorities for disposition, urgencies of the service considered. If the person subject to the code is accused of both a military offense under the code and a civil offense by the civil authorities, he or she shall be released to the civil authorities if the crime for which he or she is accused by the civil authorities carries a penalty in excess of the maximum penalty provided by the code.

Source: Laws 1969, c. 458, § 19, p. 1562; Laws 2016, LB754, § 12.

55-427 Statute of limitations.

A person charged with any offense is not liable to be tried by court-martial or punished under section 55-416 or 55-481 if the offense was committed more than two years before the receipt of sworn charges and specifications by an officer exercising court-martial jurisdiction as set forth in the code.

Source: Laws 1969, c. 458, § 27, p. 1566; Laws 2016, LB754, § 13.

55-428 Witness; failure to appear; procedure.

- (1) Any person not subject to the code who:

(a) Has been duly subpoenaed to appear as a witness before a court-martial, military commission, court of inquiry, or any other military court or board, or before any military or civil officer designated to take a deposition to be read in evidence before such a court, commission, or board;

(b) Has been duly paid or tendered the fees of a witness at the rates allowed to witnesses attending the district courts of the State of Nebraska and mileage at the rate provided in section 81-1176 for state employees; and

(c) Willfully neglects or refuses to appear, or refuses to qualify as a witness or to testify or to produce any evidence which that person may have been legally subpoenaed to produce, is guilty of a Class II misdemeanor.

(2) The Attorney General of Nebraska, upon the certification of the facts to him or her by the military court, commission, or board shall file an information against and prosecute any person violating this section.

(3) The fees and mileage of witnesses shall be advanced or paid out of the appropriations for the compensation of witnesses.

Source: Laws 1969, c. 458, § 28, p. 1566; Laws 1977, LB 39, § 55; Laws 1981, LB 204, § 97; Laws 2016, LB754, § 14.

55-452 Attempt to commit an offense.

(1) An act done with specific intent to commit an offense under the code, amounting to more than mere preparation and tending, even though failing, to effect its commission is an attempt to commit that offense.

(2) Any person subject to the code who attempts to commit any offense punishable by the code shall be punished as a court-martial may direct, unless otherwise specifically prescribed.

(3) Any person subject to the code may be convicted of an attempt to commit an offense although it appears on the trial that the offense was consummated.

Source: Laws 1969, c. 458, § 52, p. 1574; Laws 2016, LB754, § 15.

55-480 Disorders and prejudice of good order and discipline.

Though not specifically mentioned in this code, all disorders and neglects to the prejudice of good order and discipline in the armed forces, all conduct of a nature to bring discredit upon the armed forces and crimes and offenses not capital, of which persons subject to this code may be guilty, shall be taken cognizance of by a court-martial, according to the nature and degree of the offense, and shall be punished at the discretion of that court.

Source: Laws 1969, c. 458, § 80, p. 1580; Laws 2015, LB268, § 31; Referendum 2016, No. 426.

Note: The changes made to section 55-480 by Laws 2015, LB 268, section 31, have been omitted because of the vote on the referendum at the November 2016 general election.

55-481 Summarized administrative discipline for minor offenses; procedure; appeal; notice; contents.

(1) Any commanding officer, with regard to enlisted members, and any general officer, with regard to officers, may issue summarized administrative discipline for minor offenses. A minor offense shall be any offense which, under the Uniform Code of Military Justice of the United States, 10 U.S.C. chapter 47, or other military or civilian law or military custom, has a maximum penalty of confinement for one year or less.

(2) In accordance with subsection (1) of this section, any commanding officer or general officer, after consultation with a duly appointed judge advocate in the Nebraska National Guard, may impose one or more of the following disciplinary actions for minor offenses without the intervention of a court-martial:

(a) Upon officers:

(i) Restriction to certain specified limits, with or without suspension from duty, for up to seven days; or

(ii) Forfeiture of pay for up to one day; and

(b) Upon enlisted personnel:

(i) Restriction to certain specified limits, with or without suspension from duty, for not more than seven consecutive days;

(ii) Forfeiture of pay for up to one day; or

(iii) Extra duty not to exceed ten days.

(3) Consecutive summarized administrative discipline for the same offense or incident is not authorized.

(4) The officer who imposes the summarized administrative discipline as provided in subsection (2) of this section, or a successor in command, may, at any time, suspend probationally any part or amount of the unexecuted discipline imposed. In addition, the officer or successor in command may, at any time, remit or mitigate any part or amount of the unexecuted discipline imposed and may set aside in whole or in part the discipline, whether executed or unexecuted, and restore all rights, privileges, and property affected.

(5) A person disciplined under this section who considers his or her discipline unjust or disproportionate to the offense may, within twenty-four hours of the announcement of findings and through the proper channel, appeal to the next superior authority or general officer. The appeal and record of the hearing shall be promptly forwarded and decided, but the person disciplined may in the meantime be required to undergo the discipline adjudged. The superior authority or general officer may exercise the same powers with respect to the discipline imposed as may be exercised under subsection (4) of this section by the officer who imposed the discipline. No appeal may be taken beyond the Adjutant General, and if the Adjutant General proposed the discipline under this section, the person may request reconsideration by the Adjutant General. Only one appeal or request for reconsideration shall be permitted.

(6) The imposition and enforcement of summarized administrative discipline under this section for any act or omission is not a bar to trial by court-martial for a serious crime or offense growing out of the same act or omission and not properly punishable under this section. The fact that summarized administrative discipline has been enforced may be shown by the accused upon trial, and when so shown shall be considered in determining the measure of punishment to be adjudged in the event of a finding of guilty.

(7) Any summarized administrative discipline authorized by this section shall be executed within one year of the imposition of the discipline during any one or more periods of military duty.

(8) The enlisted member or officer shall be given twenty-four hours written notice of the intent to impose summarized administrative discipline under this section. Such notice shall include:

- (a) The offense committed;
- (b) A brief, written summary of the information upon which the allegations are based and notice that the enlisted member or officer may examine the statements and evidence;
- (c) The possible disciplinary actions;
- (d) An explanation that the rules of evidence do not apply at the hearing and that any testimony or evidence deemed relevant may be considered;
- (e) The date, time, and location of the hearing; and
- (f) The enlisted member's or officer's rights, which shall include:
 - (i) Twenty-four hour notice of the hearing and twenty-four hours to prepare for the hearing, which time shall run concurrently;
 - (ii) The right to appear personally before the officer proposing the summarized administrative discipline or the officer's delegate if the officer proposing the discipline is unavailable. The officer proposing such discipline must render findings based upon the record prepared by the delegate;
 - (iii) To be advised that he or she shall not be compelled to give evidence against himself or herself;
 - (iv) Notice as prescribed in this subsection;
 - (v) Examining the evidence presented or considered by the officer proposing the discipline;
 - (vi) Presenting matters in defense, extenuation, and mitigation orally, in writing, or both;
 - (vii) Presenting witnesses that are reasonably available. A witness is not reasonably available if his or her presence would unreasonably delay the hearing, there is a cost to the government, or military duty precludes a military member's participation in the opinion of such military member's commander;
 - (viii) Consultation prior to the hearing with a trial defense attorney appointed in the Nebraska National Guard, if he or she is reasonably available. A trial defense attorney is not reasonably available if his or her presence would unreasonably delay the hearing, there is a cost to the government to make him or her available, or other military duties or civilian employment precludes such trial defense attorney's participation, in the opinion of such trial defense attorney. Consultation with the trial defense attorney may be through personal contact, telephonic communication, or other electronic means available at no cost to the government;
 - (ix) To have an open hearing; and
 - (x) To waive in writing or at the hearing any or all of the enlisted member's or officer's rights.
- (9) After considering the evidence, the officer proposing the discipline shall (a) announce the findings in writing with regard to each allegation, (b) inform the enlisted member or officer of the discipline imposed, if any, and (c) advise the enlisted member or officer of his or her right to appeal.
- (10) The Adjutant General may adopt and promulgate regulations or policies to implement this section.

Source: Laws 2016, LB754, § 10.

ARTICLE 6

COMMISSION ON MILITARY AND VETERAN AFFAIRS

Section

- 55-601. Commission on Military and Veteran Affairs; created; members; terms; vacancy.
- 55-602. Commission on Military and Veteran Affairs; powers and duties.
- 55-603. Commission on Military and Veteran Affairs; officers; meetings; records.
- 55-604. Commission on Military and Veteran Affairs; expenses.
- 55-605. Military affairs liaison; duties.
- 55-606. Report; contents.

55-601 Commission on Military and Veteran Affairs; created; members; terms; vacancy.

(1) The Commission on Military and Veteran Affairs is created. The commission shall consist of the following voting members:

- (a) The Director of Economic Development;
- (b) The Adjutant General or his or her designee;
- (c) The Director of Veterans' Affairs; and

(d) Three residents of the State of Nebraska, one from each congressional district. At least one of the three residents shall have current or prior military experience and at least one shall have a background in business.

(2) The commission shall have the following nonvoting, ex officio members:

- (a) The veterans' program coordinator of the Department of Labor;
- (b) The chair of the State Committee of Employer Support of the Guard and Reserve;

(c) The commander of the 55th Wing of the Air Combat Command or his or her designee;

(d) The commander of the United States Strategic Command or his or her designee; and

(e) The commander of the 557th Weather Wing of the United States Air Force or his or her designee.

(3) The members of the commission described in subdivision (1)(d) of this section shall be appointed by the Governor. The Governor shall designate the initial terms of the members described in subdivision (1)(d) of this section so that one member serves for a term of two years, one member serves for a term of three years, and one member serves for a term of four years. Succeeding appointments shall be for terms of four years and shall be made in the same manner as the original appointments. The terms of the members shall begin on October 1 of the year in which they are appointed unless appointed to fill a vacancy. Appointments to fill a vacancy, occurring other than by the expiration of a term of office, shall be made for the unexpired term of the member whose office is vacated.

Source: Laws 2016, LB754, § 1; Laws 2019, LB138, § 2.

55-602 Commission on Military and Veteran Affairs; powers and duties.

The Commission on Military and Veteran Affairs shall have the authority to receive and administer funds from state, federal, and other sources. Additionally, the commission shall:

- (1) Address matters of military significance to Nebraska;
- (2) Maintain a cooperative and constructive relationship between state agencies and the military and veteran entities in Nebraska as necessary to ensure coordination and implementation of unified and comprehensive statewide strategies involved with, or affected by, the military;
- (3) Focus on and, when designated, serve as lead agency on:
 - (a) Defense economic adjustment and transition information and activities;
 - (b) Exploring operating costs, missions, and strategic value of federal military installations located in the state;
 - (c) Employment issues for communities that depend on defense bases and defense-related businesses; and
 - (d) Assistance provided to communities that have experienced a defense-related closure or realignment;
- (4) Advise the Governor, the Legislature, and other appropriate governmental officials on all matters in which the military services and the state have mutual interests, needs, and concerns;
- (5) Promote and optimize state and United States Department of Defense initiatives that will improve the military value of the Nebraska National Guard, active and reserve military force structure and installations, and the quality of life for military personnel residing in Nebraska;
- (6) Partner with local communities to conduct ongoing analyses of current and proposed changes to the mission, military force structure, and alignment of the United States Department of Defense;
- (7) Recommend state, federal, and local economic development projects to promote, foster, and support economic progress through a military presence in Nebraska;
- (8) Assist the private sector in developing derivative investments, employment, and educational opportunities associated with high technology programs and activities at Nebraska's military installations;
- (9) Partner with local communities to develop methods to improve private and public employment opportunities for former members of the military and their families residing in this state; and
- (10) Identify and support ways to provide sound infrastructure, adequate housing, education, and transition support into Nebraska's workforce for military members and their families, retired military personnel, and veterans.

Source: Laws 2016, LB754, § 2.

55-603 Commission on Military and Veteran Affairs; officers; meetings; records.

The Commission on Military and Veteran Affairs shall elect a chairperson, vice-chairperson, and secretary from among its members.

The commission shall meet two times each year at such times and places as shall be determined by the chairperson and shall keep a record of its proceedings. The chairperson may call special meetings at any time he or she deems necessary. The secretary shall mail written notice of the time and place of all meetings in advance to each voting and nonvoting, ex officio member of the

commission. The secretary shall also provide notice of all meetings as provided under section 84-1411.

Source: Laws 2016, LB754, § 3.

55-604 Commission on Military and Veteran Affairs; expenses.

Members of the Commission on Military and Veteran Affairs shall receive no compensation for their services as members of the commission other than their salary, but shall be reimbursed for expenses as provided in sections 81-1174 to 81-1177.

Source: Laws 2016, LB754, § 4; Laws 2020, LB381, § 49.

Operative date January 1, 2021.

55-605 Military affairs liaison; duties.

(1) The Department of Veterans' Affairs shall hire a military affairs liaison for the Commission on Military and Veteran Affairs and fix his or her salary. The department shall provide administrative support to the commission as needed. The liaison shall have military experience and serve at the pleasure of the commission. The liaison shall not be subject to Chapter 81, article 13.

(2) The liaison shall be responsible for the administrative operations of the commission and shall perform such other duties as may be delegated or assigned by the commission.

(3) The commission may obtain the services of experts and consultants as necessary to carry out its duties.

Source: Laws 2016, LB754, § 5.

55-606 Report; contents.

The Commission on Military and Veteran Affairs shall prepare an annual report summarizing the military assets of Nebraska, including installations and missions, and the economic impact of the military assets in Nebraska. The report shall also include recommendations for preserving and sustaining military assets and missions existing in Nebraska and recommendations for actions which the state can take to encourage expanding such assets and missions. The commission shall submit the report electronically to the Legislature, the Governor, and the commanding officer of every military base in Nebraska on or before November 15 of each year.

Source: Laws 2016, LB754, § 6.

ARTICLE 7

CONSUMER PROTECTION AND CIVIL RELIEF

Section

55-701. Terms, defined.

55-702. Servicemember; termination of contract or lease; notice; refund of fees or charges; section, how construed.

55-703. Civil action; relief available.

55-704. Nebraska National Guard; duties.

55-701 Terms, defined.

For purposes of sections 55-701 to 55-704:

(1) Military service means:

(a) In the case of a servicemember who is a member or reserve member of the Army, Navy, Air Force, Marine Corps, or Coast Guard, full-time duty in the active military service of the United States, including:

- (i) Full-time training duty;
- (ii) Annual training duty; and
- (iii) Attendance while at a school designated as a service school by federal law or by the secretary of the military department concerned;

(b) In the case of a member or reserve member of the Nebraska National Guard, service under a call to active service or duty authorized by:

(i) The President of the United States or the Secretary of Defense for a period of more than thirty days in response to a national emergency declared by the President of the United States; or

(ii) The Governor for a period of more than thirty consecutive days;

(c) In the case of a servicemember who is a commissioned officer of the United States Public Health Service or the National Oceanic and Atmospheric Administration, active service; or

(d) Any period during which a servicemember is absent from duty on account of sickness, wounds, leave, or other lawful cause; and

(2) Servicemember means an individual engaged in military service.

Source: Laws 2018, LB682, § 1.

55-702 Servicemember; termination of contract or lease; notice; refund of fees or charges; section, how construed.

(1) In addition to the rights and protections regarding consumer transactions, contracts, and service providers included under the federal Servicemembers Civil Relief Act, a servicemember may terminate a contract described in subsection (2) of this section at any time after the date the servicemember receives military orders to relocate for a period of service of at least ninety days to a location that is not included in or covered under the contract.

(2) This section applies to any contract to provide:

- (a) Telecommunications services;
- (b) Internet services;
- (c) Television services;
- (d) Athletic club or gym memberships;
- (e) Satellite radio services; or

(f) A lease of residential rental property, notwithstanding any provision to the contrary in the Uniform Residential Landlord and Tenant Act or any other provision of law, if the servicemember is required to move into government-owned or leased housing. This subdivision does not apply to a lease of residential rental property in which a spouse of a servicemember is a tenant in such residential rental property and government-owned or leased housing is not available to such spouse.

(3) Termination of a contract must be made by delivery of a written or electronic notice of the termination and a copy of the servicemember's military orders to the service provider or lessor.

(4) For any contract terminated under this section, the service provider or lessor under the contract shall not impose an early termination charge.

(5) Any tax or any other obligation or liability of the servicemember that, in accordance with the terms of the contract, is due and unpaid at the time of termination of the contract shall be paid by the servicemember.

(6) If after termination provided under this section the servicemember resubscribes to a service provided under a contract described in subdivisions (2)(a) through (e) of this section or reenters into a lease under a contract described in subdivision (2)(f) of this section during the ninety-day period immediately following the servicemember's return from service, the service provider or lessor may not impose any service fees or charges other than the usual and customary fees and charges imposed on any other subscriber for the installation or acquisition of customer equipment or imposed on any other lessee for the rental of residential real property. A servicemember may not be charged a penalty, fee, loss of deposit, or any other additional cost because of such termination, resubscription, or rental.

(7) Not later than sixty days after the effective date of the termination of a contract described in subsection (2) of this section, the service provider or lessor under the contract shall refund to the servicemember all fees or charges paid for services or rental that extend past the termination date of the contract. Upon the termination of a rental agreement described in subdivision (2)(f) of this section, the servicemember is entitled to the return of any deposit or prepaid rent subject to section 76-1416.

(8) In the case of a rental agreement described in subdivision (2)(f) of this section that provides for monthly payment of rent, termination of the rental agreement is effective thirty days after the first date on which the next rental payment is due and payable after the date on which the notice of termination under subsection (3) of this section is delivered. In the case of any other rental agreement described in subdivision (2)(f) of this section, termination of the rental agreement is effective on the last day of the month following the month in which the notice of termination is delivered.

(9) This section shall not be construed so as to impair or affect the obligation of any lawful contract in existence prior to July 19, 2018.

Source: Laws 2018, LB682, § 2.

Cross References

Uniform Residential Landlord and Tenant Act, see section 76-1401.

55-703 Civil action; relief available.

(1) A civil action may be brought in any court with jurisdiction by the Attorney General against any person that knowingly or intentionally violates any provision of section 55-702. The court may:

- (a) Issue an injunction;
- (b) Order the person to make a payment of money unlawfully received from, or required to be refunded to, one or more servicemembers;
- (c) Order the person to pay to the state the reasonable costs of the Attorney General's investigation and prosecution related to the action; and
- (d) Order the person to pay a civil penalty not greater than five thousand dollars per violation.

(2) Relief may not be granted under subsection (1) of this section if relief for the violation has already been granted under the federal Servicemembers Civil Relief Act.

Source: Laws 2018, LB682, § 3.

55-704 Nebraska National Guard; duties.

The Nebraska National Guard shall provide to its members a list of their rights under sections 55-702 and 55-703 and under the federal Servicemembers Civil Relief Act.

Source: Laws 2018, LB682, § 4.



CHAPTER 56

MILLDAMS

Article.

1. Acquisition of Dams and Sites. Repealed.

ARTICLE 1

ACQUISITION OF DAMS AND SITES

Section

- 56-101. Repealed. Laws 2017, LB176, § 1.
56-115. Repealed. Laws 2017, LB176, § 1.
56-124. Repealed. Laws 2017, LB176, § 1.
56-125. Repealed. Laws 2017, LB176, § 1.
56-126. Repealed. Laws 2017, LB176, § 1.
56-127. Repealed. Laws 2017, LB176, § 1.

56-101 Repealed. Laws 2017, LB176, § 1.

56-115 Repealed. Laws 2017, LB176, § 1.

56-124 Repealed. Laws 2017, LB176, § 1.

56-125 Repealed. Laws 2017, LB176, § 1.

56-126 Repealed. Laws 2017, LB176, § 1.

56-127 Repealed. Laws 2017, LB176, § 1.



CHAPTER 57

MINERALS, OIL, AND GAS

Article.

- 7. Oil and Gas Severance Tax. 57-705, 57-706.
- 9. Oil and Gas Conservation. 57-901 to 57-922.
- 11. Eminent Domain for Pipelines. 57-1101, 57-1102.
- 12. Uranium Severance Tax. 57-1206.
- 14. Major Oil Pipeline Siting Act. 57-1401 to 57-1413.
- 15. Oil Pipeline Projects. 57-1501 to 57-1503.

ARTICLE 7

OIL AND GAS SEVERANCE TAX

Section

- 57-705. Tax; remittance; Severance Tax Fund; Severance Tax Administration Fund; created; use.
- 57-706. Tax; security; notice; use.

57-705 Tax; remittance; Severance Tax Fund; Severance Tax Administration Fund; created; use.

(1) All severance taxes levied by Chapter 57, article 7, shall be paid to the Tax Commissioner. He or she shall remit all such money received to the State Treasurer. All such money received by the State Treasurer shall be credited to a fund to be known as the Severance Tax Fund. An amount equal to one percent of the gross severance tax receipts, excluding those receipts from tax derived from oil and natural gas severed from school lands, credited to the fund shall be credited by the State Treasurer, upon the first day of each month, and shall inure to the Severance Tax Administration Fund to be used for the expenses of administering Chapter 57, article 7. Transfers may be made from the Severance Tax Administration Fund to the General Fund at the direction of the Legislature. The balance of the Severance Tax Fund received from school lands shall be credited by the State Treasurer, upon the first day of each month, and shall inure to the permanent school fund.

(2) Of the balance of the Severance Tax Fund received from other than school lands (a) the Legislature may transfer an amount to be determined by the Legislature through the appropriations process up to three hundred thousand dollars for each year to the State Energy Cash Fund, (b) the Legislature may transfer an amount to be determined by the Legislature through the appropriations process up to thirty thousand dollars for each year to the Public Service Commission for administration of the Municipal Rate Negotiations Revolving Loan Fund, and (c) the remainder shall be credited and inure to the permanent school fund.

(3) The State Treasurer shall transfer two hundred fifty thousand dollars from the Severance Tax Administration Fund to the Department of Revenue Enforcement Fund on July 1, 2009, or as soon thereafter as administratively possible. The State Treasurer shall transfer two hundred fifty thousand dollars from the

Severance Tax Administration Fund to the Department of Revenue Enforcement Fund on July 1, 2010, or as soon thereafter as administratively possible.

Source: Laws 1955, c. 219, § 5, p. 612; Laws 1959, c. 261, § 1, p. 899; Laws 1967, c. 351, § 3, p. 933; Laws 1981, LB 257, § 2; Laws 1982, LB 799, § 1; Laws 1983, LB 228, § 4; Laws 1983, LB 607, § 2; Laws 1985, LB 126, § 1; Laws 1986, LB 258, § 10; Laws 1989, LB 727, § 2; Laws 1993, LB 5, § 2; Laws 1993, LB 364, § 20; Laws 1993, LB 670, § 1; Laws 2000, LB 1369, § 1; Laws 2003, LB 790, § 58; Laws 2009, LB316, § 15; Laws 2009, First Spec. Sess., LB3, § 32; Laws 2019, LB302, § 60.

57-706 Tax; security; notice; use.

The Tax Commissioner, whenever he or she deems it necessary to insure compliance with the provisions of sections 57-701 to 57-719, may require any person subject to the tax to deposit with the Tax Commissioner suitable indemnity bond to insure payment of the taxes, levied under the provisions of sections 57-701 to 57-719, as the Tax Commissioner may determine. Such security may be used if it becomes necessary to collect any tax, interest, or penalty due. Notice of the use thereof shall be given to such person by mail.

Source: Laws 1955, c. 219, § 6, p. 612; Laws 1957, c. 242, § 48, p. 860; Laws 1967, c. 351, § 4, p. 934; Laws 2012, LB727, § 14.

ARTICLE 9

OIL AND GAS CONSERVATION

Section

- 57-901. Development of oil and natural gas; purpose.
- 57-903. Oil and gas; terms, defined.
- 57-904. Nebraska Oil and Gas Conservation Commission; members; qualifications; appointment; term; quorum; vacancy; compensation; expenses.
- 57-905. Commission; powers and duties.
- 57-905.01. Operator of Class II commercial underground injection well; duties.
- 57-909. Spacing unit; pooling of interests; order of commission; provisions for drilling and operation; costs; determination; recording.
- 57-911. Commission; rules and regulations; filing fee.
- 57-913. Appeal; procedure.
- 57-914. Temporary restraining order; bond; limitation of actions.
- 57-915. Violations; penalty.
- 57-916. Violations; injunction; parties; process.
- 57-916.01. Violations; civil penalty; procedure.
- 57-917. Commission; director; appointment; compensation; bond or insurance.
- 57-918. Attorney General; act as legal advisor; administration of oath.
- 57-919. Oil and Gas Conservation Fund; investment; charges; exemptions; payment; report of producer; filing; interest; lien; penalties.
- 57-920. Sections; jurisdiction.
- 57-921. Commission; price or value of oil, gas, or other hydrocarbon substances; no power to fix.
- 57-922. Oil and Gas Conservation Trust Fund; receipts; disbursements; investment.

57-901 Development of oil and natural gas; purpose.

The purpose of sections 57-901 to 57-923 is to permit the development of Nebraska's oil and natural gas resources up to the maximum efficient rate of production while promoting the health, safety, and environment of the residents of Nebraska. It is the public policy of the state and in the public interest to

encourage responsible development, production, and utilization of oil and gas natural resources and their products, to prevent waste, to protect the correlative rights of all owners, to encourage and authorize cycling, recycling, pressure maintenance, and secondary recovery operations to obtain the most efficient recovery of oil and gas resources for the highest benefit of landowners, royalty owners, producers, and the general public, and to facilitate open communication with and the participation of the general public and affected local governmental entities.

Source: Laws 1959, c. 262, § 1, p. 900; Laws 2016, LB1082, § 1.

57-903 Oil and gas; terms, defined.

As used in sections 57-901 to 57-921, unless the context otherwise requires:

(1)(a) Waste, as applied to oil, shall include underground waste, inefficient, excessive, or improper use, or dissipation of reservoir energy, including gas energy and water drive, surface waste, open pit storage, and waste incident to the production of oil in excess of the producer's aboveground storage facilities and lease and contractual requirements, but excluding storage, other than open pit storage, reasonably necessary for building up or maintaining crude stocks and products thereof for consumption, use, and sale; (b) waste, as applied to gas shall include (i) the escape, blowing, or releasing, directly or indirectly, into the open air of gas from wells productive of gas only, or gas from wells producing oil or both oil and gas and (ii) the production of gas in quantities or in such manner as will unreasonably reduce reservoir pressure or unreasonably diminish the quantity of oil or gas that might ultimately be produced, but excluding gas that is reasonably necessary in the drilling, completing, testing, and producing of wells and gas unavoidably produced with oil if it is not economically feasible for the producer to save or use such gas; and (c) waste shall also mean the abuse of the correlative rights of any owner in a pool due to nonuniform, disproportionate, unratable, or excessive withdrawals of oil or gas therefrom causing reasonably avoidable drainage between tracts of land or resulting in one or more owners in such pool producing more than his or her just and equitable share of the oil or gas from such pool;

(2) Commission shall mean the Nebraska Oil and Gas Conservation Commission;

(3) Person shall mean any natural person, corporation, association, partnership, limited liability company, receiver, trustee, executor, administrator, guardian, fiduciary, or other representative of any kind and any department, agency, or instrumentality of the state or of any governmental subdivision thereof;

(4) Oil shall mean crude petroleum oil and other hydrocarbons regardless of gravity which are produced at the wellhead in liquid form and the liquid hydrocarbons known as distillate or condensate recovered or extracted from gas other than gas produced in association with oil and commonly known as casing-head gas;

(5) Gas shall mean all natural gas and all other fluid hydrocarbons not defined as oil;

(6) Pool shall mean an underground reservoir containing a common accumulation of oil or gas or both, each zone of the structure which is completely

separated from any other zone in the same structure is a pool as that term is used in sections 57-901 to 57-921;

(7) Field shall mean the general area underlaid by one or more pools;

(8) Owner shall mean the person who has the right to drill into and produce from a pool and to appropriate the oil or gas he or she produces therefrom either for himself or herself or for himself or herself and others;

(9) Producer shall mean the owner of a well or wells capable of producing oil or gas or both or any person who owns and operates a lease, or a unit of producing leases in which other persons own interests, with respect to such well or wells;

(10) Correlative rights shall mean the opportunity afforded to the owner of each property in a pool to produce, so far as it is reasonably practicable to do so without waste, his or her just and equitable share of the oil or gas, or both, in the pool; and

(11) The word and shall include the word or, and the word or shall include the word and.

Source: Laws 1959, c. 262, § 3, p. 901; Laws 1983, LB 228, § 5; Laws 1983, LB 224, § 7; Laws 1993, LB 121, § 353; Laws 2016, LB1082, § 2.

57-904 Nebraska Oil and Gas Conservation Commission; members; qualifications; appointment; term; quorum; vacancy; compensation; expenses.

There is hereby established the Nebraska Oil and Gas Conservation Commission. The commission shall consist of three members to be appointed by the Governor. The director of the state geological survey shall serve the commission in the capacity as its technical advisor, but with no power to vote. Any two commissioners shall constitute a quorum for all purposes. At least one member of the commission shall have had experience in the production of oil or gas and shall have resided in the State of Nebraska for at least one year. Each of the other members of the commission shall have resided in the State of Nebraska for at least three years. Initially, two of said members shall be appointed for a term of two years each; and one shall be appointed for a term of four years. At the expiration of the initial terms all members thereafter appointed shall serve for a term of four years. The Governor may at any time remove any appointed member of the commission for cause, and by appointment, with the approval of the Legislature, shall fill any vacancy on the commission.

The members of the commission shall receive as compensation for their services not more than four hundred dollars per day for each day actually devoted to the business of the commission, except that they shall not receive a sum in any one year in excess of four thousand dollars each. In addition, each member of the commission shall be reimbursed for expenses incurred in connection with the carrying out of his or her duties as provided in sections 81-1174 to 81-1177.

Source: Laws 1959, c. 262, § 4, p. 902; Laws 1979, LB 90, § 1; Laws 1981, LB 204, § 99; Laws 2018, LB1008, § 2; Laws 2020, LB381, § 50.

Operative date January 1, 2021.

57-905 Commission; powers and duties.

(1) The commission shall have jurisdiction and authority over all persons and property, public and private, necessary to enforce effectively the provisions of sections 57-901 to 57-921.

(2) The commission shall have authority, and it is its duty, to make such investigations as it deems proper to determine whether waste exists or is imminent or whether other facts exist which justify action by the commission.

(3) The commission shall have authority to require: (a) Identification of ownership of oil or gas wells, producing leases, tanks, plants, structures, and facilities for the production of oil and gas; (b) the making and filing of directional surveys, and reports on well location, drilling, and production within six months after the completion or abandonment of the well; (c) the drilling, casing, operating, and plugging of wells in such manner as to prevent the escape of oil or gas out of one stratum into another, the intrusion of water into oil or gas strata, the pollution of fresh water supplies by oil, gas, or salt water, and to prevent blowouts, cave-ins, seepages, and fires; (d) the furnishing of a reasonable bond with good and sufficient surety, conditioned for the performance of the duty to comply with all the provisions of the laws of the State of Nebraska and the rules, regulations, and orders of the commission; (e) that the production from wells be separated into gaseous and liquid hydrocarbons, and that each be accurately measured; (f) the operation of wells with efficient gas-oil and water-oil ratios, and to fix these ratios; (g) metering or other measuring of oil, gas, or product in pipelines or gathering systems; (h) that every person who produces or purchases oil or gas in this state shall keep and maintain or cause to be kept and maintained for a five-year period complete and accurate records of the quantities thereof, which records shall be available for examination by the commission or its agents at all reasonable times, and that every such person file with the commission such reports as it may reasonably prescribe with respect to such oil or gas or the products thereof; (i) that upon written request of any person, geologic information, well logs, drilling samples, and other proprietary information filed with the commission in compliance with sections 57-901 to 57-921, or any rule, regulation, or order of the commission, may be held confidential for a period of not more than twelve months; (j) periodic sampling and reporting of injection fluids injected into Class II commercial underground injection wells; (k) monitoring of produced water transporters; and (l) periodic evaluation of financial assurance requirements on existing and proposed wells to ensure ability to pay the costs of plugging, abandonment, and surface restoration.

(4) The commission is authorized to conduct public informational meetings and forums for public interaction on Class II commercial underground injection well permit applications under the jurisdiction of the commission.

(5) The commission shall have authority in order to prevent waste, to regulate: (a) The drilling, producing and plugging of wells, or test holes, and all other operations for the production of oil or gas; (b) the shooting and chemical treatment of wells; (c) the spacing of wells; (d) operations to increase ultimate recovery such as, but without limitation, the cycling of gas, the maintenance of pressure, and the introduction of gas, water, or other substances into producing formations; and (e) disposal of oilfield wastes, including salt water.

(6) The commission shall not have authority to limit the production of oil or gas, or both, from any pool or field except to prevent waste therein.

(7) The commission shall have authority to classify wells as oil or gas wells for purposes material to the interpretation or enforcement of the provisions of sections 57-901 to 57-921.

(8) The commission shall have authority to promulgate and to enforce rules, regulations, and orders to effectuate the purposes and the intent of sections 57-901 to 57-921.

(9) The commission, with the approval of the Governor, shall have authority to establish and maintain its principal office and its books, papers, and records at such place in the state as it shall determine. The commission shall not have authority to purchase its principal office quarters.

(10) The commission shall have authority to require that all wells drilled for oil and gas shall be adequately logged with mechanical-electrical logging devices, and to require the filing of logs.

(11) The commission shall have the authority to regulate the drilling and plugging of seismic and stratigraphic tests in oil and gas exploration holes.

(12) The commission shall have the authority to act as the state jurisdictional agency pursuant to the federal Natural Gas Policy Act of 1978, Public Law 95-621, 92 Stat. 3350.

(13) The commission shall have the authority to have one or more examiners, who are employees of the commission, conduct any of its hearings, investigations, and examinations authorized by sections 57-901 to 57-921. Such examiner may exercise the commission's powers including, but not limited to, the taking of evidence and testimony under oath, resolving questions of fact and questions of law, and the entering of an order. Such order shall be entered in the commission's order journal. Any person having an interest in property affected by an order issued by an examiner and who is dissatisfied with such order may appeal to the commission by filing a petition on appeal to the commission within fifteen days of the entering of the examiner's order. Such person shall provide notice to all interested persons by personal service or registered or certified United States mail with return receipt, requiring such parties to answer within fifteen days from the date of service. Upon appeal, the commission shall hear the case de novo on the record and shall not be bound by any conclusions of the examiner. The commission shall hold a hearing on the appeal within forty-five days of the filing of an appeal to the commission and issue its order within fifteen days after the hearing. The commission shall review all orders issued by an examiner that are not appealed and issue an order concerning the examiner's order within sixty days after the examiner's order. The commission shall adopt, amend, or reject the examiner's order. Any order of an examiner which is not appealed to the commission and which the commission adopts shall not be appealable to the district court unless the commission adopts an order before the end of the time for appeal to the commission.

(14) The commission shall require, upon receipt of a Class II commercial underground injection well permit application, that notice be provided to the county, city, or village and natural resources district within which the proposed well would be located and shall provide such county, city, or village and natural resources district with copies of all permit application materials.

Source: Laws 1959, c. 262, § 5, p. 903; Laws 1961, c. 277, § 1, p. 811; Laws 1961, c. 278, § 1, p. 813; Laws 1967, c. 352, § 1, p. 936;

Laws 1971, LB 355, § 1; Laws 1978, LB 661, § 2; Laws 1979, LB 56, § 1; Laws 1980, LB 709, § 2; Laws 1983, LB 356, § 1; Laws 2016, LB1082, § 3.

57-905.01 Operator of Class II commercial underground injection well; duties.

An operator of a Class II commercial underground injection well shall sample and analyze the fluids injected into each disposal well at sufficiently frequent time intervals to yield data representative of fluid characteristics, but no less frequently than once annually. The operator shall submit a copy of the fluid analysis to the commission.

Source: Laws 2016, LB1082, § 4.

57-909 Spacing unit; pooling of interests; order of commission; provisions for drilling and operation; costs; determination; recording.

(1) When two or more separately owned tracts are embraced within a spacing unit or when there are separately owned interests in all or part of the spacing unit, then the owners and royalty owners thereof may pool their interests for the development and operation of the spacing unit. In the absence of voluntary pooling, the commission, upon the application of any interested person, or upon its own motion, may enter an order pooling all interests in the spacing unit for the development and operation thereof. Each such pooling order shall be made only after notice and hearing and shall be upon terms and conditions that are just and reasonable and that afford to the owner of each tract or interest in the spacing unit the opportunity to recover or receive, without unnecessary expense, his or her just and equitable share. Operations incident to the drilling of a well upon any portion of a spacing unit covered by a pooling order shall be deemed, for all purposes, the conduct of such operations upon each separately owned tract in the drilling unit by the several owners thereof. That portion of the production allocated to each tract included in a spacing unit covered by a pooling order shall, when produced, be deemed for all purposes to have been produced from such tract by a well drilled thereon.

(2) Each such pooling order shall make provision for the drilling and operation of the authorized well on the spacing unit and for the payment of the reasonable actual cost thereof, including a reasonable charge for supervision. As to each owner who refuses to agree upon the terms for drilling and operating the well, the order shall provide for reimbursement for his or her share of the costs out of, and only out of, production from the unit representing his or her interest, excluding royalty or other interest not obligated to pay any part of the cost thereof. In the event of any dispute as to such cost, the commission shall determine the proper cost. The order shall determine the interest of each owner in the unit and may provide in substance that, as to each owner who agrees with the person or persons drilling and operating the well for the payment by the owner of his or her share of the costs, such owner, unless he or she has agreed otherwise, shall be entitled to receive, subject to royalty or similar obligations, the share of the production of the well applicable to the tract of the consenting owner; and as to each owner who does not agree, he or she shall be entitled to receive from the person or persons drilling and operating such well on the unit his or her share of the production applicable to his or her interest, after the person or persons drilling and operating such well

have recovered, depending on the total measured depth of the well, three hundred percent for wells less than five thousand feet deep, four hundred percent for wells five thousand feet deep but less than six thousand five hundred feet deep, and five hundred percent for wells six thousand five hundred feet deep or deeper, of that portion of the costs and expenses of staking, well site preparation, drilling, reworking, deepening or plugging back, testing, completing, and other intangible expenses approved by the commission chargeable to each owner who does not agree, and, depending on the total measured depth of the well, two hundred percent for wells less than five thousand feet deep, three hundred percent for wells five thousand feet deep but less than six thousand five hundred feet deep, and five hundred percent for wells six thousand five hundred feet deep or deeper, of all equipment including wellhead connections, casing, tubing, packers, and other downhole equipment and surface equipment, including, but not limited to, stock tanks, separators, treaters, pumping equipment, and piping, plus one hundred percent of the nonconsenting owner's share of the cost of operation and a reasonable rate of interest on the unpaid balance. For the purpose of this section, the owner or owners of oil and gas rights in and under an unleased tract of land shall be regarded as a lessee to the extent of a seven-eighths interest in and to such rights and a lessor to the extent of the remaining one-eighth interest therein.

(3) A certified copy of the order may be filed for record with the county clerk or register of deeds of the county, as the case may be, where the property involved is located, which recording shall constitute constructive notice thereof. The county clerk, or register of deeds, as the case may be, shall record the same in the real property records of the county and shall index the same against the property affected.

Source: Laws 1959, c. 262, § 9, p. 907; Laws 1978, LB 447, § 1; Laws 2011, LB458, § 1.

57-911 Commission; rules and regulations; filing fee.

(1) The commission shall prescribe rules and regulations governing the practice and procedure before the commission.

(2) No rule, regulation, or order, or amendment thereof, except in an emergency, shall be made by the commission without a public hearing upon at least fifteen days' notice. The public hearing shall be held at such time and place as may be prescribed by the commission, and any interested person shall be entitled to be heard.

(3) When an emergency requiring immediate action is found to exist, the commission is authorized to issue an emergency order without notice or hearing which shall be effective upon promulgation. No emergency order shall remain effective for more than twenty days.

(4) Any notice required by the provisions of sections 57-901 to 57-921, except in proceedings involving a direct complaint by the commission, shall be given at the election of the commission either by personal service, registered or certified mail, or one publication in a newspaper of general circulation in the county where the land affected, or some part thereof, is situated. The notice shall be issued in the name of the state, shall be signed by a member of the commission or its secretary, and shall specify the style and number of the proceedings, the time and place of the hearing, and the purpose of the proceeding. Should the commission notice be by personal service, such service

may be made by any officer authorized to serve summons, or by any agent of the commission, in the same manner and extent as is provided by law for the service of summons in civil actions in the district courts of this state. Proof of the service by such agent shall be by his or her affidavit and proof of service by an officer shall be in the form required by law with respect to service of process in civil actions. In all cases where a complaint is made by the commission or the Director of the Nebraska Oil and Gas Conservation Commission that any part of any provision of sections 57-901 to 57-921, or any rule, regulation, or order of the commission is being violated, notice of the hearing to be held on such complaint shall be served on the interested parties in the same manner as is provided in the code of civil procedure for the service of process in civil actions in the district courts of this state. In addition to notices required by this section, the commission may provide for further notice of hearing in such proceedings as it may deem necessary in order to notify all interested persons of the pendency of such proceedings and the time and place of hearing and to afford such persons an opportunity to appear and be heard.

(5) All rules, regulations, and orders issued by the commission shall be in writing, shall be entered in full and indexed in books to be kept by the commission for that purpose, shall be public records open for inspection at all times during reasonable office hours, and shall be filed as provided by the Administrative Procedure Act. A copy of any rule, regulation, or order certified by any member of the commission, or its secretary, under its seal, shall be received in evidence in all courts of this state with the same effect as the original.

(6) The commission may act upon its own motion or upon the petition of any interested person. On the filing of a petition concerning any matter within the jurisdiction of the commission, the commission shall promptly fix a date for a hearing thereon, and shall cause notice of the hearing to be given. The hearing shall be held without undue delay after the filing of the petition. The commission shall enter its order within thirty days after the hearing.

(7) A petition filed with the commission for a public hearing shall be accompanied by a filing fee of two hundred fifty dollars.

Source: Laws 1959, c. 262, § 11, p. 908; Laws 1961, c. 279, § 1, p. 816; Laws 1967, c. 354, § 2, p. 939; Laws 1967, c. 356, § 1, p. 944; Laws 1995, LB 407, § 2; Laws 2016, LB1082, § 5.

Cross References

Administrative Procedure Act, see section 84-920.

57-913 Appeal; procedure.

Any person having an interest in property affected by and who is dissatisfied with any rule, regulation, or order made or issued under sections 57-901 to 57-921 may appeal the rule, regulation, or order, and the appeal shall be in accordance with the Administrative Procedure Act.

Source: Laws 1959, c. 262, § 13, p. 911; Laws 1961, c. 280, § 1, p. 818; Laws 1967, c. 357, § 1, p. 946; Laws 1988, LB 352, § 101; Laws 2016, LB1082, § 6.

Cross References

Administrative Procedure Act, see section 84-920.

57-914 Temporary restraining order; bond; limitation of actions.

(1) No temporary restraining order or injunction of any kind against the commission or its agents, employees or representatives, or the Attorney General, shall become operative unless and until the plaintiff party shall execute and file with the clerk of the district court a bond in such amount and upon such conditions as the court issuing such order or injunction may direct, with surety approved by the clerk of the district court thereof. The bond shall be made payable to the State of Nebraska, and shall be for the use and benefit of all persons who may be and to the extent that they shall suffer injury or damage by any acts done under the protection of the restraining order or injunction, if the same should not have issued. No suit on the bond may be brought after six months from the date of the final determination of the suit in which the restraining order or injunction was issued.

(2) Any suit, action, or other proceedings based upon a violation of any of the provisions of sections 57-901 to 57-921 shall be commenced within one year from the date of the violation complained of.

Source: Laws 1959, c. 262, § 14, p. 912; Laws 2016, LB1082, § 7.

57-915 Violations; penalty.

(1) Any person who violates any provision of sections 57-901 to 57-921, or any rule, regulation or order of the commission shall be guilty of a Class II misdemeanor. Each day that such violation continues shall constitute a separate offense.

(2) If any person, for the purpose of evading the provisions of sections 57-901 to 57-921, or any rule, regulation or order of the commission, shall make or cause to be made any false entry or statement in a report required by the provisions of sections 57-901 to 57-921, or by any such rule, regulation or order, or shall make or cause to be made any false entry in any record, account or memorandum required by the provisions of sections 57-901 to 57-921, or by any such rule, regulation or order, or shall remove from this state or destroy, mutilate, alter or falsify any such record, account or memorandum, such person shall be guilty of a Class II misdemeanor.

(3) Any person knowingly aiding or abetting any other person in the violation of any provision of sections 57-901 to 57-921, or any rule, regulation or order of the commission shall be subject to the same penalty as that prescribed by the provisions of sections 57-901 to 57-921 for the violation by such other person.

(4) The penalties provided in this section shall be recoverable by suit filed by the Attorney General in the name and on behalf of the commission, in the district court of the county in which the defendant resides, or in which any defendant resides, if there be more than one defendant, or in the district court of any county in which the violation occurred. The payment of any such penalty shall not operate to relieve a person on whom the penalty is imposed from liability to any other person for damages arising out of such violation.

Source: Laws 1959, c. 262, § 15, p. 913; Laws 1977, LB 39, § 59; Laws 2016, LB1082, § 8.

57-916 Violations; injunction; parties; process.

(1) Whenever it appears that any person is violating or threatening to violate any provision of sections 57-901 to 57-921, or any rule, regulation or order of

the commission, the commission shall bring suit against such person in the district court of any county where the violation occurs or is threatened, to restrain such person from continuing such violation or from carrying out the threat of violation. Upon the filing of any such suit, summons issued to such person may be directed to the sheriff of any county in this state for service by such sheriff or his deputies. In any such suit, the court shall have jurisdiction and authority to issue, without bond or other undertaking, such prohibitory and mandatory injunctions as the facts may warrant.

(2) If the commission shall fail to bring suit to enjoin a violation or threatened violation of any provision of sections 57-901 to 57-921, or any rule, regulation, or order of the commission, within ten days after receipt of written request to do so by any person who is or will be adversely affected by such violation, the person making such request may bring suit in his own behalf to restrain such violation or threatened violation in any court in which the commission might have brought suit. The commission shall be made a party defendant in such suit in addition to the person violating or threatening to violate a provision of sections 57-901 to 57-921, or a rule, regulation or order of the commission, and the action shall proceed and injunctive relief may be granted in the same manner as if suit had been brought by the commission; Provided, that in such event the person bringing suit shall be required to give bond in accordance with the rules of civil procedure in the district courts.

Source: Laws 1959, c. 262, § 16, p. 914; Laws 2016, LB1082, § 9.

57-916.01 Violations; civil penalty; procedure.

(1) In addition to the penalties prescribed in section 57-915, any person who violates any provision of sections 57-901 to 57-921, any rule, regulation, or order of the commission, or any term, condition, or limitation of any permit issued pursuant to such sections, rule, regulation, or order may be subject to a civil penalty imposed by the commission of not to exceed one thousand dollars. No civil penalty shall be imposed until written notice is sent pursuant to subsection (2) of this section and a period of ten days has elapsed in which the person may come into compliance if possible. If any violation is a continuing one, each day a violation continues after such ten-day period shall constitute a separate violation for the purpose of computing the applicable civil penalty. The commission may compromise, mitigate, or remit such penalties.

(2) Whenever the commission intends to impose a civil penalty under this section, the commission shall notify the person in writing (a) setting forth the date, facts, and nature of each violation with which the person is charged, (b) specifically identifying the particular provision or provisions of the section, rule, regulation, order, or permit involved in the violation, and (c) specifying the amount of each penalty which the commission intends to impose. Such written notice shall be sent by registered or certified mail to the last-known address of such person. The notice shall also advise such person of his or her right to a hearing and that failure to pay any civil penalty subsequently imposed by the commission will result in a civil action by the commission to collect such penalty. The person so notified may, within thirty days of receipt of such notice, submit a written request for a hearing to review any penalty to be imposed by the commission. A hearing shall be held in accordance with the Administrative Procedure Act, and any person upon whom a civil penalty is subsequently imposed may appeal such penalty pursuant to such act. On the request of the

commission, the Attorney General or county attorney may institute a civil action to collect a penalty imposed pursuant to this section.

Source: Laws 1990, LB 922, § 1; Laws 2016, LB1082, § 10.

Cross References

Administrative Procedure Act, see section 84-920.

57-917 Commission; director; appointment; compensation; bond or insurance.

To enable the commission to carry out its duties and powers under the laws of this state with respect to conservation of oil and gas and to enforce sections 57-901 to 57-921 and the rules and regulations so prescribed, the commission shall employ one chief administrator who shall not be a member of the commission and who shall be known as the Director of the Nebraska Oil and Gas Conservation Commission, and as such he or she shall be charged with the duty of administering and enforcing the provisions of sections 57-901 to 57-921 and all rules, regulations, and orders promulgated by the commission, subject to the direction of the commission. The director shall be a qualified petroleum engineer with not less than three years' actual field experience in the drilling and operation of oil and gas wells. Such director shall hold office at the pleasure of the commission and receive a salary to be fixed by the commission. The director, with the concurrence of the commission, shall have the authority, and it shall be his or her duty, to employ assistants and other employees necessary to carry out the provisions of sections 57-901 to 57-921. The director shall be ex officio secretary of the Nebraska Oil and Gas Conservation Commission and shall keep all minutes and records of the commission. The director shall, as secretary, be bonded or insured as required by section 11-201. The premium shall be paid by the State of Nebraska. The director and other employees of the commission performing duties authorized by sections 57-901 to 57-921 shall be paid their necessary traveling and living expenses when traveling on official business at such rates and within such limits as may be fixed by the commission, subject to existing laws.

Source: Laws 1959, c. 262, § 17, p. 914; Laws 1978, LB 653, § 19; Laws 2004, LB 884, § 31; Laws 2016, LB1082, § 11.

57-918 Attorney General; act as legal advisor; administration of oath.

The Attorney General shall be the attorney for the Nebraska Oil and Gas Conservation Commission; Provided, that in cases of emergency or in other special cases the commission may, with the consent of the Attorney General retain additional legal counsel, and for such purpose may use any funds available under the provisions of sections 57-901 to 57-921. Any member of the commission, or the secretary thereof, shall have the power to administer oaths to any witness in any hearing, investigation or proceeding contemplated by sections 57-901 to 57-921 or by any other law of this state relating to the conservation of oil and gas.

Source: Laws 1959, c. 262, § 18, p. 915; Laws 2016, LB1082, § 12.

57-919 Oil and Gas Conservation Fund; investment; charges; exemptions; payment; report of producer; filing; interest; lien; penalties.

(1) All money collected by the Tax Commissioner or the commission or as civil penalties under sections 57-901 to 57-921 shall be remitted to the State Treasurer for credit to a special fund to be known as the Oil and Gas Conservation Fund. Expenses incident to the administration of such sections shall be paid out of the fund. Transfers may be made from the fund to the General Fund at the direction of the Legislature. Any money in the Oil and Gas Conservation 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.

(2) There is hereby levied and assessed on the value at the well of all oil and gas produced, saved, and sold or transported from the premises in Nebraska where produced a charge not to exceed fifteen mills on the dollar. The commission shall by order fix the amount of such charge in the first instance and may, from time to time, reduce or increase the amount thereof as in its judgment the expenses chargeable against the Oil and Gas Conservation Fund may require, except that the amounts fixed by the commission shall not exceed the limit prescribed in this section. It shall be the duty of the Tax Commissioner to make collection of such assessments. The persons owning an interest, a working interest, a royalty interest, payments out of production, or any other interest in the oil and gas, or in the proceeds thereof, subject to the charge provided for in this section shall be liable to the producer for such charge in proportion to their ownership at the time of production. The producer shall, on or before the last day of the month next succeeding the month in which the charge was assessed, file a report or return in such form as prescribed by the commission and Tax Commissioner together with all charges due. In the event of a sale of oil or gas within this state, the first purchaser shall file this report or return together with any charges then due. If the final filing date falls on a Saturday, Sunday, or legal holiday, the next secular or business day shall be the final filing date. Such reports or returns shall be considered filed on time if postmarked before midnight of the final filing date. Any such charge not paid within the time herein specified shall bear interest at the rate specified in section 45-104.02, as such rate may from time to time be adjusted, from the date of delinquency until paid, and such charge together with the interest shall be a lien as provided in section 57-702. The Tax Commissioner shall charge and collect a penalty for the delinquency in the amount of one percent of the charge for each month or part of the month that the charge has remained delinquent, but in no event shall the penalty be more than twenty-five percent of the charge. The Tax Commissioner may waive all or part of the penalty provided in this section but shall not waive the interest. The person remitting the charge as provided in this section is hereby authorized, empowered, and required to deduct from any amounts due the persons owning an interest in the oil and gas or in the proceeds thereof at the time of production the proportionate amount of such charge before making payment to such persons. This subsection shall apply to all lands in the State of Nebraska, anything in section 57-920 to the contrary notwithstanding, except that there shall be exempted from the charge levied and assessed in this section the following: (a) The interest of the United States of America and the interest of the State of Nebraska and the political subdivisions thereof in any oil or gas or in the proceeds thereof; (b) the interest of any Indian or Indian tribe in any oil or gas or in the proceeds thereof produced from land subject to the supervision of the United States; and (c) oil and gas used in producing operations or for repressuring or recycling purposes.

All money so collected shall be remitted to the State Treasurer for credit to the Oil and Gas Conservation Fund and shall be used exclusively to pay the costs and expenses incurred in connection with the administration and enforcement of sections 57-901 to 57-921.

Source: Laws 1959, c. 262, § 19, p. 915; Laws 1969, c. 584, § 56, p. 2380; Laws 1973, LB 527, § 1; Laws 1974, LB 804, § 2; Laws 1980, LB 709, § 3; Laws 1981, LB 167, § 33; Laws 1983, LB 224, § 8; Laws 1986, LB 1027, § 198; Laws 1992, Fourth Spec. Sess., LB 1, § 8; Laws 1994, LB 1066, § 44; Laws 1995, LB 407, § 3; Laws 1997, LB 97, § 1; Laws 2009, First Spec. Sess., LB3, § 33; Laws 2016, LB1082, § 13.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

57-920 Sections; jurisdiction.

The State of Nebraska being a sovereign state and not disposed to jeopardize or surrender any of its sovereign rights, sections 57-901 to 57-921 shall apply to all lands in the State of Nebraska lawfully subject to its police powers, except it shall apply to lands of the United States or to lands subject to the jurisdiction of the United States only to the extent that control and supervision of conservation of oil and gas by the United States on its lands shall fail to effect the intent and purposes of sections 57-901 to 57-921 and otherwise shall apply to such lands to such extent as an officer of the United States having jurisdiction, or his or her duly authorized representative, shall approve any of the provisions of sections 57-901 to 57-921 or the order or orders of the commission which affects such lands, and the same shall apply to any lands committed to a unit agreement approved by the Secretary of the Interior of the United States, or his or her duly authorized representative, except that the commission may, under such unit agreements, suspend the application of the provisions of sections 57-901 to 57-921 or any part of sections 57-901 to 57-921 so long as the conservation of oil and gas and the prevention of waste, as provided in sections 57-901 to 57-921, is accomplished thereby but such suspension shall not relieve any operator from making such reports as are necessary or advised to be fully informed as to operations under such agreement and as the commission may require under the provisions of sections 57-901 to 57-921.

Source: Laws 1959, c. 262, § 20, p. 917; Laws 2016, LB1082, § 14.

57-921 Commission; price or value of oil, gas, or other hydrocarbon substances; no power to fix.

Notwithstanding anything heretofore contained in sections 57-901 to 57-921, the Nebraska Oil and Gas Conservation Commission shall have no authority to establish, fix or in any way control the price or value of oil, gas, other hydrocarbon substances or any of the products or component parts thereof.

Source: Laws 1959, c. 262, § 21, p. 917; Laws 2016, LB1082, § 15.

57-922 Oil and Gas Conservation Trust Fund; receipts; disbursements; investment.

There is hereby created in the state treasury a special fund to be known as the Oil and Gas Conservation Trust Fund. All sums of money received by the

Nebraska Oil and Gas Conservation Commission, in a manner other than as provided in sections 57-901 to 57-921, shall be paid into the state treasury and the State Treasurer shall deposit the money in the Oil and Gas Conservation Trust Fund. The State Treasurer shall disburse the money in the trust fund as directed by resolution of the Nebraska Oil and Gas Conservation Commission. All disbursements for the fund shall be made upon warrants drawn by the Director of Administrative Services. 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.

Source: Laws 1973, LB 119, § 1; Laws 2016, LB1082, § 16.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

ARTICLE 11

EMINENT DOMAIN FOR PIPELINES

Section

57-1101. Acquisition of property by eminent domain; authorized; procedure.

57-1102. Crossing public roads or highways; rights acquired; restrictions.

57-1101 Acquisition of property by eminent domain; authorized; procedure.

Any person engaged in, and any company, corporation, or association formed or created for the purpose of, transporting or conveying crude oil, petroleum, gases, or other products thereof in interstate commerce through or across the State of Nebraska or intrastate within the State of Nebraska, and desiring or requiring a right-of-way or other interest in real estate and being unable to agree with the owner or lessee of any land, lot, right-of-way, or other property for the amount of compensation for the use and occupancy of so much of any lot, land, real estate, right-of-way, or other property as may be reasonably necessary for the laying, relaying, operation, and maintenance of any such pipeline or the location of any plant or equipment necessary to operate such pipeline, shall have the right to acquire the same for such purpose through the exercise of the power of eminent domain, except that for any major oil pipeline as defined in section 57-1404 to be placed in operation in the State of Nebraska after November 23, 2011, any such person, company, corporation, or association shall comply with section 57-1503 and receive the approval of the Governor for the route of the pipeline under such section or shall apply for and receive an order approving the application under the Major Oil Pipeline Siting Act, prior to having the rights provided under this section. If condemnation procedures have not been commenced within two years after the date the Governor's approval is granted or after the date of receipt of an order approving an application under the Major Oil Pipeline Siting Act, the right under this section expires. The procedure to condemn property shall be exercised in the manner set forth in sections 76-704 to 76-724.

Source: Laws 1963, c. 323, § 1, p. 979; Laws 2011, First Spec. Sess., LB1, § 1; Laws 2012, LB1161, § 1.

Cross References

Major Oil Pipeline Siting Act, see section 57-1401.

57-1102 Crossing public roads or highways; rights acquired; restrictions.

Any such person, company, corporation, or association, in the laying, relaying, operation, and maintenance of any such pipeline within the State of Nebraska, shall have the right to enter upon and cross, with such pipeline, any public road or highway, under such reasonable regulations and restrictions as may be prescribed by the Department of Transportation, if it is a state or federal highway, or by the county board of each county, as to all other public roads and highways within such county, and shall also have the right to lay, relay, operate, and maintain such pipeline in and along any public road or highway.

Source: Laws 1963, c. 323, § 2, p. 980; Laws 2017, LB339, § 179.

ARTICLE 12**URANIUM SEVERANCE TAX**

Section

57-1206. Tax; security; notice; use.

57-1206 Tax; security; notice; use.

The Tax Commissioner, whenever he or she deems it necessary to insure compliance with sections 57-1201 to 57-1214, may require any person subject to the tax imposed by section 57-1202 to deposit with the Tax Commissioner a suitable indemnity bond to insure payment of the tax as the Tax Commissioner may determine. Such security may be used if it becomes necessary to collect any tax, interest, or penalty due. Notice of the use of the bond shall be given to such person by mail.

Source: Laws 1983, LB 356, § 18; Laws 2012, LB727, § 15.

ARTICLE 14**MAJOR OIL PIPELINE SITING ACT**

Section

57-1401. Act, how cited.

57-1402. Purposes of act.

57-1403. Legislative findings.

57-1404. Terms, defined.

57-1405. Pipeline carrier; construction of major oil pipeline; application; substantive change to route; application; contents; notice.

57-1406. Commission; assess expenses; payment; neglect or refusal to pay; failure to file objection; notice of delinquency; collection.

57-1407. Commission; duties; public meetings; agency reports; approval by commission; considerations.

57-1408. Commission order; findings; extension of time; status reports; notice of completion; denial of application; amended application; commission; duties.

57-1409. Appeal.

57-1410. Rules and regulations.

57-1411. Public Service Commission Pipeline Regulation Fund; created; use; investment.

57-1412. Commission; powers.

57-1413. Documents or records; not withheld from public.

57-1401 Act, how cited.

Sections 57-1401 to 57-1413 shall be known and may be cited as the Major Oil Pipeline Siting Act.

Source: Laws 2011, First Spec. Sess., LB1, § 2; Laws 2012, LB1161, § 2.

57-1402 Purposes of act.

(1) The purposes of the Major Oil Pipeline Siting Act are to:

(a) Ensure the welfare of Nebraskans, including protection of property rights, aesthetic values, and economic interests;

(b) Consider the lawful protection of Nebraska's natural resources in determining the location of routes of major oil pipelines within Nebraska;

(c) Ensure that a major oil pipeline is not constructed within Nebraska without receiving the approval of the commission under section 57-1408;

(d) Ensure that the location of routes for major oil pipelines is in compliance with Nebraska law; and

(e) Ensure that a coordinated and efficient method for the authorization of such construction is provided.

(2) Nothing in the Major Oil Pipeline Siting Act shall be construed to regulate any safety issue with respect to any aspect of any interstate oil pipeline. The Major Oil Pipeline Siting Act is intended to deal solely with the issue of siting or choosing the location of the route aside and apart from safety considerations. The Legislature acknowledges and respects the exclusive federal authority over safety issues established by the federal law, the Pipeline Safety Act of 1994, 49 U.S.C. 60101 et seq., and the express preemption provision stated in that act. The Major Oil Pipeline Siting Act is intended to exercise only the remaining sovereign powers and purposes of Nebraska which are not included in the category of safety regulation.

Source: Laws 2011, First Spec. Sess., LB1, § 3; Laws 2012, LB1161, § 4.

57-1403 Legislative findings.

The Legislature finds that:

(1) Nebraska has the authority as a sovereign state to protect its land and natural resources for economic and aesthetic purposes for the benefit of its residents and future generations by regulation through approval or disapproval of major oil pipeline siting and the location of routes, so long as it does not regulate in the area of safety as to the design, installation, inspection, emergency plans and procedures, testing, construction, extension, operation, replacement, and maintenance of major oil pipelines and pipeline facilities;

(2) The water and other natural resources in Nebraska will become increasingly valuable, both economically and strategically, as the demand for agricultural products for both food and fuel increases;

(3) The construction of major oil pipelines in Nebraska is in the public interest of Nebraska and the nation to meet the increasing need for energy; and

(4) The irrigation economy of Nebraska which relies on quality water adds over one billion dollars annually to net farm income and increases the gross state product by three billion dollars annually.

Source: Laws 2011, First Spec. Sess., LB1, § 4.

57-1404 Terms, defined.

For purposes of the Major Oil Pipeline Siting Act:

(1) Commission means the Public Service Commission;

(2) Major oil pipeline means a pipeline which is larger than six inches in inside diameter and which is constructed in Nebraska for the transportation of petroleum, or petroleum components, products, or wastes, including crude oil or any fraction of crude oil, within, through, or across Nebraska, but does not include in-field and gathering lines; and

(3) Pipeline carrier means a person that engages in owning, operating, or managing a major oil pipeline.

Source: Laws 2011, First Spec. Sess., LB1, § 5; Laws 2012, LB1161, § 5.

57-1405 Pipeline carrier; construction of major oil pipeline; application; substantive change to route; application; contents; notice.

(1) If a pipeline carrier proposes to construct a major oil pipeline to be placed in operation in Nebraska after November 23, 2011, and the pipeline carrier has submitted a route for an oil pipeline within, through, or across Nebraska but the route is not approved by the Governor pursuant to section 57-1503, the pipeline carrier shall file an application with the commission and receive approval pursuant to section 57-1408 prior to beginning construction of the major oil pipeline within Nebraska. If a pipeline carrier proposes a substantive change to the route of a major oil pipeline and the pipeline carrier has submitted a route for an oil pipeline within, through, or across Nebraska but the route is not approved by the Governor pursuant to section 57-1503, the pipeline carrier shall file an application for the proposed change with the commission and receive approval pursuant to section 57-1408 prior to beginning construction relating to the proposed change. The applicant shall also file a copy of the application with the agencies listed in subsection (3) of section 57-1407.

(2) The application shall be accompanied by written agreement to pay expenses assessed pursuant to section 57-1406 and written testimony and exhibits in support of the application. The application shall include:

- (a) The name and address of the pipeline carrier;
- (b) A description of the nature and proposed route of the major oil pipeline and evidence of consideration of alternative routes;
- (c) A statement of the reasons for the selection of the proposed route of the major oil pipeline;
- (d) A list of the governing bodies of the counties and municipalities through which the proposed route of the major oil pipeline would be located;
- (e) A description of the product or material to be transported through the major oil pipeline;
- (f) The person who will own the major oil pipeline;
- (g) The person who will manage the major oil pipeline;
- (h) A plan to comply with the Oil Pipeline Reclamation Act; and
- (i) A list of planned methods to minimize or mitigate the potential impacts of the major oil pipeline to land areas and connected natural resources other than with respect to oil spills.

(3) The applicant shall publish notice of the application in at least one newspaper of general circulation in each county in which the major oil pipeline is to be constructed and forward a copy of such notice to the commission. The applicant shall serve notice of the application upon the governing bodies of the

counties and municipalities specified pursuant to subdivision (2)(d) of this section.

Source: Laws 2011, First Spec. Sess., LB1, § 6; Laws 2012, LB1161, § 6.

Cross References

Oil Pipeline Reclamation Act, see section 76-3301.

57-1406 Commission; assess expenses; payment; neglect or refusal to pay; failure to file objection; notice of delinquency; collection.

(1) The commission shall assess the expenses reasonably attributable to investigation and hearing regarding an application filed under section 57-1405, including expenses billed by agencies filing reports as required in subsection (3) of section 57-1407 and both direct and indirect expenses incurred by the commission or its staff or consultants, to the applicant as agreed under section 57-1405.

(2) The commission shall ascertain the expenses of any such investigation and hearing and by order assess such expenses against the applicant and shall render a bill therefor, by United States mail, to the applicant, either at the time the order under section 57-1408 is issued or from time to time during such application process. Such bill shall constitute notice of such assessment and demand of payment thereof. Upon a bill rendered to such applicant, within fifteen days after the mailing thereof, such applicant shall pay to the commission the amount of the assessment for which it is billed. The commission shall remit the payment to the State Treasurer for credit to the Public Service Commission Pipeline Regulation Fund. The commission may render bills in one fiscal year for costs incurred within a previous fiscal year. The commission shall direct the State Treasurer to credit any reimbursement of expenses billed by agencies pursuant to subsection (3) of section 57-1407 to the appropriate fund of the appropriate agency.

(3) If any applicant against which an assessment has been made pursuant to this section, within fifteen days after the notice of such assessment, (a) neglects or refuses to pay the same or (b) fails to file objections to the assessment with the commission as provided in subsection (4) of this section, the commission shall transmit to the State Treasurer a certified copy of the notice of assessment, together with notice of neglect or refusal to pay the assessment, and on the same day the commission shall mail by registered mail to the applicant against which the assessment has been made a copy of the notice which it has transmitted to the State Treasurer. If any such applicant fails to pay such assessment to the State Treasurer within ten days after receipt of such notice and certified copy of such assessment, the assessment shall bear interest at the rate of fifteen percent per annum from and after the date on which the copy of the notice was mailed by registered mail to such applicant.

(4) Within fifteen days after the date of the mailing of any notice of assessment under subsection (2) of this section, the applicant against which such assessment has been made may file with the commission objections setting out in detail the ground upon which the applicant regards such assessment to be excessive, erroneous, unlawful, or invalid. The commission shall determine if the assessment or any part of the assessment is excessive, erroneous, unlawful, or invalid and shall render an order upholding, invalidating, or amending the assessment. An amended assessment shall have in all respects the same force and effect as though it were an original assessment.

(5) If any assessment against which objections have been filed is not paid within ten days after service of an order finding that such objections have been overruled and disallowed by the commission, the commission shall give notice of such delinquency to the State Treasurer and to the applicant in the manner provided for in subsection (3) of this section. The State Treasurer shall then collect the amount of such assessment. If an amended assessment is not paid within ten days after service of the order of the commission, the commission shall notify the State Treasurer and the applicant as in the case of delinquency in the payment of an original assessment. The State Treasurer shall then collect the amount of such assessment as provided in the case of an original assessment.

Source: Laws 2011, First Spec. Sess., LB1, § 7.

57-1407 Commission; duties; public meetings; agency reports; approval by commission; considerations.

(1) After receipt of an application under section 57-1405, the commission shall:

- (a) Within sixty days, schedule a public hearing;
- (b) Notify the pipeline carrier of the time, place, and purpose of the public hearing;
- (c) Publish a notice of the time, place, and purpose of the public hearing in at least one newspaper of general circulation in each county in which the major oil pipeline is to be constructed; and
- (d) Serve notice of the public hearing upon the governing bodies of the counties and municipalities through which the proposed route of the major oil pipeline would be located as specified in subdivision (2)(d) of section 57-1405.

(2) The commission may hold additional public meetings for the purpose of receiving input from the public at locations as close as practicable to the proposed route of the major oil pipeline. The commission shall make the public input part of the record.

(3) If requested by the commission, the following agencies shall file a report with the commission, prior to the hearing on the application, regarding information within the respective agencies' area of expertise relating to the impact of the major oil pipeline on any area within the respective agencies' jurisdiction, including in such report opinions regarding the advisability of approving, denying, or modifying the location of the proposed route of the major oil pipeline: The Department of Environment and Energy, the Department of Natural Resources, the Department of Revenue, the Department of Transportation, the Game and Parks Commission, the Nebraska Oil and Gas Conservation Commission, the Nebraska State Historical Society, the State Fire Marshal, and the Board of Educational Lands and Funds. The agencies may submit a request for reimbursement of reasonable and necessary expenses incurred for any consultants hired pursuant to this subsection.

(4) An application under the Major Oil Pipeline Siting Act shall be approved if the proposed route of the major oil pipeline is determined by the Public Service Commission to be in the public interest. The pipeline carrier shall have the burden to establish that the proposed route of the major oil pipeline would serve the public interest. In determining whether the pipeline carrier has met its burden, the commission shall not evaluate safety considerations, including

the risk or impact of spills or leaks from the major oil pipeline, but the commission shall evaluate:

- (a) Whether the pipeline carrier has demonstrated compliance with all applicable state statutes, rules, and regulations and local ordinances;
- (b) Evidence of the impact due to intrusion upon natural resources and not due to safety of the proposed route of the major oil pipeline to the natural resources of Nebraska, including evidence regarding the irreversible and irretrievable commitments of land areas and connected natural resources and the depletion of beneficial uses of the natural resources;
- (c) Evidence of methods to minimize or mitigate the potential impacts of the major oil pipeline to natural resources;
- (d) Evidence regarding the economic and social impacts of the major oil pipeline;
- (e) Whether any other utility corridor exists that could feasibly and beneficially be used for the route of the major oil pipeline;
- (f) The impact of the major oil pipeline on the orderly development of the area around the proposed route of the major oil pipeline;
- (g) The reports of the agencies filed pursuant to subsection (3) of this section; and
- (h) The views of the governing bodies of the counties and municipalities in the area around the proposed route of the major oil pipeline.

Source: Laws 2011, First Spec. Sess., LB1, § 8; Laws 2017, LB339, § 180; Laws 2019, LB302, § 61.

57-1408 Commission order; findings; extension of time; status reports; notice of completion; denial of application; amended application; commission; duties.

(1) Within seven months after the receipt of the application under section 57-1405, the commission shall enter an order approving the application or denying the application. The commission shall include in the order the findings of the commission regarding the application and the reasons for approving or denying the application. The order approving the application shall state that the application is in the public interest and shall authorize the pipeline carrier to act under section 57-1101.

(2) The commission may, for just cause, extend the time for the entry of an order under subsection (1) of this section. The extension shall not exceed twelve months after the receipt of the application under section 57-1405 unless all parties agree to a longer extension, except that no extension shall extend more than eight months after the issuance of a presidential permit authorizing the construction of the major oil pipeline.

(3) If the commission approves the application, the pipeline carrier shall file a status report with the commission regarding the construction of the major oil pipeline every six months until the completion of the major oil pipeline within Nebraska. The pipeline carrier shall notify the commission of the completion of the major oil pipeline within Nebraska within thirty days after such completion.

(4) If the commission denies the application, the pipeline carrier may amend the denied application in accordance with the findings of the commission and submit the amended application within sixty days after the issuance of the order denying the application. Within sixty days after the receipt of the

amended application, the commission shall enter an order approving or denying the amended application after making new findings under subsection (4) of section 57-1407.

Source: Laws 2011, First Spec. Sess., LB1, § 9.

57-1409 Appeal.

Any party aggrieved by a final order of the commission regarding an application or assessment under the Major Oil Pipeline Siting Act, including, but not limited to, a decision relating to the public interest, may appeal. The appeal shall be in accordance with section 75-136.

Source: Laws 2011, First Spec. Sess., LB1, § 10; Laws 2013, LB545, § 1.

57-1410 Rules and regulations.

The commission shall adopt and promulgate rules and regulations to carry out the Major Oil Pipeline Siting Act.

Source: Laws 2011, First Spec. Sess., LB1, § 11.

57-1411 Public Service Commission Pipeline Regulation Fund; created; use; investment.

The Public Service Commission Pipeline Regulation Fund is created. The fund shall be administered by the commission. The fund shall be used by the commission to carry out the Major Oil Pipeline Siting Act. 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.

Source: Laws 2011, First Spec. Sess., LB1, § 12.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

57-1412 Commission; powers.

The commission may contract for professional services and expert assistance, including, but not limited to, the services of engineers, hydrogeologists, accountants, attorneys, and economists, to assist with reviewing applications under the Major Oil Pipeline Siting Act.

Source: Laws 2011, First Spec. Sess., LB1, § 13.

57-1413 Documents or records; not withheld from public.

The commission shall not withhold any documents or records relating to a major oil pipeline from the public unless the documents or records are of the type that can be withheld under section 84-712.05 or unless federal law provides otherwise.

Source: Laws 2012, LB1161, § 3.

ARTICLE 15

OIL PIPELINE PROJECTS

Section
57-1501. Legislative findings.

Section

57-1502. Terms, defined.

57-1503. Evaluation of route; supplemental environmental impact statement; department; powers and duties; pipeline carrier; reimburse cost; submit to Governor; duty; denial; notice to pipeline carrier; documents or records; not withheld from public.

57-1501 Legislative findings.

The Legislature finds that:

(1) The State of Nebraska is responsible for protecting its natural resources, agricultural resources, aesthetics, economy, and communities through reasonable regulation for the common good and welfare. As such, the state is responsible for ensuring that an oil pipeline proposed to be located within, through, or across Nebraska is in compliance with all state laws, rules, and regulations relating to water, air, and wildlife under the Constitution of Nebraska and state law;

(2) Public policy should reflect this responsibility while simultaneously recognizing the necessity for energy use and the economic benefits to Nebraska of transporting oil within, through, or across the state, the need for economic development in Nebraska, and the opportunities for jobs and revenue that new development brings to the state;

(3) The United States has the important ability to work with foreign suppliers of crude oil to meet our overall energy needs and to further our national security interests; and

(4) The economic benefits of oil pipeline construction projects are important to the state, including the creation of jobs. Nevertheless, the benefits of any proposed oil pipeline project must be weighed against any concerns brought by the residents of Nebraska.

Source: Laws 2011, First Spec. Sess., LB4, § 1.

57-1502 Terms, defined.

For purposes of sections 57-1501 to 57-1503:

(1) Department means the Department of Environment and Energy;

(2) Oil pipeline means a pipeline which is larger than eight inches in inside diameter and which is constructed in Nebraska for the transportation of petroleum, or petroleum components, products, or wastes, including crude oil or any fraction of crude oil, within, through, or across Nebraska, but does not include in-field and gathering lines; and

(3) Pipeline carrier means an individual, a company, a corporation, an association, or any other legal entity that engages in owning, operating, or managing an oil pipeline.

Source: Laws 2011, First Spec. Sess., LB4, § 2; Laws 2019, LB302, § 62.

57-1503 Evaluation of route; supplemental environmental impact statement; department; powers and duties; pipeline carrier; reimburse cost; submit to Governor; duty; denial; notice to pipeline carrier; documents or records; not withheld from public.

(1)(a) The department may:

(i) Evaluate any route for an oil pipeline within, through, or across the state and submitted by a pipeline carrier for the stated purpose of being included in a federal agency's or agencies' National Environmental Policy Act review process. Any such evaluation shall include at least one public hearing, provide opportunities for public review and comment, and include, but not be limited to, an analysis of the environmental, economic, social, and other impacts associated with the proposed route and route alternatives in Nebraska. The department may collaborate with a federal agency or agencies and set forth the responsibilities and schedules that will lead to an effective and timely evaluation; or

(ii) Collaborate with a federal agency or agencies in a review under the National Environmental Policy Act involving a supplemental environmental impact statement for oil pipeline projects within, through, or across the state. Prior to entering into such shared jurisdiction and authority, the department shall collaborate with such agencies to set forth responsibilities and schedules for an effective and timely review process.

(b) A pipeline carrier that has submitted a route for evaluation or review pursuant to subdivision (1)(a) of this section shall reimburse the department for the cost of the evaluation or review within sixty days after notification from the department of the cost. The department shall remit any reimbursement to the State Treasurer for credit to the Environmental Cash Fund.

(2) The department may contract with outside vendors in the process of preparation of a supplemental environmental impact statement or an evaluation conducted under subdivision (1)(a) of this section. The department shall make every reasonable effort to ensure that each vendor has no conflict of interest or relationship to any pipeline carrier that applies for an oil pipeline permit.

(3) In order for the process to be efficient and expeditious, the department's contracts with vendors pursuant to this section for a supplemental environmental impact statement or an evaluation conducted under subdivision (1)(a) of this section shall not be subject to the Nebraska Consultants' Competitive Negotiation Act or sections 73-301 to 73-306 or 73-501 to 73-510.

(4) After the supplemental environmental impact statement or the evaluation conducted under subdivision (1)(a) of this section is prepared, the department shall submit it to the Governor. Within thirty days after receipt of the supplemental environmental impact statement or the evaluation conducted under subdivision (1)(a) of this section from the department, the Governor shall indicate, in writing, to the federal agency or agencies involved in the review or any other appropriate federal agency or body as to whether he or she approves any of the routes reviewed in the supplemental environmental impact statement or the evaluation conducted under subdivision (1)(a) of this section. If the Governor does not approve any of the reviewed routes, he or she shall notify the pipeline carrier that in order to obtain approval of a route in Nebraska the pipeline carrier is required to file an application with the Public Service Commission pursuant to the Major Oil Pipeline Siting Act.

(5) The department shall not withhold any documents or records relating to an oil pipeline from the public unless the documents or records are of the type

that can be withheld under section 84-712.05 or unless federal law provides otherwise.

Source: Laws 2011, First Spec. Sess., LB4, § 3; Laws 2012, LB858, § 16; Laws 2012, LB1161, § 7; Laws 2019, LB302, § 63.

Cross References

Major Oil Pipeline Siting Act, see section 57-1401.

Nebraska Consultants' Competitive Negotiation Act, see section 81-1702.



CHAPTER 58

MONEY AND FINANCING

Article.

2. Nebraska Investment Finance Authority. 58-221 to 58-270.
3. Small Business Development. Repealed.
4. Research and Development Authority. Repealed.
7. Nebraska Affordable Housing Act. 58-702 to 58-711.
8. Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act. 58-801 to 58-866.

ARTICLE 2

NEBRASKA INVESTMENT FINANCE AUTHORITY

Section

- 58-221. Residential energy conservation device, defined.
- 58-228. Authority; chairperson; officers; expenses.
- 58-242. Authority; agricultural projects; duties.
- 58-246. Agricultural projects; loan reports; public information; borrower's name omitted.
- 58-270. Authority; reports; contents; audit; issuance of bonds; notices.

58-221 Residential energy conservation device, defined.

Residential energy conservation device shall mean any prudent means of reducing the demands for conventional fuels or increasing the supply or efficiency of these fuels in residential housing and shall include, but not be limited to:

- (1) Caulking and weather stripping of doors and windows;
- (2) Furnace efficiency modifications, including:
 - (a) Replacement burners, furnaces, heat pumps, or boilers or any combination thereof which, as determined by the Director of Environment and Energy, substantially increases the energy efficiency of the heating system;
 - (b) Any device for modifying flue openings which will increase the energy efficiency of the heating system; and
 - (c) Any electrical or mechanical furnace ignition system which replaces a standing gas pilot light;
- (3) A clock thermostat;
- (4) Ceiling, attic, wall, and floor insulation;
- (5) Water heater insulation;
- (6) Storm windows and doors, multiglazed windows and doors, and heat-absorbed or heat-reflective glazed window and door materials;
- (7) Any device which controls demand of appliances and aids load management;
- (8) Any device to utilize solar energy, biomass, or wind power for any residential energy conservation purpose including heating of water and space heating or cooling; and

(9) Any other conservation device, renewable energy technology, and specific home improvement necessary to insure the effectiveness of the energy conservation measures as the Director of Environment and Energy by rule or regulation identifies.

Source: Laws 1983, LB 626, § 21; Laws 1991, LB 253, § 24; Laws 2019, LB302, § 64.

58-228 Authority; chairperson; officers; expenses.

The Director of Economic Development shall be the chairperson of the authority. The members shall elect from among the membership a vice-chairperson and such other officers as they may determine. Members shall receive no compensation for their services but shall be reimbursed for expenses incurred in the discharge of their official duties as provided in sections 81-1174 to 81-1177.

Source: Laws 1983, LB 626, § 28; Laws 1991, LB 253, § 30; Laws 2020, LB381, § 51.

Operative date January 1, 2021.

58-242 Authority; agricultural projects; duties.

Prior to exercising any of the powers authorized by the Nebraska Investment Finance Authority Act regarding agricultural projects as defined in subdivision (2) of section 58-219, the authority shall require:

(1) That no loan will be made to any person with a net worth of more than five hundred thousand dollars;

(2) That the lender certify and agree that it will use the proceeds of such loan, investment, sale, or assignment within a reasonable period of time to make loans or purchase loans to provide agricultural enterprises or, if such lender has made a commitment to make loans to provide agricultural enterprises on the basis of a commitment from the authority to purchase such loans, such lender will make such loans and sell the same to the authority within a reasonable period of time;

(3) That the lender certify that the borrower is an individual who is actively engaged in or who will become actively engaged in an agricultural enterprise after he or she receives the loan or that the borrower is a firm, partnership, limited liability company, corporation, or other entity with all owners, partners, members, or stockholders thereof being natural persons who are actively engaged in or who will be actively engaged in an agricultural enterprise after the loan is received;

(4) That the aggregate amount of the loan received by a borrower shall not exceed five hundred seventeen thousand seven hundred dollars, as such amount shall be adjusted for inflation in accordance with section 147(c) of the Internal Revenue Code of 1986, as amended. In computing such amount a loan received by an individual shall be aggregated with those loans received by his or her spouse and minor children and a loan received by a firm, partnership, limited liability company, or corporation shall be aggregated with those loans received by each owner, partner, member, or stockholder thereof; and

(5) That the recipient of the loan be identified in the minutes of the authority prior to or at the time of adoption by the authority of the resolution authorizing the issuance of the bonds which will provide for financing of the loan.

Source: Laws 1983, LB 626, § 42; Laws 1991, LB 253, § 43; Laws 1993, LB 121, § 356; Laws 2005, LB 90, § 17; Laws 2015, LB515, § 1.

58-246 Agricultural projects; loan reports; public information; borrower's name omitted.

The reports required pursuant to section 58-245 shall be public information. No such report shall reveal the name of any individual borrower. The authority shall, following the close of each fiscal year, deliver to the Governor and to the Clerk of the Legislature a set of the individual reporting forms from the preceding year together with the report required pursuant to subsection (2) of section 58-245. The reporting forms and the report submitted to the Clerk of the Legislature shall be submitted electronically. Any member of the Legislature shall receive an electronic copy of such reports by making a request to the chairperson of the authority.

Source: Laws 1983, LB 626, § 46; Laws 1991, LB 253, § 47; Laws 2012, LB782, § 85.

58-270 Authority; reports; contents; audit; issuance of bonds; notices.

(1) The authority shall, following the close of each fiscal year, submit a report of its activities for the preceding year to the Governor and the Clerk of the Legislature. The report submitted to the Clerk of the Legislature shall be submitted electronically. Each member of the Legislature shall receive an electronic copy of such report by making a request for it to the chairperson of the authority. Each report shall set forth a complete operating and financial statement for the authority during the fiscal year it covers. An independent certified public accountant shall at least once in each year audit the books and accounts of the authority.

(2) At least fourteen days prior to taking any final action to authorize the issuance of bonds to provide financing for projects, the beneficiaries or borrowers of which are not specifically identified, the authority shall notify the Governor, the Clerk of the Legislature, and any news media requesting notification of such proposed issuance of bonds. The notification submitted to the Clerk of the Legislature shall be submitted electronically. Such notice shall include:

(a) The public purposes to be effectuated and the needs to be addressed through the issuance of the bonds;

(b) The manner in which such need was identified;

(c) The anticipated principal amount of the bond issue and the anticipated date of issuance of the bonds;

(d) The anticipated size of any reserve funds; and

(e) The professionals involved in connection with the issuance of the bonds.

(3) Within thirty days following the issuance of bonds subject to subsection (2) of this section, the authority shall notify the Governor and the Clerk of the Legislature of:

(a) The final principal amount of the bonds;

(b) The net interest cost of the bonds;

- (c) The costs of issuance paid and to whom paid;
- (d) The total amount of any reserve funds;
- (e) The net interest cost to the beneficiaries or borrowers; and
- (f) The amount of funds available for loans.

The notification submitted to the Clerk of the Legislature shall be submitted electronically.

(4) With respect to bonds subject to subsection (2) of this section, until ninety-five percent of the proceeds of such bonds to be made available for loans are so used or a corresponding amount of such bonds are redeemed, the authority shall, no less often than quarterly after the issuance of such bonds, report to the Governor and the Clerk of the Legislature the status of the use of the proceeds of such issue of bonds. The report submitted to the Clerk of the Legislature shall be submitted electronically.

Once the notice required pursuant to subsection (2) of this section is filed, nothing in this section shall require the authority to amend or supplement the notice prior to the issuance of the bonds.

(5) The notice and reporting requirements contained in this section shall be deemed satisfied upon good faith compliance by the authority. The failure to comply with any part of this section shall not affect the validity of any bonds issued by the authority.

Source: Laws 1983, LB 626, § 70; Laws 1984, LB 372, § 12; Laws 1991, LB 253, § 67; Laws 2012, LB782, § 86.

ARTICLE 3

SMALL BUSINESS DEVELOPMENT

Section

58-326. Repealed. Laws 2011, LB 4, § 1.

58-326 Repealed. Laws 2011, LB 4, § 1.

ARTICLE 4

RESEARCH AND DEVELOPMENT AUTHORITY

Section

58-443. Repealed. Laws 2011, LB 5, § 1.

58-443 Repealed. Laws 2011, LB 5, § 1.

ARTICLE 7

NEBRASKA AFFORDABLE HOUSING ACT

Section

- 58-702. Legislative findings.
- 58-703. Affordable Housing Trust Fund; created; use.
- 58-706. Affordable Housing Trust Fund; eligible activities.
- 58-707. Assistance; qualified recipients.
- 58-708. Department of Economic Development; selection of projects to receive assistance; duties; recapture funds; when.
- 58-711. Information on status of Affordable Housing Trust Fund; report; contents.

58-702 Legislative findings.

The Legislature finds that current economic conditions, lack of available affordable housing, federal housing policies that have placed an increasing burden on the state, and declining resources at all levels of government adversely affect the ability of Nebraska's citizens to obtain safe, decent, and affordable housing. Lack of affordable housing also affects the ability of communities to maintain and develop viable and stable economies.

Furthermore, the Legislature finds that impediments exist to the construction and rehabilitation of affordable housing. Local codes and state statutes have an important effect on housing's affordability by placing increased costs on developers. Financing affordable housing, especially in rural areas and smaller communities, is becoming increasingly difficult. In addition, existing dilapidated housing stock and industrial buildings are detrimental to new affordable housing development and the general health and safety of people living and working in or around such places. An affordable housing trust fund would assist all Nebraska communities in financing affordable housing projects and other projects which make the community safer for residents.

To enhance the economic development of the state and to provide for the general prosperity of all of Nebraska's citizens, it is in the public interest to assist in the provision of safe, decent, and affordable housing in all areas of the state. The establishment of the Nebraska Affordable Housing Act will assist in creating conditions favorable to meeting the affordable housing needs of the state.

Source: Laws 1996, LB 1322, § 12; Laws 2011, LB388, § 10.

58-703 Affordable Housing Trust Fund; created; use.

The Affordable Housing Trust Fund is created. The fund shall receive money pursuant to section 76-903 and may include revenue from sources recommended by the housing advisory committee established in section 58-704, appropriations from the Legislature, transfers authorized by the Legislature, grants, private contributions, repayment of loans, and all other sources. The Department of Economic Development as part of its comprehensive housing affordability strategy shall administer the Affordable Housing Trust Fund.

Transfers may be made from the Affordable Housing Trust Fund to the General Fund, the Behavioral Health Services Fund, the Lead-Based Paint Hazard Control Cash Fund, the Rural Workforce Housing Investment Fund, and the Site and Building Development Fund at the direction of the Legislature.

The State Treasurer shall transfer fifty-eight thousand one hundred eighty-eight dollars from the Affordable Housing Trust Fund to the General Fund on or before September 15, 2019, on such date as directed by the budget administrator of the budget division of the Department of Administrative Services.

Source: Laws 1996, LB 1322, § 13; Laws 1997, LB 864, § 9; Laws 2004, LB 1083, § 100; Laws 2005, LB 40, § 1; Laws 2011, LB388, § 11; Laws 2012, LB969, § 6; Laws 2013, LB199, § 24; Laws 2013, LB214, § 9; Laws 2017, LB518, § 10; Laws 2018, LB945, § 13; Laws 2019, LB86, § 6.

58-706 Affordable Housing Trust Fund; eligible activities.

The following activities are eligible for assistance from the Affordable Housing Trust Fund:

- (1) New construction, rehabilitation, or acquisition of housing to assist low-income and very low-income families;
- (2) Matching funds for new construction, rehabilitation, or acquisition of housing units to assist low-income and very low-income families;
- (3) Technical assistance, design and finance services, and consultation for eligible nonprofit community or neighborhood-based organizations involved in the creation of affordable housing;
- (4) Matching funds for operating costs for housing assistance groups or organizations when such grant or loan will substantially increase the recipient's ability to produce affordable housing;
- (5) Mortgage insurance guarantees for eligible projects;
- (6) Acquisition of housing units for the purpose of preservation of housing to assist low-income or very low-income families;
- (7) Projects making affordable housing more accessible to families with elderly members or members who have disabilities;
- (8) Projects providing housing in areas determined by the Department of Economic Development to be of critical importance for the continued economic development and economic well-being of the community and where, as determined by the department, a shortage of affordable housing exists;
- (9) Infrastructure projects necessary for the development of affordable housing;
- (10) Downpayment and closing cost assistance;
- (11) Demolition of existing vacant, condemned, or obsolete housing or industrial buildings or infrastructure;
- (12) Housing education programs developed in conjunction with affordable housing projects. The education programs must be directed toward:
 - (a) Preparing potential home buyers to purchase affordable housing and postpurchase education;
 - (b) Target audiences eligible to utilize the services of housing assistance groups or organizations; and
 - (c) Developers interested in the rehabilitation, acquisition, or construction of affordable housing;
- (13) Support for efforts to improve programs benefiting homeless youth; and
- (14) Vocational training in the housing and construction trades industries by nonprofit groups.

Source: Laws 1996, LB 1322, § 16; Laws 2004, LB 1083, § 101; Laws 2005, LB 40, § 2; Laws 2011, LB388, § 12; Laws 2011, LB413, § 1; Laws 2013, LB199, § 25.

58-707 Assistance; qualified recipients.

Organizations which may receive assistance under the Nebraska Affordable Housing Act are governmental subdivisions, local housing authorities, community action agencies, community-based or neighborhood-based or reservation-based nonprofit organizations, and for-profit entities working in conjunction with one of the other eligible organizations. For-profit entities that are eligible under this section shall be required to provide, or cause to be provided, matching funds for the eligible activity in an amount determined by the

Department of Economic Development, which amount shall be at least equal to ten percent of the amount of assistance provided by the Affordable Housing Trust Fund. Political subdivisions, local housing authorities, community action agencies, and community-based, neighborhood-based, and reservation-based nonprofit organizations shall not be required to provide, or cause to be provided, such matching funds. Nothing in the act shall be construed to allow individuals to receive direct loans from the Affordable Housing Trust Fund.

Source: Laws 1996, LB 1322, § 17; Laws 1997, LB 864, § 10; Laws 2019, LB86, § 7.

58-708 Department of Economic Development; selection of projects to receive assistance; duties; recapture funds; when.

(1) During each calendar year in which funds are available from the Affordable Housing Trust Fund for use by the Department of Economic Development, the department shall make its best efforts to allocate not less than thirty percent of such funds to each congressional district. The department shall announce a grant and loan application period of at least ninety days duration for all projects. In selecting projects to receive trust fund assistance, the department shall develop a qualified allocation plan and give first priority to financially viable projects that serve the lowest income occupants for the longest period of time. The qualified allocation plan shall:

(a) Set forth selection criteria to be used to determine housing priorities of the housing trust fund which are appropriate to local conditions, including the community's immediate need for affordable housing, proposed increases in home ownership, private dollars leveraged, level of local government support and participation, and repayment, in part or in whole, of financial assistance awarded by the fund; and

(b) Give first priority in allocating trust fund assistance among selected projects to those projects which are located in whole or in part within an enterprise zone designated pursuant to the Enterprise Zone Act or an opportunity zone designated pursuant to the federal Tax Cuts and Jobs Act, Public Law 115-97, serve the lowest income occupant, are located in an area that has been declared an extremely blighted area under section 18-2101.02, and are obligated to serve qualified occupants for the longest period of time.

(2) The department shall fund in order of priority as many applications as will utilize available funds less actual administrative costs of the department in administering the program. In administering the program the department may contract for services or directly provide funds to other governmental entities or instrumentalities.

(3) The department may recapture any funds which were allocated to a qualified recipient for an eligible project through an award agreement if such funds were not utilized for eligible costs within the time of performance under the agreement and are therefor no longer obligated to the project. The recaptured funds shall be credited to the Affordable Housing Trust Fund.

Source: Laws 1996, LB 1322, § 18; Laws 2005, LB 40, § 3; Laws 2011, LB388, § 13; Laws 2014, LB800, § 5; Laws 2014, LB906, § 17; Laws 2015, LB457, § 1; Laws 2017, LB217, § 3; Laws 2019, LB86, § 8; Laws 2019, LB87, § 1.

Cross References

Enterprise Zone Act, see section 13-2101.01.

58-711 Information on status of Affordable Housing Trust Fund; report; contents.

(1) The Department of Economic Development shall submit, as part of the department’s annual status report under section 81-1201.11, the following information regarding the Affordable Housing Trust Fund: (a) The applications funded during the previous calendar year; (b) the applications funded in previous years; (c) the identity of the organizations receiving funds; (d) the location of each project; (e) the amount of funding provided to each project; (f) the amount of funding leveraged as a result of each project; (g) the number of units of housing created by each project and the occupancy rate; (h) the expected cost of rent or monthly payment of those units; (i) the projected number of new employees and community investment as a result of each project; (j) the amount of revenue deposited into the Affordable Housing Trust Fund pursuant to section 76-903; (k) the total amount of funds for which applications were received during the previous calendar year, the year-end fund balance, and, if all available funds have not been committed, an explanation of the reasons why all such funds have not been so committed; (l) the amount of appropriated funds actually expended by the department for the previous calendar year; (m) the department’s current budget for administration of the Nebraska Affordable Housing Act and the department’s planned use and distribution of funds, including details on the amount of funds to be expended on projects and the amount of funds to be expended by the department for administrative purposes; and (n) project summaries, including the applicant municipality, project description, grant amount requested, amount and type of matching funds, and reasons for approval or denial for every application seeking funds during the previous calendar year.

(2) The status report shall contain no information that is protected by state or federal confidentiality laws.

Source: Laws 1997, LB 864, § 7; Laws 2011, LB404, § 3; Laws 2013, LB214, § 10; Laws 2019, LB86, § 9.

ARTICLE 8

NEBRASKA EDUCATIONAL, HEALTH, CULTURAL, AND SOCIAL SERVICES FINANCE AUTHORITY ACT

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58-801 Act, how cited.

Sections 58-801 to 58-866 shall be known and may be cited as the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act.

Source: Laws 1981, LB 321, § 2; Laws 1993, LB 465, § 2; R.S.1943, (1994), § 79-2902; Laws 1995, LB 5, § 2; R.S.1943, (2008), § 85-1701; Laws 2013, LB170, § 1; Laws 2019, LB224, § 1.

58-802 Legislative findings.

The Legislature finds and declares that:

(1) For the benefit of the people of the State of Nebraska, the increase of their commerce, welfare, and prosperity, and the fostering, protection, and improvement of their health and living conditions, it is essential that this and future generations of youth be given the greatest opportunity to learn and to fully develop their intellectual and mental capacities and skills and that there be encouraged, promoted, and supported adequate health, social, cultural, and emergency services for the general welfare of, care of, and assistance to the people of the state;

(2) To achieve these ends it is of the utmost importance and in the public interest that private institutions of higher education within the state be provided with appropriate additional means of assisting such youth in achieving the required levels of learning and development of their intellectual and mental capacities and skills, that private health care institutions and private social services institutions within the state be provided with appropriate additional means of caring for and protecting the public health and welfare, and that private cultural institutions within the state be provided with appropriate additional means of assisting with the preservation and promotion of the cultural and artistic enrichment of the people of this state;

(3) It is the purpose of the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act to provide a measure of assistance and an alternative method of enabling private institutions of higher education, private health care institutions, private cultural institutions, and private social services institutions in the state to finance the acquisition, construction, improvement, equipment, and renovation of needed educational, health care, cultural, and social services facilities and structures and to refund, refinance, or reimburse outstanding indebtedness incurred by them or advances made by them, including advances from an endowment or any other similar fund, for the acquisition, construction, improvement, equipment, or renovation of needed educational, health care, cultural, and social services facilities and structures;

(4) The financing and refinancing of educational, health care, cultural, and social services facilities, through means other than the appropriation of public funds to private institutions of higher education, private health care institutions, private cultural institutions, and private social services institutions, as described in the act, is a valid public purpose;

(5) The availability of improved access to health profession schools will benefit the people of the State of Nebraska and improve their health, welfare, and living conditions;

(6) The establishment of a health education loan program, with the proceeds of bonds to be used for the purchase or making of loans to students or certain former students of health profession schools, will improve the access to such

schools and assist such persons in meeting the expenses incurred in availing themselves of health education opportunities; and

(7) The establishment of a program to assist private institutions of higher education to provide loans to their full-time students pursuing an academic degree will improve access to higher education and contribute to the health, welfare, and living conditions in Nebraska.

Source: Laws 1981, LB 321, § 1; Laws 1983, LB 159, § 1; Laws 1993, LB 465, § 1; R.S.1943, (1994), § 79-2901; Laws 1995, LB 5, § 1; R.S.1943, (2008), § 85-1702; Laws 2013, LB170, § 2; Laws 2019, LB224, § 2.

58-803 Definitions, where found.

For purposes of the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act, unless the context otherwise requires, the definitions found in sections 58-804 to 58-812 shall apply.

Source: Laws 1981, LB 321, § 3; Laws 1983, LB 159, § 14; Laws 1993, LB 465, § 3; R.S.1943, (1994), § 79-2903; Laws 1995, LB 5, § 3; R.S.1943, (2008), § 85-1703; Laws 2013, LB170, § 3; Laws 2019, LB224, § 3.

58-804 Authority, defined.

Authority means the Nebraska Educational, Health, Cultural, and Social Services Finance Authority created by the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act or any board, body, commission, department, or office succeeding to the principal functions thereof or to whom the powers conferred upon such authority by the act are given by law.

Source: Laws 1981, LB 321, § 4; Laws 1993, LB 465, § 4; R.S.1943, (1994), § 79-2904; Laws 1995, LB 5, § 4; R.S.1943, (2008), § 85-1704; Laws 2013, LB170, § 4; Laws 2019, LB224, § 4.

58-805 Bonds, defined.

Bonds means bonds, notes, or other obligations of the authority issued under the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act, including refunding bonds, notwithstanding that the same may be secured by the full faith and credit of an eligible institution or any other lawfully pledged security of an eligible institution.

Source: Laws 1981, LB 321, § 8; Laws 1993, LB 465, § 6; R.S.1943, (1994), § 79-2908; Laws 1995, LB 5, § 5; R.S.1943, (2008), § 85-1705; Laws 2013, LB170, § 5; Laws 2019, LB224, § 5.

58-806 Cost, defined.

Cost as applied to a project or any portion thereof financed under the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act means all or any part of the cost of acquisition, construction, improvement, equipment, and renovation of all land, buildings, or structures including the cost of machinery and equipment; finance charges; interest prior to, during, and after completion of such construction for a reasonable period as determined by the authority; reserves for principal and interest; extensions, enlarge-

ments, additions, replacements, renovations, and improvements; engineering, financial, and legal services; plans, specifications, studies, surveys, estimates of cost of revenue, administrative expenses, bond issuance costs, and expenses necessary or incidental to determining the feasibility or practicability of constructing the project; and such other expenses as the authority determines may be necessary or incidental to the acquisition, construction, improvement, equipment, and renovation of the project, the financing of such acquisition, construction, improvement, equipment, and renovation, and the placing of the project in operation.

Source: Laws 1981, LB 321, § 7; Laws 1993, LB 465, § 5; R.S.1943, (1994), § 79-2907; Laws 1995, LB 5, § 6; R.S.1943, (2008), § 85-1706; Laws 2013, LB170, § 6; Laws 2019, LB224, § 6.

58-807 Eligible institution, defined.

Eligible institution means a private institution of higher education, a private health care institution, a private cultural institution, or a private social services institution.

Source: Laws 2013, LB170, § 7; Laws 2019, LB224, § 7.

58-807.01 Private cultural institution, defined.

Private cultural institution means any private not-for-profit corporation or institution that (1) has a primary purpose of promoting cultural education or development, such as a museum or related visual arts center, performing arts facility, or facility housing, incubating, developing, or promoting art, music, theater, dance, zoology, botany, natural history, cultural history, or the sciences, (2) is described in section 501(c)(3) of the Internal Revenue Code and is exempt from federal income taxation under section 501(a) of the code, (3) is located within this state and is not owned or controlled by the state or any municipality, district, or other political subdivision, agency, or instrumentality thereof, and (4) does not violate any state or federal law against discrimination.

Source: Laws 2019, LB224, § 8.

58-808 Private health care institution, defined.

Private health care institution means any private not-for-profit corporation or institution that (1) is licensed under the Health Care Facility Licensure Act, (2) is described in section 501(c)(3) of the Internal Revenue Code and is exempt from federal income taxation under section 501(a) of the Internal Revenue Code, (3) is located within this state and is not owned or controlled by the state or any political subdivision, agency, instrumentality, district, or municipality thereof, and (4) does not violate any Nebraska or federal law against discrimination on the basis of race, color, creed, national origin, ancestry, age, gender, or handicap.

Source: Laws 2013, LB170, § 8.

Cross References

Health Care Facility Licensure Act, see section 71-401.

58-809 Private institution of higher education, defined.

Private institution of higher education means a not-for-profit educational institution located within this state which is not owned or controlled by the

state or any political subdivision, agency, instrumentality, district, or municipality thereof, which is authorized by law to provide a program of education beyond the high school level, and which:

(1) Admits as regular students only individuals having a certificate of graduation from a high school or the recognized equivalent of such a certificate;

(2) Provides an educational program for which it awards a bachelor's degree; provides an educational program, admission into which is conditioned upon the prior attainment of a bachelor's degree or its equivalent, for which it awards a postgraduate degree; provides a program of not less than two years in length which is acceptable for full credit toward a bachelor's degree; or offers a two-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, research, medicine, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge;

(3) Is accredited by a regionally recognized accrediting agency or association or, if not so accredited, is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited; and

(4) Has a student admissions policy that does not violate any other Nebraska or federal law against discrimination on the basis of race, color, creed, national origin, ancestry, age, gender, or handicap.

Source: Laws 1981, LB 321, § 9; R.S.1943, (1994), § 79-2909; Laws 1995, LB 5, § 7; Laws 1998, LB 303, § 1; R.S.1943, (2008), § 85-1707; Laws 2013, LB170, § 9.

58-810 Private social services institution, defined.

Private social services institution means any private not-for-profit corporation or institution that (1) provides health, safety, and welfare assistance, including emergency, social, housing, and related support services, to members of the general public in the state, (2) is described in section 501(c)(3) of the Internal Revenue Code and is exempt from federal income taxation under section 501(a) of the Internal Revenue Code, (3) is located within this state and is not owned or controlled by the state or any political subdivision, agency, instrumentality, district, or municipality thereof, and (4) does not violate any Nebraska or federal law against discrimination on the basis of race, color, creed, national origin, ancestry, age, gender, or handicap.

Source: Laws 2013, LB170, § 10.

58-811 Project, defined.

(1) Project means any property located within the state that may be used or will be useful in connection with the instruction, feeding, recreation, or housing of students, the provision of health care services to members of the general public, the provision of cultural services to members of the general public, the provision of social services to members of the general public, the conducting of research, administration, or other work of an eligible institution, or any combination of the foregoing. Project includes, but is not limited to, an academic facility, administrative facility, agricultural facility, assembly hall, assisted-living facility, athletic facility, auditorium, campus, communication

facility, congregate care housing, emergency services facility, exhibition hall, health care facility, health service institution, hospital, housing for faculty and other staff, instructional facility, laboratory, library, maintenance facility, medical clinic, medical services facility, museum, nursing or skilled nursing services facility, offices, parking area, personal care services facility, physical educational facility, recreational facility, research facility, senior, retirement, or home care services facility, social services facility, stadium, storage facility, student facility, student health facility, student housing, student union, theatre, or utility facility.

(2) Project also means and includes the refunding or refinancing of outstanding obligations, mortgages, or advances, including advances from an endowment or similar fund, originally issued, made, or given by the eligible institution to finance the cost of a project or projects, and including the financing of eligible swap termination payments, whenever the authority finds that such refunding or refinancing is in the public interest and either:

- (a) Alleviates a financial hardship upon the eligible institution;
- (b) Results in a lesser cost of education, health care, housing, cultural services, or social and related support services to the eligible institution's students, patients, residents, clients, and other general public consumers; or
- (c) Enables the eligible institution to offer greater security for the financing of a new project or projects or to effect savings in interest costs or more favorable amortization terms.

Source: Laws 1981, LB 321, § 5; R.S.1943, (1994), § 79-2905; Laws 1995, LB 5, § 8; R.S.1943, (2008), § 85-1708; Laws 2013, LB170, § 11; Laws 2019, LB224, § 9.

58-812 Property, defined.

Property means the real estate upon which a project is or will be located, including equipment, machinery, and other similar items necessary or convenient for the operation of the project in the manner for which its use is intended, but not including such items as fuel, supplies, or other items that are customarily deemed to result in a current operation charge. Property does not include any property used or to be used primarily for sectarian instruction or study or as a place for devotional activities or religious worship nor any property which is used or to be used primarily in connection with any part of the program of a school or department of divinity for any religious denomination or the training of ministers, priests, rabbis, or other professional persons in the field of religion.

Source: Laws 1981, LB 321, § 6; R.S.1943, (1994), § 79-2906; Laws 1995, LB 5, § 9; R.S.1943, (2008), § 85-1709; Laws 2013, LB170, § 12.

58-813 Nebraska Educational, Health, Cultural, and Social Services Finance Authority; created.

There is hereby created a body politic and corporate to be known as the Nebraska Educational, Health, Cultural, and Social Services Finance Authority. The authority is constituted a public instrumentality, and the exercise by the authority of the powers conferred by the Nebraska Educational, Health, Cultur-

al, and Social Services Finance Authority Act shall be deemed and held to be the performance of an essential public function of the state.

Source: Laws 1981, LB 321, § 10; Laws 1993, LB 465, § 7; R.S.1943, (1994), § 79-2910; Laws 1995, LB 5, § 10; R.S.1943, (2008), § 85-1710; Laws 2013, LB170, § 13; Laws 2019, LB224, § 10.

58-814 Authority; members; qualifications; appointment; terms; removal.

(1) The authority shall consist of seven members, to be appointed by the Governor, who shall be residents of the state, not more than four of whom shall be members of the same political party.

(2) Of the seven members:

(a) At least one shall be a trustee, director, officer, or employee of one or more private institutions of higher education in the state;

(b) At least one shall be a person having a favorable reputation for skill, knowledge, and experience in the field of finance;

(c) At least one shall be a person experienced in and having a favorable reputation for skill, knowledge, and experience in the educational building construction field;

(d) At least one shall be a person experienced in and having a favorable reputation in the field of public accounting;

(e) After the initial appointment provided for in subdivision (3)(a) of this section is made, at least one shall be a trustee, director, officer, or employee of one or more private health care institutions in the state; and

(f) After the initial appointment provided for in subdivision (3)(b) of this section is made, at least one shall be a trustee, director, officer, or employee of one or more private social services institutions in the state.

(3) The initial appointments of the members described in subdivisions (2)(e) and (2)(f) of this section shall be made as follows:

(a) For the first member whose term expires after September 6, 2013, and who is not the sole member described in subdivision (2)(a), (2)(b), (2)(c), or (2)(d) of this section, the Governor shall appoint a successor who meets the qualifications described in subdivision (2)(e) of this section; and

(b) For the second member whose term expires after September 6, 2013, and who is not the sole member described in subdivision (2)(a), (2)(b), (2)(c), or (2)(d) of this section, the Governor shall appoint a successor who meets the qualifications described in subdivision (2)(f) of this section.

(4) The members of the authority first appointed shall serve for terms expiring as follows: One on December 31, 1982; two on December 31, 1983; two on December 31, 1984; and two on December 31, 1985, respectively, the term of each such member to be designated by the Governor. Upon the expiration of the term of any member, his or her successor shall be appointed for a term of four years and until a successor has been appointed and qualified. The Governor shall fill any vacancy for the remainder of the unexpired term. Any member of the authority may be removed by the Governor for misfeasance, malfeasance, or willful neglect of duty or other cause after notice and a public hearing unless such notice and hearing shall be expressly waived in writing by

the accused member. Each member shall be eligible for reappointment to a successive term but shall be declared ineligible for three consecutive full terms.

Source: Laws 1981, LB 321, § 11; Laws 1984, LB 644, § 1; R.S.1943, (1994), § 79-2911; Laws 1995, LB 5, § 11; R.S.1943, (2008), § 85-1711; Laws 2013, LB170, § 14.

58-815 Authority; officers; executive director; compensation; receive contributions.

Each year the authority shall elect one of its members as chairperson and another member as vice-chairperson. It may appoint an executive director and assistant executive director, who shall not be members of the authority but who shall serve at the pleasure of the authority. An assistant executive director shall perform the duties of the executive director in the event of the absence or inability to act of the executive director. They shall receive such compensation as shall be fixed by the authority. The authority may receive contributions to fund any of the expenses of the authority from private donors, including any one or more of the eligible institutions or any one or more associations representing the eligible institutions.

Source: Laws 1981, LB 321, § 12; Laws 1993, LB 465, § 8; R.S.1943, (1994), § 79-2912; Laws 1995, LB 5, § 12; R.S.1943, (2008), § 85-1712; Laws 2013, LB170, § 15.

58-816 Authority; keep records and accounts; seal; certified copies.

The executive director, assistant executive director, or any other person designated by resolution of the authority shall keep records and accounts of all proceedings and financial dealings of the authority, shall be custodian of all books, documents, and papers filed with the authority, the minute book or journal of the authority, and its official seal, and shall be custodian of all funds of the authority. The executive director, assistant executive director, or other designated person may cause copies to be made of all minutes and other records and documents of the authority and may give certificates under the official seal of the authority to the effect that such copies are true copies, and all persons dealing with the authority may rely upon such certificates.

Source: Laws 1981, LB 321, § 13; R.S.1943, (1994), § 79-2913; Laws 1995, LB 5, § 13; R.S.1943, (2008), § 85-1713; Laws 2013, LB170, § 16.

58-817 Authority; quorum; actions; vacancy; effect; meetings.

Four members of the authority shall constitute a quorum. The affirmative vote of a majority of all of the members of the authority shall be necessary for any action taken by the authority. A vacancy in the membership of the authority shall not impair the right of a quorum to exercise all the rights and perform all the duties of the authority. Any action taken by the authority under the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act may be authorized by resolution at any regular or special meeting, and each such resolution shall take effect immediately and need not be published or posted. Members of the authority may participate in a regular or special meeting of the authority by telephone conference call or videoconference as long as the chairperson or vice-chairperson conducts the meeting at a location where the public is able to participate by attendance at that location and the

telephone conference call or videoconference otherwise conforms to the requirements of subdivisions (2)(a) through (e) of section 84-1411.

Source: Laws 1981, LB 321, § 14; Laws 1984, LB 644, § 2; Laws 1993, LB 465, § 9; R.S.1943, (1994), § 79-2914; Laws 1995, LB 5, § 14; R.S.1943, (2008), § 85-1714; Laws 2013, LB170, § 17; Laws 2019, LB224, § 11.

58-818 Authority; officers, members, and employees; surety bond requirements.

Before the issuance of any bonds under the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act, the chairperson, vice-chairperson, executive director, and assistant executive director, if any, and any other member of the authority authorized by resolution of the authority to handle funds or sign checks of the authority shall execute a surety bond in such amount as a majority of the members of the authority determine, or alternatively, the chairperson of the authority shall execute a blanket bond effecting such coverage. Each surety bond shall be conditioned upon the faithful performance of the duties of the office or offices covered and shall be executed by a surety company authorized to transact business in this state, and the cost of each such surety bond shall be paid by the authority.

Source: Laws 1981, LB 321, § 15; Laws 1993, LB 465, § 10; R.S.1943, (1994), § 79-2915; Laws 1995, LB 5, § 15; R.S.1943, (2008), § 85-1715; Laws 2013, LB170, § 18; Laws 2019, LB224, § 12.

58-819 Authority; members; expenses.

The members of the authority shall receive no compensation for the performance of their duties as members, but each such member shall be reimbursed for expenses while engaged in the performance of such duties as provided in sections 81-1174 to 81-1177 from any funds legally available therefor.

Source: Laws 1981, LB 321, § 16; R.S.1943, (1994), § 79-2916; Laws 1995, LB 5, § 16; R.S.1943, (2008), § 85-1716; Laws 2013, LB170, § 19; Laws 2020, LB381, § 52.
Operative date January 1, 2021.

58-820 Authority member or employee; conflict of interest; abstention.

Notwithstanding any other law to the contrary, it shall not be or constitute a conflict of interest for a trustee, director, officer, or employee of any educational institution, health care institution, cultural institution, social services institution, financial institution, commercial bank or trust company, architecture firm, insurance company, or any firm, person, or corporation to serve as a member of the authority, but such trustee, director, officer, or employee shall abstain from any deliberation or action by the authority when the business affiliation of any such trustee, director, officer, or employee is involved. The executive director may serve less than full time. If the executive director serves less than full time, his or her other employment, if any, shall be reviewed by the members of the authority for potential conflicts of interest and whether such other employment would prevent the executive director from fully discharging his or her duties. No member of the authority may be a representative of a

bank, investment banking firm, or other financial institution that underwrites the bonds of the authority.

Source: Laws 1981, LB 321, § 17; R.S.1943, (1994), § 79-2917; Laws 1995, LB 5, § 17; R.S.1943, (2008), § 85-1717; Laws 2013, LB170, § 20; Laws 2019, LB224, § 13.

58-821 Authority; purpose.

The purpose of the authority shall be to assist eligible institutions in the acquisition, construction, improvement, equipment, renovation, financing, and refinancing of projects and to administer and operate the Nebraska Health Education Assistance Loan Program as provided in sections 58-857 to 58-862 and the Nebraska Student Loan Assistance Program as provided in sections 58-863 to 58-865.

Source: Laws 1981, LB 321, § 18; Laws 1983, LB 159, § 3; Laws 1993, LB 465, § 11; R.S.1943, (1994), § 79-2918; Laws 1995, LB 5, § 18; R.S.1943, (2008), § 85-1718; Laws 2013, LB170, § 21.

58-822 Authority; perpetual succession; bylaws.

The authority shall have perpetual succession as a body politic and corporate and may adopt bylaws for the regulation of its affairs and the conduct of its business.

Source: Laws 1981, LB 321, § 19; R.S.1943, (1994), § 79-2919; Laws 1995, LB 5, § 19; R.S.1943, (2008), § 85-1719; Laws 2013, LB170, § 22.

58-823 Authority; adopt seal.

The authority may adopt an official seal and alter the same at its pleasure.

Source: Laws 1981, LB 321, § 20; R.S.1943, (1994), § 79-2920; Laws 1995, LB 5, § 20; R.S.1943, (2008), § 85-1720; Laws 2013, LB170, § 23.

58-824 Authority; office; location.

The authority may maintain an office at such place or places within Nebraska as it may designate.

Source: Laws 1981, LB 321, § 21; R.S.1943, (1994), § 79-2921; Laws 1995, LB 5, § 21; R.S.1943, (2008), § 85-1721; Laws 2013, LB170, § 24.

58-825 Authority; sue and be sued.

The authority may sue and be sued in its own name.

Source: Laws 1981, LB 321, § 22; R.S.1943, (1994), § 79-2922; Laws 1995, LB 5, § 22; R.S.1943, (2008), § 85-1722; Laws 2013, LB170, § 25.

58-826 Authority; powers over project.

The authority may determine the location and character of any project to be financed or refinanced under the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act and acquire, construct, reconstruct,

improve, equip, remodel, renovate, replace, maintain, repair, operate, lease as lessee or lessor, and regulate the same. The authority may also enter into contracts for any or all of such purposes, enter into contracts for the management and operation of a project, and designate an eligible institution as its agent to determine the location and character of a project undertaken by such eligible institution under the act and, as the agent of the authority, to acquire, construct, reconstruct, improve, equip, remodel, renovate, replace, maintain, repair, operate, lease as lessee or lessor, and regulate the same and, as the agent of the authority, to enter into contracts for any or all of such purposes, including contracts for the management and operation of such project.

Source: Laws 1981, LB 321, § 23; Laws 1993, LB 465, § 12; R.S.1943, (1994), § 79-2923; Laws 1995, LB 5, § 23; R.S.1943, (2008), § 85-1723; Laws 2013, LB170, § 26; Laws 2019, LB224, § 14.

58-827 Authority; issuance of bonds authorized.

The authority may issue bonds of the authority for any of its corporate purposes and fund or refund the same pursuant to the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act.

Source: Laws 1981, LB 321, § 24; Laws 1993, LB 465, § 13; R.S.1943, (1994), § 79-2924; Laws 1995, LB 5, § 24; R.S.1943, (2008), § 85-1724; Laws 2013, LB170, § 27; Laws 2019, LB224, § 15.

58-828 Authority; charge for services.

The authority may charge and collect rates, rents, fees, and other charges for the use of and for the services furnished or to be furnished by a project or any portion thereof and contract with any person, partnership, limited liability company, association, or corporation or other body public or private, except that the authority shall have no jurisdiction over rates, rents, fees, and charges established by an eligible institution for its students, patients, residents, clients, or other consumers other than to require that such rates, rents, fees, and charges by such eligible institution be sufficient to discharge such institution's obligation to the authority.

Source: Laws 1981, LB 321, § 25; Laws 1993, LB 121, § 520; R.S.1943, (1994), § 79-2925; Laws 1995, LB 5, § 25; R.S.1943, (2008), § 85-1725; Laws 2013, LB170, § 28.

58-829 Authority; rules and regulations for use of project; designate agent.

The authority may establish rules and regulations for the use of a project or any portion thereof and designate an eligible institution as its agent to establish rules and regulations for the use of a project undertaken by such eligible institution.

Source: Laws 1981, LB 321, § 26; R.S.1943, (1994), § 79-2926; Laws 1995, LB 5, § 26; R.S.1943, (2008), § 85-1726; Laws 2013, LB170, § 29.

58-830 Authority; personnel.

The authority may employ consulting engineers, architects, attorneys, accountants, trustees, construction and finance experts, superintendents, manag-

ers, and such other employees and agents as may be necessary in its judgment, and fix their compensation.

Source: Laws 1981, LB 321, § 27; R.S.1943, (1994), § 79-2927; Laws 1995, LB 5, § 27; R.S.1943, (2008), § 85-1727; Laws 2013, LB170, § 30.

58-831 Authority; receive loans, grants, and contributions.

The authority may receive and accept from any source loans or grants for or in aid of the acquisition, construction, improvement, equipment, or renovation of a project or any portion thereof, and receive and accept from any source loans, grants, aid, or contributions of money, property, labor, or other things of value, to be held, used, and applied only for the purpose for which such loans, grants, aid, or contributions are made.

Source: Laws 1981, LB 321, § 28; R.S.1943, (1994), § 79-2928; Laws 1995, LB 5, § 28; R.S.1943, (2008), § 85-1728; Laws 2013, LB170, § 31.

58-832 Authority; mortgage of certain property.

The authority may mortgage all or any portion of any project or any other facilities conveyed to the authority for such purpose and the site or sites thereof, whether presently owned or subsequently acquired, for the benefit of the holders of the bonds of the authority issued to finance such project or any portion thereof or issued to refund or refinance outstanding indebtedness or to reimburse an endowment or any similar fund of an eligible institution as permitted by the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act.

Source: Laws 1981, LB 321, § 29; Laws 1993, LB 465, § 14; R.S.1943, (1994), § 79-2929; Laws 1995, LB 5, § 29; R.S.1943, (2008), § 85-1729; Laws 2013, LB170, § 32; Laws 2019, LB224, § 16.

58-833 Authority; loans authorized; limitation.

The authority may make loans to any eligible institution for the cost of any project or in anticipation of the receipt of tuition or other revenue by the eligible institution in accordance with an agreement between the authority and such eligible institution, except that (1) no such loan shall exceed the total cost of such project as determined by such eligible institution and approved by the authority and (2) any loan made in anticipation of the receipt of tuition or other revenue shall not exceed the anticipated amount of tuition or other revenue to be received by the eligible institution in the one-year period following the date of such loan.

Source: Laws 1981, LB 321, § 30; R.S.1943, (1994), § 79-2930; Laws 1995, LB 5, § 30; Laws 2003, LB 107, § 1; R.S.1943, (2008), § 85-1730; Laws 2013, LB170, § 33.

58-834 Authority; issue bonds; make loans; conditions.

The authority may issue bonds and make loans to an eligible institution and refund or reimburse outstanding obligations, mortgages, or advances, including advances from an endowment or any similar fund, issued, made, or given by such eligible institution for the cost of a project, including the power to issue

bonds and make loans to an eligible institution to refinance indebtedness incurred or to reimburse advances made for projects undertaken prior thereto whenever the authority has received a written letter of intent to underwrite, place, or purchase the bonds from a financial institution having the powers of an investment bank, commercial bank, or trust company and finds that such financing or refinancing is in the public interest, and either: (1) Alleviates a financial hardship upon the eligible institution; (2) results in a lesser cost of education, health care services, cultural services, or social services; or (3) enables the eligible institution to offer greater security for a loan or loans to finance a new project or projects or to effect savings in interest costs or more favorable amortization terms.

Source: Laws 1981, LB 321, § 31; R.S.1943, (1994), § 79-2931; Laws 1995, LB 5, § 31; R.S.1943, (2008), § 85-1731; Laws 2013, LB170, § 34; Laws 2019, LB224, § 17.

58-835 Authority; administrative costs; apportionment.

The authority may charge to and equitably apportion among participating eligible institutions its administrative costs and expenses incurred in the exercise of the powers and duties conferred by the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act.

Source: Laws 1981, LB 321, § 32; Laws 1993, LB 465, § 15; R.S.1943, (1994), § 79-2932; Laws 1995, LB 5, § 32; R.S.1943, (2008), § 85-1732; Laws 2013, LB170, § 35; Laws 2019, LB224, § 18.

58-836 Authority; general powers; joint projects.

The authority may do all things necessary or convenient to carry out the purposes of the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act.

In carrying out the purposes of the act, the authority may undertake a project for two or more eligible institutions jointly, or for any combination thereof, and thereupon all other provisions of the act shall apply to and be for the benefit of the authority and such joint participants.

Source: Laws 1981, LB 321, § 33; Laws 1993, LB 465, § 16; R.S.1943, (1994), § 79-2933; Laws 1995, LB 5, § 33; R.S.1943, (2008), § 85-1733; Laws 2013, LB170, § 36; Laws 2019, LB224, § 19.

58-837 Authority; combine and substitute projects; bonds; additional series.

Notwithstanding any other provision contained in the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act, the authority may combine for financing purposes, with the consent of all of the eligible institutions which are involved, the project or projects and some or all future projects of any eligible institutions, but the money set aside in any fund or funds pledged for any series or issue of bonds shall be held for the sole benefit of such series or issue separate and apart from any money pledged for any other series or issue of bonds of the authority. To facilitate the combining of projects, bonds may be issued in series under one or more resolutions or trust indentures and be fully open end, thus providing for the unlimited issuance of additional series, or partially open end, limited as to additional series, all in the discretion of the authority. Notwithstanding any other provision of the act to the contrary, the authority may, in its discretion, permit an eligible institution to substitute one

or more projects of equal value, as determined by an independent appraiser satisfactory to the authority, for any project financed under the act on such terms and subject to such conditions as the authority may prescribe.

Source: Laws 1981, LB 321, § 34; Laws 1993, LB 465, § 17; R.S.1943, (1994), § 79-2934; Laws 1995, LB 5, § 34; R.S.1943, (2008), § 85-1734; Laws 2013, LB170, § 37; Laws 2019, LB224, § 20.

58-838 Expenses; how paid; liability; limitation.

All expenses incurred in carrying out the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act shall be payable solely from funds provided under the act, and no liability or obligation shall be incurred by the authority beyond the extent to which money has been provided under the act.

Source: Laws 1981, LB 321, § 35; Laws 1993, LB 465, § 18; R.S.1943, (1994), § 79-2935; Laws 1995, LB 5, § 35; R.S.1943, (2008), § 85-1735; Laws 2013, LB170, § 38; Laws 2019, LB224, § 21.

58-839 Authority; acquisition of property.

The authority is authorized and empowered, directly or by and through an eligible institution, as its agent, to acquire by purchase, gift, or devise, such lands, structures, property, real or personal, rights, rights-of-way, franchises, easements, and other interests in lands, and including existing facilities of an eligible institution, as it may deem necessary or convenient for the acquisition, construction, improvement, equipment, renovation, or operation of a project, upon such terms and at such prices as may be considered by it to be reasonable and can be agreed upon between the authority and the owner thereof, and to take title thereto in the name of the authority or in the name of an eligible institution as its agent.

Source: Laws 1981, LB 321, § 36; R.S.1943, (1994), § 79-2936; Laws 1995, LB 5, § 36; R.S.1943, (2008), § 85-1736; Laws 2013, LB170, § 39.

58-840 Authority; financing obligations completed; convey title to eligible institution.

When the principal of and interest on bonds of the authority issued to finance the cost of a particular project or projects for an eligible institution, including any refunding bonds issued to refund and refinance such bonds, have been fully paid and retired or when adequate provision has been made to fully pay and retire the same, and all other conditions of the resolution and any trust indenture authorizing the same have been satisfied and the lien created by such resolution or trust indenture has been released in accordance with the provisions thereof, the authority shall promptly do such things and execute such deeds, conveyances, and other instruments, if any, as are necessary and required to convey title to such project or projects to such eligible institution.

Source: Laws 1981, LB 321, § 37; R.S.1943, (1994), § 79-2937; Laws 1995, LB 5, § 37; R.S.1943, (2008), § 85-1737; Laws 2013, LB170, § 40.

58-841 Authority; bonds; issuance; form; proceeds; how used; replacement; liability; liability insurance; indemnification.

The authority is hereby authorized to provide by resolution, at one time or from time to time, for the issuance of bonds for the purpose of (1) paying, refinancing, or reimbursing all or any part of the cost of a project, (2) administering and operating the Nebraska Health Education Assistance Loan Program and the Nebraska Student Loan Assistance Program, or (3) making loans to any eligible institution in anticipation of the receipt of tuition or other revenue by the eligible institution. Except to the extent payable from payments to be made on securities or federally guaranteed securities as provided in sections 58-844 and 58-845, the principal of and the interest on such bonds shall be payable solely out of the revenue of the authority derived from the project or program to which they relate and from any other facilities or assets pledged or made available therefor by the eligible institution for whose benefit such bonds were issued. The bonds of each issue shall be dated, shall bear interest at such rate or rates, including variations of such rates, without regard to any limit contained in any other statute or law of the State of Nebraska, shall mature at such time or times not exceeding forty years from the date thereof, all as may be determined by the authority, and may be made redeemable before maturity, at the option of the authority, at such price or prices, which may be at a premium or discount, and under such terms and conditions as may be fixed by the authority in the authorizing resolution and any trust indenture. Except to the extent required by the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act and for bonds issued to fund the Nebraska Student Loan Assistance Program, such bonds are to be paid out of the revenue of the project to which they relate and, in certain instances, the revenue of certain other facilities, and subject to the provisions of sections 58-844 and 58-845 with respect to a pledge of securities or government securities, the bonds may be unsecured or secured in the manner and to the extent determined by the authority in its discretion.

The authority shall determine the form of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest which may be at any bank or trust company within or without the state. The bonds shall be signed in the name of the authority, by its chairperson or vice-chairperson or by a facsimile signature of such person, the official seal of the authority or a facsimile thereof shall be affixed thereto or printed or impressed thereon and attested by the manual or facsimile signature of the executive director or assistant executive director of the authority, except that facsimile signatures of members of the authority shall be sufficient only if the resolution or trust indenture requires that the trustee for such bond issue manually authenticate each bond and the resolution or trust indenture permits the use of facsimile signatures, and any coupons attached to the bonds shall bear the facsimile signature of the executive director or assistant executive director of the authority. The resolution or trust indenture authorizing the bonds may provide that the bonds contain a recital that they are issued under the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act, and such recital shall be deemed conclusive evidence of the validity of the bonds and the regularity of the issuance. The provisions of section 10-126 shall not apply to bonds issued by the authority. The provisions of section 10-140 shall apply to bonds issued by the authority. In case any official of the authority whose signature or a facsimile of whose signature appears on any bonds or coupons ceases to be such an official before the delivery of such bonds, such

signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he or she had remained an official of the authority until such delivery.

All bonds issued under the act shall have and are hereby declared to have all the qualities and incidents of negotiable instruments under the law of the State of Nebraska. The bonds may be issued in coupon or in registered form, or both, and one form may be exchangeable for the other in such manner as the authority may determine. Provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The bonds may be sold in such manner, either at public or private sale, as the authority may determine.

The proceeds of the bonds of each issue shall be used solely for the payment of the costs of the project or program for which such bonds have been issued and shall be disbursed in such manner and under such restrictions, if any, as the authority may provide in the resolution authorizing the issuance of such bonds or in the trust indenture provided for in section 58-843 securing the same. If the proceeds of the bonds of any issue, by error of estimates or otherwise, are less than such costs, additional bonds may in like manner be issued to provide the amount of such deficit and, unless otherwise provided in the resolution authorizing the issuance of such bonds or in the trust indenture securing the same, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued. If the proceeds of the bonds of any issue exceed the cost of the project or program for which they were issued, the surplus shall be deposited to the credit of the sinking fund for such bonds or shall be applied as may otherwise be permitted by applicable federal income tax laws relating to the tax exemption of interest.

Prior to the preparation of definitive bonds, the authority may under like restrictions issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds have been executed and are available for delivery.

The authority may also provide for the replacement of any bonds which become mutilated or are destroyed or lost. Bonds may be issued under the act without obtaining the consent of any officer, department, division, commission, board, bureau, or agency of the state and without any other proceedings or conditions other than those proceedings and conditions which are specifically required by the act. The authority may out of any funds available therefor purchase its bonds. The authority may hold, pledge, cancel, or resell such bonds, subject to and in accordance with any agreement with the bondholders.

Members of the authority shall not be liable to the state, the authority, or any other person as a result of their activities, whether ministerial or discretionary, as authority members, except for willful dishonesty or intentional violations of law. Members of the authority and any person executing bonds or policies of insurance shall not be liable personally thereon or be subject to any personal liability or accountability by reason of the issuance thereof. The authority may purchase liability insurance for members, officers, and employees and may indemnify any authority member to the same extent that a school district may indemnify a school board member pursuant to section 79-516.

Source: Laws 1981, LB 321, § 38; Laws 1983, LB 159, § 4; Laws 1993, LB 465, § 19; R.S.1943, (1994), § 79-2938; Laws 1995, LB 5,

§ 38; Laws 2003, LB 107, § 2; Laws 2011, LB424, § 1; R.S.Supp.,2012, § 85-1738; Laws 2013, LB170, § 41; Laws 2019, LB224, § 22.

58-842 Bond issuance; resolution; provisions enumerated.

Any resolution or resolutions authorizing any bonds or any issue of bonds and any trust indenture securing any bonds or any issue of bonds may contain provisions, which shall be a part of the contract with the holders of the bonds to be authorized, as to (1) pledging or assigning the revenue of the project or loan with respect to which such bonds are to be issued or the revenue of any other property, facilities, or loans, (2) the rentals, fees, loan payments, and other amounts to be charged, the amounts to be raised in each year thereby, and the use and disposition of such amounts, (3) the setting aside of reserves or sinking funds, and the regulation, investment, and disposition thereof, (4) limitations on the use of the project, (5) limitations on the purpose to which or the investments in which the proceeds of sale of any issue of bonds then or thereafter to be issued may be applied and pledging such proceeds to secure the payment of the bonds or any issue of the bonds, (6) limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured, and the refunding of outstanding bonds, (7) the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given, (8) limitations on the amount of money derived from the project or loan to be expended for operating, administrative, or other expenses of the authority, (9) defining the acts or omissions to act which shall constitute a default in the duties of the authority to holders of its obligations and providing the rights and remedies of such holders in the event of a default, (10) the mortgaging of a project and the site thereof or any other property for the purpose of securing the bondholders, and (11) any other matters relating to the bonds which the authority deems desirable.

Source: Laws 1981, LB 321, § 39; Laws 1983, LB 159, § 5; R.S.1943, (1994), § 79-2939; Laws 1995, LB 5, § 39; R.S.1943, (2008), § 85-1739; Laws 2013, LB170, § 42.

58-843 Bonds; secured by trust indenture; contents; expenses; how treated.

In the discretion of the authority any bonds issued under the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act may be secured by a trust indenture, which trust indenture may be in the form of a bond resolution or similar contract, by and between the authority and a corporate trustee or trustees which may be any financial institution having the power of a trust company or any trust company within or outside the state. Such trust indenture providing for the issuance of such bonds may pledge or assign the revenue to be received or proceeds of any contract or contracts pledged and may convey or mortgage the project or any portion thereof. The trust indenture by which a pledge is created or an assignment made shall be filed in the records of the authority.

Any pledge or assignment made by the authority pursuant to this section shall be valid and binding from the time that the pledge or assignment is made, and the revenue so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge or assignment without physical

delivery thereof or any further act. The lien of such pledge or assignment shall be valid and binding against all parties having claims of any kind in tort, contract, or otherwise against the authority irrespective of whether such parties have notice thereof.

Such trust indenture may set forth the rights and remedies of the bondholders and of the trustee or trustees, may restrict the individual right of action by bondholders, and may contain such provisions for protecting and enforcing the rights and remedies of the bondholders and of the trustee or trustees as may be reasonable and proper, not in violation of law, or provided for in the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act. Any such trust indenture may contain such other provisions as the authority may deem reasonable and proper for the security of the bondholders.

Any bank or trust company which acts as depository of the proceeds of the bonds, any revenue, or other money shall furnish such indemnifying bonds or pledge such securities as may be required by the authority.

All expenses incurred in carrying out the provisions of such trust indenture may be treated as a part of the cost of the operation of a project.

Source: Laws 1981, LB 321, § 40; Laws 1993, LB 465, § 20; R.S.1943, (1994), § 79-2940; Laws 1995, LB 5, § 40; R.S.1943, (2008), § 85-1740; Laws 2013, LB170, § 43; Laws 2019, LB224, § 23.

58-844 Bonds issued to purchase securities of eligible institution; provisions applicable.

In addition to any other methods of financing authorized in the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act, the authority may finance the cost of a project or program, refund outstanding indebtedness, or reimburse advances from an endowment or any similar fund of an eligible institution as authorized by section 58-834 by issuing its bonds for the purpose of purchasing the securities of the eligible institution. Any such securities shall have the same principal amounts, maturities, and interest rates as the bonds being issued, may be secured by a first mortgage lien on or security interest in any real or personal property, subject to such exceptions as the authority may approve and created by a mortgage or security instrument satisfactory to the authority, and may be insured or guaranteed by others. Any such bonds shall be secured by a pledge of such securities under the trust indenture securing such bonds, shall be payable solely out of the payments to be made on such securities, and shall not exceed in principal amount the cost of such project or program, the refunding of such indebtedness, or reimbursement of such advances as determined by the eligible institution and approved by the authority. In other respects any such bonds shall be subject to the act, including sections 58-841 and 58-842, and the trust indenture securing such bonds may contain any of the provisions set forth in section 58-843 as the authority may consider appropriate.

If a project is financed pursuant to this section, the title to such project shall remain in the eligible institution owning such project, subject to the lien of the mortgage or security interest, if any, securing the securities then being purchased, and there shall be no lease of such facility between the authority and such eligible institution.

Section 58-840 shall not apply to any project financed pursuant to this section, but the authority shall return the securities purchased through the

issuance of bonds pursuant to this section to the eligible institution issuing such securities when such bonds have been fully paid and retired or when adequate provision has been made to pay and retire such bonds fully and all other conditions of the trust indenture securing such bonds have been satisfied and any lien established pursuant to this section has been released in accordance with the provisions of the trust indenture.

Source: Laws 1981, LB 321, § 41; Laws 1993, LB 465, § 21; R.S.1943, (1994), § 79-2941; Laws 1995, LB 5, § 41; R.S.1943, (2008), § 85-1741; Laws 2013, LB170, § 44; Laws 2019, LB224, § 24.

58-845 Bonds issued to acquire federally guaranteed securities; provisions applicable.

Notwithstanding any other provision of the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act to the contrary, the authority may finance the cost of a project or program, refund outstanding indebtedness, or reimburse advances from any endowment or any similar fund of an eligible institution as authorized by the act, by issuing its bonds pursuant to a plan of financing involving the acquisition of any federally guaranteed security or securities or the acquisition or entering into of commitments to acquire any federally guaranteed security or securities. For purposes of this section, federally guaranteed security means any direct obligation of or obligation the principal of and interest on which are fully guaranteed or insured by the United States of America or any obligation issued by or the principal of and interest on which are fully guaranteed or insured by any agency or instrumentality of the United States of America, including without limitation any such obligation that is issued pursuant to the National Housing Act, or any successor provision of law, each as amended from time to time.

In furtherance of the powers granted in this section, the authority may acquire or enter into commitments to acquire any federally guaranteed security and pledge or otherwise use any such federally guaranteed security in such manner as the authority deems in its best interest to secure or otherwise provide a source of repayment of any of its bonds issued to finance or refinance a project or program or may enter into any appropriate agreement with any eligible institution whereby the authority may make a loan to any such eligible institution for the purpose of acquiring or entering into commitments to acquire any federally guaranteed security.

Any agreement entered into pursuant to this section may contain such provisions as are deemed necessary or desirable by the authority for the security or protection of the authority or the holders of such bonds, except that the authority, prior to making any such acquisition, commitment, or loan, shall first determine and enter into an agreement with any such eligible institution or any other appropriate institution or corporation to require that the proceeds derived from the acquisition of any such federally guaranteed security will be used, directly or indirectly, for the purpose of financing or refinancing a project or program.

Any bonds issued pursuant to this section shall not exceed in principal amount the cost of financing or refinancing such project or program as determined by the participating eligible institution and approved by the authority, except that such costs may include, without limitation, all costs and expenses necessary or incidental to the acquisition of or commitment to acquire

any federally guaranteed security and to the issuance and obtaining of any insurance or guarantee of any obligation issued or incurred in connection with any federally guaranteed security. In other respects any such bonds shall be subject to the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act, including sections 58-841 and 58-842, and the trust indenture securing such bonds may contain such of the provisions set forth in section 58-843 as the authority may deem appropriate.

If a project is financed or refinanced pursuant to this section, the title to such project shall remain in the participating eligible institution owning the project, subject to the lien of any mortgage or security interest securing, directly or indirectly, the federally guaranteed securities then being purchased or to be purchased, and there shall be no lease of such facility between the authority and such eligible institution.

Section 58-840 shall not apply to any project financed pursuant to this section, but the authority shall return the securities purchased through the issuance of bonds pursuant to this section to the issuer of such securities when such securities have been fully paid, when such bonds have been fully paid and retired, or when adequate provision, not involving the application of such securities, has been made to pay and retire such bonds fully, all other conditions of the trust indenture securing such bonds have been satisfied, and the lien on such bonds has been released in accordance with the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act.

Source: Laws 1981, LB 321, § 42; Laws 1993, LB 465, § 22; R.S.1943, (1994), § 79-2942; Laws 1995, LB 5, § 42; R.S.1943, (2008), § 85-1742; Laws 2013, LB170, § 45; Laws 2019, LB224, § 25.

58-846 Refunding bonds; issuance authorized; provisions applicable.

The authority is hereby authorized to provide by resolution for the issuance of refunding bonds for the purpose of refunding any bonds then outstanding which have been issued by it under the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of maturity or earlier redemption of such bonds, and, in the case of a project and if deemed advisable by the authority, for the additional purposes of acquiring, constructing, improving, equipping, and renovating improvements, extensions, or enlargements of the project in connection with which the bonds to be refunded were issued and of paying any expenses which the authority determines may be necessary or incidental to the issuance of such refunding bonds and the acquiring, constructing, improving, equipping, and renovating of such improvements, extensions, or enlargements. Such refunding bonds shall be payable solely out of the revenue of the project, including any such improvements, extensions, or enlargements thereto, or program to which the bonds being refunded relate or as otherwise described in sections 58-841, 58-844, 58-845, 58-860, and 58-861. The issuance of such bonds, the maturities and other details thereof, the rights of the holders thereof, the rights, duties, and obligations of the authority with respect to such bonds, and the manner of sale thereof shall be governed by the act insofar as applicable.

The proceeds of any such bonds issued for the purpose of refunding outstanding bonds may, in the discretion of the authority, be applied to the purchase or retirement at maturity or earlier redemption of such outstanding bonds either

on their earliest or any subsequent redemption date, upon the purchase of such bonds, or at the maturity of such bonds and may, pending such application, be placed in escrow to be applied to such purchase, retirement at maturity, or earlier redemption.

Any such escrowed proceeds, pending such use, may be invested and reinvested in direct obligations of the United States of America or obligations the timely payment of principal and interest on which is fully guaranteed by the United States of America, maturing at such time or times as shall be appropriate to assure the prompt payment of the principal of and interest and redemption premium, if any, on the outstanding bonds to be so refunded. The interest, income, and profits, if any, earned or realized on any such investment may also be applied to the payment of the outstanding bonds to be so refunded. Only after the terms of the escrow have been fully satisfied and carried out may any balance of such proceeds, interest, income, or profits earned or realized on the investments thereof be returned to the eligible institution for whose benefit the refunded bonds were issued for use by it in any lawful manner.

All such bonds shall be subject to the act in the same manner and to the same extent as other revenue bonds issued pursuant to the act.

Source: Laws 1981, LB 321, § 43; Laws 1983, LB 159, § 6; Laws 1993, LB 465, § 23; R.S.1943, (1994), § 79-2943; Laws 1995, LB 5, § 43; R.S.1943, (2008), § 85-1743; Laws 2013, LB170, § 46; Laws 2019, LB224, § 26.

58-847 Bond issuance; state or political subdivision; no obligation; statement; expenses.

Bonds issued pursuant to the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act shall not be deemed to constitute a debt of the state or of any political subdivision thereof or a pledge of the faith and credit of the state or of any such political subdivision, but such bonds shall be a limited obligation of the authority payable solely from the funds, securities, or government securities pledged for their payment as authorized in the act unless such bonds are refunded by refunding bonds issued under the act, which refunding bonds shall be payable solely from funds, securities, or government securities pledged for their payment as authorized in the act. All such revenue bonds shall contain on the face thereof a statement to the effect that the bonds, as to both principal and interest, are not an obligation of the State of Nebraska or of any political subdivision thereof but are limited obligations of the authority payable solely from revenue, securities, or government securities, as the case may be, pledged for their payment. All expenses incurred in carrying out the act shall be payable solely from funds provided under the authority of the act, and nothing contained in the act shall be construed to authorize the authority to incur indebtedness or liability on behalf of or payable by the state or any political subdivision thereof.

Source: Laws 1981, LB 321, § 44; Laws 1993, LB 465, § 24; R.S.1943, (1994), § 79-2944; Laws 1995, LB 5, § 44; R.S.1943, (2008), § 85-1744; Laws 2013, LB170, § 47; Laws 2019, LB224, § 27.

58-848 Authority; rents or loan payments; use.

Except for projects financed or refinanced pursuant to sections 58-844 and 58-845, the authority shall fix, revise, charge, and collect rents or loan pay-

ments for the use of or payment for each project and contract with any eligible institution in respect thereof. Each lease or loan agreement entered into by the authority with an eligible institution shall provide that the rents or loan payments payable by the eligible institution shall be sufficient at all times (1) to pay the eligible institution's share of the administrative costs and expenses of the authority, (2) to pay the authority's cost, if any, of maintaining, repairing, and operating the project and each and every portion thereof, (3) to pay the principal of, the premium, if any, and the interest on outstanding bonds of the authority issued with respect to such project as the same shall become due and payable, and (4) to create and maintain reserves which may be provided for in the resolution or trust indenture relating to such bonds of the authority.

With respect to projects financed pursuant to sections 58-844 and 58-845, the authority shall require the eligible institution involved to enter into loan or other financing agreements obligating such eligible institution to make payments sufficient to accomplish the purposes described in this section.

Source: Laws 1981, LB 321, § 45; R.S.1943, (1994), § 79-2945; Laws 1995, LB 5, § 45; R.S.1943, (2008), § 85-1745; Laws 2013, LB170, § 48.

58-849 Money received by authority; deemed trust funds; investment.

All money received by the authority, whether as proceeds from the sale of bonds, from revenue, or otherwise, shall be deemed to be trust funds to be held and applied solely as provided in the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act but, prior to the time when needed for use, may be invested in direct and general obligations of or obligations fully and unconditionally guaranteed by the United States of America, obligations issued by agencies of the United States of America, any obligations of the United States of America or agencies thereof, obligations of this state, or any obligations or securities which may from time to time be legally purchased by governmental subdivisions of this state pursuant to subsection (1) of section 77-2341, except that any funds pledged to secure a bond issue shall be invested in the manner permitted by the resolution or trust indenture securing such bonds. Such funds shall be deposited as soon as practical in a separate account or accounts in banks or trust companies organized under the laws of this state or in national banking associations. The money in such accounts shall be paid out on checks signed by the executive director or other officers or employees of the authority as the authority authorizes. All deposits of money shall, if required by the authority, be secured in such a manner as the authority determines to be prudent, and all banks or trust companies may give security for the deposits, except to the extent provided otherwise in the resolution authorizing the issuance of the related bonds or in the trust indenture securing such bonds. The resolution authorizing the issuance of such bonds or the trust indenture securing such bonds shall provide that any officer to whom or any bank or trust company to which such money is entrusted shall act as trustee of such money and shall hold and apply the same for the purposes of the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act, subject to the act, and of the authorizing resolution or trust indenture.

Source: Laws 1981, LB 321, § 46; Laws 1993, LB 465, § 25; R.S.1943, (1994), § 79-2946; Laws 1995, LB 5, § 46; R.S.1943, (2008), § 85-1746; Laws 2013, LB170, § 49; Laws 2019, LB224, § 28.

58-850 Bondholders and trustee; enforcement of rights.

Any holder of bonds or of any of the coupons appertaining thereto issued under the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act and the trustee under any trust indenture, except to the extent the rights given in the act may be restricted by the resolution or trust indenture, may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect and enforce any and all rights under the laws of the state, the act, or such trust indenture or resolution authorizing the issuance of such bonds and may enforce and compel the performance of all duties required by the act or by such trust indenture or resolution to be performed by the authority or by any officer, employee, or agent thereof, including the fixing, charging, and collecting of rates, rents, loan payments, fees, and charges authorized in the act and required by the provisions of such resolution or trust indenture to be fixed, established, and collected.

Such rights shall include the right to compel the performance of all duties of the authority required by the act or the resolution or trust indenture to enjoin unlawful activities and, in the event of default with respect to the payment of any principal of and premium, if any, and interest on any bond or in the performance of any covenant or agreement on the part of the authority in the resolution or trust indenture, to apply to a court having jurisdiction of the cause to appoint a receiver to administer and operate a project, the revenue of which is pledged to the payment of the principal of and premium, if any, and interest on such bonds, with full power to pay and to provide for payment of the principal of and premium, if any, and interest on such bonds, and with such powers, subject to the direction of the court, as are permitted by law and are accorded receivers in general equity cases, excluding any power to pledge additional revenue of the authority to the payment of such principal, premium, and interest, and to foreclose the mortgage on the project in the same manner as the foreclosure of a mortgage on real estate of private corporations.

Source: Laws 1981, LB 321, § 47; Laws 1993, LB 465, § 26; R.S.1943, (1994), § 79-2947; Laws 1995, LB 5, § 47; R.S.1943, (2008), § 85-1747; Laws 2013, LB170, § 50; Laws 2019, LB224, § 29.

58-851 Act, how construed.

The Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act, being necessary for the welfare of the state and its inhabitants, shall be liberally construed to effect the purposes thereof.

Source: Laws 1981, LB 321, § 48; Laws 1993, LB 465, § 27; R.S.1943, (1994), § 79-2948; Laws 1995, LB 5, § 48; R.S.1943, (2008), § 85-1748; Laws 2013, LB170, § 51; Laws 2019, LB224, § 30.

58-852 Authority; journal; public records.

All final actions of the authority shall be recorded in a journal, and the journal and all instruments and documents relating thereto shall be kept on file at the office of the authority and shall be open to the inspection of the public at all reasonable times.

Source: Laws 1981, LB 321, § 49; R.S.1943, (1994), § 79-2949; Laws 1995, LB 5, § 49; R.S.1943, (2008), § 85-1749; Laws 2013, LB170, § 52.

58-853 Authority; public purpose; exemptions from taxation.

The exercise of the powers granted by the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act shall be in all respects for the benefit of the people of the state, for the increase of their commerce, welfare, and prosperity, for the fostering, encouragement, protection, and improvement of their health and living conditions, and for the development of their intellectual and mental capacities and skills, and as the operation, maintenance, financing, or refinancing of a project or program by the authority or its agent will constitute the performance of essential governmental functions and serve a public purpose, neither the authority nor its agent shall be required to pay any taxes or assessments, upon or with respect to a project or any property acquired or used by the authority or its agent under the act, upon the income therefrom, or upon any other amounts received by the authority in respect thereof, including payments of principal of or premium or interest on or in respect of any securities purchased pursuant to section 58-844 or any government securities involved in a plan of financing pursuant to section 58-845. The bonds issued under the act, the interest thereon, the proceeds received by a holder from the sale of such bonds to the extent of the holder's cost of acquisition, or proceeds received upon redemption prior to maturity, proceeds received at maturity, and the receipt of such interest and proceeds shall be exempt from taxation in the State of Nebraska for all purposes except the state inheritance tax.

Source: Laws 1981, LB 321, § 50; Laws 1993, LB 465, § 28; R.S.1943, (1994), § 79-2950; Laws 1995, LB 5, § 50; R.S.1943, (2008), § 85-1750; Laws 2013, LB170, § 53; Laws 2019, LB224, § 31.

58-854 Bondholders; pledge; agreement of the state.

The State of Nebraska does hereby pledge to and agree with the holders of any obligations issued under the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act and with those parties who may enter into contracts with the authority pursuant to the act that the state will not limit or alter the rights vested in the authority until such obligations, together with the interest thereon, are fully met and discharged and such contracts are fully performed on the part of the authority, except that nothing contained in this section shall preclude such limitation or alteration if and when adequate provision is made by law for the protection of the holders of such obligations of the authority or those entering into such contracts with the authority.

Source: Laws 1981, LB 321, § 51; Laws 1993, LB 465, § 29; R.S.1943, (1994), § 79-2951; Laws 1995, LB 5, § 51; R.S.1943, (2008), § 85-1751; Laws 2013, LB170, § 54; Laws 2019, LB224, § 32.

58-855 Act; supplemental to other laws.

The Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act shall be deemed to provide a complete, additional, and alternative method for doing the things authorized in the act and shall be regarded as supplemental and additional to powers conferred by other laws. The issuance of bonds and refunding bonds under the act need not comply with the requirements of any other law applicable to the issuance of bonds, and the acquisition, construction, improvement, equipment, and renovation of a project pursuant to the act by the authority need not comply with the requirements of any

competitive bidding law or other restriction imposed on the procedure for award of contracts for the acquisition, construction, improvement, equipment, and renovation of a project or the lease, sale, or disposition of property of the authority, except that if the prospective lessee so requests in writing, the authority shall call for construction bids in such manner as shall be determined by the authority with the approval of such lessee. Except as otherwise expressly provided in the act, none of the powers granted to the authority under the act shall be subject to the supervision of or regulation by or require the approval or consent of any municipality, commission, board, body, bureau, official, or other political subdivision or agency of the state.

Source: Laws 1981, LB 321, § 52; Laws 1993, LB 465, § 30; R.S.1943, (1994), § 79-2952; Laws 1995, LB 5, § 52; R.S.1943, (2008), § 85-1752; Laws 2013, LB170, § 55; Laws 2019, LB224, § 33.

58-856 Act; provisions controlling.

To the extent that the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act is inconsistent with the provisions of any general statute or special act or parts thereof, the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act shall be deemed controlling.

Source: Laws 1981, LB 321, § 53; Laws 1993, LB 465, § 31; R.S.1943, (1994), § 79-2953; Laws 1995, LB 5, § 53; R.S.1943, (2008), § 85-1753; Laws 2013, LB170, § 56; Laws 2019, LB224, § 34.

58-857 Nebraska Health Education Assistance Loan Program; established.

There is hereby established, in accordance with Public Law 94-484, the Nebraska Health Education Assistance Loan Program, to be financed by the authority in the manner provided in the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act.

Source: Laws 1983, LB 159, § 7; Laws 1993, LB 465, § 32; R.S.1943, (1994), § 79-2954; Laws 1995, LB 5, § 54; R.S.1943, (2008), § 85-1754; Laws 2013, LB170, § 57; Laws 2019, LB224, § 35.

58-858 Nebraska Health Education Assistance Loan Program; authority; powers.

The authority may:

- (1) Make loans;
- (2) Participate in the financing of loans;
- (3) Purchase or participate in the purchase of loans;
- (4) Sell or participate in the sale of loans;
- (5) Collect and pay reasonable fees and charges in connection with the exercise of the powers provided in subdivisions (1) through (4) of this section;
- (6) Do all things necessary and convenient to carry out the purposes of sections 58-857 to 58-862 in connection with the administering and servicing of loans, including contracting with any person, firm, or other body, public or private;
- (7) Enter into any agreements necessary to effect the guarantee, insuring, administering, or servicing of loans;

(8) Adopt and promulgate rules and regulations governing and establish standards for participation in the program created by section 58-857, and establish other administrative procedures consistent with Public Law 94-484; and

(9) Exercise all powers incidental to or necessary for the performance of the powers authorized by this section.

Source: Laws 1983, LB 159, § 8; R.S.1943, (1994), § 79-2955; Laws 1995, LB 5, § 55; R.S.1943, (2008), § 85-1755; Laws 2013, LB170, § 58.

58-859 Nebraska Health Education Assistance Loan Program; loans; how funded.

Any loan made, purchased, or caused to be made or purchased pursuant to section 58-858 may be funded with the proceeds of bonds, notes, or other obligations of the authority issued pursuant to sections 58-857 to 58-862. The resolution or trust indenture creating such bonds, notes, or other obligations may contain any of the provisions specified in section 58-843 as the authority shall deem appropriate and any other provisions, not in violation of law, as the authority shall deem reasonable and proper for the security of the holders of such bonds, notes, or other obligations.

The proceeds of any such bonds, notes, or other obligations may be used and applied by the authority to make loans, to purchase loans, to cause loans to be made or purchased, to pay financing costs, including, but not limited to, legal, underwriting, investment banking, accounting, rating agency, printing, and other similar costs, to fund any reserve funds deemed necessary or advisable by the authority, to pay interest on such bonds, notes, or other obligations for any period deemed necessary or advisable by the authority, and to pay all other necessary and incidental costs and expenses.

Source: Laws 1983, LB 159, § 9; R.S.1943, (1994), § 79-2956; Laws 1995, LB 5, § 56; R.S.1943, (2008), § 85-1756; Laws 2013, LB170, § 59.

58-860 Nebraska Health Education Assistance Loan Program; bonds or other obligations; how paid.

Notwithstanding section 58-841, all bonds, notes, or other obligations issued by the authority for the Nebraska Health Education Assistance Loan Program shall be payable out of the revenue generated in connection with loans funded under sections 58-857 to 58-862, or from reserves or other money available for such purpose as may be designated in the resolution of the authority under which the bonds, notes, or other obligations are issued or as may be designated in a trust indenture authorized by the authority.

Source: Laws 1983, LB 159, § 10; R.S.1943, (1994), § 79-2957; Laws 1995, LB 5, § 57; R.S.1943, (2008), § 85-1757; Laws 2013, LB170, § 60.

58-861 Nebraska Health Education Assistance Loan Program; bonds; security.

Notwithstanding section 58-843, the principal of and interest on any bonds issued by the authority for the Nebraska Health Education Assistance Loan

Program shall be secured by a pledge of the revenue and other money out of which such principal and interest shall be made payable and may be secured by a trust indenture, mortgage, or deed of trust, including an assignment of a loan or contract right of the authority pursuant to a loan, covering all or any part of a loan from which the revenue or receipts so pledged may be derived.

Source: Laws 1983, LB 159, § 11; R.S.1943, (1994), § 79-2958; Laws 1995, LB 5, § 58; R.S.1943, (2008), § 85-1758; Laws 2013, LB170, § 61.

58-862 Nebraska Health Education Loan Repayment Fund; created; use.

There is hereby created a separate fund, to be known as the Nebraska Health Education Loan Repayment Fund, which shall consist of all revenue generated in connection with loans funded pursuant to the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act. The authority may pledge revenue received or to be received by the fund to secure bonds, notes, or other obligations issued pursuant to the act. The authority may create such subfunds or accounts within the fund as it deems necessary or advisable.

Source: Laws 1983, LB 159, § 12; Laws 1993, LB 465, § 33; R.S.1943, (1994), § 79-2959; Laws 1995, LB 5, § 59; R.S.1943, (2008), § 85-1759; Laws 2013, LB170, § 62; Laws 2019, LB224, § 36.

58-863 Nebraska Student Loan Assistance Program; established.

There is hereby established the Nebraska Student Loan Assistance Program to be financed by the authority in the manner provided in the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act.

Source: Laws 1993, LB 465, § 34; R.S.1943, (1994), § 79-2961; Laws 1995, LB 5, § 60; R.S.1943, (2008), § 85-1760; Laws 2013, LB170, § 63; Laws 2019, LB224, § 37.

58-864 Nebraska Student Loan Assistance Program; authority; powers.

The authority may:

- (1) Make loans to private institutions of higher education to assist such institutions in providing loans to their full-time students to assist them in financing the cost of their education while taking courses leading to an academic degree;
- (2) Participate in the financing of such loans;
- (3) Sell or participate in the sale of such loans;
- (4) Collect and pay reasonable fees and charges in connection with the exercise of the powers provided in subdivisions (1) through (3) of this section;
- (5) Do all things necessary and convenient to carry out the purposes of this section and section 58-865 in connection with the administering of such loans, including contracting with any person, firm, or other body, public or private;
- (6) Enter into any agreements necessary to effect the guarantee, insuring, or administering of such loans;
- (7) Adopt and promulgate rules and regulations governing and establish standards for participation in the Nebraska Student Loan Assistance Program; and

(8) Exercise all powers incidental to or necessary for the performance of the powers authorized by this section.

Source: Laws 1993, LB 465, § 35; R.S.1943, (1994), § 79-2962; Laws 1995, LB 5, § 61; R.S.1943, (2008), § 85-1761; Laws 2013, LB170, § 64.

58-865 Nebraska Student Loan Assistance Program; loans; how funded.

Any loan made or caused to be made or purchased pursuant to section 58-864 may be funded with the proceeds of bonds, notes, or other obligations of the authority issued pursuant to this section and sections 58-841, 58-846, 58-863, and 58-864. The resolution or trust indenture creating such bonds, notes, or other obligations may contain any of the provisions specified in section 58-843 as the authority deems appropriate and any other provisions, not in violation of law, as the authority deems reasonable and proper for the security of the holders of such bonds, notes, or other obligations.

The proceeds of any such bonds, notes, or other obligations may be used and applied by the authority to make loans to such institutions and cause loans to be made by the institutions to their qualified students, to pay financing costs, including legal, underwriting, investment banking, accounting, rating agency, printing, and other similar costs, to fund any reserve funds deemed necessary or advisable by the authority, to pay interest on such bonds, notes, or other obligations for any period deemed necessary or advisable by the authority, and to pay all other necessary and incidental costs and expenses.

Source: Laws 1993, LB 465, § 36; R.S.1943, (1994), § 79-2963; Laws 1995, LB 5, § 62; R.S.1943, (2008), § 85-1762; Laws 2013, LB170, § 65.

58-866 Change in name; effect.

(1) It is the intent of the Legislature that the changes made by Laws 1993, LB 465, in the name of the Nebraska Educational Facilities Authority Act to the Nebraska Educational Finance Authority Act and in the name of the Nebraska Educational Facilities Authority to the Nebraska Educational Finance Authority shall not affect or alter any rights, privileges, or obligations existing immediately prior to September 9, 1993.

(2) It is the intent of the Legislature that the changes made by Laws 2013, LB170, in the name of the Nebraska Educational Finance Authority Act to the Nebraska Educational, Health, and Social Services Finance Authority Act and in the name of the Nebraska Educational Finance Authority to the Nebraska Educational, Health, and Social Services Finance Authority shall not affect or alter any rights, privileges, or obligations existing immediately prior to September 6, 2013.

(3) It is the intent of the Legislature that the changes made by Laws 2019, LB224, in the name of the Nebraska Educational, Health, and Social Services Finance Authority Act to the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act and in the name of the Nebraska Educational, Health, and Social Services Finance Authority to the Nebraska Educational, Health, Cultural, and Social Services Finance Authority shall not

affect or alter any rights, privileges, or obligations existing immediately prior to September 1, 2019.

Source: Laws 1993, LB 465, § 37; R.S.1943, (1994), § 79-2964; Laws 1995, LB 5, § 63; R.S.1943, (2008), § 85-1763; Laws 2013, LB170, § 66; Laws 2019, LB224, § 38.



CHAPTER 59

MONOPOLIES AND UNLAWFUL COMBINATIONS

Article.

- 14. Musical Compositions. 59-1401 to 59-1406.
- 15. Cigarette Sales.
 - (b) Grey Market Sales. 59-1520, 59-1523.
- 16. Consumer Protection Act. 59-1608.04 to 59-1614.
- 17. Seller-Assisted Marketing Plan. 59-1722 to 59-1725.01.

ARTICLE 14

MUSICAL COMPOSITIONS

Section

- 59-1401. Act, how cited.
- 59-1402. Terms, defined.
- 59-1403. License; tax; Department of Revenue; rules and regulations.
- 59-1403.01. Music licensing agency; registration; fine.
- 59-1403.02. Music licensing agency; duties; contract requirements.
- 59-1403.03. Music licensing agency; disclosures; representative or agent; prohibited acts.
- 59-1403.04. Department of Revenue; duties.
- 59-1403.05. Act, how construed.
- 59-1404. Copyright owner; assigns; licensees; benefits.
- 59-1405. Discrimination in price; price changes; exceptions.
- 59-1406. Violations; penalty.

59-1401 Act, how cited.

Sections 59-1401 to 59-1406 shall be known and may be cited as the Music Licensing Agency Act.

Source: Laws 1945, c. 139, § 1, p. 439; Laws 1993, LB 121, § 376; Laws 2018, LB1120, § 30.

59-1402 Terms, defined.

For purposes of the Music Licensing Agency Act:

(1) Copyright owner means the owner of a copyright of a nondramatic musical work recognized and enforceable under the copyright laws of the United States pursuant to 17 U.S.C. 101 et seq., as such sections existed on January 1, 2018, and does not include the owner of a copyright in a motion picture or audiovisual work or in part of a motion picture or audiovisual work;

(2) Music licensing agency means an association or corporation that licenses the public performance of nondramatic musical works on behalf of copyright owners;

(3) Performing right means the right to perform a copyrighted nondramatic musical work publicly for profit;

(4) Person means any individual, resident or nonresident of this state, and every domestic, foreign, or alien partnership, limited liability company, society, association, corporation, or music licensing agency;

(5) Proprietor means the owner of a retail establishment, restaurant, inn, bar, tavern, sports or entertainment facility, multi-family residential dwelling, or other similar place of business or professional office located in this state in which the public may assemble and in which nondramatic musical works or similar copyrighted works may be performed, broadcast, or otherwise transmitted for the enjoyment of members of the public there assembled; and

(6) Royalty means the fees payable to a copyright owner for a performing right.

Source: Laws 2018, LB1120, § 31; Laws 2019, LB203, § 1.

59-1403 License; tax; Department of Revenue; rules and regulations.

There is hereby levied and there shall be collected a tax for the act or privilege of selling, licensing, or otherwise disposing in this state of performing rights in any musical composition, which has been copyrighted under the laws of the United States, in an amount equal to three percent of the gross receipts of all such sales, licenses, or other dispositions of performing rights in this state, payable to the Department of Revenue annually on or before March 15 of each year with respect to the gross receipts of the preceding calendar year. The department shall adopt and promulgate rules and regulations not in conflict with this section, as well as a form of return and any other forms necessary to carry out this section.

Source: Laws 1945, c. 139, § 3, p. 440; Laws 1947, c. 253, § 1, p. 831; Laws 2018, LB1120, § 32.

59-1403.01 Music licensing agency; registration; fine.

(1) Beginning January 1, 2019, a music licensing agency shall not license or attempt to license the use of or collect or attempt to collect any compensation with regard to any sale, license, or other disposition of a performing right unless the music licensing agency registers and files annually, on or before February 15, with the Department of Revenue an electronic copy of each variation of the performing-rights agreement providing for the payment of royalties made available from the music licensing agency to any proprietor within this state. The registration shall be valid for the calendar year. The department shall impose a fine for failure to renew or register in the amount of ten thousand dollars for each forty-five-day period which has passed since February 15 of the registration year if a music licensing agency fails to renew a registration or engages in business without registration.

(2) Each registered music licensing agency shall make available electronically to proprietors the most current available list of members and affiliates represented by the music licensing agency and the most current available list of the performed works that the music licensing agency licenses.

Source: Laws 2018, LB1120, § 33.

59-1403.02 Music licensing agency; duties; contract requirements.

(1) Beginning January 1, 2019, no music licensing agency may enter into, or offer to enter into, a contract for the payment of royalties by a proprietor unless at least seventy-two hours prior to the execution of that contract it provides to the proprietor or the proprietor's employees, in writing, the following:

(a) A schedule of the rates and terms of royalties under the contract; and

(b) Notice that the proprietor is entitled to the information filed with the Department of Revenue pursuant to section 59-1403.01.

(2) Beginning January 1, 2019, a contract for the payment of royalties executed in this state shall:

- (a) Be in writing;
- (b) Be signed by the parties; and
- (c) Include, at least, the following information:
 - (i) The proprietor's name and business address;
 - (ii) The name and location of each place of business to which the contract applies;
 - (iii) The duration of the contract; and
 - (iv) The schedule of rates and terms of the royalties to be collected under the contract, including any sliding scale or schedule for any increase or decrease of those rates for the duration of the contract.

Source: Laws 2018, LB1120, § 34.

59-1403.03 Music licensing agency; disclosures; representative or agent; prohibited acts.

(1) Beginning January 1, 2019, before seeking payment or a contract for payment of royalties for the use of copyrighted works by that proprietor, a representative or agent for a music licensing agency shall identify himself or herself to the proprietor or the proprietor's employees, disclose that he or she is acting on behalf of a music licensing agency, and disclose the purpose for being on the premises.

(2) A representative or agent of a music licensing agency shall not:

- (a) Use obscene, abusive, or profane language when communicating with a proprietor or his or her employees;
- (b) Communicate by telephone or in person with a proprietor other than at the proprietor's place of business during the hours when the proprietor's business is open to the public unless otherwise authorized by the proprietor or the proprietor's agents, employees, or representatives;
- (c) Engage in any coercive conduct, act, or practice that is substantially disruptive to a proprietor's business;
- (d) Use or attempt to use any unfair or deceptive act or practice in negotiating with a proprietor; or
- (e) Communicate with an unlicensed proprietor about licensing performances of musical works at the proprietor's establishment after receiving notification in writing from an attorney representing the proprietor that all further communications related to the licensing of the proprietor's establishment by the music licensing agency should be addressed to the attorney. However, the music licensing agency may resume communicating directly with the proprietor if the attorney fails to respond to communications from the music licensing agency within sixty days or the attorney becomes nonresponsive for a period of sixty days or more.

Source: Laws 2018, LB1120, § 35.

59-1403.04 Department of Revenue; duties.

The Department of Revenue shall inform proprietors of their rights and responsibilities regarding the public performance of copyrighted music as part of the business licensing service.

Source: Laws 2018, LB1120, § 36.

59-1403.05 Act, how construed.

Nothing in the Music Licensing Agency Act may be construed to prohibit a music licensing agency from conducting an investigation to determine the existence of music use by a proprietor's business or informing a proprietor of the proprietor's obligations under the copyright laws of the United States pursuant to 17 U.S.C. 101 et seq., as such sections existed on January 1, 2018.

Source: Laws 2018, LB1120, § 37.

59-1404 Copyright owner; assigns; licensees; benefits.

Upon compliance with the Music Licensing Agency Act, the copyright owner, and his or her assigns and licensees, of a nondramatic musical work copyrighted under the laws of the United States shall be entitled to all the benefits thereof.

Source: Laws 1945, c. 139, § 4, p. 440; Laws 2018, LB1120, § 38.

59-1405 Discrimination in price; price changes; exceptions.

All music licensing agencies who sell, license the use of, or in any manner whatsoever dispose of, in this state, the performing rights in or to any copyrighted musical composition shall refrain from discriminating in price or terms between licensees similarly situated, except that differentials based upon applicable business factors which justify different prices or terms shall not be considered discriminations within the meaning of this section. Nothing contained in this section shall prevent price changes from time to time by reason of changing conditions affecting the market for or marketability of performing rights.

Source: Laws 1945, c. 139, § 5, p. 440; Laws 2018, LB1120, § 39.

59-1406 Violations; penalty.

Any person violating the Music Licensing Agency Act shall be fined an amount not less than five hundred dollars and not more than two thousand dollars. Multiple violations on a single day may be considered separate violations.

Source: Laws 1945, c. 139, § 6, p. 441; Laws 2018, LB1120, § 40.

ARTICLE 15

CIGARETTE SALES

(b) GREY MARKET SALES

Section

59-1520. Prohibited acts.

59-1523. Disciplinary actions; contraband.

(b) GREY MARKET SALES

59-1520 Prohibited acts.

It is unlawful for any person to:

(1) Sell or distribute in this state, acquire, hold, own, possess, or transport for sale or distribution in this state, or import or cause to be imported into this state for sale or distribution in this state, any cigarettes that do not comply with all requirements imposed by or pursuant to federal law and regulations, including, but not limited to:

(a) The filing of ingredients lists pursuant to the Federal Cigarette Labeling and Advertising Act, 15 U.S.C. 1335a, as such section existed on January 1, 2011;

(b) The permanent imprinting on the primary packaging of the precise package warning labels in the precise format specified in the Federal Cigarette Labeling and Advertising Act, 15 U.S.C. 1333, as such section existed on January 1, 2011;

(c) The rotation of label statements pursuant to the Federal Cigarette Labeling and Advertising Act, 15 U.S.C. 1333(c), as such section existed on January 1, 2011;

(d) The restrictions on the importation, transfer, and sale of previously exported tobacco products pursuant to 19 U.S.C. 1681 et seq. and Chapter 52 of the Internal Revenue Code, 26 U.S.C. 5701 et seq., as such sections existed on January 1, 2011; and

(e) The federal trademark and copyright laws;

(2) Alter a package of cigarettes, prior to sale or distribution to the ultimate consumer, so as to remove, conceal, or obscure:

(a) Any statement, label, stamp, sticker, or notice indicating that the manufacturer did not intend the cigarettes to be sold, distributed, or used in the United States, including, but not limited to, labels stating "For Export Only", "U.S. Tax Exempt", "For Use Outside U.S.", or similar wording; or

(b) Any health warning that is not the precise package warning statement in the precise format specified in the Federal Cigarette Labeling and Advertising Act, 15 U.S.C. 1333, as such section existed on January 1, 2011;

(3) Affix any stamps or meter impression required pursuant to sections 77-2601 to 77-2615 to the package of any cigarettes that does not comply with the requirements of subdivision (1) of this section or that is altered in violation of subdivision (2) of this section; and

(4) Import or reimport into the United States for sale or distribution under any trade name, trade dress, or trademark that is the same as, or is confusingly similar to, any trade name, trade dress, or trademark used for cigarettes manufactured in the United States for sale or distribution in the United States.

Source: Laws 2001, LB 358, § 2; Laws 2011, LB590, § 1.

59-1523 Disciplinary actions; contraband.

(1) The cigarette tax division of the Tax Commissioner may, after notice and hearing, revoke or suspend for any violation of section 59-1520 the license or licenses of any person licensed under sections 28-1418 to 28-1429.03 or sections 77-2601 to 77-2622.

(2) Cigarettes that are acquired, held, owned, possessed, transported, sold, or distributed in or imported into this state in violation of section 59-1520 are declared to be contraband goods and are subject to seizure and forfeiture. Any

cigarettes so seized and forfeited shall be destroyed. Such cigarettes shall be declared to be contraband goods whether the violation of section 59-1520 is knowing or otherwise.

Source: Laws 2001, LB 358, § 5; Laws 2011, LB590, § 2; Laws 2014, LB863, § 27.

ARTICLE 16 CONSUMER PROTECTION ACT

Section

- 59-1608.04. State Settlement Cash Fund; created; use; investment; transfer.
 59-1611. Demand to produce documentary materials for inspection; contents; service; unauthorized disclosure; return; modification; vacation; use; penalty.
 59-1614. Civil penalties; Attorney General; duties.

59-1608.04 State Settlement Cash Fund; created; use; investment; transfer.

(1) The State Settlement Cash Fund is created. The fund shall be maintained by the Department of Justice and administered by the Attorney General. Except as otherwise provided by law, the fund shall consist of all recoveries received pursuant to the Consumer Protection Act, including any money, funds, securities, or other things of value in the nature of civil damages or other payment, except criminal penalties, whether such recovery is by way of verdict, judgment, compromise, or settlement in or out of court, or other final disposition of any case or controversy, or any other payments received on behalf of the state by the Department of Justice and administered by the Attorney General for the benefit of the state or the general welfare of its citizens, but excluding all funds held in a trust capacity where specific benefits accrue to specific individuals, organizations, or governments. The fund may be expended for any allowable legal purposes as determined by the Attorney General. Transfers from the State Settlement Cash Fund may be made at the direction of the Legislature to the Nebraska Capital Construction Fund, the Legal Education for Public Service and Rural Practice Loan Repayment Assistance Fund, and the General Fund. To provide necessary financial accountability and management oversight, revenue from individual settlement agreements or other separate sources credited to the State Settlement Cash Fund may be tracked and accounted for within the state accounting system through the use of separate and distinct funds, sub-funds, or any other available accounting mechanism specifically approved by the Accounting Administrator for use by the Department of Justice. 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.

(2) The State Treasurer shall transfer two million five hundred thousand dollars from the State Settlement Cash Fund to the Nebraska Capital Construction Fund on July 1, 2013, or as soon thereafter as administratively possible.

(3) The State Treasurer shall transfer eight hundred seventy-six thousand nine hundred ninety-eight dollars from the State Settlement Cash Fund to the General Fund on or before June 30, 2018, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

(4) The State Treasurer shall transfer one million seven hundred fifty-six thousand six hundred thirty-nine dollars from the State Settlement Cash Fund

to the General Fund on or before June 30, 2019, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

(5) The State Treasurer shall transfer one hundred twenty-five thousand dollars from the State Settlement Cash Fund to the Legal Education for Public Service and Rural Practice Loan Repayment Assistance Fund on or before April 30, 2018, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

(6) The State Treasurer shall transfer one hundred fifty thousand dollars from the State Settlement Cash Fund to the Legal Education for Public Service and Rural Practice Loan Repayment Assistance Fund on or before July 9, 2018, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

Source: Laws 2006, LB 1061, § 4; Laws 2009, First Spec. Sess., LB3, § 34; Laws 2010, LB190, § 7; Laws 2011, LB549, § 8; Laws 2013, LB199, § 26; Laws 2017, LB331, § 26; Laws 2018, LB945, § 14.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

59-1611 Demand to produce documentary materials for inspection; contents; service; unauthorized disclosure; return; modification; vacation; use; penalty.

(1) Whenever the Attorney General believes that any person may be in possession, custody, or control of any original or copy of any book, record, report, memorandum, paper, communication, tabulation, map, chart, photograph, mechanical transcription, or other tangible document or recording, wherever situated, which he or she believes to be relevant to the subject matter of an investigation of a possible violation of sections 59-1602 to 59-1606, the Attorney General may, prior to the institution of a civil proceeding thereon, execute in writing and cause to be served upon such a person a civil investigative demand requiring such person to produce such documentary material and permit inspection and copying thereof. This section shall not be applicable to criminal prosecutions.

(2) Each such demand shall:

(a) State the statute and section or sections thereof the alleged violation of which is under investigation, and the general subject matter of the investigation;

(b) Describe the class or classes of documentary material to be produced thereunder with reasonable specificity so as fairly to indicate the material demanded;

(c) Prescribe a return date within which the documentary material shall be produced; and

(d) Identify the members of the Attorney General's staff to whom such documentary material shall be made available for inspection and copying.

(3) No such demand shall:

(a) Contain any requirement which would be unreasonable or improper if contained in a subpoena duces tecum issued by a court of this state; or

(b) Require the disclosure of any documentary material which would be privileged, or which for any other reason would not be required by a subpoena duces tecum issued by a court of this state.

(4) Service of any such demand may be made by:

(a) Delivering a duly executed copy thereof to the person to be served, or, if such person is not a natural person, to any officer of the person to be served;

(b) Delivering a duly executed copy thereof to the principal place of business in this state of the person to be served; or

(c) Mailing by certified mail a duly executed copy thereof addressed to the person to be served at the principal place of business in this state, or, if such person has no place of business in this state, to his or her principal office or place of business.

(5) Documentary material demanded pursuant to the provisions of this section shall be produced for inspection and copying during normal business hours at the principal office or place of business of the person served, or at such other times and places as may be agreed upon by the person served and the Attorney General.

(6) No documentary material produced pursuant to a demand, or copies thereof, shall, unless otherwise ordered by a district court for good cause shown, be produced for inspection or copying by, nor shall the contents thereof be disclosed to, other than an authorized employee of the Attorney General, without the consent of the person who produced such material, except that:

(a) Under such reasonable terms and conditions as the Attorney General shall prescribe, the copies of such documentary material shall be available for inspection and copying by the person who produced such material or any duly authorized representative of such person;

(b) The Attorney General may provide copies of such documentary material to an official of this or any other state, or an official of the federal government, who is charged with the enforcement of federal or state antitrust or consumer protection laws, if such official agrees in writing to not disclose such documentary material to any person other than the official's authorized employees, except as such disclosure is permitted under subdivision (c) of this subsection; and

(c) The Attorney General or any assistant attorney general or an official authorized to receive copies of documentary material under subdivision (b) of this subsection may use such copies of documentary material as he or she determines necessary in the enforcement of the Consumer Protection Act or any state or federal consumer protection laws that any state or federal official has authority to enforce, including presentation before any court, except that any such material which contains trade secrets shall not be presented except with the approval of the court in which action is pending after adequate notice to the person furnishing such material.

(7) At any time before the return date specified in the demand, or within twenty days after the demand has been served, whichever period is shorter, a petition to extend the return date for or to modify or set aside a demand issued pursuant to subsection (1) of this section, stating good cause, may be filed in the district court for Lancaster County, or in such other county where the parties reside. A petition by the person on whom the demand is served, stating good cause, to require the Attorney General or any person to perform any duty

imposed by the provisions of this section, and all other petitions in connection with a demand, may be filed in the district court for Lancaster County or in the county where the parties reside.

(8) Whenever any person fails to comply with any civil investigative demand for documentary material duly served upon him or her under this section, or whenever satisfactory copying or reproduction of any such material cannot be done and such person refuses to surrender such material, the Attorney General may file, in the district court of the county in which such person resides, is found, or transacts business, and serve upon such person a petition for an order of such court for the enforcement of this section, except that if such person transacts business in more than one county such petition shall be filed in the county in which such person maintains his or her principal place of business or in such other county as may be agreed upon by the parties to such petition. Whenever any petition is filed in the district court of any county under this section, such court shall have jurisdiction to hear and determine the matter so presented and to enter such order as may be required to carry into effect the provisions of this section. Disobedience of any order entered under this section by any court shall be punished as a contempt thereof.

Source: Laws 1974, LB 1028, § 18; Laws 2002, LB 1278, § 29; Laws 2016, LB835, § 22.

59-1614 Civil penalties; Attorney General; duties.

Any person who violates section 59-1603 or 59-1604 or the terms of any injunction issued as provided in the Consumer Protection Act shall forfeit and pay a civil penalty of not more than five hundred thousand dollars.

Any person who violates section 59-1602 shall pay a civil penalty of not more than two thousand dollars for each violation, except that such penalty shall not apply to any radio or television broadcasting station which broadcasts, or to any publisher, printer, or distributor of any newspaper, magazine, billboard, or other advertising medium who publishes, prints, or distributes advertising in good faith without knowledge of its false, deceptive, or misleading character and no such good faith publication, printing, or distribution shall be considered a violation of section 59-1602.

For the purpose of this section, the district court which issues any injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the Attorney General acting in the name of the state may petition for the recovery of civil penalties.

With respect to violations of sections 59-1603 and 59-1604, the Attorney General, acting in the name of the state, may seek recovery of such penalties in a civil action.

Source: Laws 1974, LB 1028, § 21; Laws 1980, LB 186, § 1; Laws 2002, LB 1278, § 30; Laws 2016, LB835, § 23.

ARTICLE 17

SELLER-ASSISTED MARKETING PLAN

Section 59-1722.	Transaction involving the sale of a franchise; exempt; exception; conditions; fee.
59-1724.	Marketing plan; seller; disclosure document; contents; list of sellers; file; update; fees.

§ 59-1722

MONOPOLIES AND UNLAWFUL COMBINATIONS

Section

59-1725.01. Seller-assisted marketing plan; cease and desist order; fine; injunction; procedures; appeal.

59-1722 Transaction involving the sale of a franchise; exempt; exception; conditions; fee.

(1) Any transaction involving the sale of a franchise as defined in 16 C.F.R. 436.1(h), as such regulation existed on January 1, 2020, shall be exempt from the Seller-Assisted Marketing Plan Act, except that such transactions shall be subject to subdivision (1)(d) of section 59-1757, those provisions regulating or prescribing the use of the phrase buy-back or secured investment or similar phrases as set forth in sections 59-1726 to 59-1728 and 59-1751, and all sections which provide for their enforcement. The exemption shall only apply if:

(a) The franchise is offered and sold in compliance with the requirements of 16 C.F.R. part 436, Disclosure Requirements and Prohibitions Concerning Franchising, as such part existed on January 1, 2020;

(b) Before placing any advertisement in a Nebraska-based publication, offering for sale to any prospective purchaser in Nebraska, or making any representations in connection with such offer or sale to any prospective purchaser in Nebraska, the seller files a notice with the Department of Banking and Finance which contains (i) the name, address, and telephone number of the seller and the name under which the seller intends to do business and (ii) a brief description of the plan offered by the seller; and

(c) The seller pays a filing fee of one hundred dollars.

(2) The department may request a copy of the disclosure document upon receipt of a written complaint or inquiry regarding the seller or upon a reasonable belief that a violation of the Seller-Assisted Marketing Plan Act has occurred or may occur. The seller shall provide such copy within ten business days of receipt of the request.

(3) All funds collected by the department under this section shall be remitted to the State Treasurer for credit to the Securities Act Cash Fund.

(4) The Director of Banking and Finance may by order deny or revoke an exemption specified in this section with respect to a particular offering of one or more business opportunities if the director finds that such an order is in the public interest or is necessary for the protection of purchasers. An order shall not be entered without appropriate prior notice to all interested parties, an opportunity for hearing, and written findings of fact and conclusions of law. If the public interest or the protection of purchasers so requires, the director may by order summarily deny or revoke an exemption specified in this section pending final determination of any proceedings under this section. An order under this section shall not operate retroactively.

Source: Laws 1979, LB 180, § 22; Laws 1993, LB 218, § 9; Laws 2001, LB 53, § 108; Laws 2013, LB214, § 11; Laws 2020, LB909, § 47.
Operative date July 25, 2020.

59-1724 Marketing plan; seller; disclosure document; contents; list of sellers; file; update; fees.

(1)(a) Before placing any advertisement, making any other solicitation, making any sale, or making any representations to any prospective purchaser in Nebraska, the seller shall file with the Department of Banking and Finance a

copy of a disclosure document prepared pursuant to sections 59-1733 to 59-1740 and pay a filing fee of one hundred dollars.

(b) The seller shall file an amended document with the department whenever a material change in the information occurs and shall pay a fee of fifty dollars for filing each such document.

(c) If the seller continues to solicit seller-assisted marketing plans in Nebraska, he or she shall annually file an updated disclosure document and pay a renewal fee of fifty dollars on or before the anniversary date of the initial filing for the particular seller-assisted marketing plan. In addition to the updated disclosure document, if a seller requires a purchaser to enter into a noncompete agreement in a side agreement or ancillary agreement, the seller shall include a disclosure of the existence of such side agreement or ancillary agreement in the updated disclosure document.

(d) In addition to the disclosure document, the seller shall file a list of the names and resident addresses of those individuals who sell the seller-assisted marketing plan on behalf of the seller. The list of sales representatives shall be updated through a new filing every six months. No fee shall be required to be paid for any filing which includes only an updated list of sales representatives.

(2) All funds collected by the department under this section shall be remitted to the State Treasurer for credit to the Securities Act Cash Fund.

Source: Laws 1979, LB 180, § 24; Laws 1993, LB 218, § 10; Laws 2016, LB942, § 1.

59-1725.01 Seller-assisted marketing plan; cease and desist order; fine; injunction; procedures; appeal.

(1) The Director of Banking and Finance may summarily order a seller or any officer, director, employee, or agent of such seller to cease and desist from the further offer or sale of any seller-assisted marketing plan by the seller if the director finds:

(a) There has been a substantial failure to comply with any of the provisions of the Seller-Assisted Marketing Plan Act;

(b) The offer or sale of the plan would constitute misrepresentation to or deceit or fraud upon the purchasers; or

(c) Any person identified in the required disclosure document has been convicted of an offense described in subdivision (2)(a) of section 59-1735 or is subject to an order or has had a civil judgment entered against him or her as described in subdivision (2)(b) or (c) of section 59-1735, and the involvement of such person in the sale or management of the seller-assisted marketing plan creates an unreasonable risk to prospective purchasers.

(2) If the director believes, whether or not based upon an investigation conducted under section 59-1725, that any person has engaged in or is about to engage in any act or practice constituting a violation of any provision of the Seller-Assisted Marketing Plan Act or any rule, regulation, or order of the director, the director may:

(a) Issue a cease and desist order;

(b) Impose a fine not to exceed five thousand dollars per violation, in addition to costs of the investigation; or

(c) Initiate an action in any court of competent jurisdiction to enjoin such acts or practices and to enforce compliance with the Seller-Assisted Marketing Plan Act or any order under the act.

(3) Upon a proper showing, a permanent or temporary injunction, restraining order, or writ of mandamus shall be granted. The director shall not be required to post a bond.

(4)(a) Any fines and costs imposed under this section shall be in addition to all other penalties imposed by the laws of this state. The Department of Banking and Finance shall collect the fines and costs and remit them to the State Treasurer. The State Treasurer shall credit the costs to the Securities Act Cash Fund and distribute the fines in accordance with Article VII, section 5, of the Constitution of Nebraska.

(b) If a person fails to pay the administrative fine or investigation costs referred to in this section, a lien in the amount of such fine and costs may be imposed upon all assets and property of such person in this state and may be recovered by suit by the director. Failure of the person to pay such fine and costs shall constitute a separate violation of the act.

(5) Upon entry of an order pursuant to this section, the director shall, in writing, promptly notify all persons to whom such order is directed that it has been entered and of the reasons for such order and that any person to whom the order is directed may request a hearing in writing within fifteen business days after the issuance of the order. Upon receipt of such written request, the matter shall be set down for hearing to commence within thirty business days after the receipt unless the parties consent to a later date or the hearing officer sets a later date for good cause. If a hearing is not requested within fifteen business days and none is ordered by the director, the order shall automatically become final and shall remain in effect until it is modified or vacated by the director. If a hearing is requested or ordered, the director, after notice and hearing, shall enter his or her written findings of fact and conclusions of law and may affirm, modify, or vacate the order.

(6) The director may vacate or modify a cease and desist order if he or she finds that the conditions which caused its entry have changed or that it is otherwise in the public interest to do so.

(7) Any person aggrieved by a final order of the director may appeal the order. The appeal shall be in accordance with the Administrative Procedure Act.

Source: Laws 1993, LB 218, § 12; Laws 2001, LB 53, § 109; Laws 2020, LB909, § 48.
Operative date July 25, 2020.

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Administrative Procedure Act, see section 84-920.

MOTOR VEHICLES

CHAPTER 60
MOTOR VEHICLES

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ARTICLE 1

MOTOR VEHICLE CERTIFICATE OF TITLE ACT

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§ 60-101

MOTOR VEHICLES

Section

60-191. Odometers; repaired or replaced; notice.

60-192. Odometers; transferor; statement; contents.

60-101 Act, how cited.

Sections 60-101 to 60-197 shall be known and may be cited as the Motor Vehicle Certificate of Title Act.

Source: Laws 2005, LB 276, § 1; Laws 2006, LB 663, § 1; Laws 2006, LB 1061, § 6; Laws 2007, LB286, § 1; Laws 2009, LB49, § 5; Laws 2009, LB202, § 10; Laws 2010, LB650, § 3; Laws 2011, LB289, § 6; Laws 2012, LB1155, § 2; Laws 2015, LB231, § 2; Laws 2017, LB263, § 7; Laws 2018, LB909, § 7; Laws 2019, LB156, § 1.

60-102 Definitions, where found.

For purposes of the Motor Vehicle Certificate of Title Act, unless the context otherwise requires, the definitions found in sections 60-103 to 60-136.01 shall be used.

Source: Laws 2005, LB 276, § 2; Laws 2007, LB286, § 2; Laws 2010, LB650, § 4; Laws 2012, LB1155, § 3; Laws 2015, LB231, § 3; Laws 2017, LB263, § 8; Laws 2018, LB909, § 8; Laws 2019, LB156, § 2.

60-103 All-terrain vehicle, defined.

All-terrain vehicle means any motorized off-highway device which (1) is fifty inches or less in width, (2) has a dry weight of twelve hundred pounds or less, (3) travels on three or more nonhighway tires, and (4) is designed for operator use only with no passengers or is specifically designed by the original manufacturer for the operator and one passenger.

Source: Laws 2005, LB 276, § 3; Laws 2014, LB814, § 3.

60-104 Assembled vehicle, defined.

Assembled vehicle means a vehicle which was manufactured or assembled less than thirty years prior to application for a certificate of title and which is materially altered from its construction by the removal, addition, or substitution of new or used major component parts unless such major component parts were replaced under warranty by the original manufacturer of the vehicle. Its make shall be assembled, and its model year shall be the year in which the vehicle was assembled.

Source: Laws 2005, LB 276, § 4; Laws 2018, LB909, § 9.

60-104.01 Autocycle, defined.

Autocycle means any motor vehicle (1) having a seat that does not require the operator to straddle or sit astride it, (2) designed to travel on three wheels in contact with the ground, (3) having antilock brakes, (4) designed to be controlled with a steering wheel and pedals, and (5) in which the operator and passenger ride either side by side or in tandem in a seating area that is equipped with a manufacturer-installed three-point safety belt system for each occupant and that has a seating area that either (a) is completely enclosed and

is equipped with manufacturer-installed airbags and a manufacturer-installed roll cage or (b) is not completely enclosed and is equipped with a manufacturer-installed rollover protection system.

Source: Laws 2015, LB231, § 4; Laws 2018, LB909, § 10.

60-104.02 Auxiliary axle, defined.

Auxiliary axle means an auxiliary undercarriage assembly with a fifth wheel and tow bar used to convert a semitrailer to a full trailer, commonly known as converter gears or converter dollies.

Source: Laws 2018, LB909, § 11.

60-105 Body, defined.

Body means that portion of a vehicle which determines its shape and appearance and is attached to the frame. Body does not include the box or bed of a truck.

Source: Laws 2005, LB 276, § 5; Laws 2012, LB751, § 6.

60-107 Cabin trailer, defined.

Cabin trailer means a trailer or a semitrailer, which is designed, constructed, and equipped as a dwelling place, living abode, or sleeping place, whether used for such purposes or instead permanently or temporarily for the advertising, sale, display, or promotion of merchandise or services or for any other commercial purpose except transportation of property for hire or transportation of property for distribution by a private carrier. Cabin trailer does not mean a trailer or semitrailer which is permanently attached to real estate. There are four classes of cabin trailers:

(1) Camping trailer which includes cabin trailers one hundred two inches or less in width and forty feet or less in length and adjusted mechanically smaller for towing;

(2) Mobile home which includes cabin trailers more than one hundred two inches in width or more than forty feet in length;

(3) Travel trailer which includes cabin trailers not more than one hundred two inches in width nor more than forty feet in length from front hitch to rear bumper, except as provided in subdivision (2)(k) of section 60-6,288; and

(4) Manufactured home means a structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or forty body feet or more in length or when erected on site is three hundred twenty or more square feet and which is built on a permanent frame and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure, except that manufactured home includes any structure that meets all of the requirements of this subdivision other than the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States Secretary of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety

Standards Act of 1974, as such act existed on January 1, 2020, 42 U.S.C. 5401 et seq.

Source: Laws 2005, LB 276, § 7; Laws 2008, LB797, § 1; Laws 2019, LB79, § 1; Laws 2020, LB944, § 5.
Operative date November 14, 2020.

60-107.01 Car toter or tow dolly, defined.

Car toter or tow dolly means a two-wheeled conveyance designed or adapted to support the weight of one axle of a motor vehicle while being towed in combination behind another motor vehicle.

Source: Laws 2018, LB909, § 12.

60-111 Repealed. Laws 2012, LB 801, § 102.

60-115.01 Former military vehicle, defined.

Former military vehicle means a motor vehicle that was manufactured for use in any country's military forces and is maintained to accurately represent its military design and markings, regardless of the vehicle's size or weight, but is no longer used, or never was used, by a military force.

Source: Laws 2019, LB156, § 3.

60-116.01 Golf car vehicle, defined.

Golf car vehicle means a vehicle that has at least four wheels, has a maximum level ground speed of less than twenty miles per hour, has a maximum payload capacity of one thousand two hundred pounds, has a maximum gross vehicle weight of two thousand five hundred pounds, has a maximum passenger capacity of not more than four persons, and is designed and manufactured for operation on a golf course for sporting and recreational purposes.

Source: Laws 2012, LB1155, § 4.

60-119 Kit vehicle, defined.

Kit vehicle means a vehicle which was assembled by a person other than a generally recognized manufacturer of vehicles by the use of a reproduction resembling a specific manufacturer's make and model that is at least thirty years old purchased from an authorized manufacturer and accompanied by a manufacturer's statement of origin. Kit vehicle does not include glider kits.

Source: Laws 2005, LB 276, § 19; Laws 2018, LB909, § 13.

60-119.01 Low-speed vehicle, defined.

Low-speed vehicle means a (1) four-wheeled motor vehicle (a) whose speed attainable in one mile is more than twenty miles per hour and not more than twenty-five miles per hour on a paved, level surface, (b) whose gross vehicle weight rating is less than three thousand pounds, and (c) that complies with 49 C.F.R. part 571, as such part existed on January 1, 2020, or (2) three-wheeled motor vehicle (a) whose maximum speed attainable is not more than twenty-five miles per hour on a paved, level surface, (b) whose gross vehicle weight rating is less than three thousand pounds, and (c) which is equipped with a

windshield and an occupant protection system. A motorcycle with a sidecar attached is not a low-speed vehicle.

Source: Laws 2007, LB286, § 5; Laws 2011, LB289, § 7; Laws 2016, LB929, § 1; Laws 2017, LB263, § 12; Laws 2018, LB909, § 14; Laws 2019, LB79, § 2; Laws 2019, LB270, § 6; Laws 2020, LB944, § 6.

Operative date November 14, 2020.

60-119.02 Licensed dealer, defined.

Licensed dealer means a motor vehicle dealer, motorcycle dealer, or trailer dealer licensed under the Motor Vehicle Industry Regulation Act.

Source: Laws 2017, LB263, § 9.

Cross References

Motor Vehicle Industry Regulation Act, see section 60-1401.

60-121.01 Minitruck, defined.

Minitruck means a foreign-manufactured import vehicle or domestic-manufactured vehicle which (1) is powered by an internal combustion engine with a piston or rotor displacement of one thousand five hundred cubic centimeters or less, (2) is sixty-seven inches or less in width, (3) has a dry weight of four thousand two hundred pounds or less, (4) travels on four or more tires, (5) has a top speed of approximately fifty-five miles per hour, (6) is equipped with a bed or compartment for hauling, (7) has an enclosed passenger cab, (8) is equipped with headlights, taillights, turnsignals, windshield wipers, a rearview mirror, and an occupant protection system, and (9) has a four-speed, five-speed, or automatic transmission.

Source: Laws 2010, LB650, § 5; Laws 2012, LB898, § 1.

60-122 Moped, defined.

Moped means a device with fully operative pedals for propulsion by human power, an automatic transmission, and a motor with a cylinder capacity not exceeding fifty cubic centimeters which produces no more than two brake horsepower and is capable of propelling the device at a maximum design speed of no more than thirty miles per hour on level ground.

Source: Laws 2005, LB 276, § 22; Laws 2015, LB95, § 3.

60-123 Motor vehicle, defined.

Motor vehicle means any vehicle propelled by any power other than muscular power. Motor vehicle does not include (1) mopeds, (2) farm tractors, (3) self-propelled equipment designed and used exclusively to carry and apply fertilizer, chemicals, or related products to agricultural soil and crops, agricultural floater-spreader implements, and other implements of husbandry designed for and used primarily for tilling the soil and harvesting crops or feeding livestock, (4) power unit hay grinders or a combination which includes a power unit and a hay grinder when operated without cargo, (5) vehicles which run only on rails or tracks, (6) off-road designed vehicles not authorized by law for use on a highway, including, but not limited to, golf car vehicles, go-carts, riding lawnmowers, garden tractors, all-terrain vehicles, utility-type vehicles, snowmobiles registered or exempt from registration under sections 60-3,207 to

60-3,219, and minibikes, (7) road and general-purpose construction and maintenance machinery not designed or used primarily for the transportation of persons or property, including, but not limited to, ditchdigging apparatus, asphalt spreaders, bucket loaders, leveling graders, earthmoving carryalls, power shovels, earthmoving equipment, and crawler tractors, (8) self-propelled chairs used by persons who are disabled, (9) electric personal assistive mobility devices, and (10) bicycles as defined in section 60-611.

Source: Laws 2005, LB 276, § 23; Laws 2006, LB 765, § 1; Laws 2007, LB286, § 6; Laws 2010, LB650, § 6; Laws 2011, LB289, § 8; Laws 2012, LB1155, § 5; Laws 2015, LB95, § 4.

60-124 Motorcycle, defined.

Motorcycle means any motor vehicle having a seat or saddle for the use of the operator and designed to travel on not more than three wheels in contact with the ground. Motorcycle includes an autocycle.

Source: Laws 2005, LB 276, § 24; Laws 2015, LB231, § 5; Laws 2018, LB909, § 15.

60-126 Parts vehicle, defined.

Parts vehicle means a vehicle the title to which has been surrendered (1) in accordance with subdivision (1)(a) of section 60-169 or (2) to any other state by the owner of the vehicle or an insurance company to render the vehicle fit for sale for scrap and parts only.

Source: Laws 2005, LB 276, § 26; Laws 2011, LB241, § 1.

60-128.01 Reconstructed, defined.

Reconstructed means the designation of a vehicle which was permanently altered from its original design construction by removing, adding, or substituting major component parts.

Source: Laws 2018, LB909, § 16.

60-128.02 Replica, defined.

Replica means the designation of a vehicle which resembles a specific manufacturer's make and model that is at least thirty years old and which has been assembled as a kit vehicle.

Source: Laws 2018, LB909, § 17.

60-129 Semitrailer, defined.

Semitrailer means any trailer so constructed that some part of its weight and that of its load rests upon or is carried by the towing vehicle. Semitrailer does not include an auxiliary axle or a car toter or tow dolly.

Source: Laws 2005, LB 276, § 29; Laws 2018, LB909, § 18.

60-133 Trailer, defined.

Trailer means any device without motive power designed for carrying persons or property and being towed by a motor vehicle and so constructed that no

part of its weight rests upon the towing vehicle. Trailer does not include an auxiliary axle or a car toter or tow dolly.

Source: Laws 2005, LB 276, § 33; Laws 2018, LB909, § 19.

60-135.01 Utility-type vehicle, defined.

(1) Utility-type vehicle means any motorized off-highway device which (a) is seventy-four inches in width or less, (b) is not more than one hundred eighty inches, including the bumper, in length, (c) has a dry weight of two thousand pounds or less, and (d) travels on four or more nonhighway tires.

(2) Utility-type vehicle does not include all-terrain vehicles, golf car vehicles, or low-speed vehicles.

Source: Laws 2010, LB650, § 7; Laws 2012, LB1155, § 6; Laws 2013, LB223, § 1; Laws 2014, LB814, § 4.

60-137 Act; applicability.

(1) The Motor Vehicle Certificate of Title Act applies to all vehicles as defined in the act, except:

(a) Farm trailers;

(b) Well-boring apparatus, backhoes, bulldozers, and front-end loaders; and

(c) Trucks and buses from other jurisdictions required to pay registration fees under the Motor Vehicle Registration Act, except a vehicle registered or eligible to be registered as part of a fleet of apportionable vehicles under section 60-3,198.

(2)(a) All new all-terrain vehicles and minibikes sold on or after January 1, 2004, shall be required to have a certificate of title. An owner of an all-terrain vehicle or minibike sold prior to such date may apply for a certificate of title for such all-terrain vehicle or minibike as provided in rules and regulations of the department.

(b) All new low-speed vehicles sold on or after January 1, 2012, shall be required to have a certificate of title. An owner of a low-speed vehicle sold prior to such date may apply for a certificate of title for such low-speed vehicle as provided in rules and regulations of the department.

(3) An owner of a utility trailer may apply for a certificate of title upon compliance with the Motor Vehicle Certificate of Title Act.

(4)(a) Every owner of a manufactured home or mobile home shall obtain a certificate of title for the manufactured home or mobile home prior to affixing it to real estate.

(b) If a manufactured home or mobile home has been affixed to real estate and a certificate of title was not issued before it was so affixed, the owner of such manufactured home or mobile home shall apply for and be issued a certificate of title at any time for surrender and cancellation as provided in section 60-169.

(5) All new utility-type vehicles sold on or after January 1, 2011, shall be required to have a certificate of title. An owner of a utility-type vehicle sold

prior to such date may apply for a certificate of title for such utility-type vehicle as provided in rules and regulations of the department.

Source: Laws 2005, LB 276, § 37; Laws 2006, LB 765, § 2; Laws 2007, LB286, § 9; Laws 2008, LB953, § 2; Laws 2010, LB650, § 9; Laws 2011, LB289, § 9.

Cross References

Motor Vehicle Registration Act, see section 60-301.

60-139 Certificate of title; vehicle identification number; required; when.

Except as provided in section 60-137, 60-138, 60-142, or 60-142.01, no person shall sell or otherwise dispose of a vehicle without (1) delivering to the purchaser or transferee of such vehicle a certificate of title with such assignments thereon as are necessary to show title in the purchaser and (2) having affixed to the vehicle its vehicle identification number if it is not already affixed. No person shall bring into this state a vehicle for which a certificate of title is required in Nebraska, except for temporary use, without complying with the Motor Vehicle Certificate of Title Act.

No purchaser or transferee shall receive a certificate of title which does not contain such assignments as are necessary to show title in the purchaser or transferee. Possession of a certificate of title which does not comply with this requirement shall be prima facie evidence of a violation of this section, and such purchaser or transferee, upon conviction, shall be subject to the penalty provided by section 60-180.

Source: Laws 2005, LB 276, § 39; Laws 2006, LB 663, § 3; Laws 2011, LB241, § 2.

60-140 Acquisition of vehicle; proof of ownership; effect.

(1) Except as provided in section 60-164, no person acquiring a vehicle from the owner thereof, whether such owner is a manufacturer, importer, dealer, or entity or person, shall acquire any right, title, claim, or interest in or to such vehicle until the acquiring person has had delivered to him or her physical possession of such vehicle and (a) a certificate of title or a duly executed manufacturer's or importer's certificate with such assignments as are necessary to show title in the purchaser, (b) a written instrument as required by section 60-1417, (c) an affidavit and notarized bill of sale as provided in section 60-142.01, or (d) a bill of sale for a parts vehicle as required by section 60-142.

(2) No waiver or estoppel shall operate in favor of such person against a person having physical possession of such vehicle and such documentation. No court shall recognize the right, title, claim, or interest of any person in or to a vehicle, for which a certificate of title has been issued in Nebraska, sold, disposed of, mortgaged, or encumbered, unless there is compliance with this section. Beginning on the implementation date of the electronic title and lien system designated by the director pursuant to section 60-164, an electronic certificate of title record shall be evidence of an owner's right, title, claim, or interest in a vehicle.

Source: Laws 2005, LB 276, § 40; Laws 2006, LB 663, § 4; Laws 2009, LB202, § 11; Laws 2011, LB241, § 3.

60-142 Historical vehicle or parts vehicle; sale or transfer; parts vehicle; bill of sale; prohibited act; violation; penalty.

(1) The sale or trade and subsequent legal transfer of ownership of a historical vehicle or parts vehicle shall not be contingent upon any condition that would require the historical vehicle or parts vehicle to be in operating condition at the time of the sale or transfer of ownership.

(2) No owner of a parts vehicle shall sell or otherwise dispose of the parts vehicle without delivering to the purchaser a bill of sale for the parts vehicle prescribed by the department. The bill of sale may include, but shall not be limited to, the vehicle identification number, the year, make, and model of the vehicle, the name and residential and mailing addresses of the owner and purchaser, the acquisition date, and the odometer statement provided for in section 60-192. A person who uses a bill of sale for a parts vehicle to transfer ownership of any vehicle that does not meet the definition of a parts vehicle shall be guilty of a Class III misdemeanor.

Source: Laws 2005, LB 276, § 42; Laws 2006, LB 663, § 5; Laws 2011, LB241, § 4.

60-142.01 Vehicle manufactured prior to 1940; transfer of title; salvage title; requirements.

(1) If the owner does not have a certificate of title for a vehicle which was manufactured prior to 1940 and which has not had any major component part replaced, the department shall search its records for evidence of issuance of a Nebraska certificate of title for such vehicle at the request of the owner. If no certificate of title has been issued for such vehicle in the thirty-year period prior to application, the owner may transfer title to the vehicle by giving the transferee a notarized bill of sale, an affidavit in support of the application for title, a statement that an inspection has been conducted on the vehicle, and a statement from the department that no certificate of title has been issued for such vehicle in the thirty-year period prior to application. The transferee may apply for a certificate of title pursuant to section 60-149 by presenting the documentation described in this section in lieu of a certificate of title.

(2) If the owner has a certificate of title for a vehicle which was previously classified as junked, which was manufactured prior to 1940, and which has not had any major component part replaced, the director, in his or her discretion, may issue a salvage title if it is shown to his or her satisfaction that the vehicle has been inspected and the vehicle has been restored to its original specifications.

Source: Laws 2006, LB 663, § 6; Laws 2020, LB944, § 7.
Operative date August 7, 2020.

60-142.03 Recognized car club; qualified car club representative; department; powers and duties.

(1) For purposes of this section, car club means an organization that has members with knowledge of and expertise pertaining to authentic vehicles and that has members with knowledge of and expertise pertaining to the restoration and preservation of specific makes and models of vehicles using replacement parts that are essentially the same in design and material to that originally supplied by the manufacturer for a specific year, make, and model of vehicle.

(2) To become a recognized car club, a car club shall apply to the department. For a car club to become recognized, it must be a nonprofit organization with established bylaws and at least twenty members. The applicant shall provide a copy of the bylaws and a membership list to the department. The department shall determine if a car club qualifies as a recognized car club. The determination of the department shall be final and nonappealable.

(3) A member of a recognized car club may apply to the department to become a qualified car club representative. Each qualified car club representative shall be designated by the president or director of the local chapter of the recognized car club of which he or she is a member. The department shall identify and maintain a list of qualified car club representatives. A qualified car club representative may apply to be placed on the list of qualified car club representatives by providing the department with his or her name, address, and telephone number, the name, address, and telephone number of the recognized car club he or she represents, a copy of the designation of the representative by the president or director of the local chapter of the recognized car club, and such other information as may be required by the department. The department may place a qualified car club representative on the list upon receipt of a completed application and may provide each representative with information for inspection of vehicles and parts. The determination of the department regarding designation of an individual as a qualified car club representative and placement on the list of qualified car club representatives shall be final and nonappealable. The department shall distribute the list to county treasurers.

(4) When a qualified car club representative inspects vehicles and replacement parts, he or she shall determine whether all major component parts used in the assembly of a vehicle are original or essentially the same in design and material to that originally supplied by the manufacturer for the specific year, make, and model of vehicle, including the appropriate engine, body material, body shape, and other requirements as prescribed by the department. After such inspection, the representative shall provide the owner with a statement in the form prescribed by the department which includes the findings of the inspection. No qualified car club representative shall charge any fee for the inspection or the statement. No qualified car club representative shall provide a statement for any vehicle owned by such representative or any member of his or her immediate family.

(5) The director may summarily remove a person from the list of qualified car club representatives upon written notice. Such person may reapply for inclusion on the list upon presentation of suitable evidence satisfying the director that the cause for removal from the list has been corrected, eliminated, no longer exists, or will not affect or interfere with the person's judgment or qualifications for inspection of vehicles to determine whether or not any replacement parts are essentially the same in design and material to that originally supplied by the original manufacturer for the specific year, make, and model of vehicle.

(6) The department may adopt and promulgate rules and regulations to carry out this section.

Source: Laws 2006, LB 663, § 8; Laws 2012, LB801, § 28.

60-142.04 Reconstructed vehicle; application for certificate of title; procedure.

The owner of a vehicle which was manufactured or assembled more than thirty years prior to application for a certificate of title with one or more major component parts replaced by replacement parts, other than replacement parts that are essentially the same in design and material to that originally supplied by the manufacturer for the specific year, make, and model of vehicle, may apply for a certificate of title by presenting a certificate of title for one major component part, a notarized bill of sale for all other major component parts replaced, a statement that an inspection has been conducted on the vehicle, and a vehicle identification number as described in section 60-148. The certificate of title shall indicate the year the vehicle resembles, the make the vehicle resembles, and the model the vehicle resembles and shall be branded as reconstructed.

Source: Laws 2006, LB 663, § 9; Laws 2018, LB909, § 20.

60-142.05 Replica vehicle; application for certificate of title; procedure.

The owner of a kit vehicle may apply for a certificate of title by presenting a manufacturer's statement of origin for the kit, a notarized bill of sale for all major component parts not in the kit, a statement that an inspection has been conducted on the vehicle, and a vehicle identification number as described in section 60-148. The certificate of title shall indicate the year the vehicle resembles, the make the vehicle resembles, and the model the vehicle resembles and shall be branded as replica.

Source: Laws 2006, LB 663, § 10; Laws 2018, LB909, § 21.

60-142.06 Certificate of title as assembled vehicle; application for certificate of title indicating year, make, and model; procedure.

An owner of a vehicle which has been issued a certificate of title as an assembled vehicle prior to April 12, 2018, in this state may have the vehicle inspected by a qualified car club representative who shall determine whether or not any modifications or replacement parts are essentially the same in design and material to that originally supplied by the manufacturer for the specific year, make, and model of vehicle and obtain a statement as provided in section 60-142.03. The owner may apply for a certificate of title indicating the year, make, and model of the vehicle by presenting the statement and an application for certificate of title to the department. After review of the application, the department shall issue the certificate of title to the owner if the vehicle meets the specifications provided in section 60-142.02.

Source: Laws 2006, LB 663, § 11; Laws 2018, LB909, § 22.

60-142.08 Low-speed vehicle; application for certificate of title indicating year and make; procedure.

If a low-speed vehicle does not have a manufacturer's vehicle identification number, the owner of the low-speed vehicle may apply for a certificate of title by presenting a manufacturer's statement of origin for the low-speed vehicle, a statement that an inspection has been conducted on the low-speed vehicle, and a vehicle identification number as described in section 60-148. The certificate of title shall indicate the year of the low-speed vehicle as the year application for title was made and the make of the low-speed vehicle.

Source: Laws 2011, LB289, § 10.

60-142.09 Vehicle manufactured more than thirty years prior to application for certificate of title; department; duties.

If the owner does not have a certificate of title for a vehicle manufactured more than thirty years prior to application for a certificate of title which has not had any major component part replaced, the department shall search its records and any records readily accessible to the department for evidence of issuance of a certificate of title for such vehicle at the request of the owner. If no certificate of title has been issued, the owner may apply for a certificate of title indicating that the year, make, and model of the vehicle is that originally designated by the manufacturer by presenting a notarized bill of sale, an affidavit in support of the application for title, and a statement that an inspection has been conducted on the vehicle.

Source: Laws 2017, LB263, § 10.

60-142.10 Vehicle manufactured more than thirty years prior to application for certificate of title; fee.

For each certificate of title issued by the department under section 60-142.09, the fee shall be twenty-five dollars, which shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

Source: Laws 2017, LB263, § 11.

60-142.11 Assembled vehicle; application for certificate of title; procedure.

The owner of an assembled vehicle may apply for a certificate of title by presenting a certificate of title for one major component part, a notarized bill of sale for all other major component parts replaced, a statement that an inspection has been conducted on the vehicle, and a vehicle identification number as described in section 60-148. The certificate of title shall indicate the year of the vehicle as the year application for title was made and the make of the vehicle as assembled.

Source: Laws 2018, LB909, § 23.

60-142.12 Former military vehicle; application for certificate of title; procedure.

The owner of a former military vehicle may apply for a certificate of title by presenting (1) a manufacturer's certificate of origin, (2) a certificate of title from another state, (3) a court order issued by a court of record, (4) an assigned registration certificate, if the law of the state from which the vehicle was brought into this state does not require a certificate of title, (5) a United States Government Certificate to Obtain Title to a Vehicle, or (6) evidence of ownership as provided for in section 30-24,125, sections 52-601.01 to 52-605, sections 60-1901 to 60-1911, or sections 60-2401 to 60-2411, or documentation of compliance with section 76-1607.

Source: Laws 2019, LB156, § 4.

60-144 Certificate of title; issuance; filing; application; contents; form.

(1)(a)(i) Except as provided in subdivisions (b), (c), and (d) of this subsection, the county treasurer shall be responsible for issuing and filing certificates of title for vehicles, and each county shall issue and file such certificates of title using the Vehicle Title and Registration System which shall be provided and

maintained by the department. Application for a certificate of title shall be made upon a form prescribed by the department. All applications shall be accompanied by the appropriate fee or fees.

(ii) This subdivision applies beginning on an implementation date designated by the director. The director shall designate an implementation date which is on or before January 1, 2021. In addition to the information required under subdivision (1)(a)(i) of this section, the application for a certificate of title shall contain (A)(I) the full legal name as defined in section 60-468.01 of each owner or (II) the name of each owner as such name appears on the owner's motor vehicle operator's license or state identification card and (B)(I) the motor vehicle operator's license number or state identification card number of each owner, if applicable, and one or more of the identification elements as listed in section 60-484 of each owner, if applicable, and (II) if any owner is a business entity, a nonprofit organization, an estate, a trust, or a church-controlled organization, its tax identification number.

(b) The department shall issue and file certificates of title for Nebraska-based fleet vehicles. Application for a certificate of title shall be made upon a form prescribed by the department. All applications shall be accompanied by the appropriate fee or fees.

(c) The department shall issue and file certificates of title for state-owned vehicles. Application for a certificate of title shall be made upon a form prescribed by the department. All applications shall be accompanied by the appropriate fee or fees.

(d) The department shall issue certificates of title pursuant to subsection (2) of section 60-142.01 and section 60-142.06. Application for a certificate of title shall be made upon a form prescribed by the department. All applications shall be accompanied by the appropriate fee or fees.

(e) The department shall issue certificates of title pursuant to section 60-142.09. Application for a certificate of title shall be made upon a form prescribed by the department. All applications shall be accompanied by the appropriate fee or fees.

(2) If the owner of an all-terrain vehicle, a utility-type vehicle, or a minibike resides in Nebraska, the application shall be filed with the county treasurer of the county in which the owner resides.

(3)(a) If a vehicle has situs in Nebraska, the application for a certificate of title may be filed with the county treasurer of any county.

(b) If a motor vehicle dealer licensed under the Motor Vehicle Industry Regulation Act applies for a certificate of title for a vehicle, the application may be filed with the county treasurer of any county.

(c) An approved licensed dealer participating in the electronic dealer services system pursuant to section 60-1507 may apply for a certificate of title for a vehicle to the county treasurer of any county or the department in a manner provided by the electronic dealer services system.

(4) If the owner of a vehicle is a nonresident, the application shall be filed in the county in which the transaction is consummated.

(5) The application shall be filed within thirty days after the delivery of the vehicle.

(6) All applicants registering a vehicle pursuant to section 60-3,198 shall file the application for a certificate of title with the Division of Motor Carrier

Services of the department. The division shall deliver the certificate to the applicant if there are no liens on the vehicle. If there are one or more liens on the vehicle, the certificate of title shall be handled as provided in section 60-164. All certificates of title issued by the division shall be issued in the manner prescribed for the county treasurer in section 60-152.

Source: Laws 2005, LB 276, § 44; Laws 2006, LB 663, § 13; Laws 2006, LB 765, § 3; Laws 2009, LB202, § 12; Laws 2010, LB650, § 11; Laws 2010, LB816, § 4; Laws 2011, LB212, § 2; Laws 2012, LB801, § 29; Laws 2015, LB642, § 3; Laws 2017, LB263, § 13; Laws 2019, LB270, § 7; Laws 2020, LB944, § 8.
Operative date August 7, 2020.

Cross References

Motor Vehicle Industry Regulation Act, see section 60-1401.

60-146 Application; identification inspection required; exceptions; form; procedure; additional inspection authorized; agreement with franchisee; county sheriff; duties.

(1) An application for a certificate of title for a vehicle shall include a statement that an identification inspection has been conducted on the vehicle unless (a) the title sought is a salvage branded certificate of title or a nontransferable certificate of title, (b) the surrendered ownership document is a Nebraska certificate of title, a manufacturer's statement of origin, an importer's statement of origin, a United States Government Certificate of Release of a vehicle, or a nontransferable certificate of title, (c) the application contains a statement that the vehicle is to be registered under section 60-3,198, (d) the vehicle is a cabin trailer, (e) the title sought is the first title for the vehicle sold directly by the manufacturer of the vehicle to a dealer franchised by the manufacturer, or (f) the vehicle was sold at an auction authorized by the manufacturer and purchased by a dealer franchised by the manufacturer of the vehicle.

(2) The department shall prescribe a form to be executed by a dealer and submitted with an application for a certificate of title for vehicles exempt from inspection pursuant to subdivision (1)(e) or (f) of this section. The form shall clearly identify the vehicle and state under penalty of law that the vehicle is exempt from inspection.

(3) The statement that an identification inspection has been conducted shall be furnished by the county sheriff of any county or by any other holder of a certificate of training issued pursuant to section 60-183, shall be in a format as determined by the department, and shall expire ninety days after the date of the inspection. The county treasurer shall accept a certificate of inspection, approved by the superintendent, from an officer of a state police agency of another state unless an inspection is required under section 60-174.

(4)(a) Except as provided in subdivision (b) of this subsection, the identification inspection shall include examination and notation of the then current odometer reading, if any, and a comparison of the vehicle identification number with the number listed on the ownership records, except that if a lien is registered against a vehicle and recorded on the vehicle's ownership records, the county treasurer shall provide a copy of the ownership records for use in making such comparison. If such numbers are not identical, if there is reason to believe further inspection is necessary, or if the inspection is for a Nebraska

assigned number, the person performing the inspection shall make a further inspection of the vehicle which may include, but shall not be limited to, examination of other identifying numbers placed on the vehicle by the manufacturer and an inquiry into the numbering system used by the state issuing such ownership records to determine ownership of a vehicle. The identification inspection shall also include a statement that the vehicle identification number has been checked for entry in the National Crime Information Center and the Nebraska Crime Information Service. In the case of an assembled vehicle, a vehicle designated as reconstructed, or a vehicle designated as replica, the identification inspection shall include, but not be limited to, an examination of the records showing the date of receipt and source of each major component part. No identification inspection shall be conducted unless all major component parts are properly attached to the vehicle in the correct location.

(b) Each county sheriff shall establish a process to enter into an agreement with any franchisee as defined in section 60-1401.19 licensed under the Motor Vehicle Industry Regulation Act with a franchise location in the county in which the sheriff has jurisdiction to collect information for the identification inspection on motor vehicles which are in the inventory of the franchisee and which are at a franchise location in such county. The agreement shall require that the franchisee provide the required fee, a copy of the documents evidencing transfer of ownership, and the make, model, vehicle identification number, and odometer reading in a form and manner prescribed by the county sheriff, which shall include a requirement to provide one or more photographs or digital images of the vehicle, the vehicle identification number, and the odometer reading. The county sheriff shall complete the identification inspection as required under subdivision (a) of this subsection using such information and return to the franchisee the statement that an identification inspection has been conducted for each motor vehicle as provided in subsection (3) of this section. If the information is incomplete or if there is reason to believe that further inspection is necessary, the county sheriff shall inform the franchisee. If the franchisee knowingly provides inaccurate or false information, the franchisee shall be liable for any damages that result from the provision of such information. The franchisee shall keep the records for five years after the date the identification inspection is complete.

(5) If there is cause to believe that odometer fraud exists, written notification shall be given to the office of the Attorney General. If after such inspection the sheriff or his or her designee determines that the vehicle is not the vehicle described by the ownership records, no statement shall be issued.

(6) The county treasurer or the department may also request an identification inspection of a vehicle to determine if it meets the definition of motor vehicle as defined in section 60-123.

Source: Laws 2005, LB 276, § 46; Laws 2006, LB 765, § 4; Laws 2007, LB286, § 11; Laws 2012, LB801, § 30; Laws 2018, LB909, § 24; Laws 2019, LB80, § 1.

Cross References

Motor Vehicle Industry Regulation Act, see section 60-1401.

60-147 Mobile home or cabin trailer; application; contents; mobile home transfer statement.

(1) An application for a certificate of title for a mobile home or cabin trailer shall be accompanied by a certificate that states that sales or use tax has been paid on the purchase of the mobile home or cabin trailer or that the transfer of title was exempt from sales and use taxes. The county treasurer shall issue a certificate of title for a mobile home or cabin trailer but shall not deliver the certificate of title unless the certificate required under this subsection accompanies the application for certificate of title for the mobile home or cabin trailer, except that the failure of the application to be accompanied by such certificate shall not prevent the notation of a lien on the certificate of title to the mobile home or cabin trailer pursuant to section 60-164.

(2) An application for a certificate of title to a mobile home shall be accompanied by a mobile home transfer statement prescribed by the Tax Commissioner. The mobile home transfer statement shall be filed by the applicant with the county treasurer of the county of application for title. The county treasurer shall issue a certificate of title to a mobile home but shall not deliver the certificate of title unless the mobile home transfer statement accompanies the application for title, except that the failure to provide the mobile home transfer statement shall not prevent the notation of a lien on the certificate of title to the mobile home pursuant to section 60-164 and delivery to the holder of the first lien.

Source: Laws 2005, LB 276, § 47; Laws 2007, LB166, § 1; Laws 2007, LB334, § 9; Laws 2009, LB202, § 13; Laws 2012, LB801, § 31.

60-148 Assignment of distinguishing identification number; when.

(1) Whenever a person applies for a certificate of title for a vehicle, the department shall assign a distinguishing identification number to the vehicle if the vehicle identification number is destroyed, obliterated, or missing. The owner of such a vehicle to which such number is assigned shall have such number affixed to such vehicle as provided in subsection (2) of this section and sign an affidavit on a form prepared by the department that such number has been attached. Before the certificate of title for an assigned number is released to the applicant by the county treasurer, the applicant shall also provide a statement that an inspection has been conducted.

(2) The department shall develop a metallic assigned vehicle identification number plate which can be permanently secured to a vehicle by rivets or a permanent sticker or other form of marking or identifying the vehicle with the distinguishing identification number as determined by the director. All distinguishing identification numbers shall contain seventeen characters in conformance with national standards. When the manufacturer's vehicle identification number is known, it shall be used by the department as the assigned number. In the case of an assembled all-terrain vehicle, a utility-type vehicle, a minibike, an assembled vehicle, a vehicle designated as reconstructed, or a vehicle designated as replica, the department shall use a distinguishing identification number. The department shall, upon application by an owner, provide the owner with a number plate or a permanent sticker or other form of marking or identification displaying a distinguishing identification number or the manufacturer's number.

(3) Any vehicle to which a distinguishing identification number is assigned shall be titled under such distinguishing identification number when titling of the vehicle is required under the Motor Vehicle Certificate of Title Act.

Source: Laws 2005, LB 276, § 48; Laws 2006, LB 663, § 14; Laws 2010, LB650, § 12; Laws 2012, LB801, § 32; Laws 2018, LB909, § 25.

60-149 Application; documentation required.

(1)(a) If a certificate of title has previously been issued for a vehicle in this state, the application for a new certificate of title shall be accompanied by the certificate of title duly assigned except as otherwise provided in the Motor Vehicle Certificate of Title Act.

(b) Except for manufactured homes or mobile homes as provided in subsection (2) of this section, if a certificate of title has not previously been issued for the vehicle in this state or if a certificate of title is unavailable, the application shall be accompanied by:

(i) A manufacturer's or importer's certificate except as otherwise provided in subdivision (viii) of this subdivision;

(ii) A duly certified copy of the manufacturer's or importer's certificate;

(iii) An affidavit by the owner affirming ownership in the case of an all-terrain vehicle, a utility-type vehicle, or a minibike;

(iv) A certificate of title from another state;

(v) A court order issued by a court of record, a manufacturer's certificate of origin, or an assigned registration certificate, if the law of the state from which the vehicle was brought into this state does not have a certificate of title law;

(vi) Evidence of ownership as provided for in section 30-24,125, sections 52-601.01 to 52-605, sections 60-1901 to 60-1911, or sections 60-2401 to 60-2411;

(vii) Documentation prescribed in section 60-142.01, 60-142.02, 60-142.04, 60-142.05, 60-142.09, or 60-142.11 or documentation of compliance with section 76-1607;

(viii) A manufacturer's or importer's certificate and an affidavit by the owner affirming ownership in the case of a minitruck; or

(ix) In the case of a motor vehicle, a trailer, an all-terrain vehicle, a utility-type vehicle, or a minibike, an affidavit by the holder of a motor vehicle auction dealer's license as described in subdivision (11) of section 60-1406 affirming that the certificate of title is unavailable and that the vehicle (A) is a salvage vehicle through payment of a total loss settlement, (B) is a salvage vehicle purchased by the auction dealer, or (C) has been donated to an organization operating under section 501(c)(3) of the Internal Revenue Code as defined in section 49-801.01.

(c) If the application for a certificate of title in this state is accompanied by a valid certificate of title issued by another state which meets that state's requirements for transfer of ownership, then the application may be accepted by this state.

(d) If a certificate of title has not previously been issued for the vehicle in this state and the applicant is unable to provide such documentation, the applicant may apply for a bonded certificate of title as prescribed in section 60-167.

(2)(a) If the application for a certificate of title for a manufactured home or a mobile home is being made in accordance with subdivision (4)(b) of section 60-137 or if the certificate of title for a manufactured home or a mobile home is unavailable, the application shall be accompanied by proof of ownership in the form of:

(i) A duly assigned manufacturer's or importer's certificate;

(ii) A certificate of title from another state;
(iii) A court order issued by a court of record;
(iv) Evidence of ownership as provided for in section 30-24,125, sections 52-601.01 to 52-605, sections 60-1901 to 60-1911, or sections 60-2401 to 60-2411, or documentation of compliance with section 76-1607; or

(v) Assessment records for the manufactured home or mobile home from the county assessor and an affidavit by the owner affirming ownership.

(b) If the applicant cannot produce proof of ownership described in subdivision (a) of this subsection, he or she may submit to the department such evidence as he or she may have, and the department may thereupon, if it finds the evidence sufficient, issue the certificate of title or authorize the county treasurer to issue a certificate of title, as the case may be.

(3) For purposes of this section, certificate of title includes a salvage certificate, a salvage branded certificate of title, or any other document of ownership issued by another state or jurisdiction for a salvage vehicle. Only a salvage branded certificate of title shall be issued to any vehicle conveyed upon a salvage certificate, a salvage branded certificate of title, or any other document of ownership issued by another state or jurisdiction for a salvage vehicle.

(4) The county treasurer shall retain the evidence of title presented by the applicant and on which the certificate of title is issued.

(5)(a) If an affidavit is submitted under subdivision (1)(b)(ix) of this section, the holder of a motor vehicle auction dealer's license shall certify that (i) it has made at least two written attempts and has been unable to obtain the properly endorsed certificate of title to the property noted in the affidavit from the owner and (ii) thirty days have expired after the mailing of a written notice regarding the intended disposition of the property noted in the affidavit by certified mail, return receipt requested, to the last-known address of the owner and to any lien or security interest holder of record of the property noted in the affidavit.

(b) The notice under subdivision (5)(a)(ii) of this section shall contain a description of the property noted in the affidavit and a statement that title to the property noted in the affidavit shall vest in the holder of the motor vehicle auction dealer's license thirty days after the date such notice was mailed.

(c) The mailing of notice and the expiration of thirty days under subdivision (5)(a)(ii) of this section shall extinguish any lien or security interest of a lienholder or security interest holder in the property noted in the affidavit, unless the lienholder or security interest holder has claimed such property within such thirty-day period. The holder of a motor vehicle auction dealer's license shall transfer possession of the property noted in the affidavit to the lienholder or security interest holder claiming such property.

Source: Laws 2005, LB 276, § 49; Laws 2006, LB 663, § 15; Laws 2010, LB650, § 13; Laws 2010, LB933, § 1; Laws 2012, LB801, § 33; Laws 2017, LB263, § 14; Laws 2017, LB492, § 12; Laws 2018, LB275, § 1; Laws 2018, LB909, § 26; Laws 2019, LB270, § 8.

60-150 Application; county treasurer; duties.

The county treasurer shall use reasonable diligence in ascertaining whether or not the statements in the application for a certificate of title are true by checking the application and documents accompanying the same with the records available. If he or she is satisfied that the applicant is the owner of such

vehicle and that the application is in the proper form, the county treasurer shall issue a certificate of title over his or her signature and sealed with the appropriate seal.

Source: Laws 2005, LB 276, § 50; Laws 2012, LB801, § 34.

60-151 Certificate of title obtained in name of purchaser; exceptions.

(1) The certificate of title for a vehicle shall be obtained in the name of the purchaser upon application signed by the purchaser, except that (a) for titles to be held by a married couple, applications may be accepted upon the signature of either spouse as a signature for himself or herself and as agent for his or her spouse and (b) for an applicant providing proof that he or she is a handicapped or disabled person as defined in section 60-331.02, applications may be accepted upon the signature of the applicant's parent, legal guardian, foster parent, or agent.

(2) This subsection applies beginning on an implementation date designated by the director. The director shall designate an implementation date which is on or before January 1, 2021. If the purchaser of a vehicle does not obtain a certificate of title in accordance with subsection (1) of this section within thirty days after the sale of the vehicle, the seller of such vehicle may request the department to update the electronic certificate of title record. The department shall update such record upon receiving evidence of a sale satisfactory to the director.

Source: Laws 2005, LB 276, § 51; Laws 2011, LB163, § 14; Laws 2019, LB111, § 2; Laws 2019, LB270, § 9.

60-152 Certificate of title; issuance; delivery of copies; seal; county treasurer; duties.

(1) The county treasurer shall issue a certificate of title for a vehicle in duplicate and retain one copy in his or her office. An electronic copy, in a form prescribed by the department, shall be transmitted on the day of issuance to the department. The county treasurer shall sign and affix the appropriate seal to the original certificate of title and, if there are no liens on the vehicle, deliver the certificate to the applicant. If there are one or more liens on the vehicle, the certificate of title shall be handled as provided in section 60-164 or 60-165.

(2) The county treasurers of the various counties shall adopt a circular seal with the words County Treasurer of (insert name) County thereon. Such seal shall be used by the county treasurer or the deputy or legal authorized agent of such officer, without charge to the applicant, on any certificate of title, application for certificate of title, duplicate copy, assignment or reassignment, power of attorney, statement, or affidavit pertaining to the issuance of a Nebraska certificate of title.

(3) The department shall prescribe a uniform method of numbering certificates of title.

(4) The county treasurer shall (a) file all certificates of title according to rules and regulations adopted and promulgated by the department, (b) maintain in the office indices for such certificates of title, (c) be authorized to destroy all previous records five years after a subsequent transfer has been made on a vehicle, and (d) be authorized to destroy all certificates of title and all supporting records and documents which have been on file for a period of five years or

more from the date of filing the certificate or a notation of lien, whichever occurs later.

Source: Laws 2005, LB 276, § 52; Laws 2007, LB286, § 12; Laws 2009, LB202, § 14; Laws 2012, LB801, § 35.

60-153 Certificate of title; form; contents; secure power-of-attorney form.

(1) A certificate of title shall be printed upon safety security paper to be selected by the department. The certificate of title, manufacturer's statement of origin, and assignment of manufacturer's certificate shall be upon forms prescribed by the department and may include, but shall not be limited to, county of issuance, date of issuance, certificate of title number, previous certificate of title number, vehicle identification number, year, make, model, and body type of the vehicle, name and residential and mailing address of the owner, acquisition date, issuing county treasurer's signature and official seal, and sufficient space for the notation and release of liens, mortgages, or encumbrances, if any. A certificate of title issued on or after September 1, 2007, shall include the words "void if altered". A certificate of title that is altered shall be deemed a mutilated certificate of title. The certificate of title of an all-terrain vehicle, utility-type vehicle, or minibike shall include the words "not to be registered for road use".

(2) An assignment of certificate of title shall appear on each certificate of title and shall include, but not be limited to, a statement that the owner of the vehicle assigns all his or her right, title, and interest in the vehicle, the name and address of the assignee, the name and address of the lienholder or secured party, if any, and the signature of the owner or the owner's parent, legal guardian, foster parent, or agent in the case of an owner who is a handicapped or disabled person as defined in section 60-331.02.

(3) A reassignment by a dealer shall appear on each certificate of title and shall include, but not be limited to, a statement that the dealer assigns all his or her right, title, and interest in the vehicle, the name and address of the assignee, the name and address of the lienholder or secured party, if any, and the signature of the dealer or designated representative. Reassignments shall be printed on the reverse side of each certificate of title as many times as convenient.

(4) The department may prescribe a secure power-of-attorney form and may contract with one or more persons to develop, provide, sell, and distribute secure power-of-attorney forms in the manner authorized or required by the federal Truth in Mileage Act of 1986 and any other federal law or regulation. Any secure power-of-attorney form authorized pursuant to a contract shall conform to the terms of the contract and be in strict compliance with the requirements of the department.

(5) A certificate of title for a former military vehicle shall include the words "former military vehicle".

Source: Laws 2005, LB 276, § 53; Laws 2007, LB286, § 13; Laws 2010, LB650, § 14; Laws 2011, LB163, § 15; Laws 2012, LB801, § 36; Laws 2019, LB156, § 5.

60-154 Fees.

(1)(a) For each original certificate of title issued by a county for a motor vehicle or trailer, the fee shall be ten dollars. Three dollars and twenty-five cents shall be retained by the county. Four dollars shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund. Two dollars shall be remitted to the State Treasurer for credit to the General Fund. Seventy-five cents shall be remitted to the State Treasurer for credit as follows: Twenty cents to the Motor Vehicle Fraud Cash Fund; forty-five cents to the Nebraska State Patrol Cash Fund; and ten cents to the Nebraska Motor Vehicle Industry Licensing Fund.

(b) For each original certificate of title issued by a county for an all-terrain vehicle, a utility-type vehicle, or a minibike, the fee shall be ten dollars. Three dollars and twenty-five cents shall be retained by the county. Four dollars shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund. Two dollars shall be remitted to the State Treasurer for credit to the General Fund. Seventy-five cents shall be remitted to the State Treasurer for credit as follows: Twenty cents to the Motor Vehicle Fraud Cash Fund; and fifty-five cents to the Nebraska State Patrol Cash Fund.

(2) For each original certificate of title issued by the department for a vehicle except as provided in section 60-159.01, the fee shall be ten dollars. Four dollars shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund. Six dollars shall be remitted to the State Treasurer for credit to the Motor Carrier Division Cash Fund.

(3) An approved licensed dealer participating in the electronic dealer services system pursuant to section 60-1507 may collect the fees prescribed by this section and shall remit any such fees to the appropriate county treasurer or the department.

Source: Laws 2005, LB 276, § 54; Laws 2006, LB 663, § 16; Laws 2006, LB 1061, § 7; Laws 2010, LB650, § 15; Laws 2012, LB751, § 7; Laws 2017, LB263, § 15.

60-155 Notation of lien; fees.

(1) For each notation of a lien by a county, the fee shall be seven dollars. Two dollars shall be retained by the county. Four dollars shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund. One dollar shall be remitted to the State Treasurer for credit to the General Fund.

(2) For each notation of a lien by the department, the fee shall be seven dollars. Four dollars shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund. Three dollars shall be remitted to the State Treasurer for credit to the Motor Carrier Division Cash Fund.

(3) An approved licensed dealer participating in the electronic dealer services system pursuant to section 60-1507 may collect the fees prescribed by this section and shall remit any such fees to the appropriate county treasurer or the department.

Source: Laws 2005, LB 276, § 55; Laws 2013, LB30, § 1; Laws 2017, LB263, § 16.

60-156 Duplicate certificate of title; fees.

(1) For each duplicate certificate of title issued by a county for a vehicle, the fee shall be fourteen dollars. Ten dollars shall be retained by the county. Four

dollars shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

(2) For each duplicate certificate of title issued by the department for a vehicle, the fee shall be fourteen dollars. Four dollars shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund. Ten dollars shall be remitted to the State Treasurer for credit to the Motor Carrier Division Cash Fund.

Source: Laws 2005, LB 276, § 56; Laws 2013, LB30, § 2.

60-161 County treasurer; remit funds; when.

The county treasurer shall remit all funds due the State Treasurer under sections 60-154 to 60-160 monthly and not later than the twentieth day of the month following collection. The county treasurer shall credit the fees not due the State Treasurer to the county general fund.

Source: Laws 2005, LB 276, § 61; Laws 2011, LB135, § 2; Laws 2012, LB801, § 37; Laws 2017, LB263, § 17.

60-162 Department; powers; rules and regulations.

(1) The department may adopt and promulgate rules and regulations to insure uniform and orderly operation of the Motor Vehicle Certificate of Title Act, and the county treasurer of each county shall conform to such rules and regulations and proceed at the direction of the department. The department shall also provide the county treasurers with the necessary training for the proper administration of the act.

(2) The department shall receive all instruments relating to vehicles forwarded to it by the county treasurers under the act and shall maintain indices covering the state at large for the instruments so received. These indices shall be by motor number or by an identification number and alphabetically by the owner's name and shall be for the state at large and not for individual counties.

(3) The department shall provide and furnish the forms required by the act, except manufacturers' or importers' certificates.

(4) The county treasurer shall keep on hand a sufficient supply of blank forms which, except certificate of title forms, shall be furnished and distributed without charge to manufacturers, dealers, or other persons residing within the county.

Source: Laws 2005, LB 276, § 62; Laws 2012, LB801, § 38.

60-162.01 Repealed. Laws 2012, LB 801, § 102.

60-163 Department; cancellation of certificate of title; procedure.

(1) The department shall check with its records all duplicate certificates of title received from a county treasurer. If it appears that a certificate of title has been improperly issued, the department shall cancel the same. Upon cancellation of any certificate of title, the department shall notify the county treasurer who issued the same, and such county treasurer shall thereupon enter the cancellation upon his or her records. The department shall also notify the person to whom such certificate of title was issued, as well as any lienholders appearing thereon, of the cancellation and shall demand the surrender of such certificate of title, but the cancellation shall not affect the validity of any lien

noted thereon. The holder of such certificate of title shall return the same to the department forthwith.

(2) If a certificate of registration has been issued to the holder of a certificate of title so canceled, the department shall immediately cancel the same and demand the return of such certificate of registration and license plates or tags, and the holder of such certificate of registration and license plates or tags shall return the same to the department forthwith.

Source: Laws 2005, LB 276, § 63; Laws 2012, LB801, § 39.

60-164 Department; implement electronic title and lien system for vehicles; liens on motor vehicles; when valid; notation on certificate; inventory, exception; priority; adjustment to rental price; how construed; notation of cancellation; failure to deliver certificate; damages; release.

(1) The department shall implement an electronic title and lien system for vehicles. The holder of a security interest, trust receipt, conditional sales contract, or similar instrument regarding a vehicle, or beginning on the implementation date determined by the director pursuant to subsection (7) of section 60-1507, a licensed dealer, may file a lien electronically as prescribed by the department. Upon receipt of an application for a certificate of title for a vehicle, any lien filed electronically shall become part of the electronic certificate of title record created by the county treasurer or department maintained on the electronic title and lien system. If an application for a certificate of title indicates that there is a lien or encumbrance on a vehicle or if a lien or notice of lien has been filed electronically, the department shall retain an electronic certificate of title record and shall note and cancel such liens electronically on the system. The department shall provide access to the electronic certificate of title records for licensed dealers and lienholders who participate in the system by a method determined by the director.

(2) Except as provided in section 60-165, the provisions of article 9, Uniform Commercial Code, shall never be construed to apply to or to permit or require the deposit, filing, or other record whatsoever of a security agreement, conveyance intended to operate as a mortgage, trust receipt, conditional sales contract, or similar instrument or any copy of the same covering a vehicle. Any mortgage, conveyance intended to operate as a security agreement as provided by article 9, Uniform Commercial Code, trust receipt, conditional sales contract, or other similar instrument covering a vehicle, if such instrument is accompanied by delivery of such manufacturer's or importer's certificate and followed by actual and continued possession of the same by the holder of such instrument or, in the case of a certificate of title, if a notation of the same has been made electronically as prescribed in subsection (1) of this section or by the county treasurer or department on the face of the certificate of title or on the electronic certificate of title record, shall be valid as against the creditors of the debtor, whether armed with process or not, and subsequent purchasers, secured parties, and other lienholders or claimants but otherwise shall not be valid against them, except that during any period in which a vehicle is inventory, as defined in section 9-102, Uniform Commercial Code, held for sale by a person or corporation that is required to be licensed as provided in the Motor Vehicle Industry Regulation Act and is in the business of selling such vehicles, the filing provisions of article 9, Uniform Commercial Code, as applied to inventory, shall apply to a security interest in such vehicle created by

such person or corporation as debtor without the notation of lien on the certificate of title. A buyer of a vehicle at retail from a dealer required to be licensed as provided in the Motor Vehicle Industry Regulation Act shall take such vehicle free of any security interest. A purchase-money security interest, as defined in section 9-103, Uniform Commercial Code, in a vehicle is perfected against the rights of judicial lien creditors and execution creditors on and after the date the purchase-money security interest attaches.

(3) Subject to subsections (1) and (2) of this section, all liens, security agreements, and encumbrances noted upon a certificate of title or an electronic certificate of title record and all liens noted electronically as prescribed in subsection (1) of this section shall take priority according to the order of time in which the same are noted by the county treasurer or department. Exposure for sale of any vehicle by the owner thereof with the knowledge or with the knowledge and consent of the holder of any lien, security agreement, or encumbrance on such vehicle shall not render the same void or ineffective as against the creditors of such owner or holder of subsequent liens, security agreements, or encumbrances upon such vehicle.

(4) The holder of a security agreement, trust receipt, conditional sales contract, or similar instrument, upon presentation of such instrument to the department or to any county treasurer, together with the certificate of title and the fee prescribed for notation of lien, may have a notation of such lien made on the face of such certificate of title. The owner of a vehicle may present a valid out-of-state certificate of title issued to such owner for such vehicle with a notation of lien on such certificate of title and the prescribed fee to the county treasurer or department and have the notation of lien made on the new certificate of title issued pursuant to section 60-144 without presenting a copy of the lien instrument. The county treasurer or the department shall enter the notation and the date thereof over the signature of the person making the notation and the seal of the office. If noted by a county treasurer, he or she shall on that day notify the department which shall note the lien on its records. The county treasurer or the department shall also indicate by appropriate notation and on such instrument itself the fact that such lien has been noted on the certificate of title.

(5) A transaction does not create a sale or a security interest in a vehicle, other than an all-terrain vehicle, a utility-type vehicle, or a minibike, merely because it provides that the rental price is permitted or required to be adjusted under the agreement either upward or downward by reference to the amount realized upon sale or other disposition of the vehicle.

(6) The county treasurer or the department, upon receipt of a lien instrument duly signed by the owner in the manner prescribed by law governing such lien instruments together with the fee prescribed for notation of lien, shall notify the first lienholder to deliver to the county treasurer or the department, within fifteen days after the date of notice, the certificate of title to permit notation of such other lien and, after notation of such other lien, the county treasurer or the department shall deliver the certificate of title to the first lienholder. The holder of a certificate of title who refuses to deliver a certificate of title to the county treasurer or the department for the purpose of showing such other lien on such certificate of title within fifteen days after the date of notice shall be liable for damages to such other lienholder for the amount of damages such other lienholder suffered by reason of the holder of the certificate of title refusing to permit the showing of such lien on the certificate of title.

(7) Upon receipt of a subsequent lien instrument duly signed by the owner in the manner prescribed by law governing such lien instruments or a notice of lien filed electronically, together with an application for notation of the subsequent lien, the fee prescribed in section 60-154, and, if a printed certificate of title exists, the presentation of the certificate of title, the county treasurer or department shall make notation of such other lien. If the certificate of title is not an electronic certificate of title record, the county treasurer or department, upon receipt of a lien instrument duly signed by the owner in the manner prescribed by law governing such lien instruments together with the fee prescribed for notation of lien, shall notify the first lienholder to deliver to the county treasurer or department, within fifteen days after the date of notice, the certificate of title to permit notation of such other lien. After such notation of lien, the lien shall become part of the electronic certificate of title record created by the county treasurer or department which is maintained on the electronic title and lien system. The holder of a certificate of title who refuses to deliver a certificate of title to the county treasurer or department for the purpose of noting such other lien on such certificate of title within fifteen days after the date when notified to do so shall be liable for damages to such other lienholder for the amount of damages such other lienholder suffered by reason of the holder of the certificate of title refusing to permit the noting of such lien on the certificate of title.

(8) When a lien is discharged, the holder shall, within fifteen days after payment is received, note a cancellation of the lien on the certificate of title over his, her, or its signature and deliver the certificate of title to the county treasurer or the department, which shall note the cancellation of the lien on the face of the certificate of title and on the records of such office. If delivered to a county treasurer, he or she shall on that day notify the department which shall note the cancellation on its records. The county treasurer or the department shall then return the certificate of title to the owner or as otherwise directed by the owner. The cancellation of lien shall be noted on the certificate of title without charge. For an electronic certificate of title record, the lienholder shall, within fifteen days after payment is received when such lien is discharged, notify the department electronically or provide written notice of such lien release, in a manner prescribed by the department, to the county treasurer or department. The department shall note the cancellation of lien and, if no other liens exist, issue the certificate of title to the owner or as otherwise directed by the owner or lienholder. If the holder of the title cannot locate a lienholder, a lien may be discharged ten years after the date of filing by presenting proof that thirty days have passed since the mailing of a written notice by certified mail, return receipt requested, to the last-known address of the lienholder.

Source: Laws 2005, LB 276, § 64; Laws 2007, LB286, § 14; Laws 2008, LB756, § 3; Laws 2008, LB953, § 3; Laws 2009, LB202, § 15; Laws 2010, LB650, § 17; Laws 2010, LB816, § 5; Laws 2012, LB801, § 40; Laws 2017, LB263, § 18; Laws 2018, LB909, § 27.

Cross References

Motor Vehicle Industry Regulation Act, see section 60-1401.

60-164.01 Electronic certificate of title; changes authorized.

Beginning on the implementation date designated by the director pursuant to subsection (2) of section 60-1508, if a certificate of title is an electronic

certificate of title record, upon application by an owner or a lienholder and payment of the fee prescribed in section 60-154, the following changes may be made to a certificate of title electronically and without printing a certificate of title:

- (1) Changing the name of an owner to reflect a legal change of name;
- (2) Removing the name of an owner with the consent of all owners and lienholders; or
- (3) Adding an additional owner with the consent of all owners and lienholders.

Source: Laws 2017, LB263, § 19; Laws 2018, LB909, § 28.

60-165 Security interest in all-terrain vehicle, minibike, utility-type vehicle, or low-speed vehicle; perfection; priority; notation of lien; when.

(1) Any security interest in an all-terrain vehicle or minibike perfected pursuant to article 9, Uniform Commercial Code, before, on, or after January 1, 2004, in a utility-type vehicle so perfected before, on, or after January 1, 2011, or in a low-speed vehicle so perfected before, on, or after January 1, 2012, shall continue to be perfected until (a) the financing statement perfecting such security interest is terminated or lapses in the absence of the filing of a continuation statement pursuant to article 9, Uniform Commercial Code, or (b) an all-terrain vehicle, utility-type vehicle, minibike, or low-speed vehicle certificate of title is issued and a notation of lien is made as provided in section 60-164.

(2) Any lien noted on the face of an all-terrain vehicle, utility-type vehicle, minibike, or low-speed vehicle certificate of title or on an electronic certificate of title record pursuant to subsection (1), (3), (4), (5), or (6) of this section, on behalf of the holder of a security interest in the all-terrain vehicle, utility-type vehicle, minibike, or low-speed vehicle which was previously perfected pursuant to article 9, Uniform Commercial Code, shall have priority as of the date such security interest was originally perfected.

(3) The holder of a certificate of title for an all-terrain vehicle, utility-type vehicle, minibike, or low-speed vehicle shall, upon request, surrender the certificate of title to a holder of a previously perfected security interest in the all-terrain vehicle, utility-type vehicle, minibike, or low-speed vehicle to permit notation of a lien on the certificate of title or on an electronic certificate of title record and shall do such other acts as may be required to permit such notation.

(4) If the owner of an all-terrain vehicle or minibike subject to a security interest perfected pursuant to article 9, Uniform Commercial Code, fails or refuses to obtain a certificate of title after January 1, 2004, the security interest holder may obtain a certificate of title in the name of the owner of the all-terrain vehicle or minibike following the procedures of section 60-144 and may have a lien noted on the certificate of title or on an electronic certificate of title record pursuant to section 60-164.

(5) If the owner of a utility-type vehicle subject to a security interest perfected pursuant to article 9, Uniform Commercial Code, fails or refuses to obtain a certificate of title after January 1, 2011, the security interest holder may obtain a certificate of title in the name of the owner of the utility-type vehicle following the procedures of section 60-144 and may have a lien noted on the certificate of title or on an electronic certificate of title record pursuant to section 60-164.

(6) If the owner of a low-speed vehicle subject to a security interest perfected pursuant to article 9, Uniform Commercial Code, fails or refuses to obtain a certificate of title after January 1, 2012, the security interest holder may obtain a certificate of title in the name of the owner of the low-speed vehicle following the procedures of section 60-144 and may have a lien noted on the certificate of title or on an electronic certificate of title record pursuant to section 60-164.

(7) The assignment, release, or satisfaction of a security interest in an all-terrain vehicle, utility-type vehicle, minibike, or low-speed vehicle shall be governed by the laws under which it was perfected.

Source: Laws 2005, LB 276, § 65; Laws 2009, LB202, § 16; Laws 2010, LB650, § 18; Laws 2011, LB289, § 11.

60-165.01 Printed certificate of title; when issued.

(1) A lienholder, at the owner's request, may request the issuance of a printed certificate of title if the owner of the vehicle relocates to another state or country or if requested for any other purpose approved by the department. Upon proof by the owner that a lienholder has not provided the requested certificate of title within fifteen days after the owner's request, the department may issue to the owner a printed certificate of title with all liens duly noted.

(2) If a nonresident applying for a certificate of title pursuant to subsection (4) of section 60-144 indicates on the application that the applicant will immediately surrender the certificate of title to the appropriate official in the applicant's state of residence in order to have a certificate of title issued by that state and the county treasurer finds that there is a lien or encumbrance on the vehicle, the county treasurer shall issue a printed certificate of title with all liens duly noted and deliver the certificate of title to the applicant.

Source: Laws 2009, LB202, § 17; Laws 2015, LB94, § 1.

60-166 New certificate of title; issued when; proof required; processing of application.

(1)(a) This subsection applies prior to the implementation date designated by the Director of Motor Vehicles pursuant to subsection (2) of section 60-1508.

(b) In the event of (i) the transfer of ownership of a vehicle by operation of law as upon inheritance, devise, bequest, order in bankruptcy, insolvency, replevin, or execution sale or as provided in sections 30-24,125, 52-601.01 to 52-605, 60-1901 to 60-1911, and 60-2401 to 60-2411, (ii) the engine of a vehicle being replaced by another engine, (iii) a vehicle being sold to satisfy storage or repair charges or under section 76-1607, or (iv) repossession being had upon default in performance of the terms of a chattel mortgage, trust receipt, conditional sales contract, or other like agreement, the county treasurer of any county or the department, upon the surrender of the prior certificate of title or the manufacturer's or importer's certificate, or when that is not possible, upon presentation of satisfactory proof of ownership and right of possession to such vehicle, and upon payment of the appropriate fee and the presentation of an application for certificate of title, may issue to the applicant a certificate of title thereto.

(2)(a) This subsection applies beginning on the implementation date designated by the director pursuant to subsection (2) of section 60-1508.

(b) In the event of (i) the transfer of ownership of a vehicle by operation of law as upon inheritance, devise, bequest, order in bankruptcy, insolvency, replevin, or execution sale or as provided in section 30-24,125, sections 52-601.01 to 52-605, sections 60-1901 to 60-1911, and sections 60-2401 to 60-2411, (ii) the engine of a vehicle being replaced by another engine, (iii) a vehicle being sold to satisfy storage or repair charges or under section 76-1607, or (iv) repossession being had upon default in performance of the terms of a chattel mortgage, trust receipt, conditional sales contract, or other like agreement, and upon acceptance of an electronic certificate of title record after repossession, in addition to the title requirements in this section, the county treasurer of any county or the department, upon the surrender of the prior certificate of title or the manufacturer's or importer's certificate, or when that is not possible, upon presentation of satisfactory proof of ownership and right of possession to such vehicle, and upon payment of the appropriate fee and the presentation of an application for certificate of title, may issue to the applicant a certificate of title thereto.

(3) If the prior certificate of title issued for such vehicle provided for joint ownership with right of survivorship, a new certificate of title shall be issued to a subsequent purchaser upon the assignment of the prior certificate of title by the surviving owner and presentation of satisfactory proof of death of the deceased owner.

(4) Only an affidavit by the person or agent of the person to whom possession of such vehicle has so passed, setting forth facts entitling him or her to such possession and ownership, together with a copy of a court order or an instrument upon which such claim of possession and ownership is founded, shall be considered satisfactory proof of ownership and right of possession, except that if the applicant cannot produce such proof of ownership, he or she may submit to the department such evidence as he or she may have, and the department may thereupon, if it finds the evidence sufficient, issue the certificate of title or authorize any county treasurer to issue a certificate of title, as the case may be.

(5) If from the records of the county treasurer or the department there appear to be any liens on such vehicle, such certificate of title shall comply with section 60-164 or 60-165 regarding such liens unless the application is accompanied by proper evidence of their satisfaction or extinction.

Source: Laws 2005, LB 276, § 66; Laws 2007, LB286, § 15; Laws 2009, LB202, § 18; Laws 2012, LB751, § 8; Laws 2012, LB801, § 41; Laws 2017, LB263, § 20; Laws 2017, LB492, § 13; Laws 2018, LB193, § 87; Laws 2018, LB275, § 2; Laws 2018, LB909, § 29.

60-168 Certificate of title; loss or mutilation; duplicate certificate; subsequent purchaser, rights; recovery of original; duty of owner.

(1) In the event of a lost or mutilated certificate of title, the owner of the vehicle or the holder of a lien on the vehicle shall apply, upon a form prescribed by the department, to the department or to any county treasurer for a duplicate certificate of title and shall pay the fee prescribed by section 60-156. The application shall be signed and sworn to by the person making the application or a person authorized to sign under section 60-151. Thereupon the county treasurer, with the approval of the department, or the department shall issue a duplicate certificate of title to the person entitled to receive the

certificate of title. If the records of the title have been destroyed pursuant to section 60-152, the county treasurer shall issue a duplicate certificate of title to the person entitled to receive the same upon such showing as the county treasurer may deem sufficient. If the applicant cannot produce such proof of ownership, he or she may apply directly to the department and submit such evidence as he or she may have, and the department may, if it finds the evidence sufficient, authorize the county treasurer to issue a duplicate certificate of title. A duplicate certificate of title so issued shall show only those unreleased liens of record. The new purchaser shall be entitled to receive an original certificate of title upon presentation of the assigned duplicate copy of the certificate of title, properly assigned to the new purchaser, to the county treasurer prescribed in section 60-144.

(2) Any purchaser of a vehicle for which a certificate of title was lost or mutilated may at the time of purchase require the seller of the same to indemnify him or her and all subsequent purchasers of the vehicle against any loss which he, she, or they may suffer by reason of any claim presented upon the original certificate. In the event of the recovery of the original certificate of title by the owner, he or she shall forthwith surrender the same to the county treasurer or the department for cancellation.

Source: Laws 2005, LB 276, § 68; Laws 2007, LB286, § 16; Laws 2012, LB751, § 9; Laws 2012, LB801, § 42.

60-168.01 Certificate of title; failure to note required brand or lien; notice to holder of title; corrected certificate of title; failure of holder to deliver certificate; effect; removal of improperly noted lien on certificate of title; procedure.

(1) The department, upon receipt of clear and convincing evidence of a failure to note a required brand or failure to note a lien on a certificate of title, shall notify the holder of such certificate of title to deliver to the county treasurer or the department, within fifteen days after the date on the notice, such certificate of title to permit the noting of such brand or lien. After notation, the county treasurer or the department shall deliver the corrected certificate of title to the holder as provided by section 60-152. If a holder fails to deliver a certificate of title to the county treasurer or to the department, within fifteen days after the date on the notice for the purpose of noting such brand or lien on the certificate of title, the department shall cancel the certificate of title. This subsection does not apply when noting a lien in accordance with subsection (6) of section 60-164.

(2) The department may remove a lien on a certificate of title when such lien was improperly noted if evidence of the improperly noted lien is submitted to the department and the department finds the evidence sufficient to support removal of the lien. The department shall send notification prior to removal of the lien to the last-known address of the lienholder. The lienholder must respond within thirty days after the date on the notice and provide sufficient evidence to support that the lien should not be removed. If the lienholder fails to respond to the notice, the lien may be removed by the department.

Source: Laws 2007, LB286, § 17; Laws 2009, LB202, § 19; Laws 2012, LB801, § 43; Laws 2018, LB909, § 30.

60-168.02 Certificate of title in dealer's name; issuance authorized; documentation and fees required; dealer; duties.

(1) When a motor vehicle, trailer, or semitrailer is purchased by a motor vehicle dealer or trailer dealer and the original assigned certificate of title has been lost or mutilated, the dealer selling such motor vehicle or trailer may apply for an original certificate of title in the dealer's name. The following documentation and fees shall be submitted by the dealer:

- (a) An application for a certificate of title in the name of such dealer;
- (b) A photocopy from the dealer's records of the front and back of the lost or mutilated original certificate of title assigned to a dealer;
- (c) A notarized affidavit from the purchaser of such motor vehicle or trailer for which the original assigned certificate of title was lost or mutilated stating that the original assigned certificate of title was lost or mutilated; and
- (d) The appropriate certificate of title fee.

(2) The application and affidavit shall be on forms prescribed by the department. When the motor vehicle dealer or trailer dealer receives the new certificate of title in such dealer's name and assigns it to the purchaser, the dealer shall record the original sale date and provide the purchaser with a copy of the front and back of the original lost or mutilated certificate of title as evidence as to why the purchase date of the motor vehicle or trailer is prior to the issue date of the new certificate of title.

Source: Laws 2007, LB286, § 18; Laws 2008, LB756, § 4; Laws 2017, LB263, § 21.

60-169 Vehicle; certificate of title; surrender and cancellation; when required; licensed wrecker or salvage dealer; report; contents; fee; mobile home or manufactured home affixed to real property; certificate of title; surrender and cancellation; procedure; effect; detachment; owner; duties.

(1)(a) Except as otherwise provided in subdivision (c) of this subsection, each owner of a vehicle and each person mentioned as owner in the last certificate of title, when the vehicle is dismantled, destroyed, or changed in such a manner that it loses its character as a vehicle or changed in such a manner that it is not the vehicle described in the certificate of title, shall surrender his or her certificate of title to any county treasurer or to the department. If the certificate of title is surrendered to a county treasurer, he or she shall, with the consent of any holders of any liens noted thereon, enter a cancellation upon the records and shall notify the department of such cancellation. Beginning on the implementation date designated by the director pursuant to subsection (3) of section 60-1508, a wrecker or salvage dealer shall report electronically to the department using the electronic reporting system. If the certificate is surrendered to the department, it shall, with the consent of any holder of any lien noted thereon, enter a cancellation upon its records.

(b) This subdivision applies to all licensed wrecker or salvage dealers and, except as otherwise provided in this subdivision, to each vehicle located on the premises of such dealer. For each vehicle required to be reported under 28 C.F.R. 25.56, as such regulation existed on January 1, 2019, the information obtained by the department under this section may be reported to the National Motor Vehicle Title Information System in a format that will satisfy the requirement for reporting under 28 C.F.R. 25.56, as such regulation existed on January 1, 2019. Such report shall include:

- (i) The name, address, and contact information for the reporting entity;

- (ii) The vehicle identification number;
- (iii) The date the reporting entity obtained such motor vehicle;
- (iv) The name of the person from whom such motor vehicle was obtained, for use only by a law enforcement or other appropriate government agency;
- (v) A statement of whether the motor vehicle was or will be crushed, disposed of, offered for sale, or used for another purpose; and
- (vi) Whether the motor vehicle is intended for export outside of the United States.

The department may set and collect a fee, not to exceed the cost of reporting to the National Motor Vehicle Title Information System, from wrecker or salvage dealers for electronic reporting to the National Motor Vehicle Title Information System, which shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund. This subdivision does not apply to any vehicle reported by a wrecker or salvage dealer to the National Motor Vehicle Title Information System as required under 28 C.F.R. 25.56, as such regulation existed on January 1, 2019.

(c)(i) In the case of a mobile home or manufactured home for which a certificate of title has been issued, if such mobile home or manufactured home is affixed to real property in which each owner of the mobile home or manufactured home has any ownership interest, the certificate of title may be surrendered for cancellation to the county treasurer of the county where such mobile home or manufactured home is affixed to real property if at the time of surrender the owner submits to the county treasurer an affidavit of affixture on a form provided by the department that contains all of the following, as applicable:

(A) The names and addresses of all of the owners of record of the mobile home or manufactured home;

(B) A description of the mobile home or manufactured home that includes the name of the manufacturer, the year of manufacture, the model, and the manufacturer's serial number;

(C) The legal description of the real property upon which the mobile home or manufactured home is affixed and the names of all of the owners of record of the real property;

(D) A statement that the mobile home or manufactured home is affixed to the real property;

(E) The written consent of each holder of a lien duly noted on the certificate of title to the release of such lien and the cancellation of the certificate of title;

(F) A copy of the certificate of title surrendered for cancellation; and

(G) The name and address of an owner, a financial institution, or another entity to which notice of cancellation of the certificate of title may be delivered.

(ii) The person submitting an affidavit of affixture pursuant to subdivision (c)(i) of this subsection shall swear or affirm that all statements in the affidavit are true and material and further acknowledge that any false statement in the affidavit may subject the person to penalties relating to perjury under section 28-915.

(2) If a certificate of title of a mobile home or manufactured home is surrendered to the county treasurer, along with the affidavit required by subdivision (1)(c) of this section, he or she shall enter a cancellation upon his or

her records, notify the department of such cancellation, forward a duplicate original of the affidavit to the department, and deliver a duplicate original of the executed affidavit under subdivision (1)(c) of this section to the register of deeds for the county in which the real property is located to be filed by the register of deeds. The county treasurer shall be entitled to collect fees from the person submitting the affidavit in accordance with section 33-109 to cover the costs of filing such affidavit. Following the cancellation of a certificate of title for a mobile home or manufactured home, the county treasurer or designated county official shall not issue a certificate of title for such mobile home or manufactured home, except as provided in subsection (5) of this section.

(3) If a mobile home or manufactured home is affixed to real estate before June 1, 2006, a person who is the holder of a lien or security interest in both the mobile home or manufactured home and the real estate to which it is affixed on such date may enforce its liens or security interests by accepting a deed in lieu of foreclosure or in the manner provided by law for enforcing liens on the real estate.

(4) A mobile home or manufactured home for which the certificate of title has been canceled and for which an affidavit of affixture has been duly recorded pursuant to subsection (2) of this section shall be treated as part of the real estate upon which such mobile home or manufactured home is located. Any lien thereon shall be perfected and enforced in the same manner as a lien on real estate. The owner of such mobile home or manufactured home may convey ownership of the mobile home or manufactured home only as a part of the real estate to which it is affixed.

(5)(a) If each owner of both the mobile home or manufactured home and the real estate described in subdivision (1)(c) of this section intends to detach the mobile home or manufactured home from the real estate, the owner shall do both of the following: (i) Before detaching the mobile home or manufactured home, record an affidavit of detachment in the office of the register of deeds in the county in which the affidavit is recorded under subdivision (1)(c) of this section; and (ii) apply for a certificate of title for the mobile home or manufactured home pursuant to section 60-147.

(b) The affidavit of detachment shall contain all of the following:

(i) The names and addresses of all of the owners of record of the mobile home or manufactured home;

(ii) A description of the mobile home or manufactured home that includes the name of the manufacturer, the year of manufacture, the model, and the manufacturer's serial number;

(iii) The legal description of the real estate from which the mobile home or manufactured home is to be detached and the names of all of the owners of record of the real estate;

(iv) A statement that the mobile home or manufactured home is to be detached from the real property;

(v) A statement that the certificate of title of the mobile home or manufactured home has previously been canceled;

(vi) The name of each holder of a lien of record against the real estate from which the mobile home or manufactured home is to be detached, with the written consent of each holder to the detachment; and

(vii) The name and address of an owner, a financial institution, or another entity to which the certificate of title may be delivered.

(6) An owner of an affixed mobile home or manufactured home for which the certificate of title has previously been canceled pursuant to subsection (2) of this section shall not detach the mobile home or manufactured home from the real estate before a certificate of title for the mobile home or manufactured home is issued by the county treasurer or department. If a certificate of title is issued by the county treasurer or department, the mobile home or manufactured home is no longer considered part of the real property. Any lien thereon shall be perfected pursuant to section 60-164. The owner of such mobile home or manufactured home may convey ownership of the mobile home or manufactured home only by way of a certificate of title.

(7) For purposes of this section:

(a) A mobile home or manufactured home is affixed to real estate if the wheels, towing hitches, and running gear are removed and it is permanently attached to a foundation or other support system; and

(b) Ownership interest means the fee simple interest in real estate or an interest as the lessee under a lease of the real property that has a term that continues for at least twenty years after the recording of the affidavit under subsection (2) of this section.

(8) Upon cancellation of a certificate of title in the manner prescribed by this section, the county treasurer and the department may cancel and destroy all certificates and all memorandum certificates in that chain of title.

Source: Laws 2005, LB 276, § 69; Laws 2006, LB 663, § 19; Laws 2012, LB14, § 6; Laws 2012, LB751, § 10; Laws 2012, LB801, § 44; Laws 2018, LB909, § 31; Laws 2019, LB719, § 1.

60-170 Nontransferable certificate of title; when issued; procedure; surrender for certificate of title; procedure.

(1) When an insurance company authorized to do business in Nebraska acquires a vehicle which has been properly titled and registered in a state other than Nebraska through payment of a total loss settlement on account of theft and the vehicle has not become unusable for transportation through damage and has not sustained any malfunction beyond reasonable maintenance and repair, the company shall obtain the certificate of title from the owner and may make application for a nontransferable certificate of title by surrendering the certificate of title to the county treasurer. A nontransferable certificate of title shall be issued in the same manner and for the same fee or fees as provided for a certificate of title in sections 60-154 to 60-160 and shall be on a form prescribed by the department.

(2) A vehicle which has a nontransferable certificate of title shall not be sold or otherwise transferred or disposed of without first obtaining a certificate of title under the Motor Vehicle Certificate of Title Act.

(3) When a nontransferable certificate of title is surrendered for a certificate of title, the application shall be accompanied by a statement from the insurance company stating that to the best of its knowledge the vehicle has not become unusable for transportation through damage and has not sustained any malfunction beyond reasonable maintenance and repair. The statement shall not

constitute or imply a warranty of condition to any subsequent purchaser or operator of the vehicle.

Source: Laws 2005, LB 276, § 70; Laws 2012, LB801, § 45.

60-171 Salvage branded certificate of title; terms, defined.

For purposes of sections 60-171 to 60-177:

(1) Cost of repairs means the estimated or actual retail cost of parts needed to repair a vehicle plus the cost of labor computed by using the hourly labor rate and time allocations for repair that are customary and reasonable. Retail cost of parts and labor rates may be based upon collision estimating manuals or electronic computer estimating systems customarily used in the insurance industry;

(2) Flood damaged means damage to a vehicle resulting from being submerged in water to the point that rising water has reached over the floorboard, has entered the passenger compartment, and has caused damage to any electrical, computerized, or mechanical components. Flood damaged specifically does not apply to a vehicle that an inspection, conducted by an insurance claim representative or a vehicle repairer, indicates:

(a) Has no electrical, computerized, or mechanical components damaged by water; or

(b) Had one or more electrical, computerized, or mechanical components damaged by water and all such damaged components were repaired or replaced;

(3) Late model vehicle means a vehicle which has (a) a manufacturer's model year designation of, or later than, the year in which the vehicle was wrecked, damaged, or destroyed, or any of the six preceding years or (b)(i) in the case of vehicles other than all-terrain vehicles, utility-type vehicles, and minibikes, a retail value of more than ten thousand five hundred dollars until January 1, 2010, and a retail value of more than ten thousand five hundred dollars increased by five hundred dollars every five years thereafter or (ii) in the case of all-terrain vehicles, utility-type vehicles, or minibikes, a retail value of more than one thousand seven hundred fifty dollars until January 1, 2010, and a retail value of more than one thousand seven hundred fifty dollars increased by two hundred fifty dollars every five years thereafter;

(4) Manufacturer buyback means the designation of a vehicle with an alleged nonconformity when the vehicle (a) has been replaced by a manufacturer or (b) has been repurchased by a manufacturer as the result of court judgment, arbitration, or any voluntary agreement entered into between the manufacturer or its agent and a consumer;

(5) Previously salvaged or rebuilt each mean the designation of a rebuilt vehicle which was previously required to be issued a salvage branded certificate of title and which has been inspected as provided in section 60-146;

(6) Retail value means the actual cash value, fair market value, or retail value of a vehicle as (a) set forth in a current edition of any nationally recognized compilation, including automated data bases, of retail values or (b) determined pursuant to a market survey of comparable vehicles with respect to condition and equipment; and

(7) Salvage means the designation of a vehicle which is:

(a) A late model vehicle which has been wrecked, damaged, or destroyed to the extent that the estimated total cost of repair to rebuild or reconstruct the vehicle to its condition immediately before it was wrecked, damaged, or destroyed and to restore the vehicle to a condition for legal operation, meets or exceeds seventy-five percent of the retail value of the vehicle at the time it was wrecked, damaged, or destroyed; or

(b) Voluntarily designated by the owner of the vehicle as a salvage vehicle by obtaining a salvage branded certificate of title, without respect to the damage to, age of, or value of the vehicle.

Source: Laws 2005, LB 276, § 71; Laws 2010, LB650, § 19; Laws 2014, LB446, § 1; Laws 2018, LB909, § 32; Laws 2019, LB270, § 10.

60-173 Salvage branded certificate of title; insurance company; total loss settlement; when issued.

(1) When an insurance company acquires a salvage vehicle through payment of a total loss settlement on account of damage, the company shall obtain the certificate of title from the owner, surrender such certificate of title to the county treasurer, and make application for a salvage branded certificate of title which shall be assigned when the company transfers ownership. An insurer shall take title to a salvage vehicle for which a total loss settlement is made unless the owner of the salvage vehicle elects to retain the salvage vehicle.

(2) If the owner elects to retain the salvage vehicle, the insurance company shall notify the department of such fact in a format prescribed by the department. The department shall immediately enter the salvage brand onto the computerized record of the vehicle. Beginning on the implementation date designated by the director pursuant to subsection (3) of section 60-1508, the insurance company shall report electronically to the department using the electronic reporting system. The insurance company shall also notify the owner of the owner's responsibility to comply with this section. The owner shall, within thirty days after the settlement of the loss, forward the properly endorsed acceptable certificate of title to the county treasurer in the county designated in section 60-144. Upon receipt of the certificate of title, the county treasurer shall issue a salvage branded certificate of title for the vehicle unless the vehicle has been repaired and inspected as provided in section 60-146, in which case the county treasurer shall issue a previously salvaged branded certificate of title for the vehicle.

(3) An insurance company may apply to the department for a salvage branded certificate of title without obtaining a properly endorsed certificate of title from the owner or other evidence of ownership as prescribed by the department if it has been at least thirty days since the company obtained oral or written acceptance by the owner of an offer in an amount in settlement of a total loss. The insurance company shall submit an application form prescribed by the department for a salvage branded certificate of title accompanied by an affidavit from the insurance company that it has made at least two written attempts and has been unable to obtain the proper endorsed certificate of title from the owner following an oral or written acceptance by the owner of an offer of an amount in settlement of a total loss and evidence of settlement.

Source: Laws 2005, LB 276, § 73; Laws 2007, LB286, § 19; Laws 2012, LB801, § 46; Laws 2014, LB701, § 1; Laws 2018, LB909, § 33; Laws 2019, LB270, § 11.

60-174 Salvage branded certificate of title; salvage, previously salvaged or rebuilt, flood damaged, or manufacturer buyback title brand; inspection; when.

Whenever a title is issued in this state for a vehicle that is designated a salvage, previously salvaged or rebuilt, flood damaged, or manufacturer buyback, the following title brands shall be required: Salvage, previously salvaged, flood damaged, or manufacturer buyback. A certificate branded salvage, previously salvaged, flood damaged, or manufacturer buyback shall be administered in the same manner and for the same fee or fees as provided for a certificate of title in sections 60-154 to 60-160. When a salvage branded certificate of title is surrendered for a certificate of title branded previously salvaged, the application for a certificate of title shall be accompanied by a statement of inspection as provided in section 60-146.

Source: Laws 2005, LB 276, § 74; Laws 2018, LB909, § 34; Laws 2019, LB270, § 12.

60-175 Salvage branded, flood-damaged branded, or manufacturer buyback branded certificate of title; when issued; procedure.

Any person who acquires ownership of a salvage, flood-damaged, or manufacturer buyback vehicle for which he or she does not obtain a salvage branded, flood-damaged branded, or manufacturer buyback branded certificate of title shall surrender the certificate of title to the county treasurer and make application for a salvage branded, flood-damaged branded, or manufacturer buyback branded certificate of title within thirty days after acquisition or prior to the sale or resale of the vehicle or any major component part of such vehicle or use of any major component part of the vehicle, whichever occurs earlier.

Source: Laws 2005, LB 276, § 75; Laws 2012, LB801, § 47; Laws 2018, LB909, § 35.

60-178 Stolen vehicle; duties of law enforcement and department.

Every sheriff, chief of police, or member of the patrol having knowledge of a stolen vehicle shall immediately furnish the department with full information in connection therewith. The department, whenever it receives a report of the theft or conversion of such a vehicle, whether owned in this or any other state, together with the make and manufacturer's serial number or motor number, if applicable, shall make a distinctive record thereof and file the same in the numerical order of the manufacturer's serial number with the index records of such vehicle of such make. The department shall prepare a report listing such vehicles stolen and recovered as disclosed by the reports submitted to it, and the report shall be distributed as it may deem advisable. In the event of the receipt from any county treasurer of a copy of a certificate of title to such vehicle, the department shall immediately notify the rightful owner thereof and the county treasurer who issued such certificate of title, and if upon investigation it appears that such certificate of title was improperly issued, the department shall immediately cancel the same. In the event of the recovery of such stolen or converted vehicle, the owner shall immediately notify the department, which shall cause the record of the theft or conversion to be removed from its file.

Source: Laws 2005, LB 276, § 78; Laws 2012, LB801, § 48.

60-180 Violations; penalty.

(1) A person who operates in this state a vehicle for which a certificate of title is required without having such certificate in accordance with the Motor Vehicle Certificate of Title Act or upon which the certificate of title has been canceled is guilty of a Class III misdemeanor.

(2) A person who is a dealer or acting on behalf of a dealer and who acquires, purchases, holds, or displays for sale a new vehicle without having obtained a manufacturer's or importer's certificate or a certificate of title therefor as provided for in the Motor Vehicle Certificate of Title Act is guilty of a Class III misdemeanor.

(3) A person who fails to surrender any certificate of title or any certificate of registration or license plates or tags upon cancellation of the same by the department and notice thereof as prescribed in the Motor Vehicle Certificate of Title Act is guilty of a Class III misdemeanor.

(4) A person who fails to surrender the certificate of title to the county treasurer or department as provided in section 60-169 in case of the destruction or dismantling or change of a vehicle in such respect that it is not the vehicle described in the certificate of title is guilty of a Class III misdemeanor.

(5) A person who purports to sell or transfer a vehicle without delivering to the purchaser or transferee thereof a certificate of title or a manufacturer's or importer's certificate thereto duly assigned to such purchaser as provided in the Motor Vehicle Certificate of Title Act is guilty of a Class III misdemeanor.

(6) A person who knowingly alters or defaces a certificate of title or manufacturer's or importer's certificate is guilty of a Class III misdemeanor.

(7) Except as otherwise provided in section 60-179, a person who violates any of the other provisions of the Motor Vehicle Certificate of Title Act or any rules or regulations adopted and promulgated pursuant to the act is guilty of a Class III misdemeanor.

Source: Laws 2005, LB 276, § 80; Laws 2012, LB751, § 11; Laws 2012, LB801, § 49.

60-181 Vehicle identification inspections; training expenses; how paid.

The Nebraska State Patrol Cash Fund shall be used to defray the expenses of training personnel in title document examination, vehicle identification, and fraud and theft investigation and to defray the patrol's expenses arising pursuant to sections 60-181 to 60-189, including those incurred for printing and distribution of forms, personal services, hearings, and similar administrative functions. Personnel may include, but shall not be limited to, county treasurers, investigative personnel of the Nebraska Motor Vehicle Industry Licensing Board, and peace officers as defined in section 60-646. The training program shall be administered by the patrol. The patrol may utilize the Nebraska Law Enforcement Training Center to accomplish the training requirements of sections 60-181 to 60-189. The superintendent may make expenditures from the fund necessary to implement such training.

Source: Laws 2005, LB 276, § 81; Laws 2012, LB801, § 50.

60-184 Vehicle identification inspections; application for training; contents.

The sheriff may designate an employee of his or her office, any individual who is a peace officer as defined in section 60-646, or, by agreement, a county treasurer to assist in accomplishing inspections. Upon designation, the person

shall request approval for training from the superintendent. Any person requesting approval for training shall submit a written application to the patrol. Such application shall include the following information: (1) The name and address of the applicant; (2) the name and address of the agency employing the applicant and the name of the agency head; and (3) such biographical information as the superintendent may require to facilitate the designation authorized by this section.

Source: Laws 2005, LB 276, § 84; Laws 2012, LB801, § 51.

60-189 Vehicle identification inspections; superintendent; duty.

The superintendent shall, from time to time, provide each county treasurer and each sheriff with a list of persons holding then current certificates of training.

Source: Laws 2005, LB 276, § 89; Laws 2012, LB801, § 52.

60-191 Odometers; repaired or replaced; notice.

If any odometer is repaired or replaced, the reading of the repaired or replaced odometer shall be set at the reading of the odometer repaired or replaced immediately prior to repair or replacement and the adjustment shall not be deemed a violation of section 60-190, except that when the repaired or replaced odometer is incapable of registering the same mileage as before such repair or replacement, the repaired or replaced odometer shall be adjusted to read zero and a notice in writing on a form prescribed by the department shall be attached to the left door frame of the motor vehicle, or in the case of a motorcycle, other than an autocycle, to the frame of the motorcycle, by the owner or his or her agent specifying the mileage prior to repair or replacement of the odometer and the date on which it was repaired or replaced and any removal or alteration of such notice so affixed shall be deemed a violation of section 60-190.

Source: Laws 2005, LB 276, § 91; Laws 2018, LB909, § 36.

60-192 Odometers; transferor; statement; contents.

(1) The transferor of any motor vehicle described in subsection (2) of this section, which was equipped with an odometer by the manufacturer, shall provide to the transferee a statement, signed by the transferor, setting forth:

(a) The mileage on the odometer at the time of transfer; and

(b)(i) A statement that, to the transferor's best knowledge, such mileage is that actually driven by the motor vehicle;

(ii) A statement that the transferor has knowledge that the mileage shown on the odometer is in excess of the designated mechanical odometer limit; or

(iii) A statement that the odometer reading does not reflect the actual mileage and should not be relied upon because the transferor has knowledge that the odometer reading differs from the actual mileage and that the difference is greater than that caused by odometer calibration error.

(2) Prior to January 1, 2021, this section applies to the transfer of any motor vehicle of an age of less than ten years. Beginning January 1, 2021, this section applies to the transfer of any motor vehicle with a manufacturer's model year designation of 2011 or newer and an age of less than twenty years.

(3) If a discrepancy exists between the odometer reading and the actual mileage, a warning notice to alert the transferee shall be included with the statement. The transferor shall retain a true copy of such statement for a period of five years from the date of the transaction.

(4) Beginning on the implementation date designated by the director pursuant to subsection (2) of section 60-1508, if motor vehicle ownership has been transferred by operation of law pursuant to repossession under subdivision (2)(b)(iv) of section 60-166, the mileage shall be listed as the odometer reading at the time of the most recent transfer of ownership prior to the repossession of the motor vehicle. The adjustment shall not be deemed a violation of section 60-190.

Source: Laws 2005, LB 276, § 92; Laws 2017, LB263, § 22; Laws 2018, LB909, § 37; Laws 2020, LB944, § 9.
Operative date November 14, 2020.

ARTICLE 3

MOTOR VEHICLE REGISTRATION

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60-301 Act, how cited.

Sections 60-301 to 60-3,254 shall be known and may be cited as the Motor Vehicle Registration Act.

Source: Laws 2005, LB 274, § 1; Laws 2006, LB 663, § 21; Laws 2007, LB286, § 20; Laws 2007, LB349, § 1; Laws 2007, LB570, § 1; Laws 2008, LB756, § 5; Laws 2009, LB110, § 1; Laws 2009, LB129, § 1; Laws 2010, LB650, § 20; Laws 2011, LB163, § 16; Laws 2011, LB289, § 12; Laws 2012, LB216, § 1; Laws 2012, LB1155, § 7; Laws 2014, LB383, § 1; Laws 2014, LB816, § 1; Laws 2015, LB220, § 1; Laws 2015, LB231, § 6; Laws 2016, LB474, § 3; Laws 2016, LB783, § 1; Laws 2016, LB977, § 5; Laws 2017, LB46, § 1; Laws 2017, LB263, § 23; Laws 2018, LB909, § 38; Laws 2019, LB138, § 3; Laws 2019, LB156, § 6; Laws 2019, LB356, § 2; Laws 2020, LB944, § 10.
Operative date January 1, 2021.

60-302 Definitions, where found.

For purposes of the Motor Vehicle Registration Act, unless the context otherwise requires, the definitions found in sections 60-302.01 to 60-360 shall be used.

Source: Laws 2005, LB 274, § 2; Laws 2007, LB286, § 21; Laws 2008, LB756, § 6; Laws 2010, LB650, § 21; Laws 2011, LB163, § 17; Laws 2012, LB1155, § 8; Laws 2015, LB231, § 7; Laws 2016, LB783, § 2; Laws 2017, LB263, § 24; Laws 2018, LB909, § 39; Laws 2019, LB156, § 7.

60-302.01 Access aisle, defined.

Access aisle means a space adjacent to a handicapped parking space or passenger loading zone which is constructed and designed in compliance with the federal Americans with Disabilities Act of 1990 and the federal regulations adopted in response to the act, as the act and the regulations existed on January 1, 2020.

Source: Laws 2011, LB163, § 18; Laws 2019, LB79, § 3; Laws 2020, LB944, § 11.
Operative date November 14, 2020.

60-305 All-terrain vehicle, defined.

All-terrain vehicle means any motorized off-highway vehicle which (1) is fifty inches or less in width, (2) has a dry weight of twelve hundred pounds or less, (3) travels on three or more nonhighway tires, and (4) is designed for operator use only with no passengers or is specifically designed by the original manufacturer for the operator and one passenger. All-terrain vehicles which have been modified or retrofitted with after-market parts to include additional equipment not required by sections 60-6,357 and 60-6,358 shall not be registered under the Motor Vehicle Registration Act, nor shall such modified or retrofitted

vehicles be eligible for registration in any other category of vehicle defined in the act.

Source: Laws 2005, LB 274, § 5; Laws 2014, LB814, § 5.

60-306 Alternative fuel, defined.

Alternative fuel includes electricity, solar power, and any other source of energy not otherwise taxed under the motor fuel laws as defined in section 66-712 which is used to power a motor vehicle. Alternative fuel does not include motor vehicle fuel as defined in section 66-482, diesel fuel as defined in section 66-482, or compressed fuel as defined in section 66-6,100.

Source: Laws 2005, LB 274, § 6; Laws 2011, LB289, § 13.

60-308 Apportionable vehicle, defined.

(1) Apportionable vehicle means any motor vehicle or trailer used or intended for use in two or more member jurisdictions that allocate or proportionally register motor vehicles or trailers and used for the transportation of persons for hire or designed, used, or maintained primarily for the transportation of property.

(2) Apportionable vehicle does not include any recreational vehicle, motor vehicle displaying restricted plates, city pickup and delivery vehicle, or government-owned motor vehicle.

(3) An apportionable vehicle that is a power unit shall (a) have two axles and a gross vehicle weight or registered gross vehicle weight in excess of twenty-six thousand pounds or eleven thousand seven hundred ninety-three and four hundred one thousandths kilograms, (b) have three or more axles, regardless of weight, or (c) be used in combination when the weight of such combination exceeds twenty-six thousand pounds or eleven thousand seven hundred ninety-three and four hundred one thousandths kilograms gross vehicle weight. Vehicles or combinations of vehicles having a gross vehicle weight of twenty-six thousand pounds or eleven thousand seven hundred ninety-three and four hundred one thousandths kilograms or less and two-axle vehicles may be proportionally registered at the option of the registrant.

Source: Laws 2005, LB 274, § 8; Laws 2007, LB286, § 22; Laws 2018, LB177, § 1.

60-309 Assembled vehicle, defined.

Assembled vehicle means a motor vehicle or trailer which was manufactured or assembled less than thirty years prior to application for registration under the Motor Vehicle Registration Act and which is materially altered from its construction by the removal, addition, or substitution of new or used major component parts unless such major component parts were replaced under warranty by the original manufacturer of the motor vehicle or trailer. Its make shall be assembled, and its model year shall be the year in which the motor vehicle or trailer was assembled.

Source: Laws 2005, LB 274, § 9; Laws 2018, LB909, § 42.

60-309.01 Autocycle, defined.

Autocycle means any motor vehicle (1) having a seat that does not require the operator to straddle or sit astride it, (2) designed to travel on three wheels in

contact with the ground, (3) having antilock brakes, (4) designed to be controlled with a steering wheel and pedals, and (5) in which the operator and passenger ride either side by side or in tandem in a seating area that is equipped with a manufacturer-installed three-point safety belt system for each occupant and that has a seating area that either (a) is completely enclosed and is equipped with manufacturer-installed airbags and a manufacturer-installed roll cage or (b) is not completely enclosed and is equipped with a manufacturer-installed rollover protection system.

Source: Laws 2015, LB231, § 8; Laws 2018, LB909, § 43.

60-310 Automobile liability policy, defined.

Automobile liability policy means liability insurance written by an insurance carrier duly authorized to do business in this state protecting other persons from damages for liability on account of accidents occurring subsequent to the effective date of the insurance arising out of the ownership of a motor vehicle (1) in the amount of twenty-five thousand dollars because of bodily injury to or death of one person in any one accident, (2) subject to the limit for one person, in the amount of fifty thousand dollars because of bodily injury to or death of two or more persons in any one accident, and (3) in the amount of twenty-five thousand dollars because of injury to or destruction of property of other persons in any one accident. An automobile liability policy shall not exclude, limit, reduce, or otherwise alter liability coverage under the policy solely because the injured person making a claim is the named insured in the policy or residing in the household with the named insured.

Source: Laws 2005, LB 274, § 10; Laws 2013, LB316, § 1.

60-310.01 Auxiliary axle, defined.

Auxiliary axle means an auxiliary undercarriage assembly with a fifth wheel and tow bar used to convert a semitrailer to a full trailer, commonly known as converter gears or converter dollies.

Source: Laws 2018, LB909, § 40.

60-314.01 Car toter or tow dolly, defined.

Car toter or tow dolly means a two-wheeled conveyance designed or adapted to support the weight of one axle of a motor vehicle while being towed in combination behind another motor vehicle.

Source: Laws 2018, LB909, § 41.

60-316 Commercial motor vehicle, defined.

(1) This subsection applies until January 1, 2023. Commercial motor vehicle means any motor vehicle used or maintained for the transportation of persons or property for hire, compensation, or profit or designed, used, or maintained primarily for the transportation of property and does not include farm trucks or public power district motor vehicles.

(2) This subsection applies beginning January 1, 2023. Commercial motor vehicle means any motor vehicle used or maintained for the transportation of persons or property for hire, compensation, or profit or designed, used, or maintained primarily for the transportation of property and does not include

farm trucks, metropolitan utilities district motor vehicles, or public power district motor vehicles.

Source: Laws 2005, LB 274, § 16; Laws 2016, LB783, § 3; Laws 2018, LB909, § 44.

60-317 Commercial trailer, defined.

Commercial trailer means any trailer or semitrailer which has a gross weight, including load thereon, of more than nine thousand pounds and which is designed, used, or maintained for the transportation of persons or property for hire, compensation, or profit or designed, used, or maintained primarily for the transportation of property. Commercial trailer does not include cabin trailers, farm trailers, fertilizer trailers, or utility trailers.

Source: Laws 2005, LB 274, § 17; Laws 2016, LB783, § 4; Laws 2017, LB263, § 25.

60-320 Repealed. Laws 2012, LB 801, § 102.

60-323 Evidence of insurance, defined.

Evidence of insurance means evidence of a current and effective automobile liability policy in paper or electronic format.

Source: Laws 2005, LB 274, § 23; Laws 2014, LB816, § 2.

60-328.01 Former military vehicle, defined.

Former military vehicle means a motor vehicle that was manufactured for use in any country's military forces and is maintained to accurately represent its military design and markings, regardless of the vehicle's size or weight, but is no longer used, or never was used, by a military force.

Source: Laws 2019, LB156, § 8.

60-329.01 Golf car vehicle, defined.

Golf car vehicle means a vehicle that has at least four wheels, has a maximum level ground speed of less than twenty miles per hour, has a maximum payload capacity of one thousand two hundred pounds, has a maximum gross vehicle weight of two thousand five hundred pounds, has a maximum passenger capacity of not more than four persons, and is designed and manufactured for operation on a golf course for sporting and recreational purposes.

Source: Laws 2012, LB1155, § 9.

60-331.01 Handicapped or disabled parking permit, defined.

Handicapped or disabled parking permit means a permit issued by the department that authorizes the use of parking spaces and access aisles that have been designated for the exclusive use of handicapped or disabled persons.

Source: Laws 2011, LB163, § 19; Laws 2014, LB657, § 3.

60-331.02 Handicapped or disabled person, defined.

Handicapped or disabled person means any individual with a severe visual, neurological, or physical impairment which limits personal mobility and results

in an inability to travel more than two hundred feet without stopping or without the use of a wheelchair, crutch, walker, or prosthetic, orthotic, or other assistant device, any individual whose personal mobility is limited as a result of respiratory problems, any individual who has a cardiac condition to the extent that his or her functional limitations are classified in severity as being Class III or Class IV, according to standards set by the American Heart Association, and any individual who has permanently lost all or substantially all the use of one or more limbs.

Source: Laws 2011, LB163, § 20; Laws 2016, LB865, § 1; Laws 2020, LB944, § 12.

Operative date November 14, 2020.

60-335 Kit vehicle, defined.

Kit vehicle means a motor vehicle or trailer which was assembled by a person other than a generally recognized manufacturer of motor vehicles or trailers by the use of a reproduction resembling a specific manufacturer's make and model that is at least thirty years old purchased from an authorized manufacturer and accompanied by a manufacturer's statement of origin. Kit vehicle does not include glider kits.

Source: Laws 2005, LB 274, § 35; Laws 2018, LB909, § 45.

60-335.01 Licensed dealer, defined.

Licensed dealer means a motor vehicle dealer, motorcycle dealer, or trailer dealer licensed under the Motor Vehicle Industry Regulation Act.

Source: Laws 2017, LB263, § 26.

Cross References

Motor Vehicle Industry Regulation Act, see section 60-1401.

60-336.01 Low-speed vehicle, defined.

Low-speed vehicle means a (1) four-wheeled motor vehicle (a) whose speed attainable in one mile is more than twenty miles per hour and not more than twenty-five miles per hour on a paved, level surface, (b) whose gross vehicle weight rating is less than three thousand pounds, and (c) that complies with 49 C.F.R. part 571, as such part existed on January 1, 2020, or (2) three-wheeled motor vehicle (a) whose maximum speed attainable is not more than twenty-five miles per hour on a paved, level surface, (b) whose gross vehicle weight rating is less than three thousand pounds, and (c) which is equipped with a windshield and an occupant protection system. A motorcycle with a sidecar attached is not a low-speed vehicle.

Source: Laws 2007, LB286, § 26; Laws 2011, LB289, § 14; Laws 2014, LB776, § 1; Laws 2015, LB313, § 1; Laws 2016, LB929, § 2; Laws 2017, LB263, § 27; Laws 2018, LB909, § 46; Laws 2019, LB79, § 4; Laws 2019, LB270, § 13; Laws 2020, LB944, § 13.

Operative date November 14, 2020.

60-336.02 Metropolitan utilities district, defined.

Metropolitan utilities district means a district created pursuant to section 14-2101.

Source: Laws 2018, LB909, § 47.

60-337.01 Minitruck, defined.

Minitruck means a foreign-manufactured import vehicle or domestic-manufactured vehicle which (1) is powered by an internal combustion engine with a piston or rotor displacement of one thousand five hundred cubic centimeters or less, (2) is sixty-seven inches or less in width, (3) has a dry weight of four thousand two hundred pounds or less, (4) travels on four or more tires, (5) has a top speed of approximately fifty-five miles per hour, (6) is equipped with a bed or compartment for hauling, (7) has an enclosed passenger cab, (8) is equipped with headlights, taillights, turnsignals, windshield wipers, a rearview mirror, and an occupant protection system, and (9) has a four-speed, five-speed, or automatic transmission.

Source: Laws 2010, LB650, § 22; Laws 2012, LB898, § 2.

60-338 Moped, defined.

Moped means a device with fully operative pedals for propulsion by human power, an automatic transmission, and a motor with a cylinder capacity not exceeding fifty cubic centimeters which produces no more than two brake horsepower and is capable of propelling the device at a maximum design speed of no more than thirty miles per hour on level ground.

Source: Laws 2005, LB 274, § 38; Laws 2015, LB95, § 5.

60-339 Motor vehicle, defined.

Motor vehicle means any vehicle propelled by any power other than muscular power. Motor vehicle does not include (1) mopeds, (2) farm tractors, (3) self-propelled equipment designed and used exclusively to carry and apply fertilizer, chemicals, or related products to agricultural soil and crops, agricultural floater-spreader implements, and other implements of husbandry designed for and used primarily for tilling the soil and harvesting crops or feeding livestock, (4) power unit hay grinders or a combination which includes a power unit and a hay grinder when operated without cargo, (5) vehicles which run only on rails or tracks, (6) off-road designed vehicles not authorized by law for use on a highway, including, but not limited to, golf car vehicles, go-carts, riding lawnmowers, garden tractors, all-terrain vehicles, utility-type vehicles, snowmobiles registered or exempt from registration under sections 60-3,207 to 60-3,219, and minibikes, (7) road and general-purpose construction and maintenance machinery not designed or used primarily for the transportation of persons or property, including, but not limited to, ditchdigging apparatus, asphalt spreaders, bucket loaders, leveling graders, earthmoving carryalls, power shovels, earthmoving equipment, and crawler tractors, (8) self-propelled chairs used by persons who are disabled, (9) electric personal assistive mobility devices, and (10) bicycles as defined in section 60-611.

Source: Laws 2005, LB 274, § 39; Laws 2007, LB286, § 27; Laws 2010, LB650, § 23; Laws 2011, LB289, § 15; Laws 2012, LB1155, § 10; Laws 2015, LB95, § 6.

60-340 Motorcycle, defined.

Motorcycle means any motor vehicle having a seat or saddle for use of the operator and designed to travel on not more than three wheels in contact with the ground. Motorcycle includes an autocycle.

Source: Laws 2005, LB 274, § 40; Laws 2015, LB231, § 9; Laws 2018, LB909, § 48.

60-344 Parts vehicle, defined.

Parts vehicle means a vehicle or trailer the title to which has been surrendered (1) in accordance with subdivision (1)(a) of section 60-169 or (2) to any other state by the owner of the vehicle or an insurance company to render the vehicle fit for sale for scrap and parts only.

Source: Laws 2005, LB 274, § 44; Laws 2011, LB241, § 5.

60-346.01 Public power district, defined.

Public power district means a district as defined by section 70-601 receiving annual gross revenue of at least forty million dollars as determined by the Nebraska Power Review Board.

Source: Laws 2016, LB783, § 5.

60-346.02 Reconstructed, defined.

Reconstructed means the designation of a vehicle which was permanently altered from its original design construction by removing, adding, or substituting major component parts.

Source: Laws 2018, LB909, § 49.

60-346.03 Replica, defined.

Replica means the designation of a vehicle which resembles a specific manufacturer's make and model that is at least thirty years old and which has been assembled as a kit vehicle.

Source: Laws 2018, LB909, § 50.

60-348 Semitrailer, defined.

Semitrailer means any trailer so constructed that some part of its weight and that of its load rests upon or is carried by the towing vehicle. Semitrailer does not include an auxiliary axle or a car toter or tow dolly.

Source: Laws 2005, LB 274, § 48; Laws 2018, LB909, § 51.

60-352.01 Temporarily handicapped or disabled person, defined.

Temporarily handicapped or disabled person means any handicapped or disabled person whose personal mobility is expected to be limited as described in section 60-331.02 for no longer than one year.

Source: Laws 2011, LB163, § 21.

60-354 Trailer, defined.

Trailer means any device without motive power designed for carrying persons or property and being towed by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle. Trailer does not include an auxiliary axle or a car toter or tow dolly.

Source: Laws 2005, LB 274, § 54; Laws 2018, LB909, § 52.

60-358.01 Utility-type vehicle, defined.

(1) Utility-type vehicle means any motorized off-highway vehicle which (a) is seventy-four inches in width or less, (b) is not more than one hundred eighty

inches, including the bumper, in length, (c) has a dry weight of two thousand pounds or less, and (d) travels on four or more nonhighway tires. Utility-type vehicles which have been modified or retrofitted with after-market parts to include additional equipment not required by sections 60-6,357 and 60-6,358 shall not be registered under the Motor Vehicle Registration Act, nor shall such modified or retrofitted vehicles be eligible for registration in any other category of vehicle defined in the act.

(2) Utility-type vehicle does not include all-terrain vehicles, golf car vehicles, or low-speed vehicles.

Source: Laws 2010, LB650, § 24; Laws 2012, LB1155, § 11; Laws 2013, LB223, § 2; Laws 2014, LB814, § 6.

60-363 Registration certificate; duty to carry, exceptions.

(1) No person shall operate or park a motor vehicle on the highways unless such motor vehicle at all times carries in or upon it, subject to inspection by any peace officer, the registration certificate issued for it.

(2) No person shall tow or park a trailer on the highways unless the registration certificate issued for the trailer or a copy thereof is carried in or upon the trailer or in or upon the motor vehicle that is towing or parking the trailer, subject to inspection by any peace officer, except as provided in subsections (4) and (5) of this section and except fertilizer trailers as defined in section 60-326. The registration certificate for a fertilizer trailer shall be kept at the principal place of business of the owner of the fertilizer trailer.

(3) In the case of a motorcycle other than an autocycle, the registration certificate shall be carried either in plain sight, affixed to the motorcycle, or in the tool bag or some convenient receptacle attached to the motorcycle.

(4) In the case of a motor vehicle or trailer operated by a public power district registered pursuant to section 60-3,228, the registration certificate shall be kept at the principal place of business of the public power district.

(5) Beginning January 1, 2023, in the case of a motor vehicle or trailer operated by a metropolitan utilities district registered pursuant to section 60-3,228, the registration certificate shall be kept at the principal place of business of the metropolitan utilities district.

(6) In the case of an apportionable vehicle registered under section 60-3,198, the registration certificate may be displayed as a legible paper copy or electronically as authorized by the department.

Source: Laws 2005, LB 274, § 63; Laws 2010, LB725, § 1; Laws 2014, LB758, § 1; Laws 2017, LB263, § 28; Laws 2018, LB909, § 53; Laws 2019, LB79, § 5.

60-365 Operation of vehicle without registration; limitation; proof of ownership.

Any person purchasing a motor vehicle or trailer in this state other than from a licensed dealer in motor vehicles or trailers shall not operate or tow such motor vehicle or trailer in this state without registration except as provided in this section. Such purchaser may operate or tow such motor vehicle or trailer without registration for a period not to exceed thirty days. Upon demand of proper authorities, there shall be presented by the person in charge of such motor vehicle or trailer, for examination, a bill of sale showing the date of

transfer or the certificate of title to such motor vehicle or trailer with assignment thereof duly executed. When such motor vehicle or trailer is purchased from a nonresident, the person in charge of such motor vehicle or trailer shall present upon demand proper evidence of ownership from the state where such motor vehicle or trailer was purchased.

Source: Laws 2005, LB 274, § 65; Laws 2008, LB756, § 11; Laws 2012, LB751, § 12.

60-366 Nonresident owner; registration; when; reciprocity; avoidance of proper registration; Department of Motor Vehicles or Department of Revenue; powers; notice; determination; appeal; penalty; when.

(1) Any nonresident owner who desires to register a motor vehicle or trailer in this state shall register in the county where the motor vehicle or trailer is domiciled or where the owner conducts a bona fide business.

(2) A nonresident owner, except as provided in subsections (3) and (4) of this section, owning any motor vehicle or trailer which has been properly registered in the state, country, or other place of which the owner is a resident, and which at all times, when operated or towed in this state, has displayed upon it the license plate or plates issued for such motor vehicle or trailer in the place of residence of such owner, may operate or permit the operation or tow or permit the towing of such motor vehicle or trailer within the state without registering such motor vehicle or trailer or paying any fees to this state.

(3)(a) Except as otherwise provided in subdivision (c) of this subsection, any nonresident owner gainfully employed or present in this state, operating a motor vehicle or towing a trailer in this state, shall register such motor vehicle or trailer in the same manner as a Nebraska resident, after thirty days of continuous employment or presence in this state, unless the state of his or her legal residence grants immunity from such requirements to residents of this state operating a motor vehicle or towing a trailer in that state.

(b) Except as otherwise provided in subdivision (c) of this subsection, any nonresident owner who operates a motor vehicle or tows a trailer in this state for thirty or more continuous days shall register such motor vehicle or trailer in the same manner as a Nebraska resident unless the state of his or her legal residence grants immunity from such requirements to residents of this state operating a motor vehicle or towing a trailer in that state.

(c) Any nonresident owner of a film vehicle may operate the film vehicle for up to one year without registering the vehicle in this state.

(4)(a) The Department of Motor Vehicles or the Department of Revenue may determine (i) that a limited liability company, partnership, corporation, or other business entity that is organized under the laws of another state or country and that owns or holds title to a recreational vehicle is a shell company used to avoid proper registration of the recreational vehicle in this state and (ii) that the recreational vehicle is controlled by a Nebraska resident.

(b) Factors that the Department of Motor Vehicles or the Department of Revenue may consider to determine that the limited liability company, partnership, corporation, or other business entity is a shell company used to avoid proper registration of the recreational vehicle in this state include, but are not limited to:

(i) The limited liability company, partnership, corporation, or other business entity lacks a business activity or purpose;

(ii) The limited liability company, partnership, corporation, or other business entity does not maintain a physical location in this state;

(iii) The limited liability company, partnership, corporation, or other business entity does not employ individual persons and provide those persons with Internal Revenue Service Form W-2 wage and tax statements; or

(iv) The limited liability company, partnership, corporation, or other business entity fails to file federal tax returns or fails to file a state tax return in this state.

(c) Factors that the Department of Motor Vehicles or the Department of Revenue may consider to determine that the recreational vehicle is controlled by a Nebraska resident include, but are not limited to:

(i) A Nebraska resident was the initial purchaser of the recreational vehicle;

(ii) A Nebraska resident operated or stored the recreational vehicle in this state for any period of time;

(iii) A Nebraska resident is a member, partner, or shareholder or is otherwise affiliated with the limited liability company, partnership, corporation, or other business entity purported to own the recreational vehicle; or

(iv) A Nebraska resident is insured to operate the recreational vehicle.

(d) If the Department of Motor Vehicles or the Department of Revenue makes the determinations described in subdivision (4)(a) of this section, there is a rebuttable presumption that:

(i) The Nebraska resident in control of the recreational vehicle is the actual owner of the recreational vehicle;

(ii) Such Nebraska resident is required to register the recreational vehicle in this state and is liable for all motor vehicle taxes, motor vehicle fees, and registration fees as provided in the Motor Vehicle Registration Act; and

(iii) The purchase of the recreational vehicle is subject to sales or use tax under section 77-2703.

(e) The Department of Motor Vehicles or the Department of Revenue shall notify the Nebraska resident who is presumed to be the owner of the recreational vehicle that he or she is required to register the recreational vehicle in this state, pay any applicable taxes and fees for proper registration of the recreational vehicle under the Motor Vehicle Registration Act, and pay any applicable sales or use tax due on the purchase under the Nebraska Revenue Act of 1967 no later than thirty days after the date of the notice.

(f)(i) For a determination made by the Department of Motor Vehicles under this subsection, the Nebraska resident who is presumed to be the owner of the recreational vehicle may accept the determination and pay the county treasurer as shown in the notice, or he or she may dispute the determination and appeal the matter. Such appeal shall be filed with the Director of Motor Vehicles within thirty days after the date of the notice or the determination will be final. The director shall appoint a hearing officer who shall hear the appeal and issue a written decision. Such appeal shall be in accordance with the Administrative Procedure Act. Following a final determination in the appeal in favor of the Department of Motor Vehicles or if no further appeal is filed, the Nebraska

resident shall owe the taxes and fees determined to be due, together with any costs for the appeal assessed against the owner.

(ii) For a determination made by the Department of Revenue under this subsection, the Nebraska resident who is presumed to be the owner of the recreational vehicle may appeal the determination made by the Department of Revenue, and such appeal shall be in accordance with section 77-2709.

(g) If the Nebraska resident who is presumed to be the owner of the recreational vehicle fails to pay the motor vehicle taxes, motor vehicle fees, registration fees, or sales or use tax required to be paid under this subsection, he or she shall be assessed a penalty of fifty percent of such unpaid taxes and fees. Such penalty shall be remitted by the county treasurer or the Department of Revenue to the State Treasurer for credit to the Highway Trust Fund.

Source: Laws 2005, LB 274, § 66; Laws 2014, LB851, § 4; Laws 2015, LB45, § 1.

Cross References

Administrative Procedure Act, see section 84-920.
Nebraska Revenue Act of 1967, see section 77-2701.

60-367 Nonresident; applicability of act.

Except as otherwise provided in section 60-366, the provisions of the Motor Vehicle Registration Act relative to registration and display of registration numbers do not apply to a motor vehicle or trailer owned by a nonresident of this state, other than a foreign corporation doing business in this state, if the owner thereof has complied with the provisions of the law of the foreign country, state, territory, or federal district of his or her residence relative to registration of motor vehicles or trailers and the display of registration numbers thereon and conspicuously displays his or her registration numbers as required thereby.

Source: Laws 2005, LB 274, § 67; Laws 2014, LB851, § 5.

60-370 County number system; alphanumeric system.

(1) Except as provided in subsection (3) of this section:

(a) In counties having a population of one hundred thousand inhabitants or more according to the most recent federal decennial census, registration of motor vehicles or trailers shall be by the alphanumeric system; and

(b) In all other counties, registration of motor vehicles or trailers shall be, at the option of each county board, by either the alphanumeric system or the county number system.

(2) Counties using the county number system shall show on motor vehicles or trailers licensed therein a county number on the license plate preceding a dash which shall then be followed by the registration number assigned to the motor vehicle or trailer. The county numbers assigned to the counties in Nebraska shall be as follows:

No.	Name of County	No.	Name of County
1	Douglas	2	Lancaster
3	Gage	4	Custer
5	Dodge	6	Saunders
7	Madison	8	Hall
9	Buffalo	10	Platte

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11	Otoe	12	Knox
13	Cedar	14	Adams
15	Lincoln	16	Seward
17	York	18	Dawson
19	Richardson	20	Cass
21	Scotts Bluff	22	Saline
23	Boone	24	Cuming
25	Butler	26	Antelope
27	Wayne	28	Hamilton
29	Washington	30	Clay
31	Burt	32	Thayer
33	Jefferson	34	Fillmore
35	Dixon	36	Holt
37	Phelps	38	Furnas
39	Cheyenne	40	Pierce
41	Polk	42	Nuckolls
43	Colfax	44	Nemaha
45	Webster	46	Merrick
47	Valley	48	Red Willow
49	Howard	50	Franklin
51	Harlan	52	Kearney
53	Stanton	54	Pawnee
55	Thurston	56	Sherman
57	Johnson	58	Nance
59	Sarpy	60	Frontier
61	Sheridan	62	Greeley
63	Boyd	64	Morrill
65	Box Butte	66	Cherry
67	Hitchcock	68	Keith
69	Dawes	70	Dakota
71	Kimball	72	Chase
73	Gosper	74	Perkins
75	Brown	76	Dundy
77	Garden	78	Deuel
79	Hayes	80	Sioux
81	Rock	82	Keya Paha
83	Garfield	84	Wheeler
85	Banner	86	Blaine
87	Logan	88	Loup
89	Thomas	90	McPherson
91	Arthur	92	Grant
93	Hooker		

(3) Counties using the alphanumeric system shall show on the license plates of motor vehicles or trailers licensed therein a combination of three letters followed by a combination of three numerals. The department may adopt and promulgate rules and regulations creating alphanumeric distinctions on the license plates based upon the registration of the motor vehicle or trailer and designating plate types that shall display county numbers on a statewide basis, taking into consideration cost, the need for uniformity, factors applicable to the production, distribution, and use of specific plate types, and any other factors consistent with the purposes of the Motor Vehicle Registration Act that the director deems relevant.

Source: Laws 2005, LB 274, § 70; Laws 2016, LB811, § 1.

60-371 Exemption from civil liability.

The county and the county treasurer and his or her employees or agents shall be exempt from all civil liability when carrying out powers and duties delegated under the Motor Vehicle Registration Act.

Source: Laws 2005, LB 274, § 71; Laws 2012, LB801, § 53.

60-372 Vehicle Title and Registration System; agent of county treasurer; appointment.

(1) Each county shall issue and file registration certificates using the Vehicle Title and Registration System which shall be provided and maintained by the department.

(2) The county treasurer may appoint an agent to issue registration certificates and to accept the payment of taxes and fees as provided in the Motor Vehicle Registration Act, upon approval of the county board. The agent shall furnish a bond in such amount and upon such conditions as determined by the county board.

Source: Laws 2005, LB 274, § 72; Laws 2012, LB801, § 54; Laws 2017, LB263, § 29.

60-373 Operation of vehicle without registration; dealer; employee or agent; licensed manufacturer; conditions.

(1) Each licensed motor vehicle dealer or trailer dealer as defined in sections 60-1401.26 and 60-1401.37, respectively, doing business in this state, in lieu of registering each motor vehicle or trailer which such dealer owns of a type otherwise required to be registered, or any full-time or part-time employee or agent of such dealer may, if the motor vehicle or trailer displays dealer number plates:

(a) Operate or tow the motor vehicle or trailer upon the highways of this state solely for purposes of transporting, testing, demonstrating, or use in the ordinary course and conduct of business as a motor vehicle or trailer dealer. Such use may include personal or private use by the dealer and personal or private use by any bona fide employee, if the employee can be verified by payroll records maintained at the dealership as ordinarily working more than thirty hours per week or fifteen hundred hours per year at the dealership;

(b) Operate or tow the motor vehicle or trailer upon the highways of this state for transporting industrial equipment held by the licensee for purposes of demonstration, sale, rental, or delivery; or

(c) Sell the motor vehicle or trailer.

(2) Each licensed manufacturer as defined in section 60-1401.24 which actually manufactures or assembles motor vehicles or trailers within this state, in lieu of registering each motor vehicle or trailer which such manufacturer owns of a type otherwise required to be registered, or any employee of such manufacturer may operate or tow the motor vehicle or trailer upon the highways of this state solely for purposes of transporting, testing, demonstrating to prospective customers, or use in the ordinary course and conduct of business as a motor vehicle or trailer manufacturer, upon the condition that any such motor vehicle or trailer display thereon, in the manner prescribed in section 60-3,100, dealer number plates as provided for in section 60-3,114.

(3) In no event shall such plates be used on motor vehicles or trailers hauling other than automotive or trailer equipment, complete motor vehicles, or trailers

which are inventory of such licensed dealer or manufacturer unless there is issued by the department a special permit specifying the hauling of other products. This section shall not be construed to allow a dealer to operate a motor vehicle or trailer with dealer number plates for the delivery of parts inventory. A dealer may use such motor vehicle or trailer to pick up parts to be used for the motor vehicle or trailer inventory of the dealer.

Source: Laws 2005, LB 274, § 73; Laws 2010, LB816, § 7; Laws 2017, LB346, § 1.

60-376 Operation of vehicle without registration; In Transit sticker; records required; proof of ownership.

Subject to all the provisions of law relating to motor vehicles and trailers not inconsistent with this section, any motor vehicle dealer or trailer dealer who is regularly engaged within this state in the business of buying and selling motor vehicles and trailers, who regularly maintains within this state an established place of business, and who desires to effect delivery of any motor vehicle or trailer bought or sold by him or her from the point where purchased or sold to points within or outside this state may, solely for the purpose of such delivery by himself or herself, his or her agent, or a bona fide purchaser, operate such motor vehicle or tow such trailer on the highways of this state without charge or registration of such motor vehicle or trailer. A sticker shall be displayed on the front and rear windows or the rear side windows of such motor vehicle, except an autocycle or a motorcycle, and displayed on the front and rear of each such trailer. On the sticker shall be plainly printed in black letters the words In Transit. One In Transit sticker shall be displayed on an autocycle or a motorcycle, which sticker may be one-half the size required for other motor vehicles. Such stickers shall include a registration number, which registration number shall be different for each sticker or pair of stickers issued, and the contents of such sticker and the numbering system shall be as prescribed by the department. Each dealer issuing such stickers shall keep a record of the registration number of each sticker or pair of stickers on the invoice of such sale. Such sticker shall allow such owner to operate the motor vehicle or tow such trailer for a period of thirty days in order to effect proper registration of the new or used motor vehicle or trailer. When any person, firm, or corporation has had a motor vehicle or trailer previously registered and license plates assigned to such person, firm, or corporation, such owner may operate the motor vehicle or tow such trailer for a period of thirty days in order to effect transfer of plates to the new or used motor vehicle or trailer. Upon demand of proper authorities, there shall be presented by the person in charge of such motor vehicle or trailer, for examination, a duly executed bill of sale therefor or other satisfactory evidence of the right of possession by such person of such motor vehicle or trailer.

Source: Laws 2005, LB 274, § 76; Laws 2008, LB756, § 12; Laws 2015, LB231, § 10.

60-378 Transporter plates; fee; records.

(1) Any transporter doing business in this state may, in lieu of registering each motor vehicle or trailer which such transporter is transporting, upon payment of a fee of ten dollars, apply to the department for a transporter's certificate and one transporter license plate. Additional pairs of transporter

certificates and transporter license plates may be procured for a fee of ten dollars each. Transporter license plates shall be displayed (a) upon the motor vehicle or trailer being transported or (b) upon a properly registered truck or truck-tractor which is a work or service vehicle in the process of towing a trailer which is itself being delivered by the transporter, and such registered truck or truck-tractor shall also display a transporter plate upon the front thereof. The applicant for a transporter plate shall keep for three years a record of each motor vehicle or trailer transported by him or her under this section, and such record shall be available to the department for inspection. Each applicant shall file with the department proof of his or her status as a bona fide transporter.

(2) Transporter license plates may be the same size as license plates issued for motorcycles other than autocycles, shall bear thereon a mark to distinguish them as transporter plates, and shall be serially numbered so as to distinguish them from each other. Such license plates may only be displayed upon the front of a driven motor vehicle of a lawful combination or upon the front of a motor vehicle driven singly or upon the rear of a trailer being towed.

Source: Laws 2005, LB 274, § 78; Laws 2007, LB286, § 32; Laws 2018, LB909, § 54; Laws 2019, LB699, § 1.

60-382 Nonresident owners; thirty-day license plate; application; fee; certificate; contents.

(1) Any person, not a resident of this state, who is the owner of a motor vehicle or trailer required to be registered in this state or any other state may, for the sole purpose of delivering, or having delivered, such motor vehicle or trailer, to his or her home or place of business in another state, apply for and obtain a thirty-day license plate which shall allow such person or his or her agent or employee to operate such motor vehicle or trailer upon the highways under conditions set forth in subsection (2) of this section, without obtaining a certificate of title to such motor vehicle in this state.

(2) Applications for such thirty-day license plate shall be made to the county treasurer of the county where such motor vehicle or trailer was purchased or acquired. Upon receipt of such application and payment of the fee of five dollars, the county treasurer shall issue to such applicant a thirty-day license plate, which shall be devised by the director, and evidenced by the official certificate of the county treasurer, which certificate shall state the name of the owner and operator of the motor vehicle or trailer so licensed, the description of such motor vehicle or trailer, the place in Nebraska where such motor vehicle or trailer was purchased or otherwise acquired, the place where delivery is to be made, and the time, not to exceed thirty days from date of purchase or acquisition of the motor vehicle or trailer, during which time such license plate shall be valid.

(3) Nonresident owner thirty-day license plates issued under this section shall be the same size and of the same basic design as regular license plates issued pursuant to section 60-3,100.

Source: Laws 2005, LB 274, § 82; Laws 2012, LB801, § 55.

60-383 Repealed. Laws 2015, LB 45, § 4.

60-383.02 Low-speed vehicle; registration; fee.

For the registration of every low-speed vehicle, the fee shall be fifteen dollars.

Source: Laws 2011, LB289, § 16.

60-384 Nonresident carnival operator; thirty-day permit; fees; reciprocity.

Upon receipt of an application duly verified, a nonresident carnival operator shall be issued a thirty-day carnival operators' permit to operate in Nebraska upon the payment of the following fees: For the gross vehicle weight of sixteen thousand pounds or less, ten dollars; for more than sixteen thousand pounds and not more than twenty-eight thousand pounds, fifteen dollars; for more than twenty-eight thousand pounds and not more than forty thousand pounds, twenty dollars; and for more than forty thousand pounds and not more than seventy-three thousand two hundred eighty pounds, twenty-five dollars, except that such a permit shall be issued only to out-of-state operators when the jurisdiction in which the motor vehicle and trailer is registered grants reciprocity to Nebraska. Such fees shall be paid to the county treasurer or persons designated by the director, who shall have authority to issue the permit when the applicant is eligible and pays the required fee. All fees collected under this section shall be paid into the state treasury and by the State Treasurer credited to the Highway Cash Fund.

Source: Laws 2005, LB 274, § 84; Laws 2012, LB801, § 56.

60-385 Application; situs.

Every owner of a motor vehicle or trailer required to be registered shall make application for registration to the county treasurer of the county in which the motor vehicle or trailer has situs. The application shall be by any means designated by the department. An approved licensed dealer participating in the electronic dealer services system pursuant to section 60-1507 may submit such application electronically to the appropriate county treasurer or the department. A salvage branded certificate of title and a nontransferable certificate of title provided for in section 60-170 shall not be valid for registration purposes.

Source: Laws 2005, LB 274, § 85; Laws 2006, LB 765, § 6; Laws 2007, LB286, § 33; Laws 2012, LB801, § 57; Laws 2017, LB263, § 30.

60-386 Application; contents.

(1) Each new application shall contain, in addition to other information as may be required by the department, the name and residential and mailing address of the applicant and a description of the motor vehicle or trailer, including the color, the manufacturer, the identification number, the United States Department of Transportation number if required by 49 C.F.R. 390.5 to 390.21, as such regulations existed on January 1, 2020, and the weight of the motor vehicle or trailer required by the Motor Vehicle Registration Act. Beginning on the implementation date designated by the director pursuant to subsection (4) of section 60-1508, for trailers which are not required to have a certificate of title under section 60-137 and which have no identification number, the assignment of an identification number shall be required and the identification number shall be issued by the county treasurer or department. With the application the applicant shall pay the proper registration fee and shall state whether the motor vehicle is propelled by alternative fuel and, if alternative fuel, the type of fuel. The application shall also contain a notification that bulk fuel purchasers may be subject to federal excise tax liability. The

department shall include such notification in the notices required by section 60-3,186.

(2) This subsection applies beginning on an implementation date designated by the director. The director shall designate an implementation date which is on or before January 1, 2021. In addition to the information required under subsection (1) of this section, the application for registration shall contain (a)(i) the full legal name as defined in section 60-468.01 of each owner or (ii) the name of each owner as such name appears on the owner's motor vehicle operator's license or state identification card and (b)(i) the motor vehicle operator's license number or state identification card number of each owner, if applicable, and one or more of the identification elements as listed in section 60-484 of each owner, if applicable, and (ii) if any owner is a business entity, a nonprofit organization, an estate, a trust, or a church-controlled organization, its tax identification number.

Source: Laws 2005, LB 274, § 86; Laws 2011, LB289, § 17; Laws 2012, LB801, § 58; Laws 2013, LB207, § 1; Laws 2015, LB642, § 4; Laws 2016, LB929, § 3; Laws 2017, LB263, § 31; Laws 2018, LB909, § 55; Laws 2019, LB79, § 6; Laws 2019, LB270, § 14; Laws 2020, LB944, § 14.

Operative date November 14, 2020.

60-387.01 Evidence of insurance; display as electronic image.

Evidence of insurance may be displayed as an electronic image on an electronic device. If a person displays evidence of insurance on an electronic device, the person is not consenting for law enforcement to access other contents of the device. Whenever a person presents an electronic device for purposes of evidence of insurance, the person presenting the electronic device assumes liability for any damage to the device.

Source: Laws 2014, LB816, § 3.

60-388 Collection of taxes and fees required.

No county treasurer shall receive or accept an application or registration fee or issue any registration certificate for any motor vehicle or trailer without collection of the taxes and the fees imposed in sections 60-3,185, 60-3,190, and 77-2703 and any other applicable taxes and fees upon such motor vehicle or trailer. If applicable, the applicant shall furnish proof of payment, in the form prescribed by the director as directed by the United States Secretary of the Treasury, of the federal heavy vehicle use tax imposed by the Internal Revenue Code, 26 U.S.C. 4481.

Source: Laws 2005, LB 274, § 88; Laws 2012, LB801, § 59.

60-389 Registration number; trailer identification tags; assignment.

Upon the filing of such application, the department shall, upon registration, assign to such motor vehicle or trailer a distinctive registration number in the form of a license plate. Beginning on the implementation date designated by the director pursuant to subsection (4) of section 60-1508, for trailers which are not required to have a certificate of title under section 60-137 and which have an identification number issued by the county treasurer or department under section 60-386, trailer identification tags shall be supplied by the department and shall be required to be affixed to the trailer after issuance. Upon sale or

transfer of any such motor vehicle or trailer, such number may be canceled or may be reassigned to another motor vehicle or trailer, at the option of the department, subject to the provisions of the Motor Vehicle Registration Act.

Source: Laws 2005, LB 274, § 89; Laws 2018, LB909, § 56.

60-391 Combined certificate and receipt for fees; county treasurer; report; contents.

The county treasurer shall issue a combined certificate and receipt for all fees received for the registration of motor vehicles or trailers to the applicant for registration and forward an electronic copy of the combined application and receipt to the department in a form prescribed by the department. Each county treasurer shall make a report to the department of the number of original registrations of motor vehicles or trailers registered in the rural areas of the county and of the number of original registrations of motor vehicles or trailers registered in each incorporated city and village in the county during each month, on or before the twenty-fifth day of the succeeding month. The department shall prescribe the form of such report. When any county treasurer fails to file such report, the department shall notify the county board of such county and the Director of Administrative Services who shall immediately suspend any payments to such county for highway purposes until the required reports are submitted.

Source: Laws 2005, LB 274, § 91; Laws 2012, LB801, § 60.

60-393 Multiple vehicle registration.

Any owner who has two or more motor vehicles or trailers required to be registered under the Motor Vehicle Registration Act may register all such motor vehicles or trailers on a calendar-year basis or on an annual basis for the same registration period beginning in a month chosen by the owner. When electing to establish the same registration period for all such motor vehicles or trailers, the owner shall pay the registration fee, the motor vehicle tax imposed in section 60-3,185, the motor vehicle fee imposed in section 60-3,190, and the alternative fuel fee imposed in section 60-3,191 on each motor vehicle for the number of months necessary to extend its current registration period to the registration period under which all such motor vehicles or trailers will be registered. Credit shall be given for registration paid on each motor vehicle or trailer when the motor vehicle or trailer has a later expiration date than that chosen by the owner except as otherwise provided in sections 60-3,121, 60-3,122.02, 60-3,122.04, 60-3,128, 60-3,224, 60-3,227, 60-3,233, 60-3,235, 60-3,238, 60-3,240, 60-3,242, 60-3,244, 60-3,246, 60-3,248, 60-3,250, 60-3,252, and 60-3,254. Thereafter all such motor vehicles or trailers shall be registered on an annual basis starting in the month chosen by the owner.

Source: Laws 2005, LB 274, § 93; Laws 2007, LB570, § 4; Laws 2011, LB289, § 18; Laws 2014, LB383, § 2; Laws 2015, LB220, § 2; Laws 2016, LB474, § 4; Laws 2017, LB46, § 2; Laws 2017, LB263, § 32; Laws 2019, LB138, § 4; Laws 2019, LB356, § 3; Laws 2020, LB944, § 15.

Operative date January 1, 2021.

60-394 Registration; certain name and address changes; fee.

(1) Registration which is in the name of one spouse may be transferred to the other spouse for a fee of one dollar and fifty cents.

(2) So long as one registered name on a registration of a noncommercial motor vehicle or trailer remains the same, other names may be deleted therefrom or new names added thereto for a fee of one dollar and fifty cents.

(3) At any time prior to annual renewal beginning January 1, 2019, an owner may voluntarily update his or her address on the registration certificate upon payment of a fee of one dollar and fifty cents.

Source: Laws 2005, LB 274, § 94; Laws 2017, LB263, § 33.

60-395 Refund or credit of fees; when authorized.

(1) Except as otherwise provided in subsection (2) of this section and sections 60-3,121, 60-3,122.02, 60-3,122.04, 60-3,128, 60-3,224, 60-3,227, 60-3,231, 60-3,233, 60-3,235, 60-3,238, 60-3,240, 60-3,242, 60-3,244, 60-3,246, 60-3,248, 60-3,250, 60-3,252, and 60-3,254, the registration shall expire and the registered owner or lessee may, by returning the registration certificate, the license plates, and, when appropriate, the validation decals and by either making application on a form prescribed by the department to the county treasurer of the occurrence of an event described in subdivisions (a) through (e) of this subsection or, in the case of a change in situs, displaying to the county treasurer the registration certificate of such other state as evidence of a change in situs, receive a refund of that part of the unused fees and taxes on motor vehicles or trailers based on the number of unexpired months remaining in the registration period from the date of any of the following events:

- (a) Upon transfer of ownership of any motor vehicle or trailer;
- (b) In case of loss of possession because of fire, natural disaster, theft, dismantlement, or junking;
- (c) When a salvage branded certificate of title is issued;
- (d) Whenever a type or class of motor vehicle or trailer previously registered is subsequently declared by legislative act or court decision to be illegal or ineligible to be operated or towed on the public roads and no longer subject to registration fees, the motor vehicle tax imposed in section 60-3,185, the motor vehicle fee imposed in section 60-3,190, and the alternative fuel fee imposed in section 60-3,191;
- (e) Upon a trade-in or surrender of a motor vehicle under a lease; or
- (f) In case of a change in the situs of a motor vehicle or trailer to a location outside of this state.

(2) If the date of the event falls within the same calendar month in which the motor vehicle or trailer is acquired, no refund shall be allowed for such month.

(3) If the transferor or lessee acquires another motor vehicle at the time of the transfer, trade-in, or surrender, the transferor or lessee shall have the credit provided for in this section applied toward payment of the motor vehicle fees and taxes then owing. Otherwise, the transferor or lessee shall file a claim for refund with the county treasurer upon an application form prescribed by the department.

(4) The registered owner or lessee shall make a claim for refund or credit of the fees and taxes for the unexpired months in the registration period within

sixty days after the date of the event or shall be deemed to have forfeited his or her right to such refund or credit.

(5) For purposes of this section, the date of the event shall be: (a) In the case of a transfer or loss, the date of the transfer or loss; (b) in the case of a change in the situs, the date of registration in another state; (c) in the case of a trade-in or surrender under a lease, the date of trade-in or surrender; (d) in the case of a legislative act, the effective date of the act; and (e) in the case of a court decision, the date the decision is rendered.

(6) Application for registration or for reassignment of license plates and, when appropriate, validation decals to another motor vehicle or trailer shall be made within thirty days of the date of purchase.

(7) If a motor vehicle or trailer was reported stolen under section 60-178, a refund under this section shall not be reduced for a lost plate charge and a credit under this section may be reduced for a lost plate charge but the applicant shall not be required to pay the plate fee for new plates.

(8) The county treasurer shall refund the motor vehicle fee and registration fee from the fees which have not been transferred to the State Treasurer. The county treasurer shall make payment to the claimant from the undistributed motor vehicle taxes of the taxing unit where the tax money was originally distributed. No refund of less than two dollars shall be paid.

Source: Laws 2005, LB 274, § 95; Laws 2007, LB286, § 35; Laws 2007, LB570, § 5; Laws 2009, LB175, § 1; Laws 2011, LB289, § 19; Laws 2012, LB801, § 61; Laws 2014, LB383, § 3; Laws 2015, LB220, § 3; Laws 2016, LB474, § 5; Laws 2017, LB46, § 3; Laws 2017, LB263, § 34; Laws 2018, LB909, § 57; Laws 2019, LB138, § 5; Laws 2019, LB356, § 4; Laws 2020, LB944, § 16.
Operative date November 14, 2020.

60-396 Credit of fees; vehicle disabled or removed from service.

Whenever the registered owner files an application with the county treasurer showing that a motor vehicle, trailer, or semitrailer is disabled and has been removed from service, the registered owner may, by returning the registration certificate, the license plates, and, when appropriate, the validation decals or, in the case of the unavailability of such registration certificate or certificates, license plates, or validation decals, then by making an affidavit to the county treasurer of such disablement and removal from service, receive a credit for a portion of the registration fee from the fee deposited with the State Treasurer at the time of registration based upon the number of unexpired months remaining in the registration year except as otherwise provided in sections 60-3,121, 60-3,122.02, 60-3,122.04, 60-3,128, 60-3,224, 60-3,227, 60-3,233, 60-3,235, 60-3,238, 60-3,240, 60-3,242, 60-3,244, 60-3,246, 60-3,248, 60-3,250, 60-3,252, and 60-3,254. The owner shall also receive a credit for the unused portion of the motor vehicle tax and fee based upon the number of unexpired months remaining in the registration year. When the owner registers a replacement motor vehicle, trailer, or semitrailer at the time of filing such affidavit, the credit may be immediately applied against the registration fee and the motor vehicle tax and fee for the replacement motor vehicle, trailer, or semitrailer. When no such replacement motor vehicle, trailer, or semitrailer is so registered, the county treasurer shall forward the application and affidavit, if any, to the State Treasurer who shall determine the amount, if any, of the allowable

credit for the registration fee and issue a credit certificate to the owner. For the motor vehicle tax and fee, the county treasurer shall determine the amount, if any, of the allowable credit and issue a credit certificate to the owner. When such motor vehicle, trailer, or semitrailer is removed from service within the same month in which it was registered, no credits shall be allowed for such month. The credits may be applied against taxes and fees for new or replacement motor vehicles, trailers, or semitrailers incurred within one year after cancellation of registration of the motor vehicle, trailer, or semitrailer for which the credits were allowed. When any such motor vehicle, trailer, or semitrailer is reregistered within the same registration year in which its registration has been canceled, the taxes and fees shall be that portion of the registration fee and the motor vehicle tax and fee for the remainder of the registration year.

Source: Laws 2005, LB 274, § 96; Laws 2007, LB570, § 6; Laws 2012, LB801, § 62; Laws 2014, LB383, § 4; Laws 2015, LB220, § 4; Laws 2016, LB474, § 6; Laws 2017, LB46, § 4; Laws 2017, LB263, § 35; Laws 2019, LB138, § 6; Laws 2019, LB356, § 5; Laws 2020, LB944, § 17.

Operative date January 1, 2021.

60-397 Refund or credit; salvage branded certificate of title.

If a motor vehicle or trailer has a salvage branded certificate of title issued as a result of an insurance company acquiring the motor vehicle or trailer through a total loss settlement, the prior owner of the motor vehicle or trailer who is a party to the settlement may receive a refund or credit of unused fees and taxes by (1) filing an application with the county treasurer within sixty days after the date of the settlement stating that title to the motor vehicle or trailer was transferred as a result of the settlement and (2) returning the registration certificate, the license plates, and, when appropriate, the validation decals or, in the case of the unavailability of the registration certificate, license plates, or validation decals, filing an affidavit with the county treasurer regarding the transfer of title due to the settlement and the unavailability of the certificate, license plates, or validation decals. The owner may receive a refund or credit of the registration fees and motor vehicle taxes and fees for the unexpired months remaining in the registration year determined based on the date when the motor vehicle or trailer was damaged and became unavailable for service. When the owner registers a replacement motor vehicle or trailer at the time of filing such affidavit, the credit may be immediately applied against the registration fee and the motor vehicle tax and fee for the replacement motor vehicle or trailer. When no such replacement motor vehicle or trailer is so registered, the county treasurer shall refund the unused registration fees. If the motor vehicle or trailer was damaged and became unavailable for service during the same month in which it was registered, no refund or credit shall be allowed for such month. When any such motor vehicle or trailer is reregistered within the same registration year in which its registration has been canceled, the taxes and fees shall be that portion of the registration fee and the motor vehicle tax and fee for the remainder of the registration year.

Source: Laws 2005, LB 274, § 97; Laws 2007, LB286, § 36; Laws 2012, LB801, § 63.

60-398 Nonresident; refund; when allowed.

A nonresident may, if he or she applies within ninety days from his or her original registration date and surrenders the registration certificate and license plates which were assigned to him or her, receive from the county treasurer, or the department if registration was pursuant to section 60-3,198, a refund in the amount of fifty percent of the original license fee, fifty percent of the motor vehicle tax imposed in section 60-3,185, and fifty percent of the motor vehicle fee imposed in section 60-3,190, except that no refunds shall be made on any license surrendered after the ninth month of the registration period for which the motor vehicle or trailer was registered.

Source: Laws 2005, LB 274, § 98; Laws 2012, LB801, § 64.

60-3,100 License plates; issuance; license decal; display; additional registration fee.

(1) The department shall issue to every person whose motor vehicle or trailer is registered one or two fully reflectorized license plates upon which shall be displayed (a) the registration number consisting of letters and numerals assigned to such motor vehicle or trailer in figures not less than two and one-half inches nor more than three inches in height and (b) also the word Nebraska suitably lettered so as to be attractive. The license plates shall be of a color designated by the director. The color of the plates shall be changed each time the license plates are changed. Each time the license plates are changed, the director shall secure competitive bids for materials pursuant to sections 81-145 to 81-162. Autocycle, motorcycle, minitruck, low-speed vehicle, and trailer license plate letters and numerals may be one-half the size of those required in this section.

(2)(a) Except as otherwise provided in this subsection, two license plates shall be issued for every motor vehicle.

(b) One license plate shall be issued for (i) apportionable vehicles, (ii) buses, (iii) dealers, (iv) minitrucks, (v) motorcycles, other than autocycles, (vi) special interest motor vehicles that use the special interest motor vehicle license plate authorized by and issued under section 60-3,135.01, (vii) trailers, and (viii) truck-tractors.

(c)(i) One license plate shall be issued, upon request and compliance with this subdivision, for any passenger car which is not manufactured to be equipped with a bracket on the front of the vehicle to display a license plate. A license decal shall be issued with the license plate as provided in subdivision (ii) of this subdivision and shall be displayed on the driver's side of the windshield. In order to request a single license plate and license decal, there shall be an additional annual nonrefundable registration fee of fifty dollars plus the cost of the decal paid to the county treasurer at the time of registration. All fees collected under this subdivision shall be remitted to the State Treasurer for credit to the Highway Trust Fund.

(ii) The department shall design, procure, and furnish to the county treasurer a license decal which shall be displayed as evidence that a license plate has been obtained under this subdivision. Each county treasurer shall furnish a license decal to the person obtaining the plate.

(d) When two license plates are issued, one shall be prominently displayed at all times on the front and one on the rear of the registered motor vehicle or trailer. When only one plate is issued, it shall be prominently displayed on the rear of the registered motor vehicle or trailer. When only one plate is issued for

motor vehicles registered pursuant to section 60-3,198 and truck-tractors, it shall be prominently displayed on the front of the apportionable vehicle.

Source: Laws 2005, LB 274, § 100; Laws 2010, LB650, § 25; Laws 2011, LB289, § 20; Laws 2012, LB216, § 2; Laws 2015, LB231, § 11; Laws 2016, LB53, § 1; Laws 2018, LB909, § 58; Laws 2019, LB356, § 6.

60-3,101 License plates; when issued; validation decals.

Except for license plates issued pursuant to sections 60-3,203 and 60-3,228, license plates shall be issued every six years beginning with the license plates issued in the year 2005. Except for plates issued pursuant to such sections, in the years in which plates are not issued, in lieu of issuing such license plates, the department shall furnish to every person whose motor vehicle or trailer is registered one or two validation decals, as the case may be, which validation decals shall bear the year for which issued and be so constructed as to permit them to be permanently affixed to the plates.

Source: Laws 2005, LB 274, § 101; Laws 2016, LB783, § 6.

60-3,102 Plate fee.

(1) Except as provided in subsection (2) of this section, whenever new license plates, including duplicate or replacement license plates, are issued to any person, a fee per plate shall be charged in addition to all other required fees. The license plate fee shall be determined by the department and shall only cover the cost of the license plate and validation decals but shall not exceed three dollars and fifty cents. All fees collected pursuant to this section shall be remitted to the State Treasurer for credit to the Highway Trust Fund.

(2) Beginning January 1, 2021, no license plate fee under this section shall be charged for license plates issued pursuant to section 60-3,122, 60-3,122.02, 60-3,123, 60-3,124, or 60-3,125.

Source: Laws 2005, LB 274, § 102; Laws 2019, LB138, § 7.

60-3,104 Types of license plates.

The department shall issue the following types of license plates:

- (1) Amateur radio station license plates issued pursuant to section 60-3,126;
- (2) Apportionable vehicle license plates issued pursuant to section 60-3,203;
- (3) Autocycle license plates issued pursuant to section 60-3,100;
- (4) Boat dealer license plates issued pursuant to section 60-379;
- (5) Breast Cancer Awareness Plates issued pursuant to sections 60-3,230 and 60-3,231;
- (6) Bus license plates issued pursuant to section 60-3,144;
- (7) Choose Life License Plates issued pursuant to sections 60-3,232 and 60-3,233;
- (8) Commercial motor vehicle license plates issued pursuant to section 60-3,147;
- (9) Dealer or manufacturer license plates issued pursuant to sections 60-3,114 and 60-3,115;
- (10) Disabled veteran license plates issued pursuant to section 60-3,124;

- (11) Donate Life Plates issued pursuant to sections 60-3,245 and 60-3,246;
- (12) Down Syndrome Awareness Plates issued pursuant to sections 60-3,247 and 60-3,248;
- (13) Farm trailer license plates issued pursuant to section 60-3,151;
- (14) Farm truck license plates issued pursuant to section 60-3,146;
- (15) Farm trucks with a gross weight of over sixteen tons license plates issued pursuant to section 60-3,146;
- (16) Fertilizer trailer license plates issued pursuant to section 60-3,151;
- (17) Former military vehicle license plates issued pursuant to section 60-3,236;
- (18) Gold Star Family license plates issued pursuant to sections 60-3,122.01 and 60-3,122.02;
- (19) Handicapped or disabled person license plates issued pursuant to section 60-3,113;
- (20) Historical vehicle license plates issued pursuant to sections 60-3,130 to 60-3,134;
- (21) Local truck license plates issued pursuant to section 60-3,145;
- (22) Metropolitan utilities district license plates issued pursuant to section 60-3,228;
- (23) Military Honor Plates issued pursuant to sections 60-3,122.03 and 60-3,122.04;
- (24) Minitruck license plates issued pursuant to section 60-3,100;
- (25) Motor vehicle license plates for motor vehicles owned or operated by the state, counties, municipalities, or school districts issued pursuant to section 60-3,105;
- (26) Motor vehicles exempt pursuant to section 60-3,107;
- (27) Motorcycle license plates issued pursuant to section 60-3,100;
- (28) Mountain Lion Conservation Plates issued pursuant to sections 60-3,226 and 60-3,227;
- (29) Native American Cultural Awareness and History Plates issued pursuant to sections 60-3,234 and 60-3,235;
- (30) Nebraska Cornhusker Spirit Plates issued pursuant to sections 60-3,127 to 60-3,129;
- (31) Nebraska 150 Sesquicentennial Plates issued pursuant to sections 60-3,223 to 60-3,225;
- (32) Nonresident owner thirty-day license plates issued pursuant to section 60-382;
- (33) Passenger car having a seating capacity of ten persons or less and not used for hire issued pursuant to section 60-3,143 other than autocycles;
- (34) Passenger car having a seating capacity of ten persons or less and used for hire issued pursuant to section 60-3,143 other than autocycles;
- (35) Pearl Harbor license plates issued pursuant to section 60-3,122;
- (36) Personal-use dealer license plates issued pursuant to section 60-3,116;

- (37) Personalized message license plates for motor vehicles, trailers, and semitrailers, except motor vehicles, trailers, and semitrailers registered under section 60-3,198, issued pursuant to sections 60-3,118 to 60-3,121;
- (38) Pets for Vets Plates issued pursuant to sections 60-3,249 and 60-3,250;
- (39) Prisoner-of-war license plates issued pursuant to section 60-3,123;
- (40) Prostate Cancer Awareness Plates issued pursuant to section 60-3,240;
- (41) Public power district license plates issued pursuant to section 60-3,228;
- (42) Purple Heart license plates issued pursuant to section 60-3,125;
- (43) Recreational vehicle license plates issued pursuant to section 60-3,151;
- (44) Repossession license plates issued pursuant to section 60-375;
- (45) Sammy's Superheroes license plates for childhood cancer awareness issued pursuant to section 60-3,242;
- (46) Special interest motor vehicle license plates issued pursuant to section 60-3,135.01;
- (47) Specialty license plates issued pursuant to sections 60-3,104.01 and 60-3,104.02;
- (48) Support the Arts Plates issued pursuant to sections 60-3,251 and 60-3,252;
- (49) Support Our Troops Plates issued pursuant to sections 60-3,243 and 60-3,244;
- (50) The Good Life Is Outside Plates issued pursuant to sections 60-3,253 and 60-3,254;
- (51) Trailer license plates issued for trailers owned or operated by the state, counties, municipalities, or school districts issued pursuant to section 60-3,106;
- (52) Trailer license plates issued for trailers owned or operated by a metropolitan utilities district or public power district pursuant to section 60-3,228;
- (53) Trailer license plates issued pursuant to section 60-3,100;
- (54) Trailers exempt pursuant to section 60-3,108;
- (55) Transporter license plates issued pursuant to section 60-378;
- (56) Trucks or combinations of trucks, truck-tractors, or trailers which are not for hire and engaged in soil and water conservation work and used for the purpose of transporting pipe and equipment exclusively used by such contractors for soil and water conservation construction license plates issued pursuant to section 60-3,149;
- (57) Utility trailer license plates issued pursuant to section 60-3,151;
- (58) Well-boring apparatus and well-servicing equipment license plates issued pursuant to section 60-3,109; and
- (59) Wildlife Conservation Plates issued pursuant to section 60-3,238.

Source: Laws 2005, LB 274, § 104; Laws 2006, LB 663, § 23; Laws 2007, LB286, § 37; Laws 2007, LB570, § 7; Laws 2009, LB110, § 2; Laws 2010, LB650, § 26; Laws 2012, LB216, § 3; Laws 2014, LB383, § 5; Laws 2015, LB45, § 2; Laws 2015, LB220, § 5; Laws 2015, LB231, § 12; Laws 2016, LB474, § 7; Laws 2016, LB783, § 7; Laws 2016, LB977, § 6; Laws 2017, LB46, § 5; Laws 2017, LB263, § 36; Laws 2018, LB909, § 59; Laws 2019, LB138, § 8;

Laws 2019, LB156, § 9; Laws 2019, LB356, § 7; Laws 2020, LB944, § 18.

Operative date January 1, 2021.

60-3,104.01 Specialty license plates; application; fee; delivery; transfer; credit allowed; fee.

(1) A person may apply for specialty license plates in lieu of regular license plates on an application prescribed and provided by the department pursuant to section 60-3,104.02 for any motor vehicle, trailer, or semitrailer, except for motor vehicles or trailers registered under section 60-3,198. An applicant receiving a specialty license plate for a farm truck with a gross weight of over sixteen tons or for a commercial motor vehicle registered for a gross weight of five tons or over shall affix the appropriate tonnage decal to the plate. The department shall make forms available for such applications. Each application for initial issuance or renewal of specialty license plates shall be accompanied by a fee of seventy dollars. Fees collected pursuant to this subsection shall be remitted to the State Treasurer. Until January 1, 2021, the State Treasurer shall credit fifteen percent of the fee for initial issuance and renewal of specialty license plates to the Department of Motor Vehicles Cash Fund and eighty-five percent of the fee to the Highway Trust Fund. Beginning January 1, 2021, the State Treasurer shall credit sixty percent of the fee for initial issuance and renewal of specialty license plates to the Department of Motor Vehicles Cash Fund and forty percent of the fee to the Highway Trust Fund.

(2)(a) When the department receives an application for specialty license plates, the department may deliver the plates and registration certificate to the applicant by United States mail or to the county treasurer of the county in which the motor vehicle, trailer, or semitrailer is registered and the delivery of the plates and registration certificate shall be made through a secure process and system. The county treasurer or the department shall issue specialty license plates in lieu of regular license plates when the applicant complies with the other provisions of law for registration of the motor vehicle, trailer, or semitrailer. If specialty license plates are lost, stolen, or mutilated, the licensee shall be issued replacement license plates pursuant to section 60-3,157.

(b) This subdivision applies beginning on an implementation date designated by the director. The director shall designate an implementation date which is on or before January 1, 2021. The county treasurer or the department may issue temporary license stickers to the applicant under this section for the applicant to lawfully operate the vehicle pending receipt of the license plates. No charge in addition to the registration fee shall be made for the issuance of a temporary license sticker under this subdivision. The department shall furnish temporary license stickers for issuance by the county treasurer at no cost to the counties. The department may adopt and promulgate rules and regulations regarding the design and issuance of temporary license stickers.

(3)(a) The owner of a motor vehicle, trailer, or semitrailer bearing specialty license plates may make application to the county treasurer to have such specialty license plates transferred to a motor vehicle, trailer, or semitrailer other than the motor vehicle, trailer, or semitrailer for which such plates were originally purchased if such motor vehicle, trailer, or semitrailer is owned by the owner of the specialty license plates.

(b) The owner may have the unused portion of the specialty license plate fee credited to the other motor vehicle, trailer, or semitrailer which will bear the specialty license plates at the rate of eight and one-third percent per month for each full month left in the registration period.

(c) Application for such transfer shall be accompanied by a fee of three dollars. Fees collected pursuant to this subsection shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

Source: Laws 2009, LB110, § 3; Laws 2012, LB801, § 65; Laws 2017, LB263, § 37; Laws 2019, LB270, § 15; Laws 2019, LB356, § 8.

60-3,104.02 Specialty license plates; organization; requirements; design of plates.

(1) The department shall issue specialty license plates for any organization which certifies that it meets the requirements of this section. The department shall work with the organization to design the plates.

(2) The department shall make applications available pursuant to section 60-3,104.01 for each type of specialty license plate when it is designed. The department shall not manufacture specialty license plates for an organization until the department has received two hundred fifty prepaid applications for specialty license plates designed for that organization. The department may revoke the approval for an organization's specialty license plate if the total number of registered vehicles that obtained such plate is less than two hundred fifty within three years after receiving approval.

(3) In order to have specialty license plates designed and manufactured, an organization shall furnish the department with the following:

(a) A copy of its articles of incorporation and, if the organization consists of a group of nonprofit corporations, a copy for each organization;

(b) A copy of its charter or bylaws and, if the organization consists of a group of nonprofit corporations, a copy for each organization;

(c) Any Internal Revenue Service rulings of the organization's nonprofit tax-exempt status and, if the organization consists of a group of nonprofit corporations, a copy for each organization;

(d) A copy of a certificate of existence on file with the Secretary of State under the Nebraska Nonprofit Corporation Act;

(e) Two hundred fifty prepaid applications for the alphanumeric specialty license plates; and

(f) A completed application for the issuance of the plates on a form provided by the department certifying that the organization meets the following requirements:

(i) The organization is a nonprofit corporation or a group of nonprofit corporations with a common purpose;

(ii) The primary activity or purpose of the organization serves the community, contributes to the welfare of others, and is not offensive or discriminatory in its purpose, nature, activity, or name;

(iii) The name and purpose of the organization does not promote any specific product or brand name that is on a product provided for sale;

(iv) The organization is authorized to use any name, logo, or graphic design suggested for the design of the plates;

(v) No infringement or violation of any property right will result from such use of such name, logo, or graphic design; and

(vi) The organization will hold harmless the State of Nebraska and its employees and agents for any liability which may result from any infringement or violation of a property right based on the use of such name, logo, or graphic design.

(4)(a) One type of plate under this section shall be alphanumeric plates. The department shall assign a designation up to five characters and not use a county designation.

(b) One type of plate under this section shall be personalized message plates. Such plates shall be issued subject to the same conditions specified for personalized message license plates in section 60-3,118, except that a maximum of five characters may be used. Personalized message specialty license plates under this section shall only be issued after the requirements of subsection (3) of this section have been met.

(5) The department may adopt and promulgate rules and regulations to carry out this section.

Source: Laws 2009, LB110, § 4; Laws 2016, LB977, § 7; Laws 2020, LB944, § 19.

Operative date January 1, 2021.

Cross References

Nebraska Nonprofit Corporation Act, see section 21-1901.

60-3,109 Well-boring apparatus and well-servicing equipment license plates.

(1) Any owner of well-boring apparatus and well-servicing equipment may make application to the county treasurer for license plates.

(2) Well-boring apparatus and well-servicing equipment license plates shall display thereon, in addition to the license number, the words special equipment.

Source: Laws 2005, LB 274, § 109; Laws 2012, LB801, § 66.

60-3,111 Farmers and ranchers; special permits; fee.

Special permits may be supplied by the department and issued by the county treasurer for truck-tractor and semitrailer combinations of farmers or ranchers used wholly and exclusively to carry their own supplies, farm equipment, and household goods to or from the owner's farm or ranch or used by the farmer or rancher to carry his or her own agricultural products to or from storage or market. Such special permits shall be valid for periods of thirty days and shall be carried in the cab of the truck-tractor. The fee for such permit shall be equivalent to one-twelfth of the regular commercial registration fee as determined by gross vehicle weight and size limitations as defined in sections 60-6,288 to 60-6,294, but the fee shall be no less than twenty-five dollars. Such fee shall be collected and distributed in the same manner as other motor vehicle fees.

Source: Laws 2005, LB 274, § 111; Laws 2012, LB801, § 67.

60-3,112 Nonresident licensed vehicle hauling grain or seasonally harvested products; permit; fee.

If a truck, truck-tractor, or trailer is lawfully licensed under the laws of another state or province and is engaged in hauling grain or other seasonally harvested products from the field where they are harvested to storage or market during the period from June 1 to December 15 of each year or under emergency conditions, the right to operate over the highways of this state for a period of ninety days shall be authorized by obtaining a permit therefor from the county treasurer or his or her agent of the county in which grain is first hauled. Such permit shall be issued electronically upon the payment of a fee of twenty dollars for a truck or one hundred fifty dollars for any combination of truck, truck-tractor, or trailer. The fees for such permits, when collected, shall be remitted to the State Treasurer for credit to the Highway Cash Fund.

Source: Laws 2005, LB 274, § 112; Laws 2012, LB801, § 68.

60-3,113 Handicapped or disabled person; plates; department; compile and maintain registry.

(1) The department shall, without the payment of any fee except the taxes and fees required by sections 60-3,102, 60-3,185, 60-3,190, and 60-3,191, issue license plates for one motor vehicle not used for hire and a license plate for one autocycle or motorcycle not used for hire to:

(a) Any permanently handicapped or disabled person or his or her parent, legal guardian, foster parent, or agent upon application and proof of a permanent handicap or disability; or

(b) A trust which owns the motor vehicle, autocycle, or motorcycle if a designated beneficiary of the trust qualifies under subdivision (a) of this subsection.

An application and proof of disability in the form and with the information required by section 60-3,113.02 shall be submitted before license plates are issued or reissued.

(2) The license plate or plates shall carry the internationally accepted wheelchair symbol, which symbol is a representation of a person seated in a wheelchair surrounded by a border six units wide by seven units high, and such other letters or numbers as the director prescribes. Such license plate or plates shall be used by such person in lieu of the usual license plate or plates.

(3) The department shall compile and maintain a registry of the names, addresses, and license numbers of all persons who obtain special license plates pursuant to this section and all persons who obtain a handicapped or disabled parking permit.

Source: Laws 2005, LB 274, § 113; Laws 2011, LB163, § 22; Laws 2011, LB289, § 21; Laws 2014, LB657, § 4; Laws 2015, LB231, § 13.

60-3,113.01 Handicapped or disabled person; parking permits; electronic system; department; duties.

The department shall develop, implement, and maintain an electronic system for accepting and processing applications for handicapped or disabled parking permits.

Source: Laws 2011, LB163, § 23; Laws 2014, LB657, § 5.

60-3,113.02 Handicapped or disabled person; parking permit; issuance; procedure; renewal; notice; identification card.

(1) A handicapped or disabled person or temporarily handicapped or disabled person or his or her parent, legal guardian, foster parent, or certifying health care provider may apply for a handicapped or disabled parking permit to the department or through a health care provider using a secure online process developed by the department which will entitle the holder of a permit or a person driving a motor vehicle for the purpose of transporting such holder to park in those spaces or access aisles provided for by sections 18-1736 and 18-1737 when the holder of the permit will enter or exit the motor vehicle while it is parked in such spaces or access aisles. For purposes of this section, (a) the handicapped or disabled person or temporarily handicapped or disabled person is considered the holder of the permit and (b) certifying health care provider means the physician, physician assistant, or advanced practice registered nurse who makes the certification required in subsection (2) of this section or his or her designee.

(2) The application process for a handicapped or disabled parking permit or for the renewal of a permit under this section shall include presentation of proof of identity by the handicapped or disabled person or temporarily handicapped or disabled person and certification by a physician, a physician assistant, or an advanced practice registered nurse practicing under and in accordance with his or her certification act that the person who will be the holder meets the statutory criteria for qualification. An application for the renewal of a permit under this section may be submitted within one hundred eighty days prior to the expiration of the permit. No applicant shall be required to provide his or her social security number. In the case of a temporarily handicapped or disabled person, the certifying physician, physician assistant, or advanced practice registered nurse shall recommend that the permit for the temporarily handicapped or disabled person be issued for either a three-month period or a six-month period, with such recommendation to be based on the estimated date of recovery.

(3) The department, upon receipt of a completed application for a handicapped or disabled parking permit under this section, shall verify that the applicant qualifies for such permit and, if so, shall deliver the permit to the applicant. In issuing a renewal of a permit, the department shall deliver a new expiration sticker to the applicant to be affixed to the existing permit. Such renewal sticker shall not be issued sooner than ten days prior to the date of expiration of the existing permit. A person may hold up to two permits under this section. If a person holds a permit under this section, such person may not hold a permit under section 60-3,113.03.

(4) In issuing any handicapped or disabled parking permit under this section, the department shall include a notice and an identification card. The notice shall contain information listing the legal uses of the permit and that the permit is not transferable, is to be used by the party to whom issued, is not to be altered or reproduced, and is to be used only when a handicapped or disabled person or a temporarily handicapped or disabled person will enter or exit the motor vehicle while it is parked in a designated parking space or access aisle. The notice shall also indicate that those convicted of handicapped parking infractions shall be subject to suspension of the permit for six months. The identification card shall show the expiration date of the permit and such identifying information with regard to the handicapped or disabled person or temporarily handicapped or disabled person to whom the permit is issued as is

necessary to the enforcement of sections 18-1736 to 18-1741.07 as determined by the department.

Source: Laws 2011, LB163, § 24; Laws 2013, LB31, § 1; Laws 2014, LB657, § 6; Laws 2018, LB909, § 60.

60-3,113.03 Handicapped or disabled person; parking permit; permit for specific motor vehicle; application; issuance; procedure; renewal; notice; identification card.

(1) The department shall take an application from any person for a handicapped or disabled parking permit that is issued for a specific motor vehicle and entitles the holder thereof or a person driving the motor vehicle for the purpose of transporting handicapped or disabled persons or temporarily handicapped or disabled persons to park in those spaces or access aisles provided for by sections 18-1736 and 18-1737 if the motor vehicle is used primarily for the transportation of handicapped or disabled persons or temporarily handicapped or disabled persons. Such permit shall be used only when the motor vehicle for which it was issued is being used for the transportation of a handicapped or disabled person or temporarily handicapped or disabled person and such person will enter or exit the motor vehicle while it is parked in such designated spaces or access aisles.

(2) A person applying for a handicapped or disabled parking permit or for the renewal of a permit pursuant to this section shall apply for a permit for each motor vehicle used for the transportation of handicapped or disabled persons or temporarily handicapped or disabled persons and shall include such information as is required by the department, including a demonstration to the department that each such motor vehicle is used primarily for the transportation of handicapped or disabled persons or temporarily handicapped or disabled persons. An application for the renewal of a permit under this section may be submitted within one hundred eighty days prior to the expiration of the permit.

(3) The department, upon receipt of a completed application, shall verify that the applicant qualifies for a handicapped or disabled parking permit under this section and, if so, shall deliver the permit to the applicant. In issuing renewed permits, the department shall deliver each individual renewal to the applicant as provided in section 60-3,113.02. The renewed permit shall not be issued sooner than ten days prior to the date of expiration, and the existing permit shall be invalid upon receipt of the renewed permit. No more than one such permit shall be issued for each motor vehicle under this section.

(4) In issuing any handicapped or disabled parking permit under this section, the department shall include a notice and an identification card to the registered owner of the motor vehicle or the applicant. The notice shall contain information listing the legal uses of the permit and that the permit is not transferable, is to be used for the motor vehicle for which it is issued, is not to be altered or reproduced, and is to be used only when a handicapped or disabled person or a temporarily handicapped or disabled person will enter or exit the motor vehicle while it is parked in a designated parking space or access aisle. The notice shall also indicate that those convicted of handicapped parking infractions shall be subject to suspension of the permit for six months. The identification card shall identify the motor vehicle for which the permit is

issued as is necessary to the enforcement of sections 18-1736 to 18-1741.07 as determined by the department.

Source: Laws 2011, LB163, § 25; Laws 2014, LB657, § 7; Laws 2018, LB909, § 61.

60-3,113.04 Handicapped or disabled person; parking permit; contents; issuance; duplicate permit.

(1) A handicapped or disabled parking permit shall be of a design, size, configuration, color, and construction and contain such information as specified in the regulations adopted by the United States Department of Transportation in 23 C.F.R. part 1235, UNIFORM SYSTEM FOR PARKING FOR PERSONS WITH DISABILITIES, as such regulations existed on January 1, 2020.

(2) No handicapped or disabled parking permit shall be issued to any person or for any motor vehicle if any permit has been issued to such person or for such motor vehicle and such permit has been suspended pursuant to section 18-1741.02. At the expiration of such suspension, a permit may be renewed in the manner provided for renewal in sections 60-3,113.02, 60-3,113.03, and 60-3,113.05.

(3) A duplicate handicapped or disabled parking permit may be provided up to two times during any single permit period if a permit is destroyed, lost, or stolen. Such duplicate permit shall be issued as provided in section 60-3,113.02 or 60-3,113.03, whichever is applicable, except that a new certification by a physician, a physician assistant, or an advanced practice registered nurse need not be provided. A duplicate permit shall be valid for the remainder of the period for which the original permit was issued. If a person has been issued two duplicate permits under this subsection and needs another permit, such person shall reapply for a new permit under section 60-3,113.02 or 60-3,113.03, whichever is applicable.

Source: Laws 2011, LB163, § 26; Laws 2012, LB751, § 13; Laws 2013, LB35, § 1; Laws 2014, LB657, § 8; Laws 2014, LB776, § 2; Laws 2015, LB313, § 2; Laws 2016, LB929, § 4; Laws 2017, LB263, § 38; Laws 2018, LB909, § 62; Laws 2019, LB79, § 7; Laws 2020, LB944, § 20.

Operative date November 14, 2020.

60-3,113.05 Handicapped or disabled persons; parking permit; expiration date; permit for temporarily handicapped or disabled person; period valid; renewal.

(1) Permanently issued handicapped or disabled parking permits shall be valid for a period ending on the last day of the month of the applicant's birthday in the sixth year after issuance and shall expire on that day.

(2) All handicapped or disabled parking permits for temporarily handicapped or disabled persons shall be issued for a period ending either three months after the date of issuance or six months after the date of issuance, with such period to be based on the estimated date of recovery, but such permit may be renewed one time for a similar three-month or six-month period. For the

renewal period, there shall be submitted an additional application with proof of a handicap or disability.

Source: Laws 2011, LB163, § 27; Laws 2013, LB31, § 2; Laws 2014, LB657, § 9; Laws 2016, LB865, § 2.

60-3,113.06 Handicapped or disabled persons; parking permit; use; display; prohibited acts; violation; penalty.

A handicapped or disabled parking permit shall not be transferable and shall be used only by the party to whom issued or for the motor vehicle for which issued and only for the purpose for which the permit is issued. A handicapped or disabled parking permit shall be displayed by hanging the permit from the motor vehicle's rearview mirror so as to be clearly visible through the front windshield. A handicapped or disabled parking permit shall be displayed on the dashboard only when there is no rearview mirror. No person shall alter or reproduce in any manner a handicapped or disabled parking permit. No person shall knowingly hold more than the allowed number of handicapped or disabled parking permits. No person shall display a handicapped or disabled parking permit issued under section 60-3,113.02 and park in a space or access aisle designated for the exclusive use of a handicapped or disabled person unless the holder of the permit will enter or exit the motor vehicle while it is parked in a designated space or access aisle. No person shall display a handicapped or disabled parking permit issued under section 60-3,113.03 and park in a space or access aisle designated for the exclusive use of a handicapped or disabled person unless the person displaying the permit is driving the motor vehicle for which the permit was issued and a handicapped or disabled person will enter or exit the motor vehicle while it is parked in a designated space or access aisle. Any violation of this section shall constitute a handicapped parking infraction as defined in section 18-1741.01 and shall be subject to the penalties and procedures set forth in sections 18-1741.01 to 18-1741.07.

Source: Laws 2011, LB163, § 28; Laws 2014, LB657, § 10.

60-3,113.07 Handicapped or disabled persons; parking permit; prohibited acts; violation; penalty; powers of director.

(1) No person shall knowingly provide false information on an application for a handicapped or disabled parking permit. Any person who violates this subsection shall be guilty of a Class III misdemeanor.

(2) If the director discovers evidence of fraud in an application for a handicapped or disabled parking permit or a license plate issued under section 60-3,113, the director may summarily cancel such permit or license plate and send notice of cancellation to the applicant.

Source: Laws 2011, LB163, § 29; Laws 2014, LB657, § 11.

60-3,113.08 Handicapped or disabled persons; parking permit; rules and regulations.

The department may adopt and promulgate rules and regulations necessary to fulfill any duties and obligations as provided in sections 60-3,113.01 to 60-3,113.08. All rules and regulations of the department relating to the issuance and use of handicapped or disabled parking permits adopted and promulgated

prior to July 18, 2014, shall continue to be effective until revised, amended, repealed, or nullified pursuant to law.

Source: Laws 2011, LB163, § 30; Laws 2014, LB657, § 12.

60-3,114 Dealer or manufacturer license plates; fee.

(1) Any licensed dealer or manufacturer may, upon payment of a fee of thirty dollars, make an application, on a form approved by the Nebraska Motor Vehicle Industry Licensing Board, to the county treasurer of the county in which his or her place of business is located for a certificate and one dealer license plate for the type of motor vehicle or trailer the dealer has been authorized by the Nebraska Motor Vehicle Industry Licensing Board to sell and demonstrate. One additional dealer license plate may be procured for the type of motor vehicle or trailer the dealer has sold during the last previous period of October 1 through September 30 for each twenty motor vehicles or trailers sold at retail during such period or one additional dealer license plate for each thirty motor vehicles or trailers sold at wholesale during such period, but not to exceed a total of five additional dealer license plates in the case of motor vehicles or trailers sold at wholesale, or, in the case of a manufacturer, for each ten motor vehicles or trailers actually manufactured or assembled within the state within the last previous period of October 1 through September 30 for a fee of fifteen dollars each.

(2) Dealer or manufacturer license plates shall display, in addition to the registration number, the letters DLR.

Source: Laws 2005, LB 274, § 114; Laws 2012, LB801, § 69.

60-3,115 Additional dealer license plates; unauthorized use; hearing.

When an applicant applies for a license, the Nebraska Motor Vehicle Industry Licensing Board may authorize the county treasurer to issue additional dealer license plates when the dealer or manufacturer furnishes satisfactory proof for a need of additional dealer license plates because of special condition or hardship. In the case of unauthorized use of dealer license plates by any licensed dealer, the Nebraska Motor Vehicle Industry Licensing Board may hold a hearing and after such hearing may determine that such dealer is not qualified for continued usage of such dealer license plates for a set period not to exceed one year.

Source: Laws 2005, LB 274, § 115; Laws 2012, LB801, § 70.

60-3,116 Personal-use dealer license plates; fee.

(1) Any licensed dealer or manufacturer may, upon payment of an annual fee of two hundred fifty dollars, make an application, on a form approved by the Nebraska Motor Vehicle Industry Licensing Board, to the county treasurer of the county in which his or her place of business is located for a certificate and one personal-use dealer license plate for the type of motor vehicle or trailer the dealer has been authorized by the Nebraska Motor Vehicle Industry Licensing Board to sell and demonstrate. Additional personal-use dealer license plates may be procured upon payment of an annual fee of two hundred fifty dollars each, subject to the same limitations as provided in section 60-3,114 as to the number of additional dealer license plates. A personal-use dealer license plate may be displayed on a motor vehicle having a gross weight including any load of six thousand pounds or less belonging to the dealer, may be used in the same

manner as a dealer license plate, and may be used for personal or private use of the dealer, the dealer's immediate family, or any bona fide employee of the dealer.

(2) Personal-use dealer license plates shall have the same design and shall be displayed as provided in sections 60-370 and 60-3,100.

Source: Laws 2005, LB 274, § 116; Laws 2010, LB816, § 11; Laws 2012, LB801, § 71; Laws 2017, LB346, § 2.

60-3,118 Personalized message license plates; conditions.

(1) In lieu of the license plates provided for by section 60-3,100, the department shall issue personalized message license plates for motor vehicles, trailers, or semitrailers, except for motor vehicles and trailers registered under section 60-3,198, to all applicants who meet the requirements of sections 60-3,119 to 60-3,121. Personalized message license plates shall be the same size and of the same basic design as regular license plates issued pursuant to section 60-3,100. The characters used shall consist only of letters and numerals of the same size and design and shall comply with the requirements of subdivision (1)(a) of section 60-3,100. A maximum of seven characters may be used, except that for an auticycle or a motorcycle, a maximum of six characters may be used.

(2) The following conditions apply to all personalized message license plates:

(a) County prefixes shall not be allowed except in counties using the alphanumeric system for motor vehicle registration. The numerals in the county prefix shall be the numerals assigned to the county, pursuant to subsection (2) of section 60-370, in which the motor vehicle or trailer is registered. Renewal of a personalized message license plate containing a county prefix shall be conditioned upon the motor vehicle or trailer being registered in such county. The numerals in the county prefix, including the hyphen or any other unique design for an existing license plate style, count against the maximum number of characters allowed under this section;

(b) The characters in the order used shall not conflict with or duplicate any number used or to be used on the regular license plates or any number or license plate already approved pursuant to sections 60-3,118 to 60-3,121;

(c) The characters in the order used shall not express, connote, or imply any obscene or objectionable words or abbreviations; and

(d) An applicant receiving a personalized message license plate for a farm truck with a gross weight of over sixteen tons or a commercial truck or truck-tractor with a gross weight of five tons or over shall affix the appropriate tonnage decal to such license plate.

(3) The department shall have sole authority to determine if the conditions prescribed in subsection (2) of this section have been met.

Source: Laws 2005, LB 274, § 118; Laws 2007, LB286, § 39; Laws 2015, LB231, § 14; Laws 2017, LB263, § 39.

60-3,119 Personalized message license plates; application; renewal; fee.

(1) Application for personalized message license plates shall be made to the department. The department shall make available through each county treasurer forms to be used for such applications.

(2) Each initial application shall be accompanied by a fee of forty dollars. The fees shall be remitted to the State Treasurer. Until January 1, 2021, the State Treasurer shall credit twenty-five percent of the fee to the Highway Trust Fund and seventy-five percent of the fee to the Department of Motor Vehicles Cash Fund. Beginning January 1, 2021, the State Treasurer shall credit forty percent of the fee to the Highway Trust Fund and sixty percent of the fee to the Department of Motor Vehicles Cash Fund.

(3) An application for renewal of a license plate previously approved and issued shall be accompanied by a fee of forty dollars. County treasurers collecting fees pursuant to this subsection shall remit them to the State Treasurer. Until January 1, 2021, the State Treasurer shall credit twenty-five percent of the fee to the Highway Trust Fund and seventy-five percent of the fee to the Department of Motor Vehicles Cash Fund. Beginning January 1, 2021, the State Treasurer shall credit forty percent of the fee to the Highway Trust Fund and sixty percent of the fee to the Department of Motor Vehicles Cash Fund.

Source: Laws 2005, LB 274, § 119; Laws 2009, LB110, § 5; Laws 2012, LB801, § 72; Laws 2019, LB356, § 9.

60-3,120 Personalized message license plates; delivery.

Until January 1, 2019, when the department approves an application for personalized message license plates, it shall notify the applicant and deliver the license plates to the county treasurer of the county in which the motor vehicle or trailer is to be registered. Beginning January 1, 2019, when the department approves an application for personalized message license plates, the department shall notify the applicant and deliver the license plates and registration certificate to the applicant by United States mail or to the county treasurer of the county in which the motor vehicle or trailer is to be registered and the delivery of the plates and registration certificate shall be made through a secure process and system. The county treasurer or the department shall deliver such plates to the applicant, in lieu of regular license plates, when the applicant complies with the other provisions of law for registration of the motor vehicle or trailer.

Source: Laws 2005, LB 274, § 120; Laws 2012, LB801, § 73; Laws 2017, LB263, § 40.

60-3,121 Personalized message license plates; transfer; credit allowed; fee.

(1) The owner of a motor vehicle or trailer bearing personalized message license plates may make application to the county treasurer to have such license plates transferred to a motor vehicle or trailer other than the motor vehicle or trailer for which such license plates were originally purchased if such motor vehicle or trailer is owned by the owner of the license plates.

(2) The owner may have the unused portion of the message plate fee credited to the other motor vehicle or trailer which will bear the license plate at the rate of eight and one-third percent per month for each full month left in the registration period.

(3) Application for such transfer shall be accompanied by a fee of three dollars. The fees shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

Source: Laws 2005, LB 274, § 121; Laws 2012, LB801, § 74; Laws 2017, LB263, § 41.

60-3,122 Pearl Harbor plates.

(1) Any person may, in addition to the application required by section 60-385, apply to the department for license plates designed by the department to indicate that he or she is a survivor of the Japanese attack on Pearl Harbor if he or she:

- (a) Was a member of the United States Armed Forces on December 7, 1941;
- (b) Was on station on December 7, 1941, during the hours of 7:55 a.m. to 9:45 a.m. Hawaii time at Pearl Harbor, the island of Oahu, or offshore at a distance not to exceed three miles;
- (c) Was discharged or otherwise separated with a characterization of honorable from the United States Armed Forces; and
- (d) Holds a current membership in a Nebraska Chapter of the Pearl Harbor Survivors Association.

(2) Pearl Harbor license plates shall be issued upon the applicant paying the license plate fee as provided in subsection (3) of this section and furnishing proof satisfactory to the department that the applicant fulfills the requirements provided by subsection (1) of this section. Any number of motor vehicles, trailers, or semitrailers owned by the applicant may be so licensed at any one time. Motor vehicles and trailers registered under section 60-3,198 shall not be so licensed.

(3) Until January 1, 2021, the applicant for Pearl Harbor license plates shall pay the license plate fee required under section 60-3,102. Beginning January 1, 2021, no license plate fee shall be required for Pearl Harbor license plates.

(4) If the license plates issued pursuant to this section are lost, stolen, or mutilated, the recipient of the plates shall be issued replacement license plates upon request and without charge.

(5) Beginning January 1, 2021, license plates issued under this section shall not require the payment of any additional license plate fees and shall be permanently attached to the vehicle to which the plates are registered as long as the vehicle is properly registered by the applicant annually.

(6) This subsection applies beginning on an implementation date designated by the director. The director shall designate an implementation date that is on or before January 1, 2021. The county treasurer or the department may issue temporary license stickers to the applicant under this section for the applicant to lawfully operate the vehicle pending receipt of the license plates. No charge in addition to the registration fee shall be made for the issuance of a temporary license sticker under this subsection. The department shall furnish temporary license stickers for issuance by the county treasurer at no cost to the counties. The department may adopt and promulgate rules and regulations regarding the design and issuance of temporary license stickers.

Source: Laws 2005, LB 274, § 122; Laws 2007, LB286, § 40; Laws 2009, LB110, § 6; Laws 2010, LB705, § 1; Laws 2015, LB642, § 5; Laws 2017, LB263, § 42; Laws 2019, LB138, § 9; Laws 2019, LB270, § 16.

60-3,122.02 Gold Star Family plates; fee; delivery.

(1) A person may apply to the department for Gold Star Family plates in lieu of regular license plates on an application prescribed and provided by the

department for any motor vehicle, trailer, or semitrailer, except for a motor vehicle or trailer registered under section 60-3,198. An applicant receiving a Gold Star Family plate for a farm truck with a gross weight of over sixteen tons shall affix the appropriate tonnage decal to the plate. The department shall make forms available for such applications through the county treasurers. Gold Star Family plates shall be issued upon payment of the license fee described in subsection (2) of this section and furnishing proof satisfactory to the department that the applicant is a surviving spouse, whether remarried or not, or an ancestor, including a stepparent, a descendant, including a stepchild, a foster parent or a person in loco parentis, or a sibling of a person who died while in good standing on active duty in the military service of the United States.

(2)(a)(i) Until January 1, 2021, each application for initial issuance of consecutively numbered Gold Star Family plates shall be accompanied by a fee of five dollars. An application for renewal of such plates shall be accompanied by a fee of five dollars. County treasurers collecting fees for renewals pursuant to this subdivision shall remit them to the State Treasurer. The State Treasurer shall credit five dollars of the fee for initial issuance and renewal of such plates to the Nebraska Veteran Cemetery System Operation Fund.

(ii) Beginning January 1, 2021, no additional fee shall be required for consecutively numbered Gold Star Family plates issued under this section and such plates shall not require the payment of any additional license plate fees and shall be permanently attached to the vehicle to which the plates are registered as long as the vehicle is properly registered by the applicant annually.

(b)(i) Each application for initial issuance of personalized message Gold Star Family plates shall be accompanied by a fee of forty dollars. An application for renewal of such plates shall be accompanied by a fee of forty dollars. County treasurers collecting fees for renewals pursuant to this subdivision shall remit them to the State Treasurer. The State Treasurer shall credit twenty-five percent of the fee for initial issuance and renewal of such plates to the Department of Motor Vehicles Cash Fund and seventy-five percent of the fee to the Nebraska Veteran Cemetery System Operation Fund.

(ii) Beginning January 1, 2021:

(A) No license plate fee under section 60-3,102 shall be required for personalized message Gold Star Family plates issued under this section, other than the renewal fee provided for in subdivision (2)(b)(i) of this section; and

(B) Such plates shall be permanently attached to the vehicle to which the plates are registered as long as the vehicle is properly registered by the applicant annually and the renewal fee provided for in subdivision (2)(b)(i) of this section is paid.

(3)(a) When the department receives an application for Gold Star Family plates, the department may deliver the plates and registration certificate to the applicant by United States mail or to the county treasurer of the county in which the motor vehicle or trailer is registered and the delivery of the plates and registration certificate shall be made through a secure process and system. The county treasurer or the department shall issue Gold Star Family plates in lieu of regular license plates when the applicant complies with the other provisions of the Motor Vehicle Registration Act for registration of the motor vehicle or trailer. If Gold Star Family plates are lost, stolen, or mutilated, the

licensee shall be issued replacement license plates upon request and without charge.

(b) This subdivision applies beginning on an implementation date designated by the director. The director shall designate an implementation date that is on or before January 1, 2021. The county treasurer or the department may issue temporary license stickers to the applicant under this section for the applicant to lawfully operate the vehicle pending receipt of the license plates. No charge in addition to the registration fee shall be made for the issuance of a temporary license sticker under this subdivision. The department shall furnish temporary license stickers for issuance by the county treasurer at no cost to the counties. The department may adopt and promulgate rules and regulations regarding the design and issuance of temporary license stickers.

(4) The owner of a motor vehicle or trailer bearing Gold Star Family plates may apply to the county treasurer to have such plates transferred to a motor vehicle other than the vehicle for which such plates were originally purchased if such vehicle is owned by the owner of the plates. The owner may have the unused portion of the fee for the plates, if any, credited to the other vehicle which will bear the plates at the rate of eight and one-third percent per month for each full month left in the registration period. Until January 1, 2021, application for such transfer shall be accompanied by a fee of three dollars. Beginning January 1, 2021, no such fee shall be required. Fees collected pursuant to this subsection shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

(5) If the cost of manufacturing Gold Star Family plates at any time exceeds the amount charged for license plates pursuant to section 60-3,102, any money to be credited to the Nebraska Veteran Cemetery System Operation Fund shall instead be credited first to the Highway Trust Fund in an amount equal to the difference between the manufacturing costs of Gold Star Family plates and the amount charged pursuant to section 60-3,102 with respect to such plates and the remainder shall be credited to the Nebraska Veteran Cemetery System Operation Fund.

Source: Laws 2007, LB570, § 3; Laws 2009, LB110, § 7; Laws 2009, LB331, § 2; Laws 2012, LB801, § 75; Laws 2017, LB263, § 43; Laws 2019, LB138, § 10; Laws 2019, LB270, § 17.

60-3,122.03 Military Honor Plates; design.

(1) The department shall design license plates to be known as Military Honor Plates.

(2)(a) Until January 1, 2021, the department shall create designs honoring persons who have served or are serving in the United States Army, United States Army Reserve, United States Navy, United States Navy Reserve, United States Marine Corps, United States Marine Corps Reserve, United States Coast Guard, United States Coast Guard Reserve, United States Air Force, United States Air Force Reserve, or National Guard; and

(b) Beginning January 1, 2021, the department shall create designs honoring persons who have served or are serving in the United States Army, United States Army Reserve, United States Navy, United States Navy Reserve, United States Marine Corps, United States Marine Corps Reserve, United States Coast Guard, United States Coast Guard Reserve, United States Air Force, United States Air Force Reserve, Air National Guard, or Army National Guard.

(3) There shall be eleven such designs until January 1, 2021, and twelve such designs beginning January 1, 2021, one for each of such armed forces reflecting its official emblem, official seal, or other official image. The issuance of plates for each of such armed forces shall be conditioned on the approval of the armed forces owning the copyright to the official emblem, official seal, or other official image.

(4) By January 1, 2021, the department shall create five additional designs honoring persons who are serving or have served in the armed forces of the United States and who have been awarded the Afghanistan Campaign Medal, Iraq Campaign Medal, Global War on Terrorism Expeditionary Medal, South-west Asia Service Medal, or Vietnam Service Medal.

(5) A person may qualify for a Military Honor Plate by registering with the Department of Veterans' Affairs pursuant to section 80-414. The Department of Motor Vehicles shall verify the applicant's eligibility for a plate created pursuant to this section by consulting the registry established by the Department of Veterans' Affairs.

(6) The design shall be selected on the basis of limiting the manufacturing cost of each plate to an amount less than or equal to the amount charged for license plates pursuant to section 60-3,102. The Department of Motor Vehicles shall make applications available for each type of plate when it is designed. The department may adopt and promulgate rules and regulations to carry out this section and section 60-3,122.04.

(7) One type of Military Honor Plates shall be alphanumeric plates. The department shall:

- (a) Assign a designation up to five characters; and
- (b) Not use a county designation.

(8) One type of Military Honor Plates shall be personalized message plates. Such plates shall be issued subject to the same conditions specified for personalized message license plates in section 60-3,118, except that a maximum of five characters may be used.

(9) The department shall cease to issue Military Honor Plates beginning with the next license plate issuance cycle after the license plate issuance cycle that begins in 2023 pursuant to section 60-3,101 if the total number of registered vehicles that obtained such plates is less than five hundred per year within any prior consecutive two-year period.

Source: Laws 2014, LB383, § 9; Laws 2017, LB45, § 1; Laws 2019, LB138, § 11; Laws 2019, LB356, § 10; Laws 2020, LB944, § 21.
Operative date January 1, 2021.

60-3,122.04 Military Honor Plates; fee; eligibility; delivery; transfer; fee.

(1) An eligible person may apply to the department for Military Honor Plates in lieu of regular license plates on an application prescribed and provided by the department for any motor vehicle, trailer, or semitrailer, except for a motor vehicle or trailer registered under section 60-3,198. An applicant receiving a Military Honor Plate for a farm truck with a gross weight of over sixteen tons shall affix the appropriate tonnage decal to the plate. The department shall make forms available for such applications through the county treasurers. The license plates shall be issued upon payment of the license fee described in subsection (2) of this section and verification by the department of an appli-

cant's eligibility using the registry established by the Department of Veterans' Affairs pursuant to section 80-414. To be eligible an applicant shall be (a) active duty or reserve duty armed forces personnel serving in any of the armed forces listed in subsection (2) of section 60-3,122.03, (b) a veteran of any of such armed forces who was discharged or otherwise separated with a characterization of honorable or general (under honorable conditions), (c) a current or former commissioned officer of the United States Public Health Service or National Oceanic and Atmospheric Administration who has been detailed directly to any branch of such armed forces for service on active or reserve duty and who was discharged or otherwise separated with a characterization of honorable or general (under honorable conditions) as proven with valid orders from the United States Department of Defense, a statement of service provided by the United States Public Health Service, or a report of transfer or discharge provided by the National Oceanic and Atmospheric Administration, or (d) a person who is serving or has served in the armed forces of the United States and who has been awarded the Afghanistan Campaign Medal, Iraq Campaign Medal, Global War on Terrorism Expeditionary Medal, Southwest Asia Service Medal, or Vietnam Service Medal. Any person using Military Honor Plates shall surrender the plates to the county treasurer if such person is no longer eligible for the plates. Regular plates shall be issued to any such person upon surrender of the Military Honor Plates for a three-dollar transfer fee and forfeiture of any of the remaining annual fee. The three-dollar transfer fee shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

(2)(a) In addition to all other fees required for registration under the Motor Vehicle Registration Act, each application for initial issuance or renewal of alphanumeric Military Honor Plates shall be accompanied by a fee of five dollars. County treasurers collecting fees pursuant to this subdivision shall remit them to the State Treasurer. The State Treasurer shall credit five dollars of the fee to the Nebraska Veteran Cemetery System Operation Fund.

(b) In addition to all other fees required for registration under the Motor Vehicle Registration Act, each application for initial issuance or renewal of personalized message Military Honor Plates shall be accompanied by a fee of forty dollars. County treasurers collecting fees pursuant to this subdivision shall remit them to the State Treasurer. The State Treasurer shall credit twenty-five percent of the fee for initial issuance and renewal of such plates to the Department of Motor Vehicles Cash Fund and seventy-five percent of the fee to the Nebraska Veteran Cemetery System Operation Fund.

(3)(a) When the department receives an application for Military Honor Plates, the department may deliver the plates and registration certificate to the applicant by United States mail or to the county treasurer of the county in which the motor vehicle or trailer is registered and the delivery of the plates and registration certificate shall be made through a secure process and system. The county treasurer or the department shall issue Military Honor Plates in lieu of regular license plates when the applicant complies with the other provisions of the Motor Vehicle Registration Act for registration of the motor vehicle or trailer. If Military Honor Plates are lost, stolen, or mutilated, the licensee shall be issued replacement license plates upon request pursuant to section 60-3,157.

(b) This subdivision applies beginning on an implementation date designated by the director. The director shall designate an implementation date that is on or before January 1, 2021. The county treasurer or the department may issue temporary license stickers to the applicant under this section for the applicant

to lawfully operate the vehicle pending receipt of the license plates. No charge in addition to the registration fee shall be made for the issuance of a temporary license sticker under this subdivision. The department shall furnish temporary license stickers for issuance by the county treasurer at no cost to the counties. The department may adopt and promulgate rules and regulations regarding the design and issuance of temporary license stickers.

(4) The owner of a motor vehicle or trailer bearing Military Honor Plates may apply to the county treasurer to have such plates transferred to a motor vehicle or trailer other than the motor vehicle or trailer for which such plates were originally purchased if such motor vehicle or trailer is owned by the owner of the plates. The owner may have the unused portion of the fee for the plates credited to the other motor vehicle or trailer which will bear the plates at the rate of eight and one-third percent per month for each full month left in the registration period. Application for such transfer shall be accompanied by a fee of three dollars. Fees collected pursuant to this subsection shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

(5) If the cost of manufacturing Military Honor Plates at any time exceeds the amount charged for license plates pursuant to section 60-3,102, any money to be credited to the Nebraska Veteran Cemetery System Operation Fund shall instead be credited first to the Highway Trust Fund in an amount equal to the difference between the manufacturing costs of Military Honor Plates and the amount charged pursuant to section 60-3,102 with respect to such plates and the remainder shall be credited to the Nebraska Veteran Cemetery System Operation Fund.

(6) If the director discovers evidence of fraud in an application for Military Honor Plates or that the holder is no longer eligible to have Military Honor Plates, the director may summarily cancel the plates and registration and send notice of the cancellation to the holder of the license plates.

Source: Laws 2014, LB383, § 10; Laws 2017, LB45, § 2; Laws 2017, LB263, § 44; Laws 2019, LB138, § 12; Laws 2019, LB270, § 18; Laws 2019, LB356, § 11.

60-3,123 Prisoner of war plates; fee.

(1) Any person who was captured and incarcerated by an enemy of the United States during a period of conflict with such enemy and who was discharged or otherwise separated with a characterization of honorable from or is currently serving in the United States Armed Forces may, in addition to the application required in section 60-385, apply to the department for license plates designed to indicate that he or she is a former prisoner of war.

(2) The license plates shall be issued upon the applicant paying the license plate fee as provided in subsection (3) of this section and furnishing proof satisfactory to the department that the applicant was formerly a prisoner of war. Any number of motor vehicles, trailers, or semitrailers owned by the applicant may be so licensed at any one time. Motor vehicles and trailers registered under section 60-3,198 shall not be so licensed.

(3) Until January 1, 2021, the applicant for license plates under this section shall pay the license plate fee required under section 60-3,102. Beginning January 1, 2021, no license plate fee shall be required for license plates under this section.

(4) If the license plates issued under this section are lost, stolen, or mutilated, the recipient of the license plates shall be issued replacement license plates upon request and without charge.

(5) Beginning January 1, 2021, license plates issued under this section shall not require the payment of any additional license plate fees and shall be permanently attached to the vehicle to which the plates are registered as long as the vehicle is properly registered by the applicant annually.

(6) This subsection applies beginning on an implementation date designated by the director. The director shall designate an implementation date that is on or before January 1, 2021. The county treasurer or the department may issue temporary license stickers to the applicant under this section for the applicant to lawfully operate the vehicle pending receipt of the license plates. No charge in addition to the registration fee shall be made for the issuance of a temporary license sticker under this subsection. The department shall furnish temporary license stickers for issuance by the county treasurer at no cost to the counties. The department may adopt and promulgate rules and regulations regarding the design and issuance of temporary license stickers.

Source: Laws 2005, LB 274, § 123; Laws 2007, LB286, § 41; Laws 2009, LB110, § 8; Laws 2010, LB705, § 2; Laws 2014, LB383, § 6; Laws 2017, LB263, § 45; Laws 2019, LB138, § 13; Laws 2019, LB270, § 19.

60-3,124 Disabled veteran plates.

(1) Any person who is a veteran of the United States Armed Forces, who was discharged or otherwise separated with a characterization of honorable or general (under honorable conditions), and who is classified by the United States Department of Veterans Affairs as one hundred percent service-connected disabled may, in addition to the application required in section 60-385, apply to the Department of Motor Vehicles for license plates designed by the department to indicate that the applicant is a disabled veteran. The inscription on the license plates shall be D.A.V. immediately below the license plate number to indicate that the holder of the license plates is a disabled veteran.

(2) The plates shall be issued upon the applicant paying the license plate fee as provided in subsection (3) of this section and furnishing proof satisfactory to the department that the applicant is a disabled veteran. Any number of motor vehicles, trailers, or semitrailers owned by the applicant may be so licensed at any one time. Motor vehicles and trailers registered under section 60-3,198 shall not be so licensed.

(3) Until January 1, 2021, the applicant for license plates under this section shall pay the license plate fee required under section 60-3,102. Beginning January 1, 2021, no license plate fee shall be required for license plates under this section.

(4) If the license plates issued under this section are lost, stolen, or mutilated, the recipient of the plates shall be issued replacement license plates as provided in section 60-3,157.

(5) Beginning January 1, 2021, license plates issued under this section shall not require the payment of any additional license plate fees and shall be permanently attached to the vehicle to which the plates are registered as long as the vehicle is properly registered by the applicant annually.

(6) This subsection applies beginning on an implementation date designated by the director. The director shall designate an implementation date that is on or before January 1, 2021. The county treasurer or the department may issue temporary license stickers to the applicant under this section for the applicant to lawfully operate the vehicle pending receipt of the license plates. No charge in addition to the registration fee shall be made for the issuance of a temporary license sticker under this subsection. The department shall furnish temporary license stickers for issuance by the county treasurer at no cost to the counties. The department may adopt and promulgate rules and regulations regarding the design and issuance of temporary license stickers.

Source: Laws 2005, LB 274, § 124; Laws 2007, LB286, § 42; Laws 2009, LB110, § 9; Laws 2010, LB705, § 3; Laws 2015, LB642, § 6; Laws 2017, LB263, § 46; Laws 2019, LB138, § 14; Laws 2019, LB270, § 20.

60-3,125 Purple Heart plates; fee.

(1) Any person may, in addition to the application required by section 60-385, apply to the department for license plates designed by the department to indicate that the applicant has received from the federal government an award of a Purple Heart. The inscription of the plates shall be designed so as to include a facsimile of the award and beneath any numerical designation upon the plates pursuant to section 60-370 the words Purple Heart separately on one line and the words Combat Wounded on the line below.

(2) The license plates shall be issued upon payment of the license plate fee as provided in subsection (3) of this section and furnishing proof satisfactory to the department that the applicant was awarded the Purple Heart. Any number of motor vehicles, trailers, or semitrailers owned by the applicant may be so licensed at any one time. Motor vehicles and trailers registered under section 60-3,198 shall not be so licensed.

(3) Until January 1, 2021, the applicant for license plates under this section shall pay the license plate fee required under section 60-3,102. Beginning January 1, 2021, no license plate fee shall be required for license plates under this section.

(4) If license plates issued pursuant to this section are lost, stolen, or mutilated, the recipient of the plates shall be issued replacement license plates upon request and without charge.

(5) Beginning January 1, 2021, license plates issued under this section shall not require the payment of any additional license plate fees and shall be permanently attached to the vehicle to which the plates are registered as long as the vehicle is properly registered by the applicant annually.

(6) This subsection applies beginning on an implementation date designated by the director. The director shall designate an implementation date that is on or before January 1, 2021. The county treasurer or the department may issue temporary license stickers to the applicant under this section for the applicant to lawfully operate the vehicle pending receipt of the license plates. No charge in addition to the registration fee shall be made for the issuance of a temporary license sticker under this subsection. The department shall furnish temporary license stickers for issuance by the county treasurer at no cost to the counties.

The department may adopt and promulgate rules and regulations regarding the design and issuance of temporary license stickers.

Source: Laws 2005, LB 274, § 125; Laws 2007, LB286, § 43; Laws 2009, LB110, § 10; Laws 2014, LB383, § 7; Laws 2017, LB263, § 47; Laws 2019, LB138, § 15; Laws 2019, LB270, § 21.

60-3,126 Amateur radio station license plates; fee; renewal.

(1) Any person who holds an unrevoked and unexpired amateur radio station license issued by the Federal Communications Commission and is the owner of a motor vehicle, trailer, or semitrailer, except for motor vehicles and trailers registered under section 60-3,198, may, in addition to the application required by section 60-385, apply to the department for license plates upon which shall be inscribed the official amateur radio call letters of such applicant.

(2) Such license plates shall be issued, in lieu of the usual numbers and letters, to such an applicant upon payment of the regular license fee and the payment of an additional fee of five dollars and furnishing proof that the applicant holds such an unrevoked and unexpired amateur radio station license. The additional fee shall be remitted to the State Treasurer for credit to the Highway Trust Fund. Only one such motor vehicle or trailer owned by an applicant shall be so registered at any one time.

(3) An applicant applying for renewal of amateur radio station license plates shall again furnish proof that he or she holds an unrevoked and unexpired amateur radio station license issued by the Federal Communications Commission.

(4) The department shall prescribe the size and design of the license plates and furnish such plates to the persons applying for and entitled to the same upon the payment of the required fee.

(5) This subsection applies beginning on an implementation date designated by the director. The director shall designate an implementation date that is on or before January 1, 2021. The county treasurer or the department may issue temporary license stickers to the applicant under this section for the applicant to lawfully operate the vehicle pending receipt of the license plates. No charge in addition to the registration fee shall be made for the issuance of a temporary license sticker under this subsection. The department shall furnish temporary license stickers for issuance by the county treasurer at no cost to the counties. The department may adopt and promulgate rules and regulations regarding the design and issuance of temporary license stickers.

Source: Laws 2005, LB 274, § 126; Laws 2007, LB286, § 44; Laws 2017, LB263, § 48; Laws 2019, LB270, § 22.

60-3,127 Nebraska Cornhusker Spirit Plates; design requirements.

(1) The department, in designing Nebraska Cornhusker Spirit Plates, shall:

(a) Include the word Cornhuskers or Huskers prominently in the design;

(b) Use scarlet and cream colors in the design or such other similar colors as the department determines to best represent the official team colors of the University of Nebraska Cornhuskers athletic programs and to provide suitable reflection and contrast;

(c) Use cream or a similar color for the background of the design and scarlet or a similar color for the printing; and

(d) Create a design reflecting support for the University of Nebraska Cornhuskers athletic programs in consultation with the University of Nebraska-Lincoln Athletic Department. The design shall be selected on the basis of (i) enhancing the marketability of spirit plates to supporters of University of Nebraska Cornhuskers athletic programs and (ii) limiting the manufacturing cost of each spirit plate to an amount less than or equal to the amount charged for license plates pursuant to section 60-3,102.

(2) One type of Nebraska Cornhusker Spirit Plates shall be consecutively numbered spirit plates. The department shall:

(a) Number the spirit plates consecutively beginning with the number one, using numerals the size of which maximizes legibility; and

(b) Not use a county designation or any characters other than numbers on the spirit plates.

(3) One type of Nebraska Cornhusker Spirit Plates shall be personalized message spirit plates. Such plates shall be issued subject to the same conditions specified for message plates in subsection (2) of section 60-3,118. The characters used shall consist only of letters and numerals of the same size and design and shall comply with the requirements of subdivision (1)(a) of section 60-3,100. A maximum of seven characters may be used.

(4) The department shall cease to issue Nebraska Cornhusker Spirit Plates beginning with the next license plate issuance cycle after the license plate issuance cycle that begins in 2023 pursuant to section 60-3,101 if the total number of registered vehicles that obtained such plates is less than five hundred per year within any prior consecutive two-year period.

Source: Laws 2005, LB 274, § 127; Laws 2019, LB356, § 12; Laws 2020, LB944, § 22.

Operative date January 1, 2021.

60-3,128 Nebraska Cornhusker Spirit Plates; application; fee; delivery; transfer; credit allowed.

(1) A person may apply to the department for Nebraska Cornhusker Spirit Plates in lieu of regular license plates on an application prescribed and provided by the department for any motor vehicle, trailer, or semitrailer, except for motor vehicles or trailers registered under section 60-3,198. An applicant receiving a spirit plate for a farm truck with a gross weight of over sixteen tons or for a commercial motor vehicle registered for a gross weight of five tons or over shall affix the appropriate tonnage decal to the spirit plate. The department shall make forms available for such applications through the county treasurers. Each application for initial issuance or renewal of spirit plates shall be accompanied by a fee of seventy dollars. Fees collected pursuant to this subsection shall be remitted to the State Treasurer. Until January 1, 2021, the State Treasurer shall credit forty-three percent of the fees for initial issuance and renewal of spirit plates to the Department of Motor Vehicles Cash Fund and fifty-seven percent of the fees to the Spirit Plate Proceeds Fund until the fund has been credited five million dollars from such fees and thereafter to the Highway Trust Fund. Beginning January 1, 2021, the State Treasurer shall credit sixty percent of the fees for initial issuance and renewal of spirit plates to the Department of Motor Vehicles Cash Fund and forty percent of the fees to the Highway Trust Fund.

(2)(a) When the department receives an application for spirit plates, the department may deliver the plates and registration certificate to the applicant by United States mail or to the county treasurer of the county in which the motor vehicle or trailer is registered and the delivery of the plates and registration certificate shall be made through a secure process and system. The county treasurer or the department shall issue spirit plates in lieu of regular license plates when the applicant complies with the other provisions of law for registration of the motor vehicle or trailer. If spirit plates are lost, stolen, or mutilated, the licensee shall be issued replacement license plates pursuant to section 60-3,157.

(b) This subdivision applies beginning on an implementation date designated by the director. The director shall designate an implementation date that is on or before January 1, 2021. The county treasurer or the department may issue temporary license stickers to the applicant under this section for the applicant to lawfully operate the vehicle pending receipt of the license plates. No charge in addition to the registration fee shall be made for the issuance of a temporary license sticker under this subdivision. The department shall furnish temporary license stickers for issuance by the county treasurer at no cost to the counties. The department may adopt and promulgate rules and regulations regarding the design and issuance of temporary license stickers.

(3)(a) The owner of a motor vehicle or trailer bearing spirit plates may make application to the county treasurer to have such spirit plates transferred to a motor vehicle or trailer other than the motor vehicle or trailer for which such plates were originally purchased if such motor vehicle or trailer is owned by the owner of the spirit plates.

(b) The owner may have the unused portion of the spirit plate fee credited to the other motor vehicle or trailer which will bear the spirit plate at the rate of eight and one-third percent per month for each full month left in the registration period.

(c) Application for such transfer shall be accompanied by a fee of three dollars. Fees collected pursuant to this subsection shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

Source: Laws 2005, LB 274, § 128; Laws 2007, LB286, § 45; Laws 2009, LB110, § 11; Laws 2012, LB801, § 76; Laws 2017, LB263, § 49; Laws 2019, LB270, § 23; Laws 2019, LB356, § 13.

60-3,130.04 Historical vehicle; model-year license plates; authorized.

(1) An owner of a historical vehicle eligible for registration under section 60-3,130 may use a license plate or plates designed by this state in the year corresponding to the model year when the vehicle was manufactured in lieu of the plates designed pursuant to section 60-3,130.03 subject to the approval of the department. The department shall inspect the plate or plates and may approve the plate or plates if it is determined that the model-year license plate or plates are legible and serviceable and that the license plate numbers do not conflict with or duplicate other numbers assigned and in use. An original-issued license plate or plates that have been restored to original condition may be used when approved by the department.

(2) The department may consult with a recognized car club in determining whether the year of the license plate or plates to be used corresponds to the model year when the vehicle was manufactured.

(3) If only one license plate is used on the vehicle, the license plate shall be placed on the rear of the vehicle. The owner of a historical vehicle may use only one plate on the vehicle even for years in which two license plates were issued for vehicles in general.

(4) License plates used pursuant to this section corresponding to the year of manufacture of the vehicle shall not be personalized message license plates, Pearl Harbor license plates, prisoner-of-war license plates, disabled veteran license plates, Purple Heart license plates, amateur radio station license plates, Nebraska Cornhusker Spirit Plates, handicapped or disabled person license plates, specialty license plates, special interest motor vehicle license plates, Military Honor Plates, Nebraska 150 Sesquicentennial Plates, Breast Cancer Awareness Plates, Prostate Cancer Awareness Plates, Mountain Lion Conservation Plates, Choose Life License Plates, Donate Life Plates, Down Syndrome Awareness Plates, Native American Cultural Awareness and History Plates, Sammy's Superheroes license plates for childhood cancer awareness, Wildlife Conservation Plates, Pets for Vets Plates, Support the Arts Plates, Support Our Troops Plates, or The Good Life Is Outside Plates.

Source: Laws 2006, LB 663, § 28; Laws 2007, LB286, § 46; Laws 2009, LB110, § 13; Laws 2013, LB32, § 1; Laws 2014, LB383, § 8; Laws 2015, LB220, § 6; Laws 2016, LB474, § 8; Laws 2016, LB977, § 8; Laws 2017, LB46, § 6; Laws 2017, LB263, § 50; Laws 2019, LB138, § 16; Laws 2019, LB356, § 14; Laws 2020, LB944, § 23.

Operative date January 1, 2021.

60-3,135.01 Special interest motor vehicle license plates; application; fee; delivery; special interest motor vehicle; restrictions on use; prohibited acts; penalty.

(1) The department shall either modify an existing plate design or design license plates to identify special interest motor vehicles, to be known as special interest motor vehicle license plates. The department, in designing such special interest motor vehicle license plates, shall include the words special interest and limit the manufacturing cost of each plate to an amount less than or equal to the amount charged for license plates pursuant to section 60-3,102. The department shall choose the design of the plate. The department shall make applications available for this type of plate when it is designed.

(2) One type of special interest motor vehicle license plate shall be alphanumeric plates. The department shall:

- (a) Assign a designation up to seven characters; and
- (b) Not use a county designation.

(3) One type of special interest motor vehicle license plate shall be personalized message plates. Such plates shall be issued subject to the same conditions specified for personalized message license plates in section 60-3,118.

(4) A person may apply to the department for a special interest motor vehicle license plate in lieu of regular license plates on an application prescribed and provided by the department for any special interest motor vehicle, except that no motor vehicle registered under section 60-3,198, autocycle, motorcycle, or trailer shall be eligible for special interest motor vehicle license plates. The

department shall make forms available for such applications through the county treasurers.

(5) The form shall contain a description of the special interest motor vehicle owned and sought to be registered, including the make, body type, model, serial number, and year of manufacture.

(6)(a) In addition to all other fees required to register a motor vehicle, each application for initial issuance or renewal of a special interest motor vehicle license plate shall be accompanied by a special interest motor vehicle license plate fee of fifty dollars. Twenty-five dollars of the special interest motor vehicle license plate fee shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund, and twenty-five dollars of the special interest motor vehicle license plate fee shall be remitted to the State Treasurer for credit to the Highway Trust Fund.

(b) If a special interest motor vehicle license plate is lost, stolen, or mutilated, the owner shall be issued a replacement license plate pursuant to section 60-3,157.

(7) Until January 1, 2019, when the department receives an application for a special interest motor vehicle license plate, the department shall deliver the plate to the county treasurer of the county in which the special interest motor vehicle is registered. Beginning January 1, 2019, when the department receives an application for a special interest motor vehicle license plate, the department may deliver the plate and registration certificate to the applicant by United States mail or to the county treasurer of the county in which the special interest motor vehicle is registered and the delivery of the plate and registration certificate shall be made through a secure process and system. The county treasurer or the department shall issue the special interest motor vehicle license plate in lieu of regular license plates when the applicant complies with the other provisions of the Motor Vehicle Registration Act for registration of the special interest motor vehicle.

(8) If the cost of manufacturing special interest motor vehicle license plates at any time exceeds the amount charged for license plates pursuant to section 60-3,102, any money to be credited to the Department of Motor Vehicles Cash Fund under this section shall instead be credited first to the Highway Trust Fund in an amount equal to the difference between the manufacturing costs of special interest motor vehicle license plates and the amount charged pursuant to section 60-3,102 with respect to such license plates and the remainder shall be credited to the Department of Motor Vehicles Cash Fund.

(9) The special interest motor vehicle license plate shall be affixed to the rear of the special interest motor vehicle.

(10) A special interest motor vehicle shall not be used for the same purposes and under the same conditions as other motor vehicles of the same type and shall not be used for business or occupation or regularly for transportation to and from work. A special interest motor vehicle may be driven on the public streets and roads only for occasional transportation, public displays, parades, and related pleasure or hobby activities.

(11) It shall be unlawful to own or operate a motor vehicle with special interest motor vehicle license plates in violation of this section. Upon conviction of a violation of any provision of this section, a person shall be guilty of a Class V misdemeanor.

(12) For purposes of this section, special interest motor vehicle means a motor vehicle of any age which is being collected, preserved, restored, or maintained by the owner as a leisure pursuit and not used for general transportation of persons or cargo.

Source: Laws 2012, LB216, § 4; Laws 2015, LB231, § 15; Laws 2017, LB263, § 51.

60-3,136 Motor vehicle insurance data base; created; powers and duties; Motor Vehicle Insurance Data Base Task Force; created.

(1)(a) The motor vehicle insurance data base is created. The department shall develop and administer the motor vehicle insurance data base which shall include the information provided by insurance companies as required by the department pursuant to sections 60-3,136 to 60-3,139. The motor vehicle insurance data base shall be used to facilitate registration of motor vehicles in this state by the department and its agents. The director may contract with a designated agent for the purpose of establishing and operating the motor vehicle insurance data base and monitoring compliance with the financial responsibility requirements of such sections.

(b) The department may adopt and promulgate rules and regulations to carry out sections 60-3,136 to 60-3,139. The rules and regulations shall include specifications for the information to be transmitted by the insurance companies to the department for inclusion in the motor vehicle insurance data base, and specifications for the form and manner of transmission of data for inclusion in the motor vehicle insurance data base, as recommended by the Motor Vehicle Insurance Data Base Task Force created in subsection (2) of this section in its report to the department.

(2)(a) The Motor Vehicle Insurance Data Base Task Force is created. The Motor Vehicle Insurance Data Base Task Force shall investigate the best practices of the industry and recommend specifications for the information to be transmitted by the insurance companies to the department for inclusion in the motor vehicle insurance data base and specifications for the form and manner of transmission of data for inclusion in the motor vehicle insurance data base.

(b) The Motor Vehicle Insurance Data Base Task Force shall consist of:

(i) The Director of Motor Vehicles or his or her designee;

(ii) The Director of Insurance or his or her designee;

(iii) The following members who shall be selected by the Director of Insurance:

(A) One representative of a domestic automobile insurance company or domestic automobile insurance companies;

(B) One representative of an admitted foreign automobile insurance company or admitted foreign automobile insurance companies; and

(C) One representative of insurance producers licensed under the laws of this state; and

(iv) Four members to be selected by the Director of Motor Vehicles.

(c) The requirements of this subsection shall expire on July 1, 2004, except that the director may reconvene the task force at any time thereafter if he or she deems it necessary.

Source: Laws 2005, LB 274, § 136; Laws 2016, LB666, § 1.

60-3,137 Motor vehicle insurance data base; information required.

Each insurance company doing business in this state shall provide information shown on each automobile liability policy issued in this state as required by the department pursuant to sections 60-3,136 to 60-3,139 for inclusion in the motor vehicle insurance data base in a form and manner acceptable to the department. Any person who qualifies as a self-insurer under sections 60-562 to 60-564 or any person who provides financial responsibility under sections 75-392 to 75-3,100 shall not be required to provide information to the department for inclusion in the motor vehicle insurance data base.

Source: Laws 2005, LB 274, § 137; Laws 2007, LB358, § 9; Laws 2009, LB331, § 3; Laws 2020, LB944, § 24.
Operative date November 14, 2020.

60-3,140 Registration fees; to whom payable.

All fees for the registration of motor vehicles or trailers, unless otherwise expressly provided, shall be paid to the county treasurer of the county in which the motor vehicle or trailer has situs. If registered pursuant to section 60-3,198, all fees shall be paid to the department.

Source: Laws 2005, LB 274, § 140; Laws 2012, LB801, § 77.

60-3,141 Agents of department; fees; collection.

(1) The various county treasurers shall act as agents for the department in the collection of all motor vehicle taxes, motor vehicle fees, and registration fees. An approved licensed dealer participating in the electronic dealer services system pursuant to section 60-1507 may collect all such taxes and fees as agent for the appropriate county treasurer and the department in a manner provided by such system.

(2) While acting as agents pursuant to subsection (1) of this section, the county treasurers or any approved licensed dealers participating in the electronic dealer services system shall in addition to the taxes and registration fees collect one dollar and fifty cents for each registration of a motor vehicle or trailer of a resident of the State of Nebraska and four dollars and fifty cents for each registration of a motor vehicle or trailer of a nonresident. The county treasurer shall credit such additional fees collected by the county treasurer or any approved licensed dealer participating in the electronic dealer services system to the county general fund in a manner provided by such system.

(3) The county treasurers shall transmit all motor vehicle fees and registration fees collected pursuant to this section to the State Treasurer on or before the twentieth day of each month and at such other times as the State Treasurer requires for credit to the Motor Vehicle Fee Fund and the Highway Trust Fund, respectively, except as provided in section 60-3,156. Any county treasurer who fails to transfer to the State Treasurer the amount due the state at the times required in this section shall pay interest at the rate specified in section

45-104.02, as such rate may be adjusted from time to time, from the time the motor vehicle fees and registration fees become due until paid.

(4) If a registrant requests delivery of license plates, registration certificates, or validation decals by mail, the county treasurer may charge a postage and handling fee in an amount not more than necessary to recover the cost of postage and handling for the specific items mailed to the registrant.

Source: Laws 2005, LB 274, § 141; Laws 2007, LB286, § 47; Laws 2012, LB801, § 78; Laws 2013, LB207, § 2; Laws 2017, LB263, § 52.

60-3,142 Fees; retention by county.

The various county treasurers acting as agents for the department in collection of the fees shall retain five percent of each fee collected under section 60-3,112 for credit to the county general fund.

Source: Laws 2005, LB 274, § 142; Laws 2007, LB286, § 48; Laws 2012, LB801, § 79.

60-3,143 Autocycle; passenger motor vehicle; leased motor vehicle; registration fee.

(1) For autocycles, the registration fee shall be as provided in section 60-3,153.

(2) For every motor vehicle of ten-passenger capacity or less and not used for hire, the registration fee shall be fifteen dollars.

(3) For each motor vehicle having a seating capacity of ten persons or less and used for hire, the registration fee shall be six dollars plus an additional four dollars for every person such motor vehicle is equipped to carry in addition to the driver.

(4) For motor vehicles leased for hire when no driver or chauffeur is furnished by the lessor as part of the consideration paid for by the lessee, incident to the operation of the leased motor vehicle, the fee shall be fifteen dollars.

Source: Laws 2005, LB 274, § 143; Laws 2015, LB231, § 16; Laws 2018, LB909, § 63.

60-3,144 Buses; registration fees.

(1) For buses used exclusively to carry children to and from school, and other school activities, the registration fee shall be ten dollars.

(2) For buses equipped to carry more than ten persons for hire, the fee shall be based on the weight of such bus. To ascertain the weight, the unladen weight in pounds shall be used. There shall be added to such weight in pounds the number of persons such bus is equipped to carry times two hundred, the sum thereof being the weight of such bus for license purposes. The unladen weight shall be ascertained by scale weighing of the bus fully equipped and as used upon the highways under the supervision of a member of the Nebraska State Patrol or a carrier enforcement officer and certified by such patrol member or carrier enforcement officer to the department or county treasurer. The fee therefor shall be as follows:

(a) If such bus weighs thirty-two thousand pounds and less than thirty-four thousand pounds, it shall be licensed as a twelve-ton truck as provided in section 60-3,147 and pay the same fee as therein provided;

(b) If such bus weighs thirty thousand pounds and less than thirty-two thousand pounds, it shall be licensed as an eleven-ton truck as provided in section 60-3,147 and pay the same fee as therein provided;

(c) If such bus weighs twenty-eight thousand pounds and less than thirty thousand pounds, it shall be licensed as a ten-ton truck as provided in section 60-3,147 and pay the same fee as therein provided;

(d) If such bus weighs twenty-two thousand pounds and less than twenty-eight thousand pounds, it shall be licensed as a nine-ton truck as provided in section 60-3,147 and pay the same fee as therein provided;

(e) If such bus weighs sixteen thousand pounds and less than twenty-two thousand pounds, it shall be licensed as an eight-ton truck as provided in section 60-3,147 and pay the same fee as therein provided; and

(f) If such bus weighs less than sixteen thousand pounds, it shall be licensed as a five-ton truck as provided in section 60-3,147 and pay the same fee as therein provided, except that upon registration of buses equipped to carry ten passengers or more and engaged entirely in the transportation of passengers for hire within municipalities or in and within a radius of five miles thereof the fee shall be seventy-five dollars, and for buses equipped to carry more than ten passengers and not for hire the registration fee shall be thirty dollars.

(3) License plates issued under this section shall be the same size and of the same basic design as regular license plates issued under section 60-3,100.

Source: Laws 2005, LB 274, § 144; Laws 2012, LB801, § 80.

60-3,147 Commercial motor vehicles; public power district motor vehicles; metropolitan utilities district motor vehicles; registration fees.

(1) The registration fee on commercial motor vehicles, public power district motor vehicles, and, beginning January 1, 2023, metropolitan utilities district motor vehicles, except those motor vehicles registered under section 60-3,198, shall be based upon the gross vehicle weight, not to exceed the maximum authorized by section 60-6,294.

(2) The registration fee on commercial motor vehicles, public power district motor vehicles, and, beginning January 1, 2023, metropolitan utilities district motor vehicles, except for motor vehicles and trailers registered under section 60-3,198, shall be based on the gross vehicle weight on such commercial motor vehicles, public power district motor vehicles, or metropolitan utilities district motor vehicles plus the gross vehicle weight of any trailer or combination with which it is operated, except that for the purpose of determining the registration fee, the gross vehicle weight of a commercial motor vehicle towing or hauling a disabled or wrecked motor vehicle properly registered for use on the highways shall be only the gross vehicle weight of the towing commercial motor vehicle fully equipped and not including the weight of the motor vehicle being towed or hauled.

(3) Except as provided in subsection (4) of this section, the registration fee on such commercial motor vehicles, public power district motor vehicles, and, beginning January 1, 2023, metropolitan utilities district motor vehicles shall be at the following rates:

- (a) For a gross vehicle weight of three tons or less, eighteen dollars;
- (b) For a gross vehicle weight exceeding three tons and not exceeding four tons, twenty-five dollars;
- (c) For a gross vehicle weight exceeding four tons and not exceeding five tons, thirty-five dollars;
- (d) For a gross vehicle weight exceeding five tons and not exceeding six tons, sixty dollars;
- (e) For a gross vehicle weight exceeding six tons but not exceeding seven tons, eighty-five dollars; and
- (f) For a gross vehicle weight in excess of seven tons, the fee shall be that for a commercial motor vehicle, public power district motor vehicle, or metropolitan utilities district motor vehicle having a gross vehicle weight of seven tons and, in addition thereto, twenty-five dollars for each ton of gross vehicle weight over seven tons.
- (4)(a) For fractional tons in excess of the twenty percent or the tolerance of one thousand pounds, as provided in section 60-6,300, the fee shall be computed on the basis of the next higher bracket.
- (b) The fees provided by this section shall be reduced ten percent for motor vehicles used exclusively for the transportation of agricultural products.
- (c) Fees for commercial motor vehicles, public power district motor vehicles, or, beginning January 1, 2023, metropolitan utilities district motor vehicles with a gross vehicle weight in excess of thirty-six tons shall be increased by twenty percent for all such commercial motor vehicles, public power district motor vehicles, or metropolitan utilities district motor vehicles operated on any highway not a part of the National System of Interstate and Defense Highways.
- (5)(a) Such fee may be paid one-half at the time of registration and one-half on the first day of the seventh month of the registration period when the license fee exceeds two hundred ten dollars. When the second half is paid, the county treasurer shall furnish a registration certificate and license plates issued by the department which shall be displayed on such commercial motor vehicle in the manner provided by law. In addition to the registration fee, the department shall collect a sufficient fee to cover the cost of issuing the certificate and license plates.
- (b) If such second half is not paid within thirty days following the first day of the seventh month, the registration of such commercial motor vehicle shall be canceled and the registration certificate and license plates shall be returned to the county treasurer.
- (c) Such fee shall be paid prior to any subsequent registration or renewal of registration.
- (6) Except as provided in section 60-3,228, license plates issued under this section shall be the same size and of the same basic design as regular license plates issued under section 60-3,100.
- (7) A license plate or plates issued to a commercial motor vehicle with a gross weight of five tons or over shall display, in addition to the registration number, the weight that the commercial motor vehicle is licensed for, using a decal on the license plate or plates of the commercial motor vehicle in letters

and numerals of such size and design as shall be determined and issued by the department.

Source: Laws 2005, LB 274, § 147; Laws 2007, LB286, § 50; Laws 2012, LB801, § 81; Laws 2016, LB783, § 8; Laws 2018, LB909, § 64.

60-3,148 Commercial motor vehicle; public power district motor vehicle; metropolitan utilities district motor vehicle; increase of gross vehicle weight; where allowed.

(1) This subsection applies until January 1, 2023. No owner of a commercial motor vehicle or public power district motor vehicle shall be permitted to increase the gross vehicle weight for which such commercial motor vehicle or public power district motor vehicle is registered except at the office of the county treasurer in the county where such commercial motor vehicle or public power district motor vehicle is currently registered unless the need for such increase occurs when such commercial motor vehicle is more than one hundred miles from the county seat of such county or the public power district motor vehicle is more than one hundred miles from its base location, unless authorized to do so by the Nebraska State Patrol or authorized state scale examiner as an emergency.

(2) This subsection applies beginning January 1, 2023. No owner of a commercial motor vehicle, metropolitan utilities district motor vehicle, or public power district motor vehicle shall be permitted to increase the gross vehicle weight for which such commercial motor vehicle, metropolitan utilities district motor vehicle, or public power district motor vehicle is registered except at the office of the county treasurer in the county where such commercial motor vehicle, metropolitan utilities district motor vehicle, or public power district motor vehicle is currently registered unless the need for such increase occurs when such commercial motor vehicle is more than one hundred miles from the county seat of such county or the metropolitan utilities district motor vehicle or public power district motor vehicle is more than one hundred miles from its base location, unless authorized to do so by the Nebraska State Patrol or authorized state scale examiner as an emergency.

Source: Laws 2005, LB 274, § 148; Laws 2012, LB801, § 82; Laws 2016, LB783, § 9; Laws 2018, LB909, § 65.

60-3,151 Trailers; recreational vehicles; registration fee.

(1) For the registration of any commercial trailer or semitrailer, the fee shall be one dollar.

(2) The fee for utility trailers shall be one dollar for each one thousand pounds gross vehicle weight or fraction thereof, up to and including nine thousand pounds. Utility trailer license plates shall display, in addition to the registration number, the letter X. Trailers other than farm trailers of more than nine thousand pounds must be registered as commercial trailers.

(3) The fee for cabin trailers having gross vehicle weight of one thousand pounds or less shall be nine dollars and more than one thousand pounds, but less than two thousand pounds, shall be twelve dollars. Cabin trailers having a gross vehicle weight of two thousand pounds or more shall be registered for a fee of fifteen dollars.

(4) Recreational vehicles having a gross vehicle weight of eight thousand pounds or less shall be registered for a fee of eighteen dollars, those having a gross vehicle weight of more than eight thousand pounds but less than twelve thousand pounds shall be registered for thirty dollars, and those having a gross vehicle weight of twelve thousand pounds or over shall be registered for forty-two dollars. When living quarters are added to a registered truck, a recreational vehicle registration may be obtained without surrender of the truck registration, in which event both the truck and recreational vehicle license plates shall be displayed on the vehicle. Recreational vehicle license plates shall be the same size and of the same basic design as regular license plates issued pursuant to section 60-3,100.

(5) Farm trailers shall be licensed for a fee of one dollar, except that when a farm trailer is used with a registered farm truck, such farm trailer may, at the option of the owner, be registered as a separate unit for a fee of three dollars per ton gross vehicle weight and, if so registered, shall not be considered a truck and trailer combination for purposes of sections 60-3,145 and 60-3,146. Farm trailer license plates shall display, in addition to the registration number, the letter X.

(6) Fertilizer trailers shall be registered for a fee of one dollar. Fertilizer trailer license plates shall display, in addition to the registration number, the letter X.

(7) Trailers used to haul poles and cable reels owned and operated exclusively by public utility companies shall be licensed at a fee based on two dollars for each one-thousand-pound load to be hauled or any fraction thereof, and such load shall not exceed sixteen thousand pounds.

Source: Laws 2005, LB 274, § 151; Laws 2016, LB783, § 10; Laws 2017, LB263, § 53.

60-3,156 Additional fees.

In addition to the registration fees for motor vehicles and trailers, the county treasurer or his or her agent shall collect:

(1) Two dollars for each certificate issued and shall remit two dollars of each additional fee collected to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund;

(2) Fifty cents for each certificate issued and shall remit the fee to the State Treasurer for credit to the Nebraska Emergency Medical System Operations Fund; and

(3) One dollar and fifty cents for each certificate issued and shall remit the fee to the State Treasurer for credit to the State Recreation Road Fund.

Source: Laws 2005, LB 274, § 156; Laws 2012, LB801, § 83; Laws 2013, LB207, § 3.

60-3,157 Lost or mutilated license plate or registration certificate; duplicate; fees.

If a license plate or registration certificate is lost or mutilated or has become illegible, the person to whom such license plate and registration certificate has been issued shall immediately apply to the county treasurer for a duplicate registration certificate or for new license plates, accompanying his or her application with a fee of one dollar for a duplicate registration certificate and a

fee of two dollars and fifty cents for a duplicate or replacement license plate. No fee shall be required under this section if the vehicle or trailer was reported stolen under section 60-178.

Source: Laws 2005, LB 274, § 157; Laws 2009, LB175, § 2; Laws 2012, LB801, § 84.

60-3,158 Methods of payment authorized.

A county treasurer or his or her agent may accept credit cards, charge cards, debit cards, or electronic funds transfers as a means of payment for registration pursuant to section 13-609.

Source: Laws 2005, LB 274, § 158; Laws 2012, LB801, § 85.

60-3,159 Registration fees; fees for previous years.

Upon application to register any motor vehicle or trailer, no registration fee shall be required to be paid thereon for any previous registration period during which such motor vehicle or trailer was not at any time driven or used upon any highway within this state, and the person desiring to register such motor vehicle or trailer without payment of fees for previous registration periods shall file with the county treasurer an affidavit showing where, when, and for how long such motor vehicle or trailer was stored and that the same was not used in this state during such registration period or periods, and upon receipt thereof the county treasurer shall issue a registration certificate.

Source: Laws 2005, LB 274, § 159; Laws 2012, LB801, § 86.

60-3,161 Transferred to section 60-1506.

60-3,162 Certificate of registration; improper issuance; revocation.

The department shall, upon a sworn complaint in writing of any person, investigate whether a certificate of registration has been issued on a motor vehicle or trailer exceeding the length, height, or width provided by law or issued contrary to any law of this state. If the department determines from the investigation that such certificate of registration has been improperly issued, it shall have power to revoke such certificate of registration.

Source: Laws 2005, LB 274, § 162; Laws 2019, LB270, § 24.

60-3,163 Repealed. Laws 2012, LB 751, § 57.

60-3,166 Law enforcement officers; arrest violators; violations; penalty; payment of taxes and fees.

It shall be the duty of all law enforcement officers to arrest all violators of any of the provisions of sections 60-373, 60-374, 60-375, 60-376, 60-378, 60-379, and 60-3,114 to 60-3,116. Any person, firm, or corporation, including any motor vehicle, trailer, or boat dealer or manufacturer, who fails to comply with such provisions shall be guilty of a Class V misdemeanor and, in addition thereto, shall pay the county treasurer any and all motor vehicle taxes and fees imposed in sections 60-3,185 and 60-3,190, registration fees, or certification fees due had the motor vehicle or trailer been properly registered or certified according to law.

Source: Laws 2005, LB 274, § 166; Laws 2012, LB801, § 88.

60-3,184 Motor vehicle tax and fee; terms, defined.

For purposes of sections 60-3,184 to 60-3,190:

- (1) Automobile means passenger cars, trucks, utility vehicles, and vans up to and including seven tons;
- (2) Motor vehicle means every motor vehicle, trailer, and semitrailer subject to the payment of registration fees or permit fees under the laws of this state;
- (3) Motor vehicle fee means the fee imposed upon motor vehicles under section 60-3,190;
- (4) Motor vehicle tax means the tax imposed upon motor vehicles under section 60-3,185; and
- (5) Registration period means the period from the date of registration pursuant to section 60-392 to the first day of the month following one year after such date.

Source: Laws 2005, LB 274, § 184; Laws 2007, LB286, § 52; Laws 2017, LB263, § 54.

60-3,185 Motor vehicle tax; exemptions.

A motor vehicle tax is imposed on motor vehicles registered for operation upon the highways of this state, except:

- (1) Motor vehicles exempt from the registration fee in section 60-3,160;
- (2) One motor vehicle owned and used for his or her personal transportation by a disabled or blind veteran of the United States Armed Forces as defined in section 77-202.23 whose disability or blindness is recognized by the United States Department of Veterans Affairs and who was discharged or otherwise separated with a characterization of honorable if an application for the exemption has been approved under subsection (1) of section 60-3,189;
- (3) Motor vehicles owned by Indians who are members of an Indian tribe;
- (4) Motor vehicles owned by a member of the United States Armed Forces serving in this state in compliance with military or naval orders or his or her spouse if such servicemember or spouse is a resident of a state other than Nebraska;
- (5) Motor vehicles owned by the state and its governmental subdivisions and exempt as provided in subdivision (1)(a) or (b) of section 77-202;
- (6) Motor vehicles owned and used exclusively by an organization or society qualified for a tax exemption provided in subdivision (1)(c) or (d) of section 77-202 if an application for the exemption provided in this subdivision has been approved under subsection (2) of section 60-3,189; and
- (7) Trucks, trailers, or combinations thereof registered under section 60-3,198.

Source: Laws 2005, LB 274, § 185; Laws 2018, LB909, § 66.

60-3,186 Motor vehicle tax; notice; taxes and fees; payment; proceeds; disposition.

- (1) The department shall annually determine the motor vehicle tax on each motor vehicle registered pursuant to section 60-3,187 and shall cause a notice of the amount to be delivered to the registrant. The notice may be delivered to the registrant at the address shown upon his or her registration certificate or

the registrant's most recent address according to information received by the department from the National Change of Address program of the United States Postal Service or delivered electronically to the registrant if the registrant has provided electronic contact information to the department. The notice shall be provided on or before the first day of the last month of the registration period.

(2)(a) The motor vehicle tax, motor vehicle fee, registration fee, sales tax, and any other applicable taxes and fees shall be paid to the county treasurer prior to the registration of the motor vehicle for the following registration period. If the motor vehicle being registered has been transferred as a gift or for a nominal amount, any sales tax owed by the transferor on the purchase of the motor vehicle shall have been paid or be paid to the county treasurer prior to the registration of the motor vehicle for the following registration period.

(b) After retaining one percent of the motor vehicle tax proceeds collected for costs incurred by the county treasurer, and after transferring one percent of the motor vehicle tax proceeds collected to the State Treasurer for credit to the Vehicle Title and Registration System Replacement and Maintenance Cash Fund, the remaining motor vehicle tax proceeds shall be allocated to each county, local school system, school district, city, and village in the tax district in which the motor vehicle has situs.

(c)(i) Twenty-two percent of the remaining motor vehicle tax proceeds shall be allocated to the county, (ii) sixty percent shall be allocated to the local school system or school district, and (iii) eighteen percent shall be allocated to the city or village, except that (A) if the tax district is not in a city or village, forty percent shall be allocated to the county, and (B) in counties containing a city of the metropolitan class, eighteen percent shall be allocated to the county and twenty-two percent shall be allocated to the city or village.

(d) The amount allocated to a local school system shall be distributed to school districts in the same manner as property taxes.

(3) Proceeds from the motor vehicle tax shall be treated as property tax revenue for purposes of expenditure limitations, matching of state or federal funds, and other purposes.

Source: Laws 2005, LB 274, § 186; Laws 2006, LB 248, § 1; Laws 2007, LB286, § 53; Laws 2012, LB801, § 89; Laws 2013, LB207, § 4; Laws 2016, LB977, § 11.

60-3,187 Motor vehicle tax schedules; calculation of tax.

(1) The motor vehicle tax schedules are set out in this section.

(2) The motor vehicle tax shall be calculated by multiplying the base tax times the fraction which corresponds to the age category of the vehicle as shown in the following table:

YEAR	FRACTION
First	1.00
Second	0.90
Third	0.80
Fourth	0.70
Fifth	0.60
Sixth	0.51
Seventh	0.42

MOTOR VEHICLES

Eighth	0.33
Ninth	0.24
Tenth and Eleventh	0.15
Twelfth and Thirteenth	0.07
Fourteenth and older	0.00

(3) The base tax shall be:

(a) Automobiles, autcycles, and motorcycles - An amount determined using the following table:

Value when new	Base tax
Up to \$ 3,999	\$ 25
\$4,000 to \$5,999	35
\$6,000 to \$7,999	45
\$8,000 to \$9,999	60
\$10,000 to \$11,999	100
\$12,000 to \$13,999	140
\$14,000 to \$15,999	180
\$16,000 to \$17,999	220
\$18,000 to \$19,999	260
\$20,000 to \$21,999	300
\$22,000 to \$23,999	340
\$24,000 to \$25,999	380
\$26,000 to \$27,999	420
\$28,000 to \$29,999	460
\$30,000 to \$31,999	500
\$32,000 to \$33,999	540
\$34,000 to \$35,999	580
\$36,000 to \$37,999	620
\$38,000 to \$39,999	660
\$40,000 to \$41,999	700
\$42,000 to \$43,999	740
\$44,000 to \$45,999	780
\$46,000 to \$47,999	820
\$48,000 to \$49,999	860
\$50,000 to \$51,999	900
\$52,000 to \$53,999	940
\$54,000 to \$55,999	980
\$56,000 to \$57,999	1,020
\$58,000 to \$59,999	1,060
\$60,000 to \$61,999	1,100
\$62,000 to \$63,999	1,140
\$64,000 to \$65,999	1,180
\$66,000 to \$67,999	1,220
\$68,000 to \$69,999	1,260
\$70,000 to \$71,999	1,300
\$72,000 to \$73,999	1,340
\$74,000 to \$75,999	1,380
\$76,000 to \$77,999	1,420
\$78,000 to \$79,999	1,460
\$80,000 to \$81,999	1,500
\$82,000 to \$83,999	1,540
\$84,000 to \$85,999	1,580
\$86,000 to \$87,999	1,620
\$88,000 to \$89,999	1,660

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\$90,000 to \$91,999	1,700
\$92,000 to \$93,999	1,740
\$94,000 to \$95,999	1,780
\$96,000 to \$97,999	1,820
\$98,000 to \$99,999	1,860
\$100,000 and over	1,900

- (b) Assembled automobiles - \$60
 - (c) Assembled motorcycles other than autocycles - \$25
 - (d) Cabin trailers, up to one thousand pounds - \$10
 - (e) Cabin trailers, one thousand pounds and over and less than two thousand pounds - \$25
 - (f) Cabin trailers, two thousand pounds and over - \$40
 - (g) Recreational vehicles, less than eight thousand pounds - \$160
 - (h) Recreational vehicles, eight thousand pounds and over and less than twelve thousand pounds - \$410
 - (i) Recreational vehicles, twelve thousand pounds and over - \$860
 - (j) Assembled recreational vehicles and buses shall follow the schedules for body type and registered weight
 - (k) Trucks - Over seven tons and less than ten tons - \$360
 - (l) Trucks - Ten tons and over and less than thirteen tons - \$560
 - (m) Trucks - Thirteen tons and over and less than sixteen tons - \$760
 - (n) Trucks - Sixteen tons and over and less than twenty-five tons - \$960
 - (o) Trucks - Twenty-five tons and over - \$1,160
 - (p) Buses - \$360
 - (q) Trailers other than semitrailers - \$10
 - (r) Semitrailers - \$110
 - (s) Former military vehicles - \$50
 - (t) Minitrucks - \$50
 - (u) Low-speed vehicles - \$50
- (4) For purposes of subsection (3) of this section, truck means all trucks and combinations of trucks except those trucks, trailers, or combinations thereof registered under section 60-3,198, and the tax is based on the gross vehicle weight rating as reported by the manufacturer.
- (5) Current model year vehicles are designated as first-year motor vehicles for purposes of the schedules.
- (6) When a motor vehicle is registered which is newer than the current model year by the manufacturer's designation, the motor vehicle is subject to the initial motor vehicle tax in the first registration period and ninety-five percent of the initial motor vehicle tax in the second registration period.
- (7) Assembled cabin trailers, assembled recreational vehicles, and assembled buses shall be designated as sixth-year motor vehicles in their first year of registration for purposes of the schedules.

(8) When a motor vehicle is registered which is required to have a title branded as previous salvage pursuant to section 60-174, the motor vehicle tax shall be reduced by twenty-five percent.

Source: Laws 2005, LB 274, § 187; Laws 2006, LB 248, § 2; Laws 2006, LB 765, § 7; Laws 2010, LB650, § 28; Laws 2011, LB289, § 22; Laws 2015, LB231, § 17; Laws 2018, LB909, § 67; Laws 2019, LB156, § 11; Laws 2019, LB270, § 25.

60-3,189 Tax exemption; procedure; appeal.

(1) A veteran of the United States Armed Forces who qualifies for an exemption from the motor vehicle tax under subdivision (2) of section 60-3,185 shall apply for the exemption to the county treasurer not more than fifteen days before and not later than thirty days after the registration date for the motor vehicle. A renewal application shall be made annually not sooner than the first day of the last month of the registration period or later than the last day of the registration period. The county treasurer shall approve or deny the application and notify the applicant of his or her decision within twenty days after the filing of the application. An applicant may appeal the denial of an application to the county board of equalization within twenty days after the date the notice was mailed.

(2) An organization which qualifies for an exemption from the motor vehicle tax under subdivision (6) of section 60-3,185 shall apply for the exemption to the county treasurer not more than fifteen days before and not later than thirty days after the registration date for the motor vehicle. For a newly acquired motor vehicle, an application for exemption must be made within thirty days after the purchase date. A renewal application shall be made annually not sooner than the first day of the last month of the registration period or later than the last day of the registration period. The county treasurer shall examine the application and recommend either exempt or nonexempt status to the county board of equalization within twenty days after receipt of the application. The county board of equalization, after a hearing on ten days' notice to the applicant and after considering the recommendation of the county treasurer and any other information it may obtain, shall approve or deny the exemption on the basis of law and of rules and regulations adopted and promulgated by the Tax Commissioner within thirty days after the hearing. The county board of equalization shall mail or deliver its final decision to the applicant and the county treasurer within seven days after the date of decision. The decision of the county board of equalization may be appealed to the Tax Equalization and Review Commission in accordance with the Tax Equalization and Review Commission Act within thirty days after the final decision.

Source: Laws 2005, LB 274, § 189; Laws 2007, LB334, § 10; Laws 2012, LB801, § 90.

Cross References

Tax Equalization and Review Commission Act, see section 77-5001.

60-3,190 Motor vehicle fee; fee schedules; Motor Vehicle Fee Fund; created; use; investment.

(1) A motor vehicle fee is imposed on all motor vehicles registered for operation in this state. An owner of a motor vehicle which is exempt from the imposition of a motor vehicle tax pursuant to section 60-3,185 shall also be

exempt from the imposition of the motor vehicle fee imposed pursuant to this section.

(2) The department shall annually determine the motor vehicle fee on each motor vehicle registered pursuant to this section and shall cause a notice of the amount to be delivered to the registrant. The notice shall be combined with the notice of the motor vehicle tax required by section 60-3,186.

(3) The motor vehicle fee schedules are set out in this subsection and subsection (4) of this section. Except for automobiles with a value when new of less than \$20,000, and for assembled, reconstructed-designated, and replica-designated automobiles, the fee shall be calculated by multiplying the base fee times the fraction which corresponds to the age category of the automobile as shown in the following table:

YEAR	FRACTION
First through fifth	1.00
Sixth through tenth	.70
Eleventh and over	.35

(4) The base fee shall be:

- (a) Automobiles, with a value when new of less than \$20,000, and assembled, reconstructed-designated, and replica-designated automobiles - \$5
- (b) Automobiles, with a value when new of \$20,000 through \$39,999 - \$20
- (c) Automobiles, with a value when new of \$40,000 or more - \$30
- (d) Motorcycles and autocycles - \$10
- (e) Recreational vehicles and cabin trailers - \$10
- (f) Trucks over seven tons and buses - \$30
- (g) Trailers other than semitrailers - \$10
- (h) Semitrailers - \$30
- (i) Former military vehicles - \$10
- (j) Minitrucks - \$10
- (k) Low-speed vehicles - \$10.

(5) The motor vehicle tax, motor vehicle fee, and registration fee shall be paid to the county treasurer prior to the registration of the motor vehicle for the following registration period. After retaining one percent of the motor vehicle fee collected for costs, the remaining proceeds shall be remitted to the State Treasurer for credit to the Motor Vehicle Fee Fund. The State Treasurer shall return funds from the Motor Vehicle Fee Fund remitted by a county treasurer which are needed for refunds or credits authorized by law.

(6)(a) The Motor Vehicle Fee Fund is created. On or before the last day of each calendar quarter, the State Treasurer shall distribute all funds in the Motor Vehicle Fee Fund as follows: (i) Fifty percent to the county treasurer of each county, amounts in the same proportion as the most recent allocation received by each county from the Highway Allocation Fund; and (ii) fifty percent to the treasurer of each municipality, amounts in the same proportion as the most recent allocation received by each municipality from the Highway Allocation Fund. 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.

(b) Funds from the Motor Vehicle Fee Fund shall be considered local revenue available for matching state sources.

(c) All receipts by counties and municipalities from the Motor Vehicle Fee Fund shall be used for road, bridge, and street purposes.

(7) For purposes of subdivisions (4)(a), (b), (c), and (f) of this section, automobiles or trucks includes all trucks and combinations of trucks or truck-tractors, except those trucks, trailers, or semitrailers registered under section 60-3,198, and the fee is based on the gross vehicle weight rating as reported by the manufacturer.

(8) Current model year vehicles are designated as first-year motor vehicles for purposes of the schedules.

(9) When a motor vehicle is registered which is newer than the current model year by the manufacturer's designation, the motor vehicle is subject to the initial motor vehicle fee for six registration periods.

(10) Assembled vehicles other than assembled, reconstructed-designated, or replica-designated automobiles shall follow the schedules for the motor vehicle body type.

Source: Laws 2005, LB 274, § 190; Laws 2007, LB286, § 55; Laws 2010, LB650, § 29; Laws 2011, LB289, § 23; Laws 2012, LB801, § 91; Laws 2013, LB207, § 5; Laws 2015, LB231, § 18; Laws 2018, LB909, § 68; Laws 2019, LB156, § 12.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

60-3,191 Alternative fuel; fee.

In addition to any other fee required under the Motor Vehicle Registration Act, a fee for registration of each motor vehicle powered by an alternative fuel shall be charged. The fee shall be seventy-five dollars. The fee shall be collected by the county treasurer and remitted to the State Treasurer for credit to the Highway Trust Fund.

Source: Laws 2011, LB289, § 24.

60-3,193.01 International Registration Plan; adopted.

For purposes of the Motor Vehicle Registration Act, the International Registration Plan is adopted and incorporated by reference as the plan existed on January 1, 2020.

Source: Laws 2008, LB756, § 10; Laws 2009, LB331, § 4; Laws 2010, LB805, § 2; Laws 2011, LB212, § 3; Laws 2012, LB751, § 14; Laws 2013, LB35, § 2; Laws 2014, LB776, § 3; Laws 2015, LB313, § 3; Laws 2016, LB929, § 5; Laws 2017, LB263, § 55; Laws 2018, LB909, § 69; Laws 2019, LB79, § 8; Laws 2020, LB944, § 25.

Operative date November 14, 2020.

60-3,198 Fleet of vehicles in interjurisdiction commerce; registration; exception; application; fees; temporary authority; evidence of registration; propor-

tional registration; removal from fleet; effect; unladen-weight registration; trip permit; fee.

(1) Any owner engaged in operating a fleet of apportionable vehicles in this state in interjurisdiction commerce may, in lieu of registration of such apportionable vehicles under the general provisions of the Motor Vehicle Registration Act, register and license such fleet for operation in this state by filing a statement and the application required by section 60-3,203 with the Division of Motor Carrier Services of the department. The statement shall be in such form and contain such information as the division requires, declaring the total mileage operated by such vehicles in all jurisdictions and in this state during the preceding year and describing and identifying each such apportionable vehicle to be operated in this state during the ensuing license year. Upon receipt of such statement and application, the division shall determine the total fee payment, which shall be equal to the amount of fees due pursuant to section 60-3,203 and the amount obtained by applying the formula provided in section 60-3,204 to a fee of thirty-two dollars per ton based upon gross vehicle weight of the empty weights of a truck or truck-tractor and the empty weights of any trailer or combination thereof with which it is to be operated in combination at any one time plus the weight of the maximum load to be carried thereon at any one time, and shall notify the applicant of the amount of payment required to be made. Mileage operated in noncontracting reciprocity jurisdictions by apportionable vehicles based in Nebraska shall be applied to the portion of the formula for determining the Nebraska jurisdiction fleet distance.

Temporary authority which permits the operation of a fleet or an addition to a fleet in this state while the application is being processed may be issued upon application to the division if necessary to complete processing of the application.

Upon completion of such processing and receipt of the appropriate fees, the division shall issue to the applicant a sufficient number of distinctive registration certificates which provide a list of the jurisdictions in which the apportionable vehicle has been apportioned, the weight for which registered, and such other evidence of registration for display on the apportionable vehicle as the division determines appropriate for each of the apportionable vehicles of his or her fleet, identifying it as a part of an interjurisdiction fleet proportionately registered. Such registration certificates may be displayed as a legible paper copy or electronically as authorized by the department. All fees received as provided in this section shall be remitted to the State Treasurer for credit to the Motor Carrier Services Division Distributive Fund.

The apportionable vehicles so registered shall be exempt from all further registration and license fees under the Motor Vehicle Registration Act for movement or operation in the State of Nebraska except as provided in section 60-3,203. The proportional registration and licensing provision of this section shall apply to apportionable vehicles added to such fleets and operated in this state during the license year except with regard to permanent license plates issued under section 60-3,203.

The right of applicants to proportional registration under this section shall be subject to the terms and conditions of any reciprocity agreement, contract, or consent made by the division.

When a nonresident fleet owner has registered his or her apportionable vehicles, his or her apportionable vehicles shall be considered as fully regis-

tered for both interjurisdiction and intrajurisdiction commerce when the jurisdiction of base registration for such fleet accords the same consideration for fleets with a base registration in Nebraska. Each apportionable vehicle of a fleet registered by a resident of Nebraska shall be considered as fully registered for both interjurisdiction and intrajurisdiction commerce.

(2) Mileage proportions for interjurisdiction fleets not operated in this state during the preceding year shall be determined by the division upon the application of the applicant on forms to be supplied by the division which shall show the operations of the preceding year in other jurisdictions and estimated operations in Nebraska or, if no operations were conducted the previous year, a full statement of the proposed method of operation.

(3) Any owner complying with and being granted proportional registration shall preserve the records on which the application is made for a period of three years following the current registration year. Upon request of the division, the owner shall make such records available to the division at its office for audit as to accuracy of computation and payments or pay the costs of an audit at the home office of the owner by a duly appointed representative of the division if the office where the records are maintained is not within the State of Nebraska. The division may enter into agreements with agencies of other jurisdictions administering motor vehicle registration laws for joint audits of any such owner. All payments received to cover the costs of an audit shall be remitted by the division to the State Treasurer for credit to the Motor Carrier Division Cash Fund. No deficiency shall be assessed and no claim for credit shall be allowed for any license registration year for which records on which the application was made are no longer required to be maintained.

(4) If the division claims that a greater amount of fee is due under this section than was paid, the division shall notify the owner of the additional amount claimed to be due. The owner may accept such claim and pay the amount due, or he or she may dispute the claim and submit to the division any information which he or she may have in support of his or her position. If the dispute cannot otherwise be resolved within the division, the owner may petition for an appeal of the matter. The director shall appoint a hearing officer who shall hear the dispute and issue a written decision. Any appeal shall be in accordance with the Administrative Procedure Act. Upon expiration of the time for perfecting an appeal if no appeal is taken or upon final judicial determination if an appeal is taken, the division shall deny the owner the right to further registration for a fleet license until the amount finally determined to be due, together with any costs assessed against the owner, has been paid.

(5) Every applicant who licenses any apportionable vehicles under this section and section 60-3,203 shall have his or her registration certificates issued only after all fees under such sections are paid and, if applicable, proof has been furnished of payment, in the form prescribed by the director as directed by the United States Secretary of the Treasury, of the federal heavy vehicle use tax imposed by 26 U.S.C. 4481 of the Internal Revenue Code as defined in section 49-801.01.

(6)(a) In the event of the transfer of ownership of any registered apportionable vehicle, (b) in the case of loss of possession because of fire, natural disaster, theft, or wrecking, junking, or dismantling of any registered apportionable vehicle, (c) when a salvage branded certificate of title is issued for any registered apportionable vehicle, (d) whenever a type or class of registered

apportioned vehicle is subsequently declared by legislative act or court decision to be illegal or ineligible to be operated or towed on the public roads and no longer subject to registration fees and taxes, (e) upon trade-in or surrender of a registered apportionable vehicle under a lease, or (f) in case of a change in the situs of a registered apportionable vehicle to a location outside of this state, its registration shall expire, except that if the registered owner or lessee applies to the division after such transfer or loss of possession and accompanies the application with a fee of one dollar and fifty cents, he or she may have any remaining credit of vehicle fees and taxes from the previously registered apportionable vehicle applied toward payment of any vehicle fees and taxes due and owing on another registered apportionable vehicle. If such registered apportionable vehicle has a greater gross vehicle weight than that of the previously registered apportionable vehicle, the registered owner or lessee of the registered apportionable vehicle shall additionally pay only the registration fee for the increased gross vehicle weight for the remaining months of the registration year based on the factors determined by the division in the original fleet application.

(7) Whenever a Nebraska-based fleet owner files an application with the division to delete a registered apportionable vehicle from a fleet of registered apportionable vehicles (a) because of a transfer of ownership of the registered apportionable vehicle, (b) because of loss of possession due to fire, natural disaster, theft, or wrecking, junking, or dismantling of the registered apportionable vehicle, (c) because a salvage branded certificate of title is issued for the registered apportionable vehicle, (d) because a type or class of registered apportioned vehicle is subsequently declared by legislative act or court decision to be illegal or ineligible to be operated or towed on the public roads and no longer subject to registration fees and taxes, (e) because of a trade-in or surrender of the registered apportionable vehicle under a lease, or (f) because of a change in the situs of the registered apportionable vehicle to a location outside of this state, the registered owner may, by returning the registration certificate or certificates and such other evidence of registration used by the division or, if such certificate or certificates or such other evidence of registration is unavailable, then by making an affidavit to the division of such transfer or loss, receive a refund of that portion of the unused registration fee based upon the number of unexpired months remaining in the registration year from the date of transfer or loss. No refund shall be allowed for any fees paid under section 60-3,203. When such apportionable vehicle is transferred or lost within the same month as acquired, no refund shall be allowed for such month. Such refund may be in the form of a credit against any registration fees that have been incurred or are, at the time of the refund, being incurred by the registered apportionable vehicle owner. The Nebraska-based fleet owner shall make a claim for a refund under this subsection within the registration period or shall be deemed to have forfeited his or her right to the refund.

(8) In case of addition to the registered fleet during the registration year, the owner engaged in operating the fleet shall pay the proportionate registration fee from the date the vehicle was placed into service or, if the vehicle was previously registered, the date the prior registration expired or the date Nebraska became the base jurisdiction for the fleet, whichever is first, for the remaining balance of the registration year. The fee for any permanent license plate issued for such addition pursuant to section 60-3,203 shall be the full fee

required by such section, regardless of the number of months remaining in the license year.

(9) In lieu of registration under subsections (1) through (8) of this section, the title holder of record may apply to the division for special registration, to be known as an unladen-weight registration, for any commercial motor vehicle or combination of vehicles which have been registered to a Nebraska-based fleet owner within the current or previous registration year. Such registration shall be valid only for a period of thirty days and shall give no authority to operate the vehicle except when empty. The fee for such registration shall be twenty dollars for each vehicle, which fee shall be remitted to the State Treasurer for credit to the Highway Trust Fund. The issuance of such permits shall be governed by section 60-3,179.

(10) Any person may, in lieu of registration under subsections (1) through (8) of this section or for other jurisdictions as approved by the director, purchase a trip permit for any nonresident truck, truck-tractor, bus, or truck or truck-tractor combination. A trip permit shall be issued before any person required to obtain a trip permit enters this state with such vehicle. The trip permit shall be issued by the director through Internet sales from the department's web site. The trip permit shall be valid for a period of seventy-two hours. The fee for the trip permit shall be twenty-five dollars for each truck, truck-tractor, bus, or truck or truck-tractor combination. The fee collected by the director shall be remitted to the State Treasurer for credit to the Highway Cash Fund.

Source: Laws 2005, LB 274, § 198; Laws 2008, LB756, § 15; Laws 2009, LB331, § 5; Laws 2012, LB751, § 15; Laws 2013, LB250, § 1; Laws 2016, LB666, § 2; Laws 2018, LB177, § 2; Laws 2019, LB79, § 9; Laws 2020, LB944, § 26.
Operative date November 14, 2020.

Cross References

Administrative Procedure Act, see section 84-920.

60-3,202 Registration fees; collection and distribution; procedure; Motor Vehicle Tax Fund; created; use; investment.

(1) Registration fees credited to the Motor Carrier Services Division Distributive Fund pursuant to section 60-3,198 and remaining in such fund at the close of each calendar month shall be remitted to the State Treasurer for credit as follows: (a) Three percent of thirty percent of such amount shall be credited to the Department of Revenue Property Assessment Division Cash Fund; (b) the remainder of such thirty percent shall be credited to the Motor Vehicle Tax Fund; and (c) seventy percent of such amount shall be credited to the Highway Trust Fund.

(2) On or before the last day of each quarter of the calendar year, the State Treasurer shall distribute all funds in the Motor Vehicle Tax Fund to the county treasurer of each county in the same proportion as the number of original motor vehicle registrations in each county bears to the total of all original registrations within the state in the registration year immediately preceding.

(3) Upon receipt of motor vehicle tax funds from the State Treasurer, the county treasurer shall distribute such funds to taxing agencies within the county in the same proportion that the levy of each such taxing agency bears to the total of such levies of all taxing agencies in the county.

(4) In the event any taxing district has been annexed, merged, dissolved, or in any way absorbed into another taxing district, any apportionment of motor vehicle tax funds to which such taxing district would have been entitled shall be apportioned to the successor taxing district which has assumed the functions of the annexed, merged, dissolved, or absorbed taxing district.

(5) On or before March 1 of each year, the department shall furnish to the State Treasurer a tabulation showing the total number of original motor vehicle registrations in each county for the immediately preceding calendar year, which shall be the basis for computing the distribution of motor vehicle tax funds as provided in subsection (2) of this section.

(6) The Motor Vehicle Tax Fund is created. 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.

Source: Laws 2005, LB 274, § 202; Laws 2007, LB334, § 11; Laws 2012, LB801, § 92; Laws 2016, LB977, § 12; Laws 2019, LB79, § 10.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

60-3,203 Permanent license plate; application; fee; renewal fee; replacement permanent plate; registration certificate replacement; deletion from fleet registration; fee.

(1) Upon application and payment of the fees required pursuant to this section and section 60-3,198, the Division of Motor Carrier Services of the department shall issue to the owner of any fleet of apportionable commercial vehicles with a base registration in Nebraska a permanent license plate for each truck, truck-tractor, and trailer in the fleet. The application shall be accompanied by a fee of three dollars for each truck or truck-tractor and six dollars per trailer. The application shall be on a form developed by the division.

(2) Fleets of apportionable vehicles license plates shall display a distinctive license plate provided by the department pursuant to this section.

(3) Any license plate issued pursuant to this section shall remain affixed to the front of the truck or truck-tractor or to the rear of the trailer or semitrailer as long as the apportionable vehicle is registered pursuant to section 60-3,198 by the owner making the original application pursuant to subsection (1) of this section. Upon transfer of ownership of the truck, truck-tractor, or trailer or transfer of ownership of the fleet or at any time the truck, truck-tractor, or trailer is no longer registered pursuant to section 60-3,198, the license plate shall cease to be active and shall be processed according to the rules and regulations of the department.

(4) The renewal fee for each permanent plate shall be two dollars and shall be assessed and collected in each license year after the year in which the permanent license plates are initially issued at the time all other renewal fees are collected pursuant to section 60-3,198 unless a truck, truck-tractor, or trailer has been deleted from the fleet registration.

(5)(a) If a permanent license plate is lost or destroyed, the owner shall submit an affidavit to that effect to the division prior to any deletion of the truck, truck-tractor, or trailer from the fleet registration. If the truck, truck-tractor, or trailer is not deleted from the fleet registration, a replacement permanent

license plate may be issued upon payment of a fee of three dollars for each truck or truck-tractor and six dollars per trailer.

(b) If the registration certificate for any fleet vehicle is lost or stolen, the division shall collect a fee of one dollar for replacement of such certificate.

(6) If a truck, truck-tractor, or trailer for which a permanent license plate has been issued pursuant to this section is deleted from the fleet registration due to loss of possession by the registrant, the plate shall be returned to the division.

(7) The registrant shall be liable for the full amount of the registration fee due for any truck, truck-tractor, or trailer not deleted from the fleet registration renewal.

(8) All fees collected pursuant to this section shall be remitted to the State Treasurer for credit to the Highway Cash Fund.

Source: Laws 2005, LB 274, § 203; Laws 2020, LB944, § 27.
Operative date November 14, 2020.

60-3,205 Registration certificate; disciplinary actions; director; powers; procedure.

(1)(a) The director may suspend, revoke, cancel, or refuse to issue or renew a registration certificate under the International Registration Plan Act:

(i) If the applicant or certificate holder has had his or her license issued under the International Fuel Tax Agreement Act revoked or the director refused to issue or refused to renew such license; or

(ii) If the applicant or certificate holder is in violation of sections 75-392 to 75-3,100.

(b) Prior to taking action under this section, the director shall notify and advise the applicant or certificate holder of the proposed action and the reasons for such action in writing, by regular United States mail, to his or her last-known business address as shown on the application for the certificate or renewal. The notice shall also include an advisement of the procedures in subdivision (c) of this subsection.

(c) The applicant or certificate holder may, within thirty days after the date of the mailing of the notice, petition the director for a hearing to contest the proposed action. The hearing shall be commenced in accordance with the rules and regulations adopted and promulgated by the department. If a petition is filed, the director shall, within twenty days after receipt of the petition, set a hearing date at which the applicant or certificate holder may show cause why the proposed action should not be taken. The director shall give the applicant or certificate holder reasonable notice of the time and place of the hearing. If the director's decision is adverse to the applicant or certificate holder, the applicant or certificate holder may appeal the decision in accordance with the Administrative Procedure Act.

(d) Except as provided in subsections (2) and (3) of this section, the filing of the petition shall stay any action by the director until a hearing is held and a final decision and order is issued.

(e) Except as provided in subsections (2) and (3) of this section, if no petition is filed at the expiration of thirty days after the date on which the notification was mailed, the director may take the proposed action described in the notice.

(f) If, in the judgment of the director, the applicant or certificate holder has complied with or is no longer in violation of the provisions for which the director took action under this subsection, the director may reinstate the registration certificate without delay.

(2)(a) The director may suspend, revoke, cancel, or refuse to issue or renew a registration certificate under the International Registration Plan Act or a license under the International Fuel Tax Agreement Act if the applicant, licensee, or certificate holder has issued to the department a check or draft which has been returned because of insufficient funds, no funds, or a stop-payment order. The director may take such action no sooner than seven days after the written notice required in subdivision (1)(b) of this section has been provided. Any petition to contest such action filed pursuant to subdivision (1)(c) of this section shall not stay such action of the director.

(b) If the director takes an action pursuant to this subsection, the director shall reinstate the registration certificate or license without delay upon the payment of certified funds by the applicant, licensee, or certificate holder for any fees due and reasonable administrative costs, not to exceed twenty-five dollars, incurred in taking such action.

(c) The rules, regulations, and orders of the director and the department that pertain to hearings commenced in accordance with this section and that are in effect prior to March 17, 2006, shall remain in effect, unless changed or eliminated by the director or the department, except for those portions involving a stay upon the filing of a petition to contest any action taken pursuant to this subsection, in which case this subsection shall supersede those provisions.

(3) Any person who receives notice from the director of action taken pursuant to subsection (1) or (2) of this section shall, within three business days, return such registration certificate and license plates to the department as provided in this section. If any person fails to return the registration certificate and license plates to the department, the department shall notify the Nebraska State Patrol that any such person is in violation of this section.

Source: Laws 2005, LB 274, § 205; Laws 2006, LB 853, § 5; Laws 2007, LB358, § 10; Laws 2009, LB331, § 6; Laws 2012, LB751, § 16; Laws 2020, LB944, § 28.

Operative date November 14, 2020.

Cross References

Administrative Procedure Act, see section 84-920.

International Fuel Tax Agreement Act, see section 66-1401.

60-3,209 Snowmobiles; registration; application.

Application for registration shall be made to the county treasurer in such form as the director prescribes and shall state the name and address of the applicant, state a description of the snowmobile, including color, manufacturer, and identification number, and be signed by at least one owner. Application forms shall be made available through the county treasurer's office of each county in this state. Upon receipt of the application and the appropriate fee as provided in section 60-3,210, the snowmobile shall be registered by the county treasurer and a validation decal shall be provided which shall be affixed to the upper half of the snowmobile in such manner as the director prescribes. Snowmobiles owned by a dealer and operated for demonstration or testing purposes shall be exempt from affixing validation decals to the snowmobile but

are required to carry a valid validation decal with the snowmobile at all times. Application for registration shall be made within fifteen days after the date of purchase.

Source: Laws 2005, LB 274, § 209; Laws 2012, LB801, § 93.

60-3,212 Snowmobiles; refund of fees; when.

Upon transfer of ownership of any snowmobile or in case of loss of possession because of fire, natural disaster, theft, dismantlement, or junking, its registration shall expire, and the registered owner may, by returning the registration certificate and after making affidavit of such transfer or loss to the county official who issued the certificate, receive a refund of that part of the unused fees based on the number of unexpired months remaining in the registration period, except that when such snowmobile is transferred within the same calendar month in which acquired, no refund shall be allowed for such month.

Source: Laws 2005, LB 274, § 212; Laws 2020, LB944, § 29.
Operative date November 14, 2020.

60-3,217 Snowmobiles; fees; disposition.

(1) The county treasurers shall act as agents for the department in the collection of snowmobile registration fees. Twenty-five cents from the funds collected for each such registration shall be retained by the county.

(2) The remaining amount of the fees from registration of snowmobiles shall be remitted to the State Treasurer who shall credit twenty-five percent to the General Fund and seventy-five percent to the Nebraska Snowmobile Trail Cash Fund.

Source: Laws 2005, LB 274, § 217; Laws 2012, LB801, § 94.

60-3,218 Nebraska Snowmobile Trail Cash Fund; created; use; investment; Game and Parks Commission; establish rules and regulations.

(1) There is hereby created the Nebraska Snowmobile Trail Cash Fund into which shall be deposited the portion of the fees collected from snowmobile registration as provided in section 60-3,217.

(2) The Game and Parks Commission shall use the money in the Nebraska Snowmobile Trail Cash Fund for the operation, maintenance, enforcement, planning, establishment, and marking of snowmobile trails throughout the state and for the acquisition by purchase or lease of real property to carry out the provisions of this section.

(3) The commission shall establish rules and regulations pertaining to the use and maintenance of snowmobile trails.

(4) Transfers may be made from the Nebraska Snowmobile Trail Cash Fund to the General Fund at the direction of the Legislature. Any money in the Nebraska Snowmobile Trail Cash 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.

(5) The State Treasurer shall transfer the unobligated June 30, 2017, balance in the Nebraska Snowmobile Trail Cash Fund to the General Fund on or before

July 31, 2017, on such date as directed by the budget administrator of the budget division of the Department of Administrative Services.

Source: Laws 2005, LB 274, § 218; Laws 2009, First Spec. Sess., LB3, § 35; Laws 2017, LB331, § 27.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

60-3,221 Towing of trailers; restrictions; section; how construed.

(1) Except as otherwise provided in the Motor Vehicle Registration Act:

(a) A cabin trailer shall only be towed by a properly registered:

(i) Passenger car;

(ii) Commercial motor vehicle or apportionable vehicle;

(iii) Farm truck;

(iv) Local truck;

(v) Minitruck;

(vi) Recreational vehicle; or

(vii) Bus;

(b) A utility trailer shall only be towed by:

(i) A properly registered passenger car;

(ii) A properly registered commercial motor vehicle or apportionable vehicle;

(iii) A properly registered farm truck;

(iv) A properly registered local truck;

(v) A properly registered minitruck;

(vi) A properly registered recreational vehicle;

(vii) A properly registered motor vehicle which is engaged in soil and water conservation pursuant to section 60-3,149;

(viii) A properly registered well-boring apparatus;

(ix) A dealer-plated vehicle;

(x) A personal-use dealer-plated vehicle;

(xi) A properly registered bus; or

(xii) A properly registered public power district motor vehicle or, beginning January 1, 2023, a properly registered metropolitan utilities district motor vehicle;

(c) A farm trailer shall only be towed by a properly registered:

(i) Passenger car;

(ii) Commercial motor vehicle;

(iii) Farm truck; or

(iv) Minitruck;

(d) A commercial trailer shall only be towed by:

(i) A properly registered motor vehicle which is engaged in soil and water conservation pursuant to section 60-3,149;

(ii) A properly registered local truck;

- (iii) A properly registered well-boring apparatus;
 - (iv) A properly registered commercial motor vehicle or apportionable vehicle;
 - (v) A dealer-plated vehicle;
 - (vi) A personal-use dealer-plated vehicle;
 - (vii) A properly registered bus;
 - (viii) A properly registered farm truck; or
 - (ix) A properly registered public power district motor vehicle or, beginning January 1, 2023, a properly registered metropolitan utilities district motor vehicle;
- (e) A fertilizer trailer shall only be towed by a properly registered:
- (i) Passenger car;
 - (ii) Commercial motor vehicle or apportionable vehicle;
 - (iii) Farm truck; or
 - (iv) Local truck;
- (f) A pole and cable reel trailer shall only be towed by a properly registered:
- (i) Commercial motor vehicle or apportionable vehicle;
 - (ii) Local truck; or
 - (iii) Public power district motor vehicle or, beginning January 1, 2023, metropolitan utilities district motor vehicle;
- (g) A dealer-plated trailer shall only be towed by:
- (i) A dealer-plated vehicle;
 - (ii) A properly registered passenger car;
 - (iii) A properly registered commercial motor vehicle or apportionable vehicle;
 - (iv) A properly registered farm truck;
 - (v) A properly registered minitruck; or
 - (vi) A personal-use dealer-plated vehicle;
- (h) Trailers registered pursuant to section 60-3,198 as part of an apportioned fleet shall only be towed by:
- (i) A properly registered motor vehicle which is engaged in soil and water conservation pursuant to section 60-3,149;
 - (ii) A properly registered local truck;
 - (iii) A properly registered well-boring apparatus;
 - (iv) A properly registered commercial motor vehicle or apportionable vehicle;
 - (v) A dealer-plated vehicle;
 - (vi) A personal-use dealer-plated vehicle;
 - (vii) A properly registered bus; or
 - (viii) A properly registered farm truck; and
- (i) A trailer registered as a historical vehicle pursuant to sections 60-3,130 to 60-3,134 shall only be towed by:
- (i) A motor vehicle properly registered as a historical vehicle pursuant to sections 60-3,130 to 60-3,134;
 - (ii) A properly registered passenger car;

(iii) A properly registered commercial motor vehicle or apportionable vehicle;
or

(iv) A properly registered local truck.

(2) Nothing in this section shall be construed to waive compliance with the Nebraska Rules of the Road or Chapter 75.

(3) Nothing in this section shall be construed to prohibit any motor vehicle or trailer from displaying dealer license plates or In Transit stickers authorized by section 60-376.

Source: Laws 2007, LB349, § 2; Laws 2011, LB212, § 4; Laws 2016, LB783, § 13; Laws 2018, LB909, § 70; Laws 2019, LB270, § 26.

Cross References

Nebraska Rules of the Road, see section 60-601.

60-3,223 Nebraska 150 Sesquicentennial Plates; design.

(1) The department, in consultation with the Nebraska Sesquicentennial Commission and other interested persons, shall design license plates to be known as Nebraska 150 Sesquicentennial Plates to celebrate and commemorate the one-hundred-fiftieth year of statehood for Nebraska. The department shall ensure that the design reflects support for the sesquicentennial of the State of Nebraska.

(2) The design shall be selected on the basis of (a) enhancing the marketability of the plates to supporters of the sesquicentennial and (b) limiting the manufacturing cost of each plate to an amount less than or equal to the amount charged for license plates pursuant to section 60-3,102. The department shall make applications available for this type of plate when it is designed.

(3) One type of plate under this section shall be alphanumeric plates. The department shall:

- (a) Assign a designation up to seven characters; and
- (b) Not use a county designation.

(4) One type of plate under this section shall be personalized message plates. Such plates shall be issued subject to the same conditions specified for personalized message license plates in section 60-3,118.

Source: Laws 2015, LB220, § 7.

60-3,224 Nebraska 150 Sesquicentennial Plates; application; form; fee; delivery; transfer; procedure; fee.

(1) Beginning October 1, 2015, and ending December 31, 2022, a person may apply to the department for Nebraska 150 Sesquicentennial Plates in lieu of regular license plates on an application prescribed and provided by the department for any motor vehicle, trailer, or semitrailer, except for a motor vehicle or trailer registered under section 60-3,198. An applicant receiving a plate under this section for a farm truck with a gross weight of over sixteen tons shall affix the appropriate tonnage decal to the plate. The department shall make forms available for such applications through the county treasurers.

(2) Each application for initial issuance or renewal of Nebraska 150 Sesquicentennial Plates shall be accompanied by a fee of seventy dollars. Fees collected pursuant to this section shall be remitted to the State Treasurer. The State Treasurer shall credit fifteen percent of the fee for initial issuance and

renewal of plates under subsection (3) of section 60-3,223 to the Department of Motor Vehicles Cash Fund and eighty-five percent of such fee to the Nebraska 150 Sesquicentennial Plate Proceeds Fund. The State Treasurer shall credit forty-three percent of the fee for initial issuance and renewal of plates under subsection (4) of section 60-3,223 to the Department of Motor Vehicles Cash Fund and fifty-seven percent of such fee to the Nebraska 150 Sesquicentennial Plate Proceeds Fund.

(3)(a) When the department receives an application for Nebraska 150 Sesquicentennial Plates, the department may deliver the plates and registration certificate to the applicant by United States mail or to the county treasurer of the county in which the motor vehicle or trailer is registered and the delivery of the plates and registration certificate shall be made through a secure process and system. The county treasurer or the department shall issue plates under this section in lieu of regular license plates when the applicant complies with the other provisions of the Motor Vehicle Registration Act for registration of the motor vehicle or trailer. If plates are lost, stolen, or mutilated, the licensee shall be issued replacement license plates pursuant to section 60-3,157.

(b) This subdivision applies beginning on an implementation date designated by the director. The director shall designate an implementation date that is on or before January 1, 2021. The county treasurer or the department may issue temporary license stickers to the applicant under this section for the applicant to lawfully operate the vehicle pending receipt of the license plates. No charge in addition to the registration fee shall be made for the issuance of a temporary license sticker under this subdivision. The department shall furnish temporary license stickers for issuance by the county treasurer at no cost to the counties. The department may adopt and promulgate rules and regulations regarding the design and issuance of temporary license stickers.

(4) The owner of a motor vehicle or trailer bearing Nebraska 150 Sesquicentennial Plates may apply to the county treasurer to have such plates transferred to a motor vehicle or trailer other than the motor vehicle or trailer for which such plates were originally purchased if such motor vehicle or trailer is owned by the owner of the plates. The owner may have the unused portion of the fee for the plates credited to the other motor vehicle or trailer which will bear the plates at the rate of eight and one-third percent per month for each full month left in the registration period. Application for such transfer shall be accompanied by a fee of three dollars. The State Treasurer shall credit fees collected pursuant to this subsection to the Department of Motor Vehicles Cash Fund.

(5) Nebraska 150 Sesquicentennial Plates shall not be issued or renewed beginning on January 1, 2023.

Source: Laws 2015, LB220, § 8; Laws 2017, LB263, § 56; Laws 2019, LB270, § 27.

60-3,225 Nebraska 150 Sesquicentennial Plate Proceeds Fund; created; investment; use.

(1) The Nebraska 150 Sesquicentennial Plate Proceeds Fund is created. 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.

(2) If the cost of manufacturing Nebraska 150 Sesquicentennial Plates at any time exceeds the amount charged for license plates pursuant to section

60-3,102, any money to be credited to the Nebraska 150 Sesquicentennial Plate Proceeds Fund shall instead be credited first to the Highway Trust Fund in an amount equal to the difference between the manufacturing costs of such plates and the amount charged pursuant to section 60-3,102 with respect to such plates and the remainder shall be credited to the Nebraska 150 Sesquicentennial Plate Proceeds Fund as provided in section 60-3,224.

(3) Until July 1, 2018, the Nebraska 150 Sesquicentennial Plate Proceeds Fund shall be used by the Nebraska Sesquicentennial Commission for purposes of carrying out section 81-8,310. Beginning on July 1, 2018, the State Treasurer shall transfer any money in the fund at the end of each calendar quarter to the Historical Society Fund.

Source: Laws 2015, LB220, § 9.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

60-3,226 Mountain Lion Conservation Plates; design.

(1) The department shall design license plates to be known as Mountain Lion Conservation Plates. The department shall create designs reflecting support for the conservation of the mountain lion population. The design shall be selected on the basis of limiting the manufacturing cost of each plate to an amount less than or equal to the amount charged for license plates pursuant to section 60-3,102. The department shall make applications available for this type of plate by October 1, 2016. The department may adopt and promulgate rules and regulations to carry out this section and section 60-3,227.

(2) One type of Mountain Lion Conservation Plates shall be alphanumeric plates. The department shall:

- (a) Assign a designation up to five characters; and
- (b) Not use a county designation.

(3) One type of Mountain Lion Conservation Plates shall be personalized message plates. Such plates shall be issued subject to the same conditions specified for personalized message license plates in section 60-3,118, except that a maximum of five characters may be used.

(4) The department shall cease to issue Mountain Lion Conservation Plates beginning with the next license plate issuance cycle after the license plate issuance cycle that begins in 2023 pursuant to section 60-3,101 if the total number of registered vehicles that obtained such plates is less than five hundred per year within any prior consecutive two-year period.

Source: Laws 2016, LB474, § 9; Laws 2019, LB356, § 15; Laws 2020, LB944, § 30.

Operative date January 1, 2021.

60-3,227 Mountain Lion Conservation Plates; application; form; fee; delivery; transfer; procedure; fee.

(1) A person may apply to the department for Mountain Lion Conservation Plates in lieu of regular license plates on an application prescribed and provided by the department for any motor vehicle, trailer, or semitrailer, except for a motor vehicle, trailer, or semitrailer registered under section 60-3,198. An applicant receiving a Mountain Lion Conservation Plate for a farm truck with a

gross weight of over sixteen tons shall affix the appropriate tonnage decal to the plate. The department shall make forms available for such applications through the county treasurers. The license plates shall be issued upon payment of the license fee described in subsection (2) of this section.

(2)(a) In addition to all other fees required for registration under the Motor Vehicle Registration Act, each application for initial issuance of alphanumeric Mountain Lion Conservation Plates shall be accompanied by a fee of five dollars. An application for renewal of such plates shall be accompanied by a fee of five dollars. County treasurers collecting fees pursuant to this subdivision shall remit them to the State Treasurer. The State Treasurer shall credit five dollars of the fee to the Game and Parks Commission Educational Fund.

(b) In addition to all other fees required for registration under the Motor Vehicle Registration Act, each application for initial issuance or renewal of personalized message Mountain Lion Conservation Plates shall be accompanied by a fee of forty dollars. County treasurers collecting fees pursuant to this subdivision shall remit them to the State Treasurer. The State Treasurer shall credit twenty-five percent of the fee for initial issuance and renewal of such plates to the Department of Motor Vehicles Cash Fund and seventy-five percent of the fee to the Game and Parks Commission Educational Fund.

(3)(a) When the department receives an application for Mountain Lion Conservation Plates, the department may deliver the plates and registration certificate to the applicant by United States mail or to the county treasurer of the county in which the motor vehicle, trailer, or semitrailer is registered and the delivery of the plates and registration certificate shall be made through a secure process and system. The county treasurer or the department shall issue Mountain Lion Conservation Plates in lieu of regular license plates when the applicant complies with the other provisions of the Motor Vehicle Registration Act for registration of the motor vehicle, trailer, or semitrailer. If Mountain Lion Conservation Plates are lost, stolen, or mutilated, the licensee shall be issued replacement license plates upon request pursuant to section 60-3,157.

(b) This subdivision applies beginning on an implementation date designated by the director. The director shall designate an implementation date that is on or before January 1, 2021. The county treasurer or the department may issue temporary license stickers to the applicant under this section for the applicant to lawfully operate the vehicle pending receipt of the license plates. No charge in addition to the registration fee shall be made for the issuance of a temporary license sticker under this subdivision. The department shall furnish temporary license stickers for issuance by the county treasurer at no cost to the counties. The department may adopt and promulgate rules and regulations regarding the design and issuance of temporary license stickers.

(4) The owner of a motor vehicle, trailer, or semitrailer bearing Mountain Lion Conservation Plates may apply to the county treasurer to have such plates transferred to a motor vehicle other than the vehicle for which such plates were originally purchased if such vehicle is owned by the owner of the plates. The owner may have the unused portion of the fee for the plates credited to the other vehicle which will bear the plates at the rate of eight and one-third percent per month for each full month left in the registration period. Application for such transfer shall be accompanied by a fee of three dollars. Fees collected pursuant to this subsection shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

(5) If the cost of manufacturing Mountain Lion Conservation Plates at any time exceeds the amount charged for license plates pursuant to section 60-3,102, any money to be credited to the Game and Parks Commission Educational Fund shall instead be credited first to the Highway Trust Fund in an amount equal to the difference between the manufacturing costs of Mountain Lion Conservation Plates and the amount charged pursuant to section 60-3,102 with respect to such plates and the remainder shall be credited to the Game and Parks Commission Educational Fund.

Source: Laws 2016, LB474, § 10; Laws 2017, LB263, § 57; Laws 2019, LB270, § 28; Laws 2019, LB356, § 16.

60-3,228 Metropolitan utilities district license plates; public power district license plates; application; issuance.

(1)(a) This subsection applies until January 1, 2023.

(b) Upon application and payment of the fees required pursuant to this section and section 60-3,229, each motor vehicle and trailer operated by a public power district shall be issued permanent public power district license plates. The public power district license plates shall be issued by the county in which the public power district is headquartered.

(c) Public power district vehicles shall display a distinctive license plate provided by the department pursuant to this section.

(d) Any license plate issued pursuant to this section shall remain affixed to the front and rear of the motor vehicle and to the rear of the trailer as long as the public power district vehicle is registered pursuant to this section by the owner or lessor making the original application pursuant to subdivision (1)(b) of this section.

(2)(a) This subsection applies beginning on January 1, 2023.

(b) Upon application and payment of the fees required pursuant to this section and section 60-3,229, each motor vehicle and trailer operated by a metropolitan utilities district or a public power district shall be issued permanent metropolitan utilities district or public power district license plates. The metropolitan utilities district or public power district license plates shall be issued by the county in which the metropolitan utilities district or public power district is headquartered.

(c) Metropolitan utilities district vehicles or public power district vehicles shall display a distinctive license plate provided by the department pursuant to this section.

(d) Any license plate issued pursuant to this section shall remain affixed to the front and rear of the motor vehicle and to the rear of the trailer as long as the metropolitan utilities district vehicle or public power district vehicle is registered pursuant to this section by the owner or lessor making the original application pursuant to subdivision (2)(b) of this section.

Source: Laws 2016, LB783, § 11; Laws 2018, LB909, § 71.

60-3,229 Metropolitan utilities district license plates; public power district license plates; registration fee.

(1) This subsection applies until January 1, 2023. The registration fee for a public power district motor vehicle shall be the fee provided for commercial

motor vehicles in section 60-3,147. The registration fee for a public power district trailer shall be the fee provided for a trailer in section 60-3,151.

(2) This subsection applies beginning January 1, 2023. The registration fee for a metropolitan utilities district motor vehicle or public power district motor vehicle shall be the fee provided for commercial motor vehicles in section 60-3,147. The registration fee for a metropolitan utilities district trailer or public power district trailer shall be the fee provided for a trailer in section 60-3,151.

Source: Laws 2016, LB783, § 12; Laws 2017, LB263, § 58; Laws 2018, LB909, § 72.

60-3,230 Breast Cancer Awareness Plates; design.

(1) The department shall design license plates to be known as Breast Cancer Awareness Plates. The design shall include a pink ribbon and the words - early detection saves lives - along the bottom of the plate.

(2) The design shall be selected on the basis of limiting the manufacturing cost of each plate to an amount less than or equal to the amount charged for license plates pursuant to section 60-3,102. The department shall make applications available for this type of plate when it is designed.

(3) One type of plate under this section shall be alphanumeric plates. The department shall:

- (a) Assign a designation up to five characters; and
- (b) Not use a county designation.

(4) One type of plate under this section shall be personalized message plates. Such plates shall be issued subject to the same conditions specified for personalized message license plates in section 60-3,118, except that a maximum of five characters may be used.

(5) The department shall cease to issue Breast Cancer Awareness Plates beginning with the next license plate issuance cycle after the license plate issuance cycle that begins in 2023 pursuant to section 60-3,101 if the total number of registered vehicles that obtained such plates is less than five hundred per year within any prior consecutive two-year period.

Source: Laws 2016, LB977, § 9; Laws 2019, LB356, § 17; Laws 2020, LB944, § 31.

Operative date January 1, 2021.

60-3,231 Breast Cancer Awareness Plates; application; form; fee; delivery; transfer; procedure; fee.

(1) A person may apply to the department for Breast Cancer Awareness Plates in lieu of regular license plates on an application prescribed and provided by the department for any motor vehicle, trailer, or semitrailer, except for a motor vehicle or trailer registered under section 60-3,198. An applicant receiving a plate under this section for a farm truck with a gross weight of over sixteen tons shall affix the appropriate tonnage decal to the plate. The department shall make forms available for such applications through the county treasurers.

(2)(a) Beginning January 1, 2021, in addition to all other fees required for registration under the Motor Vehicle Registration Act, each application for

initial issuance of alphanumeric Breast Cancer Awareness Plates shall be accompanied by a fee of five dollars. An application for renewal of such plates shall be accompanied by a fee of five dollars. County treasurers collecting fees pursuant to this subdivision shall remit them to the State Treasurer. The State Treasurer shall credit five dollars of the fee to the University of Nebraska Medical Center for the breast cancer navigator program.

(b) In addition to all other fees required for registration under the Motor Vehicle Registration Act, each application for initial issuance or renewal of personalized message Breast Cancer Awareness Plates shall be accompanied by a fee of forty dollars. County treasurers collecting fees pursuant to this subdivision shall remit them to the State Treasurer. The State Treasurer shall credit seventy-five percent of the fee to the University of Nebraska Medical Center for the breast cancer navigator program and twenty-five percent of the fee to the Department of Motor Vehicles Cash Fund.

(3)(a) When the department receives an application for Breast Cancer Awareness Plates, the department may deliver the plates and registration certificate to the applicant by United States mail or to the county treasurer of the county in which the motor vehicle or trailer is registered and the delivery of the plates and registration certificate shall be made through a secure process and system. The county treasurer or the department shall issue plates under this section in lieu of regular license plates when the applicant complies with the other provisions of the Motor Vehicle Registration Act for registration of the motor vehicle or trailer. If Breast Cancer Awareness Plates are lost, stolen, or mutilated, the licensee shall be issued replacement license plates upon request pursuant to section 60-3,157.

(b) This subdivision applies beginning on an implementation date designated by the director. The director shall designate an implementation date that is on or before January 1, 2021. The county treasurer or the department may issue temporary license stickers to the applicant under this section for the applicant to lawfully operate the vehicle pending receipt of the license plates. No charge in addition to the registration fee shall be made for the issuance of a temporary license sticker under this subdivision. The department shall furnish temporary license stickers for issuance by the county treasurer at no cost to the counties. The department may adopt and promulgate rules and regulations regarding the design and issuance of temporary license stickers.

(4) The owner of a motor vehicle or trailer bearing Breast Cancer Awareness Plates may apply to the county treasurer to have such plates transferred to a motor vehicle or trailer other than the motor vehicle or trailer for which such plates were originally purchased if such motor vehicle or trailer is owned by the owner of the plates. The owner may have the unused portion of the fee for the plates credited to the other motor vehicle or trailer which will bear the plates at the rate of eight and one-third percent per month for each full month left in the registration period. Application for such transfer shall be accompanied by a fee of three dollars. Fees collected pursuant to this subsection shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

Source: Laws 2016, LB977, § 10; Laws 2017, LB263, § 59; Laws 2019, LB270, § 29; Laws 2019, LB356, § 18.

60-3,232 Choose Life License Plates; design.

(1) The department shall design license plates to be known as Choose Life License Plates. The department shall create designs reflecting support for the protection of Nebraska's children. The design shall be selected on the basis of limiting the manufacturing cost of each plate to an amount less than or equal to the amount charged for license plates pursuant to section 60-3,102. The department shall make applications available for this type of plate beginning January 1, 2018. The department may adopt and promulgate rules and regulations to carry out this section and section 60-3,233.

(2) One type of Choose Life License Plates shall be alphanumeric plates. The department shall:

- (a) Assign a designation up to five characters; and
- (b) Not use a county designation.

(3) One type of Choose Life License Plates shall be personalized message plates. Such plates shall be issued subject to the same conditions specified for personalized message license plates in section 60-3,118, except that a maximum of five characters may be used.

(4) The department shall cease to issue Choose Life License Plates beginning with the next license plate issuance cycle after the license plate issuance cycle that begins in 2023 pursuant to section 60-3,101 if the total number of registered vehicles that obtained such plates is less than five hundred per year within any prior consecutive two-year period.

Source: Laws 2017, LB46, § 7; Laws 2019, LB356, § 19; Laws 2020, LB944, § 32.

Operative date January 1, 2021.

60-3,233 Choose Life License Plates; application; form; fee; transfer; procedure; fee.

(1) A person may apply to the department for Choose Life License Plates in lieu of regular license plates on an application prescribed and provided by the department for any motor vehicle or trailer, except for a motor vehicle or trailer registered under section 60-3,198. An applicant receiving a Choose Life License Plate for a farm truck with a gross weight of over sixteen tons or a commercial truck or truck-tractor with a gross weight of five tons or over shall affix the appropriate tonnage decal to the plate. The department shall make forms available for such applications through the county treasurers. The license plates shall be issued upon payment of the license fee described in subsection (2) of this section.

(2)(a) In addition to all other fees required for registration under the Motor Vehicle Registration Act, each application for initial issuance of alphanumeric Choose Life License Plates shall be accompanied by a fee of five dollars. An application for renewal of such plates shall be accompanied by a fee of five dollars. County treasurers collecting fees pursuant to this subdivision shall remit them to the State Treasurer. The State Treasurer shall credit five dollars of the fee to the Health and Human Services Cash Fund to supplement federal funds available to the Department of Health and Human Services for the Temporary Assistance for Needy Families program, 42 U.S.C. 601, et seq.

(b) In addition to all other fees required for registration under the Motor Vehicle Registration Act, each application for initial issuance or renewal of personalized message Choose Life License Plates shall be accompanied by a fee

of forty dollars. County treasurers collecting fees pursuant to this subdivision shall remit them to the State Treasurer. The State Treasurer shall credit twenty-five percent of the fee for initial issuance and renewal of such plates to the Department of Motor Vehicles Cash Fund and seventy-five percent of the fee to the Health and Human Services Cash Fund to supplement federal funds available to the Department of Health and Human Services for the Temporary Assistance for Needy Families program.

(3)(a) When the department receives an application for Choose Life License Plates, the department shall deliver the plates to the county treasurer of the county in which the motor vehicle or trailer is registered. The county treasurer shall issue Choose Life License Plates in lieu of regular license plates when the applicant complies with the other provisions of the Motor Vehicle Registration Act for registration of the motor vehicle or trailer. If Choose Life License Plates are lost, stolen, or mutilated, the licensee shall be issued replacement license plates upon request pursuant to section 60-3,157.

(b) This subdivision applies beginning on an implementation date designated by the director. The director shall designate an implementation date that is on or before January 1, 2021. The county treasurer or the department may issue temporary license stickers to the applicant under this section for the applicant to lawfully operate the vehicle pending receipt of the license plates. No charge in addition to the registration fee shall be made for the issuance of a temporary license sticker under this subdivision. The department shall furnish temporary license stickers for issuance by the county treasurer at no cost to the counties. The department may adopt and promulgate rules and regulations regarding the design and issuance of temporary license stickers.

(4) The owner of a motor vehicle or trailer bearing Choose Life License Plates may apply to the county treasurer to have such plates transferred to a motor vehicle other than the vehicle for which such plates were originally purchased if such vehicle is owned by the owner of the plates. The owner may have the unused portion of the fee for the plates credited to the other vehicle which will bear the plates at the rate of eight and one-third percent per month for each full month left in the registration period. Application for such transfer shall be accompanied by a fee of three dollars. Fees collected pursuant to this subsection shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

(5) If the cost of manufacturing Choose Life License Plates at any time exceeds the amount charged for license plates pursuant to section 60-3,102, any money to be credited to the Health and Human Services Cash Fund to supplement federal funds available to the Department of Health and Human Services for the Temporary Assistance for Needy Families program shall instead be credited first to the Highway Trust Fund in an amount equal to the difference between the manufacturing costs of Choose Life License Plates and the amount charged pursuant to section 60-3,102 with respect to such plates and the remainder shall be credited to the Health and Human Services Cash Fund to supplement federal funds available to the Department of Health and Human Services for the Temporary Assistance for Needy Families program.

Source: Laws 2017, LB46, § 8; Laws 2019, LB270, § 30; Laws 2019, LB356, § 20.

60-3,234 Native American Cultural Awareness and History Plates; design requirements.

(1) The department, in consultation with the Commission on Indian Affairs, shall design license plates to be known as Native American Cultural Awareness and History Plates. The design shall reflect the unique culture and history of Native American tribes historically and currently located in Nebraska. The design shall be selected on the basis of limiting the manufacturing cost of each plate to an amount less than or equal to the amount charged for license plates pursuant to section 60-3,102. The department may adopt and promulgate rules and regulations to carry out this section and section 60-3,235.

(2) One type of Native American Cultural Awareness and History Plates shall be alphanumeric plates. The department shall:

- (a) Assign a designation up to five characters; and
- (b) Not use a county designation.

(3) One type of Native American Cultural Awareness and History Plates shall be personalized message plates. Such plates shall be issued subject to the same conditions specified for personalized message license plates in section 60-3,118, except that a maximum of five characters may be used.

(4) The department shall cease to issue Native American Cultural Awareness and History Plates beginning with the next license plate issuance cycle after the license plate issuance cycle that begins in 2023 pursuant to section 60-3,101 if the total number of registered vehicles that obtained such plates is less than five hundred per year within any prior consecutive two-year period.

Source: Laws 2017, LB263, § 60; Laws 2019, LB356, § 21; Laws 2020, LB944, § 33.

Operative date January 1, 2021.

60-3,235 Native American Cultural Awareness and History Plates; application; form; fee; delivery; transfer; procedure; fee.

(1) A person may apply to the department for Native American Cultural Awareness and History Plates in lieu of regular license plates on an application prescribed and provided by the department for any motor vehicle or trailer, except for a motor vehicle or trailer registered under section 60-3,198. An applicant receiving a Native American Cultural Awareness and History Plate for a farm truck with a gross weight of over sixteen tons shall affix the appropriate tonnage decal to the plate. The department shall make forms available for such applications through the county treasurers. The license plates shall be issued upon payment of the license fee described in subsection (2) of this section.

(2)(a) In addition to all other fees required for registration under the Motor Vehicle Registration Act, each application for initial issuance or renewal of alphanumeric Native American Cultural Awareness and History Plates shall be accompanied by a fee of five dollars. County treasurers collecting fees pursuant to this subdivision shall remit them to the State Treasurer. The State Treasurer shall credit five dollars of the fee to the Native American Scholarship and Leadership Fund.

(b) In addition to all other fees required for registration under the Motor Vehicle Registration Act, each application for initial issuance or renewal of personalized message Native American Cultural Awareness and History Plates

shall be accompanied by a fee of forty dollars. County treasurers collecting fees pursuant to this subdivision shall remit them to the State Treasurer. The State Treasurer shall credit twenty-five percent of the fee for initial issuance and renewal of such plates to the Department of Motor Vehicles Cash Fund and seventy-five percent of the fee to the Native American Scholarship and Leadership Fund.

(3)(a) When the department receives an application for Native American Cultural Awareness and History Plates, the department may deliver the plates and registration certificate to the applicant by United States mail or to the county treasurer of the county in which the motor vehicle or trailer is registered and the delivery of the plates and registration certificate shall be made through a secure process and system. The county treasurer or the department shall issue Native American Cultural Awareness and History Plates in lieu of regular license plates when the applicant complies with the other provisions of the Motor Vehicle Registration Act for registration of the motor vehicle or trailer. If Native American Cultural Awareness and History Plates are lost, stolen, or mutilated, the licensee shall be issued replacement license plates upon request pursuant to section 60-3,157.

(b) This subdivision applies beginning on an implementation date designated by the director. The director shall designate an implementation date that is on or before January 1, 2021. The county treasurer or the department may issue temporary license stickers to the applicant under this section for the applicant to lawfully operate the vehicle pending receipt of the license plates. No charge in addition to the registration fee shall be made for the issuance of a temporary license sticker under this subdivision. The department shall furnish temporary license stickers for issuance by the county treasurer at no cost to the counties. The department may adopt and promulgate rules and regulations regarding the design and issuance of temporary license stickers.

(4) The owner of a motor vehicle or trailer bearing Native American Cultural Awareness and History Plates may apply to the county treasurer to have such plates transferred to a motor vehicle or trailer other than the motor vehicle or trailer for which such plates were originally purchased if such motor vehicle or trailer is owned by the owner of the plates. The owner may have the unused portion of the fee for the plates credited to the other motor vehicle or trailer which will bear the plates at the rate of eight and one-third percent per month for each full month left in the registration period. Application for such transfer shall be accompanied by a fee of three dollars. Fees collected pursuant to this subsection shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

(5) If the cost of manufacturing Native American Cultural Awareness and History Plates at any time exceeds the amount charged for license plates pursuant to section 60-3,102, any money to be credited to the Native American Scholarship and Leadership Fund shall instead be credited first to the Highway Trust Fund in an amount equal to the difference between the manufacturing costs of Native American Cultural Awareness and History Plates and the amount charged pursuant to section 60-3,102 with respect to such plates and the remainder shall be credited to the Native American Scholarship and Leadership Fund.

Source: Laws 2017, LB263, § 61; Laws 2019, LB270, § 31; Laws 2019, LB356, § 22.

60-3,236 Former military vehicle; plates; fee.

For the registration of every former military vehicle, the fee shall be fifteen dollars. Former military vehicle license plates shall display, in addition to the registration number, the designation former military vehicle.

Source: Laws 2019, LB156, § 10.

60-3,237 Wildlife Conservation Plates; design.

(1) The department shall design license plates to be known as Wildlife Conservation Plates. The department shall create no more than three designs reflecting support for the conservation of Nebraska wildlife, including sandhill cranes, bighorn sheep, and ornate box turtles. Each design shall be selected on the basis of limiting the manufacturing cost of each plate to an amount less than or equal to the amount charged for license plates pursuant to section 60-3,102. The department shall make applications available for this type of plate by January 1, 2021. The department may adopt and promulgate rules and regulations to carry out this section and section 60-3,238.

(2) One type of Wildlife Conservation Plates shall be alphanumeric plates. The department shall:

- (a) Assign a designation up to five characters; and
- (b) Not use a county designation.

(3) One type of Wildlife Conservation Plates shall be personalized message plates. Such plates shall be issued subject to the same conditions specified for personalized message license plates in section 60-3,118, except that a maximum of five characters may be used.

(4) The department shall cease to issue Wildlife Conservation Plates beginning with the next license plate issuance cycle after the license plate issuance cycle that begins in 2023 pursuant to section 60-3,101 if the total number of registered vehicles that obtained such plates is less than five hundred per year within any prior consecutive two-year period.

Source: Laws 2019, LB356, § 23; Laws 2020, LB944, § 34.
Operative date January 1, 2021.

60-3,238 Wildlife Conservation Plates; application; form; fee; transfer; procedure; fee.

(1) Beginning January 1, 2021, a person may apply to the department for Wildlife Conservation Plates in lieu of regular license plates on an application prescribed and provided by the department for any motor vehicle, trailer, or semitrailer, except for a motor vehicle, trailer, or semitrailer registered under section 60-3,198. An applicant receiving a Wildlife Conservation Plate for a farm truck with a gross weight of over sixteen tons or a commercial truck or truck-tractor with a gross weight of five tons or over shall affix the appropriate tonnage decal to the plate. The department shall make forms available for such applications through the county treasurers. The license plates shall be issued upon payment of the license fee described in subsection (2) of this section.

(2)(a) In addition to all other fees required for registration under the Motor Vehicle Registration Act, each application for initial issuance of alphanumeric Wildlife Conservation Plates shall be accompanied by a fee of five dollars. An application for renewal of such plates shall be accompanied by a fee of five dollars. County treasurers collecting fees pursuant to this subdivision shall

remit such fees to the State Treasurer. The State Treasurer shall credit five dollars of the fee to the Wildlife Conservation Fund.

(b) In addition to all other fees required for registration under the Motor Vehicle Registration Act, each application for initial issuance or renewal of personalized message Wildlife Conservation Plates shall be accompanied by a fee of forty dollars. County treasurers collecting fees pursuant to this subdivision shall remit such fees to the State Treasurer. The State Treasurer shall credit twenty-five percent of the fee for initial issuance and renewal of such plates to the Department of Motor Vehicles Cash Fund and seventy-five percent of the fee to the Wildlife Conservation Fund.

(3)(a) When the department receives an application for Wildlife Conservation Plates, the department may deliver the plates and registration certificate to the applicant by United States mail or to the county treasurer of the county in which the motor vehicle, trailer, or semitrailer is registered and the delivery of the plates and registration certificate shall be made through a secure process and system. The county treasurer or the department shall issue Wildlife Conservation Plates in lieu of regular license plates when the applicant complies with the other provisions of the Motor Vehicle Registration Act for registration of the motor vehicle, trailer, or semitrailer. If Wildlife Conservation Plates are lost, stolen, or mutilated, the licensee shall be issued replacement license plates upon request pursuant to section 60-3,157.

(b) This subdivision applies beginning on an implementation date designated by the director. The director shall designate an implementation date which is on or before January 1, 2021. The county treasurer or the department may issue temporary license stickers to the applicant under this section for the applicant to lawfully operate the vehicle pending receipt of the license plates. No charge in addition to the registration fee shall be made for the issuance of a temporary license sticker under this subdivision. The department shall furnish temporary license stickers for issuance by the county treasurer at no cost to the counties. The department may adopt and promulgate rules and regulations regarding the design and issuance of temporary license stickers.

(4) The owner of a motor vehicle, trailer, or semitrailer bearing Wildlife Conservation Plates may apply to the county treasurer to have such plates transferred to a motor vehicle or trailer other than the motor vehicle or trailer for which such plates were originally purchased if such motor vehicle or trailer is owned by the owner of the plates. The owner may have the unused portion of the fee for the plates credited to the other motor vehicle or trailer which will bear the plates at the rate of eight and one-third percent per month for each full month left in the registration period. Application for such transfer shall be accompanied by a fee of three dollars. Fees collected pursuant to this subsection shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

(5) If the cost of manufacturing Wildlife Conservation Plates at any time exceeds the amount charged for license plates pursuant to section 60-3,102, any money to be credited to the Wildlife Conservation Fund shall instead be credited first to the Highway Trust Fund in an amount equal to the difference between the manufacturing costs of Wildlife Conservation Plates and the amount charged pursuant to section 60-3,102 with respect to such plates and the remainder shall be credited to the Wildlife Conservation Fund.

Source: Laws 2019, LB356, § 24; Laws 2020, LB944, § 35.
Operative date November 14, 2020.

60-3,239 Prostate Cancer Awareness Plates; design.

(1) The department shall design license plates to be known as Prostate Cancer Awareness Plates. The design shall include a light blue ribbon and the words “early detection saves lives” along the bottom of the plate.

(2) The design shall be selected on the basis of limiting the manufacturing cost of each plate to an amount less than or equal to the amount charged for license plates pursuant to section 60-3,102. The department shall make applications available for this type of plate when it is designed.

(3) One type of plate under this section shall be alphanumeric plates. The department shall:

- (a) Assign a designation up to five characters; and
- (b) Not use a county designation.

(4) One type of plate under this section shall be personalized message plates. Such plates shall be issued subject to the same conditions specified for personalized message license plates in section 60-3,118, except that a maximum of five characters may be used.

(5) The department shall cease to issue Prostate Cancer Awareness Plates beginning with the next license plate issuance cycle after the license plate issuance cycle that begins in 2023 pursuant to section 60-3,101 if the total number of registered vehicles that obtained such plates is less than five hundred per year within any prior consecutive two-year period.

Source: Laws 2019, LB356, § 25; Laws 2020, LB944, § 36.
Operative date January 1, 2021.

60-3,240 Prostate Cancer Awareness Plates; application; form; fee; transfer; procedure; fee.

(1) Beginning January 1, 2021, a person may apply to the department for Prostate Cancer Awareness Plates in lieu of regular license plates on an application prescribed and provided by the department for any motor vehicle, trailer, or semitrailer, except for a motor vehicle or trailer registered under section 60-3,198. An applicant receiving a plate under this section for a farm truck with a gross weight of over sixteen tons or a commercial truck or truck-tractor with a gross weight of five tons or over shall affix the appropriate tonnage decal to the plate. The department shall make forms available for such applications through the county treasurers. The license plates shall be issued upon payment of the license fee described in subsection (2) of this section.

(2)(a) In addition to all other fees required for registration under the Motor Vehicle Registration Act, each application for initial issuance of alphanumeric Prostate Cancer Awareness Plates shall be accompanied by a fee of five dollars. An application for renewal of such plates shall be accompanied by a fee of five dollars. County treasurers collecting fees pursuant to this subdivision shall remit such fees to the State Treasurer. The State Treasurer shall credit five dollars of the fee to the University of Nebraska Medical Center for the Nebraska Prostate Cancer Research Program.

(b) In addition to all other fees required for registration under the Motor Vehicle Registration Act, each application for initial issuance or renewal of personalized message Prostate Cancer Awareness Plates shall be accompanied by a fee of forty dollars. County treasurers collecting fees pursuant to this subdivision shall remit such fees to the State Treasurer. The State Treasurer

shall credit seventy-five percent of the fee to the University of Nebraska Medical Center for the Nebraska Prostate Cancer Research Program and twenty-five percent of the fee to the Department of Motor Vehicles Cash Fund.

(3)(a) When the department receives an application for Prostate Cancer Awareness Plates, the department may deliver the plates and registration certificate to the applicant by United States mail or to the county treasurer of the county in which the motor vehicle, trailer, or semitrailer is registered and the delivery of the plates and registration certificate shall be made through a secure process and system. The county treasurer or the department shall issue plates under this section in lieu of regular license plates when the applicant complies with the other provisions of the Motor Vehicle Registration Act for registration of the motor vehicle, trailer, or semitrailer. If Prostate Cancer Awareness Plates are lost, stolen, or mutilated, the licensee shall be issued replacement license plates upon request pursuant to section 60-3,157.

(b) This subdivision applies beginning on an implementation date designated by the director. The director shall designate an implementation date which is on or before January 1, 2021. The county treasurer or the department may issue temporary license stickers to the applicant under this section for the applicant to lawfully operate the vehicle pending receipt of the license plates. No charge in addition to the registration fee shall be made for the issuance of a temporary license sticker under this subdivision. The department shall furnish temporary license stickers for issuance by the county treasurer at no cost to the counties. The department may adopt and promulgate rules and regulations regarding the design and issuance of temporary license stickers.

(4) The owner of a motor vehicle, trailer, or semitrailer bearing Prostate Cancer Awareness Plates may apply to the county treasurer to have such plates transferred to a motor vehicle or trailer other than the motor vehicle or trailer for which such plates were originally purchased if such motor vehicle or trailer is owned by the owner of the plates. The owner may have the unused portion of the fee for the plates credited to the other motor vehicle or trailer which will bear the plates at the rate of eight and one-third percent per month for each full month left in the registration period. Application for such transfer shall be accompanied by a fee of three dollars. Fees collected pursuant to this subsection shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

(5) If the cost of manufacturing Prostate Cancer Awareness Plates at any time exceeds the amount charged for license plates pursuant to section 60-3,102, any money to be credited to the University of Nebraska Medical Center for the Nebraska Prostate Cancer Research Program shall instead be credited first to the Highway Trust Fund in an amount equal to the difference between the manufacturing costs of Prostate Cancer Awareness Plates and the amount charged pursuant to section 60-3,102 with respect to such plates and the remainder shall be credited to the University of Nebraska Medical Center for the Nebraska Prostate Cancer Research Program.

Source: Laws 2019, LB356, § 26; Laws 2020, LB944, § 37.
Operative date November 14, 2020.

60-3,241 Sammy's Superheroes license plates; design.

(1) The department shall design license plates to be known as Sammy's Superheroes license plates for childhood cancer awareness. The design shall

include a blue handprint over a yellow ribbon and the words “childhood cancer awareness”. The design shall be selected on the basis of limiting the manufacturing cost of each plate to an amount less than or equal to the amount charged for license plates pursuant to section 60-3,102. The department shall make applications available for this type of plate beginning January 1, 2021. The department may adopt and promulgate rules and regulations to carry out this section and section 60-3,242.

(2) One type of Sammy’s Superheroes license plates for childhood cancer awareness shall be alphanumeric plates. The department shall:

- (a) Assign a designation up to five characters; and
- (b) Not use a county designation.

(3) One type of Sammy’s Superheroes license plates for childhood cancer awareness shall be personalized message plates. Such plates shall be issued subject to the same conditions specified for personalized message license plates in section 60-3,118, except that a maximum of five characters may be used.

(4) The department shall cease to issue Sammy’s Superheroes license plates for childhood cancer awareness beginning with the next license plate issuance cycle after the license plate issuance cycle that begins in 2023 pursuant to section 60-3,101 if the total number of registered vehicles that obtained such plates is less than five hundred per year within any prior consecutive two-year period.

Source: Laws 2019, LB356, § 27; Laws 2020, LB944, § 38.
Operative date January 1, 2021.

60-3,242 Sammy’s Superheroes license plates; application; form; fee; transfer; procedure; fee.

(1) Beginning January 1, 2021, a person may apply to the department for Sammy’s Superheroes license plates for childhood cancer awareness in lieu of regular license plates on an application prescribed and provided by the department for any motor vehicle, trailer, or semitrailer, except for a motor vehicle, trailer, or semitrailer registered under section 60-3,198. An applicant receiving a Sammy’s Superheroes license plate for childhood cancer awareness for a farm truck with a gross weight of over sixteen tons or a commercial truck or truck-tractor with a gross weight of five tons or over shall affix the appropriate tonnage decal to the plate. The department shall make forms available for such applications through the county treasurers. The license plates shall be issued upon payment of the license fee described in subsection (2) of this section.

(2)(a) In addition to all other fees required for registration under the Motor Vehicle Registration Act, each application for initial issuance of alphanumeric Sammy’s Superheroes license plates for childhood cancer awareness shall be accompanied by a fee of five dollars. An application for renewal of such plates shall be accompanied by a fee of five dollars. County treasurers collecting fees pursuant to this subdivision shall remit such fees to the State Treasurer. The State Treasurer shall credit five dollars of the fee to the University of Nebraska Medical Center for pediatric cancer research.

(b) In addition to all other fees required for registration under the Motor Vehicle Registration Act, each application for initial issuance or renewal of personalized message Sammy’s Superheroes license plates for childhood cancer awareness shall be accompanied by a fee of forty dollars. County treasurers

collecting fees pursuant to this subdivision shall remit such fees to the State Treasurer. The State Treasurer shall credit twenty-five percent of the fee for initial issuance and renewal of such plates to the Department of Motor Vehicles Cash Fund and seventy-five percent of the fee to the University of Nebraska Medical Center for pediatric cancer research.

(3)(a) When the department receives an application for Sammy's Superheroes license plates for childhood cancer awareness, the department may deliver the plates and registration certificate to the applicant by United States mail or to the county treasurer of the county in which the motor vehicle, trailer, or semitrailer is registered, and the delivery of the plates and registration certificate shall be made through a secure process and system. The county treasurer or the department shall issue Sammy's Superheroes license plates for childhood cancer awareness in lieu of regular license plates when the applicant complies with the other provisions of the Motor Vehicle Registration Act for registration of the motor vehicle, trailer, or semitrailer. If Sammy's Superheroes license plates for childhood cancer awareness are lost, stolen, or mutilated, the licensee shall be issued replacement license plates upon request pursuant to section 60-3,157.

(b) This subdivision applies beginning on an implementation date designated by the director. The director shall designate an implementation date which is on or before January 1, 2021. The county treasurer or the department may issue temporary license stickers to the applicant under this section for the applicant to lawfully operate the vehicle pending receipt of the license plates. No charge in addition to the registration fee shall be made for the issuance of a temporary license sticker under this subdivision. The department shall furnish temporary license stickers for issuance by the county treasurer at no cost to the counties. The department may adopt and promulgate rules and regulations regarding the design and issuance of temporary license stickers.

(4) The owner of a motor vehicle, trailer, or semitrailer bearing Sammy's Superheroes license plates for childhood cancer awareness may apply to the county treasurer to have such plates transferred to a motor vehicle other than the vehicle for which such plates were originally purchased if such vehicle is owned by the owner of the plates. The owner may have the unused portion of the fee for the plates credited to the other vehicle which will bear the plates at the rate of eight and one-third percent per month for each full month left in the registration period. Application for such transfer shall be accompanied by a fee of three dollars. Fees collected pursuant to this subsection shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

(5) If the cost of manufacturing Sammy's Superheroes license plates for childhood cancer awareness at any time exceeds the amount charged for license plates pursuant to section 60-3,102, any money to be credited to the University of Nebraska Medical Center for pediatric cancer research shall instead be credited first to the Highway Trust Fund in an amount equal to the difference between the manufacturing costs of Sammy's Superheroes license plates for childhood cancer awareness and the amount charged pursuant to section 60-3,102 with respect to such plates and the remainder shall be credited to the University of Nebraska Medical Center for pediatric cancer research.

Source: Laws 2019, LB356, § 28; Laws 2020, LB944, § 39.
Operative date November 14, 2020.

60-3,243 Support Our Troops Plates; design.

(1) The department shall design license plates to be known as Support Our Troops Plates. The department shall create a design reflecting support for troops from all branches of the armed forces. The design shall be selected on the basis of limiting the manufacturing cost of each plate to an amount less than or equal to the amount charged for license plates pursuant to section 60-3,102. The department shall make applications available for this type of plate by January 1, 2021. The department may adopt and promulgate rules and regulations to carry out this section and section 60-3,244.

(2) One type of Support Our Troops Plates shall be alphanumeric plates. The department shall:

- (a) Assign a designation up to five characters; and
- (b) Not use a county designation.

(3) One type of Support Our Troops Plates shall be personalized message plates. Such plates shall be issued subject to the same conditions specified for personalized message license plates in section 60-3,118, except that a maximum of five characters may be used.

(4) The department shall cease to issue Support Our Troops Plates beginning with the next license plate issuance cycle after the license plate issuance cycle that begins in 2023 pursuant to section 60-3,101 if the total number of registered vehicles that obtained such plates is less than five hundred per year within any prior consecutive two-year period.

Source: Laws 2019, LB138, § 17; Laws 2020, LB944, § 40.
Operative date January 1, 2021.

60-3,244 Support Our Troops Plates; application; form; fee; delivery; transfer; procedure; fee.

(1) Beginning January 1, 2021, a person may apply to the department for Support Our Troops Plates in lieu of regular license plates on an application prescribed and provided by the department for any motor vehicle, trailer, or semitrailer, except for a motor vehicle, trailer, or semitrailer registered under section 60-3,198. An applicant receiving a Support Our Troops Plate for a farm truck with a gross weight of over sixteen tons shall affix the appropriate tonnage decal to the plate. The department shall make forms available for such applications through the county treasurers. The license plates shall be issued upon payment of the license fee described in subsection (2) of this section.

(2)(a) In addition to all other fees required for registration under the Motor Vehicle Registration Act, each application for initial issuance of alphanumeric Support Our Troops Plates shall be accompanied by a fee of five dollars. An application for renewal of such plates shall be accompanied by a fee of five dollars. County treasurers collecting fees pursuant to this subdivision shall remit such fees to the State Treasurer. The State Treasurer shall credit five dollars of the fee to the Veterans Employment Program Fund.

(b) In addition to all other fees required for registration under the Motor Vehicle Registration Act, each application for initial issuance or renewal of personalized message Support Our Troops Plates shall be accompanied by a fee of seventy dollars. County treasurers collecting fees pursuant to this subdivision shall remit such fees to the State Treasurer. The State Treasurer shall credit twenty-five percent of the fee for initial issuance and renewal of such plates to

the Department of Motor Vehicles Cash Fund and seventy-five percent of the fee to the Veterans Employment Program Fund.

(3) When the department receives an application for Support Our Troops Plates, the department may deliver the plates and registration certificate to the applicant by United States mail or to the county treasurer of the county in which the motor vehicle, trailer, or semitrailer is registered and the delivery of the plates and registration certificate shall be made through a secure process and system. The county treasurer or the department shall issue Support Our Troops Plates in lieu of regular license plates when the applicant complies with the other provisions of the Motor Vehicle Registration Act for registration of the motor vehicle, trailer, or semitrailer. If Support Our Troops Plates are lost, stolen, or mutilated, the licensee shall be issued replacement license plates upon request pursuant to section 60-3,157.

(4) The owner of a motor vehicle, trailer, or semitrailer bearing Support Our Troops Plates may apply to the county treasurer to have such plates transferred to a motor vehicle other than the vehicle for which such plates were originally purchased if such vehicle is owned by the owner of the plates. The owner may have the unused portion of the fee for the plates credited to the other vehicle which will bear the plates at the rate of eight and one-third percent per month for each full month left in the registration period. Application for such transfer shall be accompanied by a fee of three dollars. Fees collected pursuant to this subsection shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

(5) If the cost of manufacturing Support Our Troops Plates at any time exceeds the amount charged for license plates pursuant to section 60-3,102, any money to be credited to the Veterans Employment Program Fund shall instead be credited first to the Highway Trust Fund in an amount equal to the difference between the manufacturing costs of Support Our Troops Plates and the amount charged pursuant to section 60-3,102 with respect to such plates and the remainder shall be credited to the Veterans Employment Program Fund.

Source: Laws 2019, LB138, § 18.

60-3,245 Donate Life Plates; design.

(1) The department shall design license plates to be known as Donate Life Plates. The design shall support organ and tissue donation, registration as a donor on the Donor Registry of Nebraska, and the federally designated organ procurement organization for Nebraska. The design shall be selected on the basis of limiting the manufacturing cost of each plate to an amount less than or equal to the amount charged for license plates pursuant to section 60-3,102. The department shall make applications available for this type of plate beginning January 1, 2021. The department may adopt and promulgate rules and regulations to carry out this section and section 60-3,246.

(2) One type of Donate Life Plates shall be alphanumeric plates. The department shall:

- (a) Assign a designation up to five characters; and
- (b) Not use a county designation.

(3) One type of Donate Life Plates shall be personalized message plates. Such plates shall be issued subject to the same conditions specified for personalized

message license plates in section 60-3,118, except that a maximum of five characters may be used.

(4) The department shall cease to issue Donate Life Plates beginning with the next license plate issuance cycle after the license plate issuance cycle that begins in 2023 pursuant to section 60-3,101 if the total number of registered vehicles that obtained such plates is less than five hundred per year within any prior consecutive two-year period.

Source: Laws 2020, LB944, § 41.

Operative date January 1, 2021.

60-3,246 Donate Life Plates; application; form; fee; delivery; transfer; procedure; fee.

(1) Beginning January 1, 2021, a person may apply to the department for Donate Life Plates in lieu of regular license plates on an application prescribed and provided by the department for any motor vehicle, trailer, or semitrailer, except for a motor vehicle, trailer, or semitrailer registered under section 60-3,198. An applicant receiving a Donate Life Plate for a farm truck with a gross weight of over sixteen tons or for a commercial motor vehicle registered for a gross weight of five tons or over shall affix the appropriate tonnage decal to the plate. The department shall make forms available for such applications through the county treasurers. The license plates shall be issued upon payment of the license fee described in subsection (2) of this section.

(2)(a) In addition to all other fees required for registration under the Motor Vehicle Registration Act, each application for initial issuance or renewal of alphanumeric Donate Life Plates shall be accompanied by a fee of five dollars. County treasurers collecting fees pursuant to this subdivision shall remit such fees to the State Treasurer. The State Treasurer shall credit five dollars of the fee to the Organ and Tissue Donor Awareness and Education Fund.

(b) In addition to all other fees required for registration under the Motor Vehicle Registration Act, each application for initial issuance or renewal of personalized message Donate Life Plates shall be accompanied by a fee of forty dollars. County treasurers collecting fees pursuant to this subdivision shall remit such fees to the State Treasurer. The State Treasurer shall credit twenty-five percent of the fee for initial issuance and renewal of such plates to the Department of Motor Vehicles Cash Fund and seventy-five percent of the fee to the Organ and Tissue Donor Awareness and Education Fund.

(3) When the department receives an application for Donate Life Plates, the department may deliver the plates and registration certificate to the applicant by United States mail or to the county treasurer of the county in which the motor vehicle, trailer, or semitrailer is registered and the delivery of the plates and registration certificate shall be made through a secure process and system. The county treasurer or the department shall issue Donate Life Plates in lieu of regular license plates when the applicant complies with the other provisions of the Motor Vehicle Registration Act for registration of the motor vehicle, trailer, or semitrailer. If Donate Life Plates are lost, stolen, or mutilated, the licensee shall be issued replacement license plates upon request pursuant to section 60-3,157.

(4) The county treasurer or the department may issue temporary license stickers to the applicant under this section for the applicant to lawfully operate the vehicle pending receipt of the license plates. No charge in addition to the

registration fee shall be made for the issuance of a temporary license sticker under this subsection. The department shall furnish temporary license stickers for issuance by the county treasurer at no cost to the counties. The department may adopt and promulgate rules and regulations regarding the design and issuance of temporary license stickers.

(5) The owner of a motor vehicle, trailer, or semitrailer bearing Donate Life Plates may apply to the county treasurer to have such plates transferred to a motor vehicle, trailer, or semitrailer other than the motor vehicle, trailer, or semitrailer for which such plates were originally purchased if such motor vehicle, trailer, or semitrailer is owned by the owner of the plates. The owner may have the unused portion of the fee for the plates credited to the other motor vehicle, trailer, or semitrailer which will bear the plates at the rate of eight and one-third percent per month for each full month left in the registration period. Application for such transfer shall be accompanied by a fee of three dollars. Fees collected pursuant to this subsection shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

(6) If the cost of manufacturing Donate Life Plates at any time exceeds the amount charged for license plates pursuant to section 60-3,102, any money to be credited to the Organ and Tissue Donor Awareness and Education Fund shall instead be credited first to the Highway Trust Fund in an amount equal to the difference between the manufacturing costs of Donate Life Plates and the amount charged pursuant to section 60-3,102 with respect to such plates and the remainder shall be credited to the Organ and Tissue Donor Awareness and Education Fund.

Source: Laws 2020, LB944, § 42.
Operative date January 1, 2021.

60-3,247 Down Syndrome Awareness Plates; design.

(1) The department shall design license plates to be known as Down Syndrome Awareness Plates. The design shall include the words “Down syndrome awareness” inside a heart-shaped yellow and blue ribbon. The design shall be selected on the basis of limiting the manufacturing cost of each plate to an amount less than or equal to the amount charged for license plates pursuant to section 60-3,102. The department shall make applications available for this type of plate beginning January 1, 2021. The department may adopt and promulgate rules and regulations to carry out this section and section 60-3,248.

(2) One type of Down Syndrome Awareness Plates shall be alphanumeric plates. The department shall:

- (a) Assign a designation up to five characters; and
- (b) Not use a county designation.

(3) One type of Down Syndrome Awareness Plates shall be personalized message plates. Such plates shall be issued subject to the same conditions specified for personalized message license plates in section 60-3,118, except that a maximum of five characters may be used.

(4) The department shall cease to issue Down Syndrome Awareness Plates beginning with the next license plate issuance cycle after the license plate issuance cycle that begins in 2023 pursuant to section 60-3,101 if the total

number of registered vehicles that obtained such plates is less than five hundred per year within any prior consecutive two-year period.

Source: Laws 2020, LB944, § 43.

Operative date January 1, 2021.

60-3,248 Down Syndrome Awareness Plates; application; form; fee; delivery; transfer; procedure; fee.

(1) Beginning January 1, 2021, a person may apply to the department for Down Syndrome Awareness Plates in lieu of regular license plates on an application prescribed and provided by the department for any motor vehicle, trailer, or semitrailer, except for a motor vehicle, trailer, or semitrailer registered under section 60-3,198. An applicant receiving a license plate under this section for a farm truck with a gross weight of over sixteen tons or a commercial motor vehicle registered for a gross weight of five tons or over shall affix the appropriate tonnage decal to the license plate. The department shall make forms available for such applications through the county treasurers. The license plates shall be issued upon payment of the license fee described in subsection (2) of this section.

(2)(a) In addition to all other fees required for registration under the Motor Vehicle Registration Act, each application for initial issuance or renewal of alphanumeric Down Syndrome Awareness Plates shall be accompanied by a fee of five dollars. County treasurers collecting fees pursuant to this subdivision shall remit such fees to the State Treasurer. The State Treasurer shall credit five dollars of the fee to the University of Nebraska Medical Center for the Down Syndrome Clinic.

(b) In addition to all other fees required for registration under the Motor Vehicle Registration Act, each application for initial issuance or renewal of personalized message Down Syndrome Awareness Plates shall be accompanied by a fee of forty dollars. County treasurers collecting fees pursuant to this subdivision shall remit such fees to the State Treasurer. The State Treasurer shall credit twenty-five percent of the fee for initial issuance and renewal of such plates to the Department of Motor Vehicles Cash Fund and seventy-five percent of the fee to the University of Nebraska Medical Center for the Down Syndrome Clinic.

(3) When the department receives an application for Down Syndrome Awareness Plates, the department may deliver the plates and registration certificate to the applicant by United States mail or to the county treasurer of the county in which the motor vehicle, trailer, or semitrailer is registered and the delivery of the plates and registration certificate shall be made through a secure process and system. The county treasurer or the department shall issue Down Syndrome Awareness Plates in lieu of regular license plates when the applicant complies with the other provisions of the Motor Vehicle Registration Act for registration of the motor vehicle, trailer, or semitrailer. If Down Syndrome Awareness Plates are lost, stolen, or mutilated, the licensee shall be issued replacement license plates upon request pursuant to section 60-3,157.

(4) The county treasurer or the department may issue temporary license stickers to the applicant under this section for the applicant to lawfully operate the vehicle pending receipt of the license plates. No charge in addition to the registration fee shall be made for the issuance of a temporary license sticker under this subsection. The department shall furnish temporary license stickers

for issuance by the county treasurer at no cost to the counties. The department may adopt and promulgate rules and regulations regarding the design and issuance of temporary license stickers.

(5) The owner of a motor vehicle, trailer, or semitrailer bearing Down Syndrome Awareness Plates may apply to the county treasurer to have such plates transferred to a motor vehicle, trailer, or semitrailer other than the motor vehicle, trailer, or semitrailer for which such plates were originally purchased if such motor vehicle, trailer, or semitrailer is owned by the owner of the plates. The owner may have the unused portion of the fee for the plates credited to the other motor vehicle, trailer, or semitrailer that will bear the plates at the rate of eight and one-third percent per month for each full month left in the registration period. Application for such transfer shall be accompanied by a fee of three dollars. Fees collected pursuant to this subsection shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

(6) If the cost of manufacturing Down Syndrome Awareness Plates at any time exceeds the amount charged for license plates pursuant to section 60-3,102, any money to be credited to the University of Nebraska Medical Center for the Down Syndrome Clinic shall instead be credited first to the Highway Trust Fund in an amount equal to the difference between the manufacturing costs of Down Syndrome Awareness Plates and the amount charged pursuant to section 60-3,102 with respect to such plates and the remainder shall be credited to the University of Nebraska Medical Center for the Down Syndrome Clinic.

Source: Laws 2020, LB944, § 44.
Operative date January 1, 2021.

60-3,249 Pets for Vets Plates; design.

(1) The department shall design license plates to be known as Pets for Vets Plates. The design shall support veterans and companion or therapy pet animals. The design shall be selected on the basis of limiting the manufacturing cost of each plate to an amount less than or equal to the amount charged for license plates pursuant to section 60-3,102. The department shall make applications available for this type of plate beginning January 1, 2021. The department may adopt and promulgate rules and regulations to carry out this section and section 60-3,250.

(2) One type of Pets for Vets Plates shall be alphanumeric plates. The department shall:

- (a) Assign a designation up to five characters; and
- (b) Not use a county designation.

(3) One type of Pets for Vets Plates shall be personalized message plates. Such plates shall be issued subject to the same conditions specified for personalized message license plates in section 60-3,118, except that a maximum of five characters may be used.

(4) The department shall cease to issue Pets for Vets Plates beginning with the next license plate issuance cycle after the license plate issuance cycle that begins in 2023 pursuant to section 60-3,101 if the total number of registered

vehicles that obtained such plates is less than five hundred per year within any prior consecutive two-year period.

Source: Laws 2020, LB944, § 45.

Operative date January 1, 2021.

60-3,250 Pets for Vets Plates; application; form; fee; delivery; transfer; procedure; fee.

(1) Beginning January 1, 2021, a person may apply to the department for Pets for Vets Plates in lieu of regular license plates on an application prescribed and provided by the department for any motor vehicle, trailer, or semitrailer, except for a motor vehicle, trailer, or semitrailer registered under section 60-3,198. An applicant receiving a Pets for Vets Plate for a farm truck with a gross weight of over sixteen tons or for a commercial motor vehicle registered for a gross weight of five tons or over shall affix the appropriate tonnage decal to the plate. The department shall make forms available for such applications through the county treasurers. The license plates shall be issued upon payment of the license fee described in subsection (2) of this section.

(2)(a) In addition to all other fees required for registration under the Motor Vehicle Registration Act, each application for initial issuance or renewal of alphanumeric Pets for Vets Plates shall be accompanied by a fee of five dollars. County treasurers collecting fees pursuant to this subdivision shall remit such fees to the State Treasurer. The State Treasurer shall credit five dollars of the fee to the Pets for Vets Cash Fund.

(b) In addition to all other fees required for registration under the Motor Vehicle Registration Act, each application for initial issuance or renewal of personalized message Pets for Vets Plates shall be accompanied by a fee of forty dollars. County treasurers collecting fees pursuant to this subdivision shall remit such fees to the State Treasurer. The State Treasurer shall credit twenty-five percent of the fee for initial issuance and renewal of such plates to the Department of Motor Vehicles Cash Fund and seventy-five percent of the fee to the Pets for Vets Cash Fund.

(3) When the department receives an application for Pets for Vets Plates, the department may deliver the plates and registration certificate to the applicant by United States mail or to the county treasurer of the county in which the motor vehicle, trailer, or semitrailer is registered and the delivery of the plates and registration certificate shall be made through a secure process and system. The county treasurer or the department shall issue Pets for Vets Plates in lieu of regular license plates when the applicant complies with the other provisions of the Motor Vehicle Registration Act for registration of the motor vehicle, trailer, or semitrailer. If Pets for Vets Plates are lost, stolen, or mutilated, the licensee shall be issued replacement license plates upon request pursuant to section 60-3,157.

(4) The county treasurer or the department may issue temporary license stickers to the applicant under this section for the applicant to lawfully operate the vehicle pending receipt of the license plates. No charge in addition to the registration fee shall be made for the issuance of a temporary license sticker under this subsection. The department shall furnish temporary license stickers for issuance by the county treasurer at no cost to the counties. The department may adopt and promulgate rules and regulations regarding the design and issuance of temporary license stickers.

(5) The owner of a motor vehicle, trailer, or semitrailer bearing Pets for Vets Plates may apply to the county treasurer to have such plates transferred to a motor vehicle, trailer, or semitrailer other than the motor vehicle, trailer, or semitrailer for which such plates were originally purchased if such motor vehicle, trailer, or semitrailer is owned by the owner of the plates. The owner may have the unused portion of the fee for the plates credited to the other motor vehicle, trailer, or semitrailer that will bear the plates at the rate of eight and one-third percent per month for each full month left in the registration period. Application for such transfer shall be accompanied by a fee of three dollars. Fees collected pursuant to this subsection shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

(6) If the cost of manufacturing Pets for Vets Plates at any time exceeds the amount charged for license plates pursuant to section 60-3,102, any money to be credited to the Pets for Vets Cash Fund shall instead be credited first to the Highway Trust Fund in an amount equal to the difference between the manufacturing costs of Pets for Vets Plates and the amount charged pursuant to section 60-3,102 with respect to such plates and the remainder shall be credited to the Pets for Vets Cash Fund.

Source: Laws 2020, LB944, § 46.
Operative date January 1, 2021.

60-3,251 Support the Arts Plates; design.

(1) The department shall design license plates to be known as Support the Arts Plates. The design shall be selected in consultation with the Nebraska Arts Council and shall support the arts in Nebraska. The design shall be selected on the basis of limiting the manufacturing cost of each plate to an amount less than or equal to the amount charged for license plates pursuant to section 60-3,102. The department shall make applications available for this type of plate beginning January 1, 2021. The department may adopt and promulgate rules and regulations to carry out this section and section 60-3,252.

(2) One type of Support the Arts Plates shall be alphanumeric plates. The department shall:

- (a) Assign a designation up to five characters; and
- (b) Not use a county designation.

(3) One type of Support the Arts Plates shall be personalized message plates. Such plates shall be issued subject to the same conditions specified for personalized message license plates in section 60-3,118, except that a maximum of five characters may be used.

(4) The department shall cease to issue Support the Arts Plates beginning with the next license plate issuance cycle after the license plate issuance cycle that begins in 2023 pursuant to section 60-3,101 if the total number of registered vehicles that obtained such plates is less than five hundred per year within any prior consecutive two-year period.

Source: Laws 2020, LB944, § 47.
Operative date January 1, 2021.

60-3,252 Support the Arts Plates; application; form; fee; delivery; transfer; procedure; fee.

(1) Beginning January 1, 2021, a person may apply to the department for Support the Arts Plates in lieu of regular license plates on an application prescribed and provided by the department for any motor vehicle, trailer, or semitrailer, except for a motor vehicle, trailer, or semitrailer registered under section 60-3,198. An applicant receiving a Support the Arts Plate for a farm truck with a gross weight of over sixteen tons or for a commercial motor vehicle registered for a gross weight of five tons or over shall affix the appropriate tonnage decal to the plate. The department shall make forms available for such applications through the county treasurers. The license plates shall be issued upon payment of the license fee described in subsection (2) of this section.

(2)(a) In addition to all other fees required for registration under the Motor Vehicle Registration Act, each application for initial issuance or renewal of alphanumeric Support the Arts Plates shall be accompanied by a fee of five dollars. County treasurers collecting fees pursuant to this subdivision shall remit such fees to the State Treasurer. The State Treasurer shall credit five dollars of the fee to the Support the Arts Cash Fund.

(b) In addition to all other fees required for registration under the Motor Vehicle Registration Act, each application for initial issuance or renewal of personalized message Support the Arts Plates shall be accompanied by a fee of forty dollars. County treasurers collecting fees pursuant to this subdivision shall remit such fees to the State Treasurer. The State Treasurer shall credit twenty-five percent of the fee for initial issuance and renewal of such plates to the Department of Motor Vehicles Cash Fund and seventy-five percent of the fee to the Support the Arts Cash Fund.

(3) When the department receives an application for Support the Arts Plates, the department may deliver the plates and registration certificate to the applicant by United States mail or to the county treasurer of the county in which the motor vehicle, trailer, or semitrailer is registered and the delivery of the plates and registration certificate shall be made through a secure process and system. The county treasurer or the department shall issue Support the Arts Plates in lieu of regular license plates when the applicant complies with the other provisions of the Motor Vehicle Registration Act for registration of the motor vehicle, trailer, or semitrailer. If Support the Arts Plates are lost, stolen, or mutilated, the licensee shall be issued replacement license plates upon request pursuant to section 60-3,157.

(4) The county treasurer or the department may issue temporary license stickers to the applicant under this section for the applicant to lawfully operate the vehicle pending receipt of the license plates. No charge in addition to the registration fee shall be made for the issuance of a temporary license sticker under this subsection. The department shall furnish temporary license stickers for issuance by the county treasurer at no cost to the counties. The department may adopt and promulgate rules and regulations regarding the design and issuance of temporary license stickers.

(5) The owner of a motor vehicle, trailer, or semitrailer bearing Support the Arts Plates may apply to the county treasurer to have such plates transferred to a motor vehicle, trailer, or semitrailer other than the motor vehicle, trailer, or semitrailer for which such plates were originally purchased if such motor vehicle, trailer, or semitrailer is owned by the owner of the plates. The owner may have the unused portion of the fee for the plates credited to the other

motor vehicle, trailer, or semitrailer which will bear the plates at the rate of eight and one-third percent per month for each full month left in the registration period. Application for such transfer shall be accompanied by a fee of three dollars. Fees collected pursuant to this subsection shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

(6) If the cost of manufacturing Support the Arts Plates at any time exceeds the amount charged for license plates pursuant to section 60-3,102, any money to be credited to the Support the Arts Cash Fund shall instead be credited first to the Highway Trust Fund in an amount equal to the difference between the manufacturing costs of Support the Arts Plates and the amount charged pursuant to section 60-3,102 with respect to such plates and the remainder shall be credited to the Support the Arts Cash Fund.

Source: Laws 2020, LB944, § 48.
Operative date January 1, 2021.

60-3,253 The Good Life Is Outside Plates; design.

(1) The department shall design license plates to be known as The Good Life Is Outside Plates. The design shall reflect the importance of safe walking and biking in Nebraska and the value of our recreational trails. The design shall be selected on the basis of limiting the manufacturing cost of each plate to an amount less than or equal to the amount charged for license plates pursuant to section 60-3,102. The department shall make applications available for this type of plate beginning January 1, 2021. The department may adopt and promulgate rules and regulations to carry out this section and section 60-3,254.

(2) One type of The Good Life Is Outside Plates shall be alphanumeric plates. The department shall:

- (a) Assign a designation up to five characters; and
- (b) Not use a county designation.

(3) One type of The Good Life Is Outside Plates shall be personalized message plates. Such plates shall be issued subject to the same conditions specified for personalized message license plates in section 60-3,118, except that a maximum of five characters may be used.

(4) The department shall cease to issue The Good Life Is Outside Plates beginning with the next license plate issuance cycle after the license plate issuance cycle that begins in 2023 pursuant to section 60-3,101 if the total number of registered vehicles that obtained such plates is less than five hundred per year within any prior consecutive two-year period.

Source: Laws 2020, LB944, § 49.
Operative date January 1, 2021.

60-3,254 The Good Life Is Outside Plates; application; form; fee; delivery; transfer; procedure; fee.

(1) Beginning January 1, 2021, a person may apply to the department for The Good Life Is Outside Plates in lieu of regular license plates on an application prescribed and provided by the department for any motor vehicle, trailer, or semitrailer, except for a motor vehicle, trailer, or semitrailer registered under section 60-3,198. An applicant receiving a The Good Life Is Outside Plate for a farm truck with a gross weight of over sixteen tons or for a commercial motor vehicle registered for a gross weight of five tons or over shall affix the

appropriate tonnage decal to the plate. The department shall make forms available for such applications through the county treasurers. The license plates shall be issued upon payment of the license fee described in subsection (2) of this section.

(2)(a) In addition to all other fees required for registration under the Motor Vehicle Registration Act, each application for initial issuance or renewal of alphanumeric The Good Life Is Outside Plates shall be accompanied by a fee of five dollars. County treasurers collecting fees pursuant to this subdivision shall remit such fees to the State Treasurer. The State Treasurer shall credit five dollars of the fee to the Game and Parks State Park Improvement and Maintenance Fund for the purpose of trail improvement and maintenance.

(b) In addition to all other fees required for registration under the Motor Vehicle Registration Act, each application for initial issuance or renewal of personalized message The Good Life Is Outside Plates shall be accompanied by a fee of forty dollars. County treasurers collecting fees pursuant to this subdivision shall remit such fees to the State Treasurer. The State Treasurer shall credit twenty-five percent of the fee for initial issuance and renewal of such plates to the Department of Motor Vehicles Cash Fund and seventy-five percent of the fee to the Game and Parks State Park Improvement and Maintenance Fund for the purpose of trail improvement and maintenance.

(3) When the department receives an application for The Good Life Is Outside Plates, the department may deliver the plates and registration certificate to the applicant by United States mail or to the county treasurer of the county in which the motor vehicle, trailer, or semitrailer is registered and the delivery of the plates and registration certificate shall be made through a secure process and system. The county treasurer or the department shall issue The Good Life Is Outside Plates in lieu of regular license plates when the applicant complies with the other provisions of the Motor Vehicle Registration Act for registration of the motor vehicle, trailer, or semitrailer. If The Good Life Is Outside Plates are lost, stolen, or mutilated, the licensee shall be issued replacement license plates upon request pursuant to section 60-3,157.

(4) The county treasurer or the department may issue temporary license stickers to the applicant under this section for the applicant to lawfully operate the vehicle pending receipt of the license plates. No charge in addition to the registration fee shall be made for the issuance of a temporary license sticker under this subsection. The department shall furnish temporary license stickers for issuance by the county treasurer at no cost to the counties. The department may adopt and promulgate rules and regulations regarding the design and issuance of temporary license stickers.

(5) The owner of a motor vehicle, trailer, or semitrailer bearing The Good Life Is Outside Plates may apply to the county treasurer to have such plates transferred to a motor vehicle, trailer, or semitrailer other than the motor vehicle, trailer, or semitrailer for which such plates were originally purchased if such motor vehicle, trailer, or semitrailer is owned by the owner of the plates. The owner may have the unused portion of the fee for the plates credited to the other motor vehicle, trailer, or semitrailer which will bear the plates at the rate of eight and one-third percent per month for each full month left in the registration period. Application for such transfer shall be accompanied by a fee of three dollars. Fees collected pursuant to this subsection shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

(6) If the cost of manufacturing The Good Life Is Outside Plates at any time exceeds the amount charged for license plates pursuant to section 60-3,102, any money to be credited to the Game and Parks State Park Improvement and Maintenance Fund shall instead be credited first to the Highway Trust Fund in an amount equal to the difference between the manufacturing costs of The Good Life Is Outside Plates and the amount charged pursuant to section 60-3,102 with respect to such plates and the remainder shall be credited to the Game and Parks State Park Improvement and Maintenance Fund for the purpose of trail improvement and maintenance.

Source: Laws 2020, LB944, § 50.

Operative date January 1, 2021.

ARTICLE 4

MOTOR VEHICLE OPERATORS' LICENSES

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- 60-4,169. Revocation; when.
- 60-4,170. Revocation; notice; failure to surrender license or permit; violation; penalty; appeal.
- 60-4,171. Issuance of Class O or M operator's license; reinstatement of commercial driver's license or CLP-commercial learner's permit; when.
- 60-4,172. Nonresident licensee or permit holder; conviction within state; director; duties.

(j) STATE IDENTIFICATION CARDS

- 60-4,180. State identification card; issuance authorized; prior cards; invalid.
- 60-4,181. State identification cards; issuance; requirements; form; delivery; cancellation.

(k) POINT SYSTEM

- 60-4,182. Point system; offenses enumerated.
- 60-4,184. Revocation of license; notice; failure to return license; procedure; penalty; appeal; effect.

(l) VETERAN NOTATION

- 60-4,189. Operator's license; state identification card; veteran designation; Department of Motor Vehicles; duties; replacement license or card.

(e) GENERAL PROVISIONS**60-462 Act, how cited.**

Sections 60-462 to 60-4,189 shall be known and may be cited as the Motor Vehicle Operator's License Act.

Source: Laws 1937, c. 141, § 31, p. 523; C.S.Supp.,1941, § 60-434; R.S.1943, § 60-402; R.S.1943, (1988), § 60-402; Laws 1989, LB 284, § 2; Laws 1989, LB 285, § 12; Laws 1990, LB 980, § 6; Laws 1991, LB 44, § 1; Laws 1993, LB 105, § 4; Laws 1993, LB 370, § 65; Laws 1993, LB 420, § 1; Laws 1994, LB 211, § 1; Laws 1995, LB 467, § 6; Laws 1996, LB 323, § 1; Laws 1997, LB 210, § 2; Laws 1997, LB 256, § 4; Laws 1998, LB 320, § 1; Laws 2001, LB 38, § 5; Laws 2001, LB 574, § 1; Laws 2003, LB 209, § 1; Laws 2003, LB 562, § 2; Laws 2005, LB 76, § 2; Laws 2006, LB 853, § 6; Laws 2007, LB415, § 1; Laws 2008, LB911, § 1; Laws 2011, LB158, § 1; Laws 2011, LB178, § 2; Laws 2011, LB215, § 1; Laws 2013, LB93, § 1; Laws 2014, LB983, § 2; Laws 2015, LB231, § 19; Laws 2016, LB311, § 1; Laws 2016, LB977, § 13; Laws 2018, LB629, § 1; Laws 2018, LB909, § 73.

60-462.01 Federal regulations; adopted.

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, 2020:

The parts, subparts, and sections of Title 49 of the Code of Federal Regulations, as referenced in the Motor Vehicle Operator's License Act.

Source: Laws 2003, LB 562, § 20; Laws 2004, LB 560, § 36; Laws 2005, LB 76, § 3; Laws 2006, LB 853, § 7; Laws 2006, LB 1007, § 4; Laws 2007, LB239, § 4; Laws 2008, LB756, § 16; Laws 2009, LB331, § 7; Laws 2010, LB805, § 3; Laws 2011, LB178, § 3; Laws 2011, LB212, § 5; Laws 2012, LB751, § 17; Laws 2013, LB35, § 3; Laws 2014, LB776, § 4; Laws 2014, LB983, § 3; Laws 2015, LB313, § 4; Laws 2016, LB929, § 6; Laws 2017, LB263, § 62; Laws 2018, LB909, § 74; Laws 2019, LB79, § 11; Laws 2020, LB944, § 51.

Operative date November 14, 2020.

60-462.02 Legislative intent; director; department; powers and duties.

It is the intent of the Legislature that the department develop, implement, and maintain processes for the issuance of operators' licenses and state identification cards designed to protect the identity of applicants for and holders of such licenses and cards and reduce identity theft, fraud, forgery, and counterfeiting to the maximum extent possible with respect to such licenses and cards. The department shall adopt security and technology practices to enhance the enrollment, production, data storage, and credentialing system of such licenses and cards in order to maximize the integrity of the process.

Source: Laws 2008, LB911, § 2; Laws 2009, LB331, § 8; Laws 2011, LB215, § 2.

60-463 Definitions, where found.

For purposes of the Motor Vehicle Operator's License Act, the definitions found in sections 60-463.01 to 60-478 shall be used.

Source: Laws 1989, LB 285, § 13; Laws 1993, LB 370, § 66; Laws 1993, LB 420, § 2; Laws 2001, LB 38, § 6; Laws 2007, LB415, § 2; Laws 2008, LB911, § 3; Laws 2014, LB983, § 4; Laws 2015, LB231, § 20; Laws 2016, LB311, § 2.

60-463.02 Autocycle, defined.

Autocycle means any motor vehicle (1) having a seat that does not require the operator to straddle or sit astride it, (2) designed to travel on three wheels in contact with the ground, (3) having antilock brakes, (4) designed to be controlled with a steering wheel and pedals, and (5) in which the operator and passenger ride either side by side or in tandem in a seating area that is equipped with a manufacturer-installed three-point safety belt system for each occupant and that has a seating area that either (a) is completely enclosed and is equipped with manufacturer-installed airbags and a manufacturer-installed roll cage or (b) is not completely enclosed and is equipped with a manufacturer-installed rollover protection system.

Source: Laws 2015, LB231, § 21; Laws 2018, LB909, § 75.

60-464 Commercial driver's license, defined.

Commercial driver's license means an operator's license issued in accordance with the requirements of the Motor Vehicle Operator's License Act to an individual which authorizes such individual to operate a class of commercial motor vehicle.

Source: Laws 1989, LB 285, § 14; Laws 2014, LB983, § 5.

60-465 Commercial motor vehicle, defined.

(1) Commercial motor vehicle 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 or gross combination weight 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 or gross vehicle weight of more than four thousand five hundred thirty-six kilograms (ten thousand pounds);

(b) Has a gross vehicle weight rating or gross vehicle weight 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 49 C.F.R. part 172, subpart F.

(2) Commercial motor vehicle does not include:

(a) A covered farm vehicle;

(b) Any recreational vehicle as defined in section 60-347 or motor vehicle towing a cabin trailer as defined in sections 60-314 and 60-339;

(c) Any emergency vehicle necessary to the preservation of life or property or the execution of emergency governmental functions which is equipped with audible and visual signals and 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 persons identified in section 60-4,131.01.

Source: Laws 1989, LB 285, § 15; Laws 2005, LB 76, § 4; Laws 2005, LB 274, § 235; Laws 2006, LB 853, § 8; Laws 2006, LB 1007, § 5; Laws 2010, LB805, § 4; Laws 2014, LB983, § 6.

60-465.02 Covered farm vehicle, defined.

(1) Covered farm vehicle means a motor vehicle, including an articulated motor vehicle:

(a) That:

(i) Is traveling in the state in which the vehicle is registered or another state;

(ii) Is operated by:

(A) A farm owner or operator;

(B) A ranch owner or operator; or

(C) An employee or family member of an individual specified in subdivision (1)(a)(ii)(A) or (1)(a)(ii)(B) of this section;

(iii) Is transporting to or from a farm or ranch:

(A) Agricultural commodities;

(B) Livestock; or

(C) Machinery or supplies;

(iv) Except as provided in subsection (2) of this section, is not used in the operations of a for-hire motor carrier; and

(v) Is equipped with a special license plate or other designation by the state in which the vehicle is registered to allow for identification of the vehicle as a farm vehicle by law enforcement personnel; and

(b) That has a gross vehicle weight rating or gross vehicle weight, whichever is greater, that is:

(i) Less than twenty-six thousand one pounds; or

(ii) Twenty-six thousand one pounds or more and is traveling within the state or within one hundred fifty air miles of the farm or ranch with respect to which the vehicle is being operated.

(2) Covered farm vehicle includes a motor vehicle that meets the requirements of subsection (1) of this section, except for subdivision (1)(a)(iv) of this section, and:

(a) Is operated pursuant to a crop share farm lease agreement;

(b) Is owned by a tenant with respect to that agreement; and

(c) Is transporting the landlord's portion of the crops under that agreement.

(3) Covered farm vehicle does not include:

(a) A combination of truck-tractor and semitrailer which is operated by a person under eighteen years of age; or

(b) A combination of truck-tractor and semitrailer which 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 combination to be placarded under 49 C.F.R. part 172, subpart F.

Source: Laws 2014, LB983, § 7.

60-469 Gross vehicle weight rating (GVWR), defined.

Gross vehicle weight rating (GVWR) means the value specified by the manufacturer as the loaded weight of a single vehicle.

Source: Laws 1989, LB 285, § 19; Laws 2016, LB311, § 4.

60-469.01 Gross combination weight rating, defined.

Gross combination weight rating means the greater of (1) a value specified by the manufacturer of the power unit, if such value is displayed on the Federal Motor Vehicle Safety Standard certification label required by the National Highway Traffic Safety Administration, or (2) the sum of the gross vehicle weight ratings or the gross vehicle weights of the power unit and the towed unit or units, or any combination thereof, that produces the highest value. Gross combination weight rating does not apply to a commercial motor vehicle if the power unit is not towing another vehicle.

Source: Laws 2016, LB311, § 3.

60-471 Motor vehicle, defined.

Motor vehicle means all vehicles propelled by any power other than muscular power. Motor vehicle does not include (1) bicycles as defined in section 60-611, (2) self-propelled chairs used by persons who are disabled, (3) farm tractors, (4) farm tractors used occasionally outside general farm usage, (5) road rollers, (6) vehicles which run only on rails or tracks, (7) electric personal assistive mobility devices as defined in section 60-618.02, and (8) off-road designed vehicles not authorized by law for use on a highway, including, but not limited to, go-carts, riding lawn mowers, garden tractors, all-terrain vehicles and utility-type vehicles as defined in section 60-6,355, minibikes as defined in section 60-636, and snowmobiles as defined in section 60-663.

Source: Laws 1989, LB 285, § 21; Laws 1993, LB 370, § 68; Laws 2002, LB 1105, § 445; Laws 2010, LB650, § 30; Laws 2011, LB289, § 25; Laws 2012, LB1155, § 12; Laws 2015, LB95, § 7.

60-474 Operator's or driver's license, defined.

Operator's or driver's license shall mean any license or permit to operate a motor vehicle issued under the laws of this state, including:

- (1) Any replacement license or instruction permit;
- (2) The privilege of any person to drive a motor vehicle whether such person holds a valid license;
- (3) Any nonresident's operating privilege which shall mean the privilege conferred upon a nonresident by the laws of this state pertaining to the

operation of a motor vehicle in this state by such person or the use in this state of a vehicle owned by such person;

(4) An employment driving permit issued as provided by sections 60-4,129 and 60-4,130; and

(5) A medical hardship driving permit issued as provided by sections 60-4,130.01 and 60-4,130.02.

Source: Laws 1989, LB 285, § 24; Laws 1993, LB 105, § 5; Laws 1993, LB 370, § 69; Laws 2014, LB777, § 2.

(f) PROVISIONS APPLICABLE TO ALL OPERATORS' LICENSES

60-479 Sections; applicability.

Sections 60-479.01 to 60-4,111.01, 60-4,113, 60-4,114, 60-4,115 to 60-4,118, and 60-4,182 to 60-4,189 shall apply to any operator's license subject to the Motor Vehicle Operator's License Act.

Source: Laws 1989, LB 285, § 29; Laws 1993, LB 370, § 72; Laws 1995, LB 467, § 7; Laws 1997, LB 210, § 3; Laws 1997, LB 256, § 5; Laws 2001, LB 38, § 10; Laws 2001, LB 574, § 2; Laws 2003, LB 209, § 2; Laws 2008, LB911, § 7; Laws 2011, LB215, § 3; Laws 2013, LB93, § 2; Laws 2014, LB983, § 8; Laws 2016, LB311, § 5.

60-479.01 Fraudulent document recognition training; criminal history record information check; lawful status check; cost.

(1) All persons handling source documents or engaged in the issuance of new, renewed, or reissued operators' licenses or state identification cards shall have periodic fraudulent document recognition training.

(2) All persons and agents of the department involved in the recording of verified application information or verified operator's license and state identification card information, involved in the manufacture or production of licenses or cards, or who have the ability to affect information on such licenses or cards shall be subject to a criminal history record information check, including a check of prior employment references, and a lawful status check as required by 6 C.F.R. part 37, as such part existed on January 1, 2020. Such persons and agents shall provide fingerprints which shall be submitted to the Federal Bureau of Investigation. The bureau shall use its records for the criminal history record information check.

(3) Upon receipt of a request pursuant to subsection (2) of this section, the Nebraska State Patrol shall undertake a search for criminal history record information relating to such applicant, including transmittal of the applicant's fingerprints to the Federal Bureau of Investigation for a national criminal history record information check. The criminal history record information check shall include information concerning the applicant from federal repositories of such information and repositories of such information in other states, if authorized by federal law. The Nebraska State Patrol shall issue a report to the employing public agency that shall include the criminal history record information concerning the applicant. The cost of any background check shall be borne by the employer of the person or agent.

(4) Any person convicted of any disqualifying offense as provided in 6 C.F.R. part 37, as such part existed on January 1, 2020, shall not be involved in the

recording of verified application information or verified operator's license and state identification card information, involved in the manufacture or production of licenses or cards, or involved in any capacity in which such person would have the ability to affect information on such licenses or cards. Any employee or prospective employee of the department shall be provided notice that he or she will undergo such criminal history record information check prior to employment or prior to any involvement with the issuance of operators' licenses or state identification cards.

Source: Laws 2008, LB911, § 8; Laws 2011, LB215, § 4; Laws 2012, LB751, § 18; Laws 2013, LB35, § 4; Laws 2014, LB776, § 5; Laws 2015, LB313, § 5; Laws 2016, LB929, § 7; Laws 2017, LB263, § 63; Laws 2018, LB909, § 76; Laws 2019, LB79, § 12; Laws 2020, LB944, § 52.

Operative date November 14, 2020.

60-480 Operators' licenses; classification.

(1) Operators' licenses issued by the department pursuant to the Motor Vehicle Operator's License Act shall be classified as follows:

(a) Class O license. The operator's license which authorizes the person to whom it is issued to operate on highways any motor vehicle except a commercial motor vehicle or motorcycle;

(b) Class M license. The operator's license or endorsement on a Class O license, provisional operator's permit, learner's permit, school permit, or commercial driver's license which authorizes the person to whom it is issued to operate a motorcycle on highways;

(c) CDL-commercial driver's license. The operator's license which authorizes the person to whom it is issued to operate a class of commercial motor vehicle or any motor vehicle, except a motorcycle, on highways;

(d) CLP-commercial learner's permit. A permit which when carried with a Class O license authorizes an individual to operate a class of commercial motor vehicle when accompanied by a holder of a valid commercial driver's license for purposes of behind-the-wheel training. When issued to a commercial driver's license holder, a CLP-commercial learner's permit serves as authorization for accompanied behind-the-wheel training in a commercial motor vehicle for which the holder's current commercial driver's license is not valid;

(e) RCDL-restricted commercial driver's license. The class of commercial driver's license which, when held with an annual seasonal permit, authorizes a seasonal commercial motor vehicle operator as defined in section 60-4,146.01 to operate any Class B Heavy Straight Vehicle or Class C Small Vehicle commercial motor vehicle for purposes of a farm-related or ranch-related service industry as defined in such section within one hundred fifty miles of the employer's place of business or the farm or ranch currently being served as provided in such section or any other motor vehicle, except a motorcycle, on highways;

(f) POP-provisional operator's permit. A motor vehicle operating permit with restrictions issued pursuant to section 60-4,120.01 to a person who is at least sixteen years of age but less than eighteen years of age which authorizes the person to operate any motor vehicle except a commercial motor vehicle or motorcycle;

(g) SCP-school permit. A permit issued to a student between fourteen years and two months of age and sixteen years of age for the purpose of driving in accordance with the requirements of section 60-4,124;

(h) FMP-farm permit. A permit issued to a person for purposes of operating farm tractors and other motorized implements of farm husbandry on highways in accordance with the requirements of section 60-4,126;

(i) LPD-learner's permit. A permit issued in accordance with the requirements of section 60-4,123 to a person at least fifteen years of age which authorizes the person to operate a motor vehicle, except a commercial motor vehicle, for learning purposes when accompanied by a licensed operator who is at least twenty-one years of age and who possesses a valid operator's license issued by this state or another state;

(j) LPE-learner's permit. A permit issued to a person at least fourteen years of age which authorizes the person to operate a motor vehicle, except a commercial motor vehicle, while learning to drive in preparation for application for a school permit;

(k) EDP-employment driving permit. A permit issued to a person which authorizes the person to operate a motor vehicle, except a commercial motor vehicle, pursuant to the requirements of sections 60-4,129 and 60-4,130;

(l) IIP-ignition interlock permit. A permit issued to a person which authorizes the person to operate a motor vehicle, except a commercial motor vehicle, which is equipped with an ignition interlock device;

(m) SEP-seasonal permit. A permit issued to a person who holds a restricted commercial driver's license authorizing the person to operate a commercial motor vehicle, as prescribed by section 60-4,146.01, for no more than one hundred eighty consecutive days in any twelve-month period. The seasonal permit shall be valid and run from the date of original issuance of the permit for one hundred eighty days and from the date of annual revalidation of the permit; and

(n) MHP-medical hardship driving permit. A permit issued to a person which authorizes the person to operate a motor vehicle, except a commercial motor vehicle, pursuant to the requirements of sections 60-4,130.01 and 60-4,130.02.

(2) For purposes of this section, motorcycle does not include an autocycle.

Source: Laws 1989, LB 285, § 30; Laws 1990, LB 980, § 8; Laws 1993, LB 105, § 6; Laws 1993, LB 420, § 4; Laws 1998, LB 320, § 2; Laws 1999, LB 704, § 4; Laws 2001, LB 387, § 3; Laws 2005, LB 675, § 1; Laws 2008, LB736, § 1; Laws 2014, LB983, § 9; Laws 2018, LB909, § 77.

60-482 Rules and regulations.

The director may adopt and promulgate such rules and regulations as may be necessary to carry out the Motor Vehicle Operator's License Act.

Source: Laws 1977, LB 90, § 7; Laws 1981, LB 204, § 100; R.S.1943, (1988), § 60-406.06; Laws 1989, LB 285, § 32; Laws 1994, LB 1061, § 3; Laws 2019, LB270, § 32.

60-483 Operator's license; numbering; records; abstracts of operating records; fees; information to United States Selective Service System; when; reciprocity agreement with foreign country.

(1) The director shall assign a distinguishing number to each operator's license issued and shall keep a record of the same which shall be open to public inspection by any person requesting inspection of such record who qualifies under section 60-2906 or 60-2907. Any person requesting such driver record information shall furnish to the Department of Motor Vehicles (a) verification of identity and purpose that the requester is entitled under section 60-2906 or 60-2907 to disclosure of the personal information in the record, (b) the name of the person whose record is being requested, and (c) when the name alone is insufficient to identify the correct record, the department may request additional identifying information. The department shall, upon request of any requester, furnish a certified abstract of the operating record of any person, in either hard copy or electronically, and shall charge the requester a fee of three dollars per abstract.

(2) The department shall remit any revenue generated under subsections (1) through (5) of this section to the State Treasurer, and the State Treasurer shall credit eight and one-third percent to the Department of Motor Vehicles Cash Fund, fifty-eight and one-third percent to the General Fund, and thirty-three and one-third percent to the Records Management Cash Fund.

(3) The director shall, upon receiving a request and an agreement from the United States Selective Service System to comply with requirements of this section, furnish driver record information to the United States Selective Service System to include the name, post office address, date of birth, sex, and social security number of licensees. The United States Selective Service System shall pay all costs incurred by the department in providing the information but shall not be required to pay any other fee required by law for information. No driver record information shall be furnished to the United States Selective Service System regarding any female, nor regarding any male other than those between the ages of seventeen years and twenty-six years. The information shall only be used in the fulfillment of the required duties of the United States Selective Service System and shall not be furnished to any other person.

(4) The director shall keep a record of all applications for operators' licenses that are disapproved with a brief statement of the reason for disapproval of the application.

(5) The director may establish a monitoring service which provides information on operating records that have changed due to any adjudicated traffic citation or administrative action. The director shall charge a fee of six cents per operating record searched pursuant to this section and the fee provided in subsection (1) of this section for each abstract returned as a result of the search.

(6) Driver record header information, including name, license number, date of birth, address, and physical description, from every driver record maintained by the department may be made available so long as the Uniform Motor Vehicle Records Disclosure Act is not violated. Monthly updates, including all new records, may also be made available. There shall be a fee of eighteen dollars per thousand records. All fees collected pursuant to this subsection shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

(7) The department may enter into a reciprocity agreement with a foreign country to provide for the mutual recognition and reciprocal exchange of a valid operator's license issued by this state or the foreign country if the

department determines that the licensing standards of the foreign country are comparable to those of this state. Any such agreement entered into by the department shall not include the mutual recognition and reciprocal exchange of a commercial driver's license.

Source: Laws 1929, c. 149, § 9, p. 516; C.S.1929, § 60-409; Laws 1937, c. 141, § 19, p. 516; Laws 1941, c. 176, § 2, p. 688; C.S.Supp.,1941, § 60-409; R.S.1943, § 60-412; Laws 1961, c. 315, § 9, p. 1005; Laws 1961, c. 316, § 9, p. 1014; Laws 1963, c. 360, § 1, p. 1154; Laws 1965, c. 384, § 1, p. 1238; Laws 1973, LB 319, § 1; Laws 1974, LB 974, § 1; Laws 1978, LB 502, § 1; Laws 1983, LB 326, § 1; Laws 1984, LB 694, § 2; Laws 1984, LB 711, § 1; Laws 1987, LB 300, § 2; Laws 1987, LB 767, § 1; R.S.1943, (1988), § 60-412; Laws 1989, LB 285, § 33; Laws 1993, LB 491, § 10; Laws 1995, LB 467, § 9; Laws 1997, LB 590, § 2; Laws 1997, LB 635, § 19; Laws 1997, LB 720, § 17; Laws 2000, LB 1317, § 6; Laws 2001, LB 106, § 1; Laws 2003, LB 562, § 3; Laws 2004, LB 560, § 37; Laws 2017, LB263, § 64.

Cross References

Uniform Motor Vehicle Records Disclosure Act, see section 60-2901.

60-484 Operator's license required, when; state identification card; application.

(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 this state until the person has obtained an operator's license for that purpose.

(2) Application for an operator's license or a state identification card shall be made in a manner prescribed by the department.

(3) The applicant shall provide his or her full legal name, date of birth, mailing address, gender, race or ethnicity, and social security number, two forms of proof of address of his or her principal residence unless the applicant is a program participant under the Address Confidentiality Act, evidence of identity as required by subsection (6) of this section, and a brief physical description of himself or herself. The applicant (a) may also complete the voter registration portion pursuant to section 32-308, (b) shall be provided the advisement language required by subsection (5) of section 60-6,197, (c) 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 (d) may answer the following:

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

(ii) Do you wish to have a veteran designation displayed on the front of your operator's license or state identification card to show that you served in the armed forces of the United States? (To be eligible you must register with the Nebraska Department of Veterans' Affairs registry.)

(iii) Do you wish to include your name in the Donor Registry of Nebraska and donate your organs and tissues at the time of your death?

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

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

(4) Application for an operator's license or state identification card shall include a signed oath, affirmation, or declaration of the applicant that the information provided on the application for the license or card is true and correct.

(5) The social security number shall not be printed on the operator's license or state identification card and shall be used only (a) to furnish 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, (c) for purposes of child support enforcement pursuant to section 42-358.08 or 43-512.06, (d) 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, (e) to furnish information to the Department of Revenue under section 77-362.02, or (f) to furnish information to the Secretary of State for purposes of the Election Act.

(6)(a) Each individual applying for an operator's license or a state identification card shall furnish proof of date of birth and identity with documents containing a photograph or with nonphoto identity documents which include his or her full legal name and date of birth. Such documents shall be those provided in subsection (1) of section 60-484.04.

(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 or, if such individual is unable to provide a certified copy of his or her birth certificate, other reliable proof of his or her identity and age, as required in subdivision (6)(a) of this section, accompanied by a certification signed by a parent or guardian explaining the inability to produce a copy of such birth certificate. The applicant also may be required to furnish proof to department personnel that the parent or guardian signing the certification is in fact the parent or guardian of such applicant.

(c) An applicant may present other documents as proof of identification and age designated by the director. Any documents accepted shall be recorded according to a written exceptions process established by the director.

(7) Any individual applying for an operator's license or a state identification card who indicated his or her wish to have a veteran designation displayed on the front of such license or card shall comply with section 60-4,189.

(8) No person shall be a holder of an operator's license and a state identification card at the same time. A person who has a digital image and digital signature on file with the department may apply electronically to change his or her Class O operator's license to a state identification card.

Source: Laws 1929, c. 148, § 1, p. 512; C.S.1929, § 60-401; Laws 1937, c. 141, § 11, p. 510; C.S.Supp.,1941, § 60-401; R.S.1943, § 60-403; Laws 1945, c. 141, § 1, p. 446; Laws 1947, c. 207, § 1, p. 675; Laws 1957, c. 366, § 35, p. 1269; Laws 1961, c. 315, § 2, p. 998; Laws 1961, c. 316, § 2, p. 1007; Laws 1984, LB 811, § 2; Laws 1986, LB 153, § 9; Laws 1986, LB 878, § 1; Laws 1987, LB 300, § 1; R.S.1943, (1988), § 60-403; Laws 1989, LB 285, § 35; Laws 1991, LB 457, § 44; Laws 1992, LB 1178, § 1; Laws 1994, LB 76, § 571; Laws 1994, LB 211, § 2; Laws 1995, LB 467, § 10; Laws 1996, LB 939, § 1; Laws 1996, LB 1073, § 1; Laws 1997, LB 635, § 20; Laws 1999, LB 147, § 1; Laws 1999, LB 704, § 5; Laws 2000, LB 1317, § 7; Laws 2001, LB 34, § 1; Laws 2001, LB 387, § 4; Laws 2001, LB 574, § 5; Laws 2003, LB 228, § 12; Laws 2004, LB 208, § 4; Laws 2004, LB 559, § 1; Laws 2005, LB 1, § 1; Laws 2005, LB 76, § 5; Laws 2008, LB911, § 9; Laws 2010, LB879, § 3; Laws 2011, LB215, § 5; Laws 2013, LB93, § 3; Laws 2014, LB661, § 16; Laws 2014, LB983, § 10; Laws 2016, LB47, § 1; Laws 2016, LB311, § 6; Laws 2018, LB909, § 78; Laws 2019, LB192, § 1.

Operative date January 1, 2021.

Cross References

Address Confidentiality Act, see section 42-1201.

Donor Registry of Nebraska, see section 71-4822.

Election Act, see section 32-101.

Nebraska Department of Veterans' Affairs registry, see section 80-414.

60-484.02 Digital images and signatures; use; confidentiality; prohibited acts; violation; penalty.

(1) Each applicant for an operator's license or state identification card shall have his or her digital image captured. Digital images shall be preserved for use as prescribed in sections 60-4,119, 60-4,151, and 60-4,180. The images shall be used for issuing operators' licenses and state identification cards. The images may be retrieved only by the Department of Motor Vehicles for issuing renewal and replacement operators' licenses and state identification cards and may not be otherwise released except in accordance with subsection (3) of this section.

(2) Upon application for an operator's license or state identification card, each applicant shall provide his or her signature in a form prescribed by the department. Digital signatures shall be preserved for use on original, renewal, and replacement operators' licenses and state identification cards and may not be otherwise released except in accordance with subsection (4) of this section.

(3) No officer, employee, agent, or contractor of the department or law enforcement officer shall release a digital image except to a federal, state, or local law enforcement agency, a certified law enforcement officer employed in an investigative position by a federal, state, or local agency, or a driver licensing agency of another state for the purpose of carrying out the functions of the agency or assisting another agency in carrying out its functions upon the verification of the identity of the person requesting the release of the information and the verification of the purpose of the requester in requesting the release. Any officer, employee, agent, or contractor of the department or law enforcement officer that knowingly discloses or knowingly permits disclosure of a digital image or digital signature in violation of this section shall be guilty of a Class I misdemeanor.

(4) No officer, employee, agent, or contractor of the department or law enforcement officer shall release a digital signature except (a) to a federal, state, or local law enforcement agency, a certified law enforcement officer employed in an investigative position by a state or federal agency, or a driver licensing agency of another state for the purpose of carrying out the functions of the agency or assisting another agency in carrying out its functions upon the verification of the identity of the person requesting the release of the information and the verification of the purpose of the requester in requesting the release or (b) to the office of the Secretary of State for the purpose of voter registration as described in section 32-304, 32-308, or 32-309 upon the verification of the identity of the person requesting the release of the information and the verification of the purpose of the requester in requesting the release. No employee or official in the office of the Secretary of State shall release a digital signature except to a federal, state, or local law enforcement agency, a certified law enforcement officer employed in an investigative position by a state or federal agency, or a driver licensing agency of another state for the purpose of carrying out the functions of the agency or assisting another agency in carrying out its functions upon the verification of the identity of the person requesting the release of the information and the verification of the purpose of the requester in requesting the release. Any officer, employee, agent, or contractor of the department, law enforcement officer, or employee or official in the office of the Secretary of State that knowingly discloses or knowingly permits disclosure of a digital signature in violation of this section shall be guilty of a Class I misdemeanor.

Source: Laws 2001, LB 574, § 4; Laws 2004, LB 560, § 38; Laws 2005, LB 1, § 3; Laws 2009, LB372, § 1; Laws 2010, LB805, § 5; Laws 2014, LB661, § 17; Laws 2014, LB777, § 3.

60-484.03 Operators' licenses; state identification cards; department; retain copies of source documents.

The department shall retain copies of source documents presented by all individuals applying for or holding operators' licenses or state identification cards. Copies retained by the department shall be held in secured storage and managed to meet the requirements of the Uniform Motor Vehicle Records Disclosure Act and sections 60-484, 60-484.02, and 60-4,144.

Source: Laws 2011, LB215, § 6; Laws 2014, LB983, § 11.

Cross References

Uniform Motor Vehicle Records Disclosure Act, see section 60-2901.

60-484.04 Operators' licenses; state identification cards; applicant present evidence of lawful status.

(1) The Legislature finds and declares that section 202(c)(2)(B)(i) through (x) of the federal REAL ID Act of 2005, Public Law 109-13, enumerated categories of individuals who may demonstrate lawful status for the purpose of eligibility for a federally secure motor vehicle operator's license or state identification card. The Legislature further finds and declares that it was the intent of the Legislature in 2011 to adopt the enumerated categories by the passage of Laws 2011, LB215. The Legislature declares that the passage of Laws 2015, LB623, is for the limited purpose of reaffirming the original legislative intent of Laws 2011, LB215. Except as provided in section 60-4,144 with respect to operators of commercial motor vehicles, before being issued any other type of operator's license or a state identification card under the Motor Vehicle Operator's License Act, the department shall require an applicant to present valid documentary evidence that he or she has lawful status in the United States as enumerated in section 202(c)(2)(B)(i) through (x) of the federal REAL ID Act of 2005, Public Law 109-13. Lawful status may be shown by:

- (a) A valid, unexpired United States passport;
- (b) A certified copy of a birth certificate filed with a state office of vital statistics or equivalent agency in the individual's state of birth;
- (c) A Consular Report of Birth Abroad (CRBA) issued by the United States Department of State, Form FS-240, DS-1350, or FS-545;
- (d) A valid, unexpired Permanent Resident Card (Form I-551) issued by the United States Department of Homeland Security or United States Citizenship and Immigration Services;
- (e) An unexpired employment authorization document (EAD) issued by the United States Department of Homeland Security, Form I-766 or Form I-688B;
- (f) An unexpired foreign passport with a valid, unexpired United States visa affixed accompanied by the approved I-94 form documenting the applicant's most recent admittance into the United States;
- (g) A Certificate of Naturalization issued by the United States Department of Homeland Security, Form N-550 or Form N-570;
- (h) A Certificate of Citizenship, Form N-560 or Form N-561, issued by the United States Department of Homeland Security;
- (i) A driver's license or identification card issued in compliance with the standards established by the REAL ID Act of 2005, Public Law 109-13, division B, section 1, 119 Stat. 302; or
- (j) Such other documents as the director may approve.

(2)(a) If an applicant presents one of the documents listed under subdivision (1)(a), (b), (c), (d), (g), or (h) of this section, the verification of the applicant's identity in the manner prescribed in section 60-484 will also provide satisfactory evidence of lawful status.

(b) If the applicant presents one of the identity documents listed under subdivision (1)(e), (f), or (i) of this section, the verification of the identity documents does not provide satisfactory evidence of lawful status. The applicant must also present a second document from subsection (1) of this section or documentation issued by the United States Department of Homeland Security, the United States Citizenship and Immigration Services, or other federal

agencies, such as one of the types of Form I-797 used by the United States Citizenship and Immigration Services, demonstrating that the applicant has lawful status as enumerated in section 202(c)(2)(B)(i) through (x) of the federal REAL ID Act of 2005, Public Law 109-13.

(3) An applicant may present other documents as designated by the director as proof of lawful status as enumerated in section 202(c)(2)(B)(i) through (x) of the federal REAL ID Act of 2005, Public Law 109-13. Any documents accepted shall be recorded according to a written exceptions process established by the director.

Source: Laws 2011, LB215, § 7; Laws 2014, LB983, § 12; Laws 2015, LB623, § 1; Laws 2020, LB944, § 53.
Operative date November 14, 2020.

60-484.05 Operators' licenses; state identification cards; temporary; when issued; period valid; special notation; renewal; return of license or card, when.

(1) The department shall only issue an operator's license or a state identification card that is temporary to any applicant who presents documentation under sections 60-484 and 60-484.04 that shows his or her authorized stay in the United States is temporary. An operator's license or a state identification card that is temporary shall be valid only during the period of time of the applicant's authorized stay in the United States or, if there is no definite end to the period of authorized stay, a period of one year.

(2) An operator's license or state identification card that is temporary shall clearly indicate that it is temporary with a special notation on the front of the license or card and shall state the date on which it expires.

(3) An operator's license or state identification card that is temporary may be renewed only upon presentation of valid documentary evidence that the status by which the applicant qualified for the operator's license or state identification card that is temporary has been extended by the United States Department of Homeland Security.

(4) If an individual has an operator's license or a state identification card issued based on approved lawful status granted under section 202(c)(2)(B)(i) through (x) of the federal REAL ID Act of 2005, Public Law 109-13, and the basis for the approved lawful status is terminated, the individual shall return the operator's license or state identification card to the Department of Motor Vehicles.

Source: Laws 2011, LB215, § 8; Laws 2014, LB983, § 13; Laws 2015, LB623, § 2; Laws 2020, LB944, § 54.
Operative date November 14, 2020.

60-484.06 Operators' licenses; state identification cards; department; power to verify documents.

Before issuing any operator's license or state identification card under the Motor Vehicle Operator's License Act, the department may verify, with the issuing agency, the issuance, validity, and completeness of each document required to be presented by a person pursuant to sections 60-484, 60-484.04, and 60-4,144.

Source: Laws 2011, LB215, § 9; Laws 2014, LB983, § 14.

60-485 Repealed. Laws 2012, LB 751, § 57.**60-486 Operator's license; license suspended or revoked; effect; appeal.**

(1) No person shall be licensed to operate a motor vehicle by the State of Nebraska if such person has an operator's license currently under suspension or revocation in this state or any other state or jurisdiction in the United States.

(2) If a license is issued to a person while his or her operator's license was suspended or revoked in this state or any other state or jurisdiction, the Department of Motor Vehicles may cancel the license upon forty-five days' written notice by regular United States mail to the licensee's last-known address. The cancellation may be appealed as provided in section 60-4,105.

(3) When such a person presents to the department an official notice from the state or jurisdiction that suspended or revoked his or her motor vehicle operator's license that such suspension or revocation has been terminated, he or she may then be licensed to operate a motor vehicle by the State of Nebraska.

Source: Laws 1986, LB 153, § 7; R.S.1943, (1988), § 60-403.05; Laws 1989, LB 285, § 37; Laws 1999, LB 704, § 6; Laws 2001, LB 38, § 13; Laws 2012, LB751, § 19.

60-487 Cancellation of certain licenses or permits; when.

(1) If any magistrate or judge finds in his or her judgment of conviction that the application or issuance certificate pursuant to which the director has issued an operator's license under the Motor Vehicle Operator's License Act contains any false or fraudulent statement deliberately and knowingly made to any officer as to any matter material to the issuance of such license or does not contain required or correct information or that the person to whom the license was issued was not eligible to receive such license, then the license shall be absolutely void from the date of issue and such motor vehicle operator shall be deemed to be not licensed to operate a motor vehicle. Such license shall be at once canceled of record in his or her office by the director upon receipt of a copy of such judgment of conviction. The director may, upon his or her own motion, summarily cancel any license for any of the reasons set forth in this section if such reason or reasons affirmatively appear on his or her official records.

(2) If the director determines, in a check of an applicant's license status and record prior to issuing a CLP-commercial learner's permit or commercial driver's license, or at any time after the CLP-commercial learner's permit or commercial driver's license is issued, that the applicant falsified information contained in the application or in the medical examiner's certificate, the director may summarily cancel the person's CLP-commercial learner's permit or commercial driver's license or his or her pending application as provided in subsection (1) of this section and disqualify the person from operating a commercial motor vehicle for sixty days.

Source: Laws 1929, c. 148, § 10, p. 517; C.S.1929, § 60-410; Laws 1937, c. 141, § 20, p. 517; Laws 1941, c. 124, § 1, p. 469; C.S.Supp.,1941, § 60-410; R.S.1943, § 60-416; R.S.1943, (1988), § 60-416; Laws 1989, LB 285, § 38; Laws 1991, LB 420, § 7;

Laws 1999, LB 704, § 7; Laws 2001, LB 38, § 14; Laws 2003, LB 562, § 4; Laws 2011, LB215, § 10; Laws 2014, LB983, § 15; Laws 2016, LB666, § 3.

60-493 Organ and tissue donation; county treasurer or licensing staff; distribute brochure; additional information; department; duty.

(1) When a person applies for an operator's license or state identification card, the county treasurer or licensing staff of the Department of Motor Vehicles shall distribute a brochure provided by an organ and tissue procurement organization and approved by the Department of Health and Human Services containing a description and explanation of the Revised Uniform Anatomical Gift Act to each person applying for a new or renewal license or card.

(2) If an individual desires to receive additional specific information regarding organ and tissue donation and the Donor Registry of Nebraska as indicated on an application and retained by the department under section 60-484, 60-4,144, or 60-4,181, the department shall notify a representative of the federally designated organ procurement organization for Nebraska within five working days of the name and address of such individual.

Source: Laws 1977, LB 115, § 3; R.S.1943, (1988), § 60-406.01; Laws 1989, LB 285, § 43; Laws 1992, LB 1178, § 2; Laws 1996, LB 1044, § 280; Laws 1999, LB 704, § 10; Laws 2001, LB 34, § 2; Laws 2004, LB 559, § 2; Laws 2007, LB296, § 229; Laws 2010, LB1036, § 31; Laws 2016, LB311, § 7.

Cross References

Revised Uniform Anatomical Gift Act, see section 71-4824.

60-494 Operator's license; state identification card; organ and tissue donation information; department; duty.

(1) Each operator's license and state identification card shall include a special notation on the front of the license or card if the licensee or cardholder is at least sixteen years of age and indicates on the application or issuance certificate under section 60-484 or 60-4,144 his or her wish to be an organ and tissue donor.

(2) The status as an organ and tissue donor shall continue until amended or revoked by the licensee or cardholder as provided in subsection (4) of this section or section 71-4829. The status as an organ and tissue donor is not changed by the expiration, suspension, cancellation, revocation, or impoundment of the license or card.

(3) Any person whose operator's license or state identification card indicates his or her status as an organ and tissue donor may obtain a replacement license or card without a notation of such status. The fee for such replacement license or card shall be the fee provided in section 60-4,115.

(4) A licensee or cardholder may change his or her status as a donor by indicating the desire that his or her name not be included in the Donor Registry of Nebraska on an application for an operator's license, a state identification card, or a replacement license or card under subsection (3) of this section. A licensee or cardholder may also change or limit the extent of his or her status as a donor by (a) Internet access to the Donor Registry of Nebraska, (b)

telephone request to the registry, or (c) other methods approved by the federally designated organ procurement organization for Nebraska.

(5) The department shall electronically transfer to the federally designated organ procurement organization for Nebraska all information which appears on the face of an original or replacement operator's license or state identification card except the image and signature of each person whose license or card includes the notation described in subsection (1) of this section.

Source: Laws 1984, LB 711, § 2; Laws 1985, LB 585, § 1; R.S.1943, (1988), § 60-412.01; Laws 1989, LB 285, § 44; Laws 1992, LB 1178, § 3; Laws 1999, LB 704, § 11; Laws 2001, LB 34, § 3; Laws 2001, LB 574, § 8; Laws 2004, LB 559, § 3; Laws 2010, LB1036, § 32; Laws 2016, LB47, § 2.

60-495 Organ and tissue donation; rules and regulations; director; duties; Organ and Tissue Donor Awareness and Education Fund; created; use; investment.

(1) The director may adopt and promulgate such rules and regulations necessary to carry out sections 60-493 to 60-495 and the duties of the department under the Revised Uniform Anatomical Gift Act. The director shall prepare and furnish all forms and information necessary under the act.

(2) The Organ and Tissue Donor Awareness and Education Fund is created. Department personnel and the county treasurer shall remit all funds contributed under sections 60-484, 60-4,144, and 60-4,181 to the State Treasurer for credit to the fund. The fund shall also include any money credited to the fund pursuant to section 60-3,246. The Department of Health and Human Services shall administer the Organ and Tissue Donor Awareness and Education Fund for the promotion of organ and tissue donation. The department shall use the fund to assist organizations such as the federally designated organ procurement organization for Nebraska and the State Anatomical Board in carrying out activities which promote organ and tissue donation through the creation and dissemination of educational information. 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.

Source: Laws 1977, LB 115, § 5; R.S.1943, (1988), § 60-406.03; Laws 1989, LB 285, § 45; Laws 1999, LB 147, § 2; Laws 2010, LB1036, § 33; Laws 2016, LB311, § 8; Laws 2019, LB270, § 33; Laws 2020, LB944, § 55.

Operative date January 1, 2021.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

Revised Uniform Anatomical Gift Act, see section 71-4824.

60-497.01 Conviction and probation records; abstract of court record; transmission to director; duties.

(1) An abstract of the court record of every case in which a person is convicted of violating any provision of the Motor Vehicle Operator's License Act, the Motor Vehicle Safety Responsibility Act, the Nebraska Rules of the Road, or section 28-524, as from time to time amended by the Legislature, or any traffic regulations in city or village ordinances shall be transmitted within

thirty days of sentencing or other disposition by the court to the director. Any abstract received by the director more than thirty days after the date of sentencing or other disposition shall be reported by the director to the State Court Administrator.

(2) Any person violating section 28-306, 28-394, 28-1254, 60-696, 60-697, 60-6,196, 60-6,197, 60-6,213, or 60-6,214 who is placed on probation shall be assessed the same points under section 60-4,182 as if such person were not placed on probation unless a court has ordered that such person must obtain an ignition interlock permit in order to operate a motor vehicle with an ignition interlock device pursuant to section 60-6,211.05 and sufficient evidence is presented to the department that such a device is installed. For any other violation, the director shall not assess such person with any points under section 60-4,182 for such violation when the person is placed on probation until the director is advised by the court that such person previously placed on probation has violated the terms of his or her probation and such probation has been revoked. Upon receiving notice of revocation of probation, the director shall assess to such person the points which such person would have been assessed had the person not been placed on probation. When a person fails to successfully complete probation, the court shall notify the director immediately.

Source: Laws 1931, c. 110, § 58, p. 326; Laws 1941, c. 124, § 9, p. 476; C.S.Supp.,1941, § 39-1189; R.S.1943, § 39-794; Laws 1953, c. 219, § 7, p. 771; Laws 1957, c. 164, § 1, p. 579; Laws 1957, c. 165, § 1, p. 582; Laws 1957, c. 366, § 15, p. 1255; Laws 1972, LB 1032, § 247; Laws 1972, LB 1058, § 2; Laws 1973, LB 226, § 25; Laws 1973, LB 317, § 1; R.S.Supp.,1973, § 39-794; Laws 1975, LB 379, § 1; Laws 1987, LB 79, § 1; Laws 1991, LB 420, § 2; R.S.Supp.,1992, § 39-669.22; Laws 1993, LB 370, § 75; Laws 1993, LB 564, § 13; Laws 1993, LB 575, § 15; Laws 2001, LB 38, § 18; Laws 2006, LB 925, § 2; Laws 2008, LB736, § 2; Laws 2009, LB63, § 32; Laws 2011, LB667, § 23.

Cross References

Motor Vehicle Safety Responsibility Act, see section 60-569.
Nebraska Rules of the Road, see section 60-601.

60-498.01 Driving under influence of alcohol; operator's license; confiscation and revocation; application for ignition interlock permit; procedures; appeal; restrictions relating to ignition interlock permit; prohibited acts relating to ignition interlock devices; additional revocation period.

(1) Because persons who drive while under the influence of alcohol present a hazard to the health and safety of all persons using the highways, a procedure is needed for the swift and certain revocation of the operator's license of any person who has shown himself or herself to be a health and safety hazard (a) by driving with an excessive concentration of alcohol in his or her body or (b) by driving while under the influence of alcohol.

(2) If a person arrested as described in subsection (2) of section 60-6,197 refuses to submit to the chemical test of blood, breath, or urine required by section 60-6,197, the test shall not be given except as provided in section 60-6,210 for the purpose of medical treatment and the arresting peace officer, as agent for the director, shall verbally serve notice to the arrested person of the intention to immediately confiscate and revoke the operator's license of

such person and that the revocation will be automatic fifteen days after the date of arrest. The arresting peace officer shall within ten days forward to the director a sworn report stating (a) that the person was arrested as described in subsection (2) of section 60-6,197 and the reasons for such arrest, (b) that the person was requested to submit to the required test, and (c) that the person refused to submit to the required test. The director may accept a sworn report submitted electronically.

(3) If a person arrested as described in subsection (2) of section 60-6,197 submits to the chemical test of blood or breath required by section 60-6,197, the test discloses the presence of alcohol in any of the concentrations specified in section 60-6,196, and the test results are available to the arresting peace officer while the arrested person is still in custody, the arresting peace officer, as agent for the director, shall verbally serve notice to the arrested person of the intention to immediately confiscate and revoke the operator's license of such person and that the revocation will be automatic fifteen days after the date of arrest. The arresting peace officer shall within ten days forward to the director a sworn report stating (a) that the person was arrested as described in subsection (2) of section 60-6,197 and the reasons for such arrest, (b) that the person was requested to submit to the required test, and (c) that the person submitted to a test, the type of test to which he or she submitted, and that such test revealed the presence of alcohol in a concentration specified in section 60-6,196. The director may accept a sworn report submitted electronically.

(4) On behalf of the director, the arresting peace officer submitting a sworn report under subsection (2) or (3) of this section shall serve notice of the revocation on the arrested person, and the revocation shall be effective fifteen days after the date of arrest. The notice of revocation shall contain a statement explaining the operation of the administrative license revocation procedure. The peace officer shall also provide to the arrested person information prepared and approved by the director describing how to request an administrative license revocation hearing or apply for an ignition interlock permit from the department. A petition for an administrative license revocation hearing must be completed and delivered to the department or postmarked within ten days after the person's arrest or the person's right to an administrative license revocation hearing to contest the revocation will be foreclosed. The director shall prepare and approve the information form, the application for an ignition interlock permit, and the notice of revocation and shall provide them to law enforcement agencies.

If the person has an operator's license, the arresting peace officer shall take possession of the license and issue a temporary operator's license valid for fifteen days. The arresting peace officer shall forward the operator's license to the department along with the sworn report made under subsection (2) or (3) of this section.

(5)(a) If the results of a chemical test indicate the presence of alcohol in a concentration specified in section 60-6,196, the results are not available to the arresting peace officer while the arrested person is in custody, and the notice of revocation has not been served as required by subsection (4) of this section, the peace officer shall forward to the director a sworn report containing the information prescribed by subsection (3) of this section within ten days after receipt of the results of the chemical test. If the sworn report is not received within ten days, the revocation shall not take effect. The director may accept a sworn report submitted electronically.

(b) Upon receipt of the report, the director shall serve the notice of revocation on the arrested person by mail to the address appearing on the records of the director. If the address on the director's records differs from the address on the arresting peace officer's report, the notice shall be sent to both addresses. The notice of revocation shall contain a statement explaining the operation of the administrative license revocation procedure. The director shall also provide to the arrested person information prepared and approved by the director describing how to request an administrative license revocation hearing and an application for an ignition interlock permit. A petition for an administrative license revocation hearing must be completed and delivered to the department or postmarked within ten days after the mailing of the notice of revocation or the person's right to an administrative license revocation hearing to contest the revocation will be foreclosed. The director shall prepare and approve the ignition interlock permit application and the notice of revocation. The revocation shall be effective fifteen days after the date of mailing.

(c) If the records of the director indicate that the arrested person possesses an operator's license, the director shall include with the notice of revocation a temporary operator's license which expires fifteen days after the date of mailing. Any arrested person who desires an administrative license revocation hearing and has been served a notice of revocation pursuant to this subsection shall return his or her operator's license with the petition requesting the hearing. If the operator's license is not included with the petition requesting the hearing, the director shall deny the petition.

(6)(a) An arrested person's operator's license confiscated pursuant to subsection (4) of this section shall be automatically revoked upon the expiration of fifteen days after the date of arrest, and the petition requesting the hearing shall be completed and delivered to the department or postmarked within ten days after the person's arrest. An arrested person's operator's license confiscated pursuant to subsection (5) of this section shall be automatically revoked upon the expiration of fifteen days after the date of mailing of the notice of revocation by the director, and the arrested person shall postmark or return to the director a petition within ten days after the mailing of the notice of revocation if the arrested person desires an administrative license revocation hearing. The petition shall be in writing and shall state the grounds on which the person is relying to prevent the revocation from becoming effective. The hearing and any prehearing conference may be conducted in person or by telephone, television, or other electronic means at the discretion of the director, and all parties may participate by such means at the discretion of the director.

(b) The director shall conduct the hearing within twenty days after a petition is received by the director. Upon receipt of a petition, the director shall notify the petitioner of the date and location for the hearing by mail postmarked at least seven days prior to the hearing date. The filing of the petition shall not prevent the automatic revocation of the petitioner's operator's license at the expiration of the fifteen-day period. A continuance of the hearing to a date beyond the expiration of the temporary operator's license shall stay the expiration of the temporary license when the request for continuance is made by the director.

(c) At hearing the issues under dispute shall be limited to:

(i) In the case of a refusal to submit to a chemical test of blood, breath, or urine:

(A) Did the peace officer have probable cause to believe the person was operating or in the actual physical control of a motor vehicle in violation of section 60-6,196 or a city or village ordinance enacted in conformance with such section; and

(B) Did the person refuse to submit to or fail to complete a chemical test after being requested to do so by the peace officer; or

(ii) If the chemical test discloses the presence of alcohol in a concentration specified in section 60-6,196:

(A) Did the peace officer have probable cause to believe the person was operating or in the actual physical control of a motor vehicle in violation of section 60-6,196 or a city or village ordinance enacted in conformance with such section; and

(B) Was the person operating or in the actual physical control of a motor vehicle while having an alcohol concentration in violation of subsection (1) of section 60-6,196.

(7)(a) Any arrested person who submits an application for an ignition interlock permit in lieu of a petition for an administrative license revocation hearing regarding the revocation of his or her operator's license pursuant to this section shall complete the application for an ignition interlock permit in which such person acknowledges that he or she understands that he or she will have his or her license administratively revoked pursuant to this section, that he or she waives his or her right to a hearing to contest the revocation, and that he or she understands that he or she is required to have an ignition interlock permit in order to operate a motor vehicle for the period of the revocation and shall include sufficient evidence that an ignition interlock device is installed on one or more vehicles that will be operated by the arrested person. Upon the arrested person's completion of the ignition interlock permit application process, the department shall issue the person an ignition interlock permit, subject to any applicable requirements and any applicable no-drive period if the person is otherwise eligible.

(b) An arrested person who is issued an ignition interlock permit pursuant to this section shall receive day-for-day credit for the period he or she has a valid ignition interlock permit against the license revocation period imposed by the court arising from the same incident.

(c) If a person files a completed application for an ignition interlock permit, the person waives his or her right to contest the revocation of his or her operator's license.

(8) Any person who has not petitioned for an administrative license revocation hearing and is subject to an administrative license revocation may immediately apply for an ignition interlock permit to use during the applicable period of revocation set forth in section 60-498.02, subject to the following additional restrictions:

(a) If such person submitted to a chemical test which disclosed the presence of a concentration of alcohol in violation of section 60-6,196 and has no prior administrative license revocations on which final orders have been issued during the immediately preceding fifteen-year period at the time the order of revocation is issued, the ignition interlock permit will be immediately available fifteen days after the date of arrest or the date notice of revocation was provided to the arrested person, as long as he or she is otherwise eligible for an

ignition interlock permit, upon completion of an application process for an ignition interlock permit;

(b) If such person submitted to a chemical test which disclosed the presence of a concentration of alcohol in violation of section 60-6,196 and has one or more prior administrative license revocations on which final orders have been issued during the immediately preceding fifteen-year period at the time the order of revocation is issued, the ignition interlock permit will be available beginning fifteen days after the date of arrest or the date notice of revocation was provided to the arrested person plus forty-five additional days of no driving, as long as he or she is otherwise eligible for an ignition interlock permit, upon completion of an application process for an ignition interlock permit;

(c) If such person refused to submit to a chemical test of blood, breath, or urine as required by section 60-6,197, the ignition interlock permit will be available beginning fifteen days after the date of arrest plus ninety additional days of no driving, as long as he or she is otherwise eligible for an ignition interlock permit, upon completion of an application process for an ignition interlock permit; and

(d) Any person who petitions for an administrative license revocation hearing shall not be eligible for an ignition interlock permit unless ordered by the court at the time of sentencing for the related criminal proceeding.

(9) The director shall adopt and promulgate rules and regulations to govern the conduct of the administrative license revocation hearing and insure that the hearing will proceed in an orderly manner. The director may appoint a hearing officer to preside at the hearing, administer oaths, examine witnesses, take testimony, and report to the director. Any motion for discovery filed by the petitioner shall entitle the prosecutor to receive full statutory discovery from the petitioner upon a prosecutor's request to the relevant court pursuant to section 29-1912 in any criminal proceeding arising from the same arrest. A copy of the motion for discovery shall be filed with the department and a copy provided to the prosecutor in the jurisdiction in which the petitioner was arrested. Incomplete discovery shall not stay the hearing unless the petitioner requests a continuance. All proceedings before the hearing officer shall be recorded. Upon receipt of the arresting peace officer's sworn report, the director's order of revocation has prima facie validity and it becomes the petitioner's burden to establish by a preponderance of the evidence grounds upon which the operator's license revocation should not take effect. The director shall make a determination of the issue within seven days after the conclusion of the hearing. A person whose operator's license is revoked following a hearing requested pursuant to this section may appeal the order of revocation as provided in section 60-498.04.

(10) Any person who tampers with or circumvents an ignition interlock device installed pursuant to sections 60-498.01 to 60-498.04 or who operates a motor vehicle not equipped with a functioning ignition interlock device required pursuant to such sections or otherwise is in violation of the purposes for operation indicated on the ignition interlock permit under such sections shall, in addition to any possible criminal charges, have his or her revocation period and ignition interlock permit extended for six months beyond the end of the original revocation period.

(11) A person under the age of eighteen years who holds any license or permit issued under the Motor Vehicle Operator's License Act and has violated subdivision (3)(b) or (c) of section 28-306, subdivision (3)(b) or (c) of section 28-394, or section 28-1254, 60-6,196, 60-6,197, 60-6,197.06, or 60-6,198 shall not be eligible for an ignition interlock permit.

Source: Laws 1972, LB 1095, § 5; C.S.Supp.,1972, § 39-727.16; Laws 1992, LB 872, § 4; Laws 1992, LB 291, § 9; R.S.Supp.,1992, § 39-669.15; Laws 1993, LB 370, § 300; Laws 1996, LB 939, § 3; Laws 1998, LB 309, § 15; Laws 2001, LB 38, § 51; R.S.Supp.,2002, § 60-6,205; Laws 2003, LB 209, § 4; Laws 2004, LB 208, § 5; Laws 2011, LB667, § 24; Laws 2012, LB751, § 20; Laws 2019, LB269, § 2.

60-498.02 Driving under influence of alcohol; revocation of operator's license; reinstatement; procedure; ignition interlock permit; restriction on operation of motor vehicle.

(1) At the expiration of fifteen days after the date of arrest as described in subsection (2) of section 60-6,197 or if after a hearing pursuant to section 60-498.01 the director finds that the operator's license should be revoked, the director shall (a) revoke the operator's license of a person arrested for refusal to submit to a chemical test of blood, breath, or urine as required by section 60-6,197 for a period of one year and (b) revoke the operator's license of a person who submits to a chemical test pursuant to such section which discloses the presence of a concentration of alcohol specified in section 60-6,196 for a period of one hundred eighty days unless the person's driving record abstract maintained in the department's computerized records shows one or more prior administrative license revocations on which final orders have been issued during the immediately preceding fifteen-year period at the time the order of revocation is issued, in which case the period of revocation shall be one year. Except as otherwise provided in section 60-6,211.05, a new operator's license shall not be issued to such person until the period of revocation has elapsed. If the person subject to the revocation is a nonresident of this state, the director shall revoke only the nonresident's operating privilege as defined in section 60-474 of such person and shall immediately forward the operator's license and a statement of the order of revocation to the person's state of residence.

(2) A person operating a motor vehicle under an ignition interlock permit issued pursuant to sections 60-498.01 to 60-498.04 shall only operate a motor vehicle equipped with an ignition interlock device. All permits issued pursuant to such sections shall indicate that the permit is not valid for the operation of any commercial motor vehicle.

(3) A person may have his or her eligibility for a license reinstated upon payment of a reinstatement fee as required by section 60-694.01.

(4)(a) A person whose operator's license is subject to revocation pursuant to subsection (3) of section 60-498.01 shall have all proceedings dismissed or his or her operator's license immediately reinstated without payment of the reinstatement fee upon receipt of suitable evidence by the director that:

(i) The prosecuting attorney responsible for the matter declined to file a complaint alleging a violation of section 60-6,196;

(ii) The defendant, after trial, was found not guilty of violating section 60-6,196 or such charge was dismissed on the merits by the court; or

(iii) In the criminal action on the charge of a violation of section 60-6,196 arising from the same incident, the court held one of the following:

(A) The peace officer did not have probable cause to believe the person was operating or in the actual physical control of a motor vehicle in violation of section 60-6,196 or a city or village ordinance enacted in conformance with such section; or

(B) The person was not operating or in the actual physical control of a motor vehicle while having an alcohol concentration in violation of section 60-6,196 or a city or village ordinance enacted in conformance with such section.

(b) The director shall adopt and promulgate rules and regulations establishing standards for the presentation of suitable evidence of compliance with subdivision (a) of this subsection.

(c) If a criminal charge is filed or refiled for a violation of section 60-6,196 pursuant to an arrest for which all administrative license revocation proceedings were dismissed under this subsection, the director, upon notification or discovery, may reinstate an administrative license revocation under this section as of the date that the director receives notification of the filing or refiled of the charge, except that a revocation shall not be reinstated if it was dismissed pursuant to section 60-498.01.

Source: Laws 1972, LB 1095, § 6; C.S.Supp.,1972, § 39-727.17; Laws 1974, LB 679, § 3; Laws 1982, LB 568, § 7; Laws 1986, LB 153, § 8; Laws 1988, LB 377, § 3; Laws 1992, LB 291, § 11; R.S.Supp.,1992, § 39-669.16; Laws 1993, LB 370, § 301; Laws 1993, LB 491, § 1; Laws 1993, LB 564, § 12; Laws 1998, LB 309, § 16; Laws 2001, LB 38, § 52; R.S.Supp.,2002, § 60-6,206; Laws 2003, LB 209, § 5; Laws 2004, LB 208, § 6; Laws 2008, LB736, § 3; Laws 2009, LB497, § 2; Laws 2010, LB924, § 1; Laws 2011, LB667, § 25; Laws 2011, LB675, § 2; Laws 2012, LB751, § 21; Laws 2013, LB158, § 1.

60-498.03 Operator's license revocation decision; notice; contents.

(1) The director shall reduce the decision revoking an operator's license under sections 60-498.01 to 60-498.04 to writing, and the director shall notify the person in writing of the revocation. The notice shall set forth the period of revocation and be served by mailing it to such person to the address provided to the director at the administrative license revocation hearing or, if the person does not appear at the hearing, to the address appearing on the records of the director. If the address on the director's records differs from the address on the arresting peace officer's report, the notice shall be sent to both addresses.

(2) If the director does not revoke the operator's license, the director shall immediately notify the person in writing of the decision. The notice shall set forth the time and place the person may obtain his or her license. The notice shall be mailed as provided in subsection (1) of this section. No reinstatement fee shall be charged for return of the confiscated operator's license pursuant to this subsection.

Source: Laws 1972, LB 1095, § 7; C.S.Supp.,1972, § 39-727.18; Laws 1992, LB 291, § 12; R.S.Supp.,1992, § 39-669.17; Laws 1993, LB 370, § 302; Laws 2001, LB 38, § 53; R.S.Supp.,2002, § 60-6,207; Laws 2003, LB 209, § 6; Laws 2011, LB667, § 26.

60-498.04 License revocation; appeal; notice of judgment.

Any person who feels himself or herself aggrieved because of the revocation of his or her operator's license under sections 60-498.01 to 60-498.04 may appeal therefrom to the district court of the county where the alleged events occurred for which he or she was arrested, and the appeal shall be in accordance with section 84-917. The district court shall allow any party to an appeal to appear by telephone at any proceeding before the court for purposes of the appeal. Such appeal shall not suspend the order of revocation. The court shall provide notice of the final judgment to the department.

Source: Laws 1972, LB 1095, § 8; C.S.Supp.,1972, § 39-727.19; Laws 1988, LB 352, § 31; R.S.1943, (1988), § 39-669.18; Laws 1993, LB 370, § 303; Laws 1998, LB 309, § 17; R.S.1943, (1998), § 60-6,208; Laws 2003, LB 209, § 7; Laws 2011, LB667, § 27.

60-4,100 Suspension; when authorized; citation; lack of financial ability to pay; hearing; determination; court or magistrate; powers; order; operate as release.

(1) Any resident of this state who has violated a promise to comply with the terms of a traffic citation issued by a law enforcement officer for a moving violation in any jurisdiction outside this state pursuant to the Nonresident Violator Compact of 1977 or in any jurisdiction inside this state shall be subject to having his or her operator's license suspended pursuant to this section.

(2) The court having jurisdiction over the offense for which the citation has been issued shall notify the director of a resident's violation of a promise to comply with the terms of the citation after thirty working days have elapsed from the date of the failure to comply, unless within such thirty working days the resident appears before the clerk of the county court having jurisdiction over the offense to request a hearing pursuant to subsection (3) of this section to establish that such resident lacks the financial ability to pay the citation.

(3) A hearing requested under subsection (2) of this section shall be set before the court or magistrate on the first regularly scheduled court date following the request. At the hearing, the resident shall have the opportunity to present information as to his or her income, assets, debts, or other matters affecting his or her financial ability to pay the citation. Following the hearing, the court or magistrate shall determine the resident's financial ability to pay the citation, including his or her financial ability to pay in installments.

(4)(a) Except as provided in subdivision (4)(c) of this section, if the court or magistrate determines under subsection (3) of this section that the resident is financially able to pay the citation and the resident refuses to pay, the court or magistrate shall either:

(i) Notify the director of the resident's violation of a promise to comply with the terms of the citation; or

(ii) Postpone the hearing for a period of no more than one month during which period the court or magistrate may order the resident to complete such hours of community service as the court or magistrate deems appropriate, subject to a total limit of twenty hours. At the end of such period, if the resident has completed such community service to the satisfaction of the court or magistrate, the court or magistrate shall enter an order pursuant to subsection (5) of this section discharging the resident of the obligation to pay such citation

and shall notify the director. If the resident has not completed such community service to the satisfaction of the court or magistrate, the court or magistrate shall notify the director of the resident's violation of a promise to comply with the terms of the citation. A hearing may only be postponed once under this subdivision.

(b) If the court or magistrate determines under subsection (3) of this section that the resident is financially unable to pay the citation, the court or magistrate shall either:

(i) Enter an order pursuant to subsection (5) of this section discharging the resident of the obligation to pay such citation;

(ii) Postpone the hearing for a period of no more than one month during which period the court or magistrate may order the resident to complete such hours of community service as the court or magistrate deems appropriate, subject to a total limit of twenty hours. At the end of such period, if the resident has completed such community service to the satisfaction of the court or magistrate, the court or magistrate shall enter an order pursuant to subsection (5) of this section discharging the resident of the obligation to pay such citation and shall notify the director. If the resident has not completed such community service to the satisfaction of the court or magistrate, the court or magistrate shall notify the director of the resident's violation of a promise to comply with the terms of the citation. A hearing may only be postponed once under this subdivision.

(c) If the court or magistrate determines under subsection (3) of this section that the resident is financially able to pay in installments and the resident agrees to make such payments, the court or magistrate shall make arrangements suitable to the court or magistrate and to the resident by which the resident may pay in installments. The court or magistrate shall enter an order specifying the terms of such arrangements and the dates on which payments are to be made. If the resident fails to pay an installment, the court or magistrate shall notify the director of the resident's violation of a promise to comply with the terms of the citation unless the resident requests a hearing from the clerk of the county court on or before ten working days after such installment was due. At the hearing, the resident shall show good cause for such failure, including financial inability to pay. If, following such hearing, the court or magistrate finds:

(i) That the resident has not demonstrated good cause for such failure, the court or magistrate shall either notify the director of the resident's violation of a promise to comply with the terms of the citation or postpone the hearing and order community service pursuant to subdivision (4)(a)(ii) of this section;

(ii) That the resident remains financially able to pay but has demonstrated good cause for such missed installment, the court or magistrate shall make any necessary modifications to the order specifying the terms of the installment payments; or

(iii) That the resident has become financially unable to pay, the court or magistrate shall enter an order pursuant to subsection (5) of this section discharging the resident of the obligation to pay such citation and shall notify the director.

(5) An order discharging the resident of the obligation to pay a traffic citation shall be set forth in or accompanied by a judgment entry. Such order shall operate as a complete release of such payment obligation.

(6) Upon notice to the director that a resident has violated a promise to comply with the terms of a traffic citation as provided in this section, the director shall send written notice to such resident by regular United States mail to the resident's last-known mailing address or, if such address is unknown, to the last-known residence address of such resident as shown by the records of the department. Such notice shall state that such resident has twenty working days after the date of the notice to show the director that the resident has complied with the terms of such traffic citation. If the resident fails to show the director that he or she has complied with the terms of such traffic citation on or before twenty working days after the date of the notice, the director shall summarily suspend the operator's license and issue an order. The order shall be sent by regular United States mail to the resident's last-known mailing address as shown by the records of the department. The suspension shall continue until the resident has furnished the director with satisfactory evidence of compliance with the terms of the citation.

(7) The reinstatement fee required under section 60-4,100.01 shall be waived if five years have passed since issuance of the license suspension order under this section.

(8) The performance or completion of an order to complete community service under this section may be supervised or confirmed by a community correctional facility or program or another similar entity as ordered by the court or magistrate.

(9) For purposes of this section:

(a) Agency means any public or governmental unit, institution, division, or agency or any private nonprofit organization which provides services intended to enhance the social welfare or general well-being of the community, which agrees to accept community service from residents under this section and to supervise and report the progress of such community service to the court or magistrate;

(b) Community correctional facility or program has the same meaning as in section 47-621; and

(c) Community service means uncompensated labor for an agency to be performed by a resident when the resident is not working or attending school.

Source: Laws 1937, c. 141, § 23, p. 518; Laws 1941, c. 124, § 4, p. 472; C.S.Supp.,1941, § 60-428; R.S.1943, § 60-426; Laws 1981, LB 344, § 2; Laws 1986, LB 153, § 10; R.S.1943, (1988), § 60-426; Laws 1989, LB 285, § 50; Laws 1991, LB 420, § 10; Laws 1993, LB 491, § 11; Laws 1997, LB 10, § 1; Laws 2001, LB 38, § 21; Laws 2012, LB751, § 22; Laws 2017, LB259, § 13.

Cross References

Nonresident Violator Compact of 1977, see section 1-119, Appendix, Nebraska Revised Statutes, Volume 2A.

60-4,105 Appeal; procedure.

(1) Unless otherwise provided by statute, any person aggrieved by a final decision or order of the director or the Department of Motor Vehicles to cancel, suspend, revoke, or refuse to issue or renew any operator's license, any decision of the director, or suspension of an operator's license under the License Suspension Act may appeal to either the district court of the county in which the person originally applied for the license or the district court of the county in

which such person resides or, in the case of a nonresident, to the district court of Lancaster County within thirty days after the date of the final decision or order.

(2) Summons shall be served on the department within thirty days after the filing of the petition in the manner provided for service of a summons in section 25-510.02. Within thirty days after service of the petition and summons, the department shall prepare and transmit to the petitioner a certified copy of the official record of the proceedings before the department. The department shall require payment of a five-dollar fee prior to the transmittal of the official record. The petitioner shall file the transcript with the court within fourteen days after receiving the transcript from the department.

(3) The district court shall hear the appeal as in equity without a jury and determine anew all questions raised before the director. Either party may appeal from the decision of the district court to the Court of Appeals.

(4) The appeal procedures described in the Administrative Procedure Act shall not apply to this section.

Source: Laws 1937, c. 141, § 29, p. 522; Laws 1941, c. 124, § 8, p. 475; C.S.Supp.,1941, § 60-433; R.S.1943, § 60-420; Laws 1984, LB 697, § 1; Laws 1988, LB 352, § 105; R.S.1943, (1988), § 60-420; Laws 1989, LB 285, § 55; Laws 1989, LB 352, § 1; Laws 1991, LB 732, § 121; Laws 1994, LB 211, § 3; Laws 1997, LB 752, § 139; Laws 1999, LB 704, § 14; Laws 2002, LB 876, § 79; Laws 2017, LB644, § 11.

Cross References

Administrative Procedure Act, see section 84-920.

License Suspension Act, see section 43-3301.

60-4,108 Operating motor vehicle during period of suspension, revocation, or impoundment; penalties; juvenile; violation; handled in juvenile court.

(1) It shall be unlawful for any person to operate a motor vehicle during any period that he or she is subject to a court order not to operate any motor vehicle for any purpose or during any period that his or her operator's license has been revoked or impounded pursuant to conviction or convictions for violation of any law or laws of this state, by an order of any court, or by an administrative order of the director. Except as otherwise provided by subsection (3) of this section or by other law, any person so offending shall (a) for a first such offense, be guilty of a Class II misdemeanor, and the court shall, as a part of the judgment of conviction, order such person not to operate any motor vehicle for any purpose for a period of one year from the date ordered by the court and also order the operator's license of such person to be revoked for a like period, unless the person was placed on probation, then revocation may be ordered at the court's discretion, (b) for a second or third such offense, be guilty of a Class II misdemeanor, and the court shall, as a part of the judgment of conviction, order such person not to operate any motor vehicle for any purpose for a period of two years from the date ordered by the court and also order the operator's license of such person to be revoked for a like period, and (c) for a fourth or subsequent such offense, be guilty of a Class I misdemeanor, and the court shall, as a part of the judgment of conviction, order such person not to operate any motor vehicle for any purpose for a period of two years from the date ordered by the court and also order the operator's license of such

person to be revoked for a like period. Such orders of the court shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked.

(2) It shall be unlawful for any person to operate a motor vehicle (a) during any period that his or her operator's license has been suspended, (b) after a period of revocation but before issuance of a new license, or (c) after a period of impoundment but before the return of the license. Except as provided in subsection (3) of this section, any person so offending shall be guilty of a Class III misdemeanor, and the court may, as a part of the judgment of conviction, order such person not to operate any motor vehicle for any purpose for a period of one year from the date ordered by the court, except that if the person at the time of sentencing shows proof of reinstatement of his or her suspended operator's license, proof of issuance of a new license, or proof of return of the impounded license, the person shall only be fined in an amount not to exceed one hundred dollars. If the court orders the person not to operate a motor vehicle for a period of one year from the date ordered by the court, the court shall also order the operator's license of such person to be revoked for a like period. Such orders of the court shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked.

(3) If a juvenile whose operator's license or permit has been impounded by a juvenile court operates a motor vehicle during any period that he or she is subject to the court order not to operate any motor vehicle or after a period of impoundment but before return of the license or permit, such violation shall be handled in the juvenile court and not as a violation of this section.

Source: Laws 1957, c. 275, § 2, p. 1002; Laws 1959, c. 293, § 3, p. 1099; Laws 1977, LB 39, § 81; Laws 1979, LB 149, § 1; Laws 1985, LB 356, § 1; Laws 1986, LB 153, § 12; R.S.1943, (1988), § 60-430.01; Laws 1989, LB 285, § 58; Laws 1997, LB 772, § 4; Laws 2001, LB 38, § 25; Laws 2010, LB800, § 34; Laws 2012, LB1155, § 13; Laws 2017, LB263, § 65.

60-4,109 Operating motor vehicle during period of suspension, revocation, or impoundment; city or village ordinance; penalties.

(1) Upon conviction of any person in any court within this state of a violation of any city or village ordinance pertaining to the operation of a motor vehicle by such person during any period that he or she is subject to a court order not to operate any motor vehicle for any purpose or during any period that his or her operator's license has been revoked or impounded pursuant to any law of this state, such person shall (a) for a first such offense, be guilty of a Class II misdemeanor, and the court shall, as a part of the judgment of conviction, order such person not to operate any motor vehicle for any purpose for a period of one year from the date ordered by the court and also order the operator's license of such person to be revoked for a like period, unless the person was placed on probation, then revocation may be ordered at the court's discretion, and (b) for each subsequent such offense, be guilty of a Class II misdemeanor, and the court shall, as a part of the judgment of conviction, order such person not to operate any motor vehicle for any purpose for a period of two years from the date ordered by the court and also order the operator's license of such person to be revoked for a like period. Such orders of

the court shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked.

(2) Upon conviction of any person in any court within this state of a violation of any city or village ordinance pertaining to the operation of a motor vehicle by such person (a) during any period that his or her operator's license has been suspended pursuant to any law of this state, (b) after a period of revocation but before issuance of a new license, or (c) after a period of impoundment but before the return of the license, such person shall be guilty of a Class III misdemeanor, and the court may, as a part of the judgment of conviction, order such person not to operate any motor vehicle for any purpose for a period of one year from the date ordered by the court, except that if the person at the time of sentencing shows proof of reinstatement of his or her suspended operator's license, proof of issuance of a new license, or proof of return of the impounded license, the person shall only be fined in an amount not to exceed one hundred dollars. If the court orders the person not to operate a motor vehicle for a period of one year after the date ordered by the court, the court shall also order the operator's license of such person to be revoked for a like period. Such orders of the court shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked.

Source: Laws 1959, c. 293, § 4, p. 1099; R.S.1943, (1988), § 60-430.05; Laws 1989, LB 285, § 59; Laws 1997, LB 772, § 5; Laws 2001, LB 38, § 26; Laws 2017, LB263, § 66.

60-4,110 Operating motor vehicle during period of suspension, revocation, or impoundment; impounding of motor vehicle; release, when authorized; restitution authorized.

(1) Every motor vehicle, regardless of the registered owner of the motor vehicle, being operated by a person whose operator's license has been suspended, revoked, or impounded pursuant to a conviction or convictions for violation of section 60-6,196, 60-6,197, 60-6,211.01, or 60-6,211.02 or by an order of any court or an administrative order of the director is hereby declared a public nuisance. The motor vehicle may be seized upon the arrest of the operator of the motor vehicle and impounded at the expense of the owner of the motor vehicle. If such operator's license is suspended, revoked, or impounded pursuant to subdivision (1)(c) of section 60-4,108 or section 60-498.01, 60-498.02, 60-6,196, 60-6,197, 60-6,211.01, or 60-6,211.02, the motor vehicle shall be impounded for not less than ten days nor more than thirty days. No motor vehicle impounded under this section shall be impounded for a period of time exceeding thirty days except as provided in subsection (3) of this section.

(2) Any motor vehicle impounded shall be released:

(a) To the holder of a bona fide lien on the motor vehicle executed prior to such impoundment when possession of the motor vehicle is requested as provided by law by such lienholder for purposes of foreclosing and satisfying his or her lien on the motor vehicle;

(b) To the titled owner of the motor vehicle when the titled owner is a lessor. Upon learning the address or telephone number of the rental or leasing company which owns the motor vehicle, the impounding law enforcement agency shall immediately contact the company and inform it that the motor vehicle is available for the company to take possession; or

(c) To the registered owner, a registered co-owner, or a spouse of the owner upon good cause shown by an affidavit or otherwise to the court before which the complaint is pending against the operator that the impounded motor vehicle is essential to the livelihood of the owner, co-owner, or spouse or the dependents of such owner, co-owner, or spouse.

(3) Any person who, at the direction of a peace officer, tows and stores a motor vehicle pursuant to this section shall have a lien upon such motor vehicle while in his or her possession for reasonable towing and storage charges and shall have a right to retain such motor vehicle until such charges are paid.

(4) If the registered owner of a motor vehicle was not the operator of the motor vehicle whose actions caused the motor vehicle to be impounded, the registered owner of the motor vehicle may recover civilly from the operator of the motor vehicle all expenses incurred by reason of the impoundment. In the case of a criminal action, the court may order such operator of the motor vehicle to pay restitution to the registered owner in an amount equal to any expenses incurred with respect to impoundment.

Source: Laws 1961, c. 321, § 1, p. 1024; Laws 1961, c. 322, § 1, p. 1025; R.S.1943, (1988), § 60-430.06; Laws 1989, LB 285, § 60; Laws 1998, LB 309, § 4; Laws 2003, LB 209, § 8; Laws 2012, LB1155, § 14.

60-4,111.01 Storage or compilation of information; retailer; seller; authorized acts; sign posted; use of stored information; approval of negotiable instrument or certain payments; authorized acts; violations; penalty.

(1) The Department of Motor Vehicles, the courts, or law enforcement agencies may store or compile information acquired from an operator's license or a state identification card for their statutorily authorized purposes.

(2) Except as otherwise provided in subsection (3) or (4) of this section, no person having use of or access to machine-readable information encoded on an operator's license or a state identification card shall compile, store, preserve, trade, sell, or share such information. Any person who trades, sells, or shares such information shall be guilty of a Class IV felony. Any person who compiles, stores, or preserves such information except as authorized in subsection (3) or (4) of this section shall be guilty of a Class IV felony.

(3)(a) For purposes of compliance with and enforcement of restrictions on the purchase of alcohol, lottery tickets, and tobacco products, a retailer who sells any of such items pursuant to a license issued or a contract under the applicable statutory provision may scan machine-readable information encoded on an operator's license or a state identification card presented for the purpose of such a sale. The retailer may store only the following information obtained from the license or card: Age and license or card identification number. The retailer shall post a sign at the point of sale of any of such items stating that the license or card will be scanned and that the age and identification number will be stored. The stored information may only be used by a law enforcement agency for purposes of enforcement of the restrictions on the purchase of alcohol, lottery tickets, and tobacco products and may not be shared with any other person or entity.

(b) For purposes of compliance with the provisions of sections 28-458 to 28-462, a seller who sells methamphetamine precursors pursuant to such sections may scan machine-readable information encoded on an operator's

license or a state identification card presented for the purpose of such a sale. The seller may store only the following information obtained from the license or card: Name, age, address, type of identification presented by the customer, the governmental entity that issued the identification, and the number on the identification. The seller shall post a sign at the point of sale stating that the license or card will be scanned and stating what information will be stored. The stored information may only be used by law enforcement agencies, regulatory agencies, and the exchange for purposes of enforcement of the restrictions on the sale or purchase of methamphetamine precursors pursuant to sections 28-458 to 28-462 and may not be shared with any other person or entity. For purposes of this subsection, the terms exchange, methamphetamine precursor, and seller have the same meanings as in section 28-458.

(c) The retailer or seller shall utilize software that stores only the information allowed by this subsection. A programmer for computer software designed to store such information shall certify to the retailer that the software stores only the information allowed by this subsection. Intentional or grossly negligent programming by the programmer which allows for the storage of more than the age and identification number or wrongfully certifying the software shall be a Class IV felony.

(d) A retailer or seller who knowingly stores more information than authorized under this subsection from the operator's license or state identification card shall be guilty of a Class IV felony.

(e) Information scanned, compiled, stored, or preserved pursuant to subdivision (a) of this subsection may not be retained longer than eighteen months unless required by state or federal law.

(4) In order to approve a negotiable instrument, an electronic funds transfer, or a similar method of payment, a person having use of or access to machine-readable information encoded on an operator's license or a state identification card may:

(a) Scan, compile, store, or preserve such information in order to provide the information to a check services company subject to and in compliance with the federal Fair Credit Reporting Act, 15 U.S.C. 1681 et seq., as such act existed on January 1, 2020, for the purpose of effecting, administering, or enforcing a transaction requested by the holder of the license or card or preventing fraud or other criminal activity; or

(b) Scan and store such information only as necessary to protect against or prevent actual or potential fraud, unauthorized transactions, claims, or other liability or to resolve a dispute or inquiry by the holder of the license or card.

(5) Except as provided in subdivision (4)(a) of this section, information scanned, compiled, stored, or preserved pursuant to this section may not be traded or sold to or shared with a third party; used for any marketing or sales purpose by any person, including the retailer who obtained the information; or, unless pursuant to a court order, reported to or shared with any third party. A person who violates this subsection shall be guilty of a Class IV felony.

Source: Laws 2001, LB 574, § 30; Laws 2010, LB261, § 1; Laws 2011, LB20, § 9; Laws 2019, LB79, § 13; Laws 2020, LB944, § 56.
Operative date November 14, 2020.

(g) PROVISIONS APPLICABLE TO OPERATION OF MOTOR VEHICLES OTHER THAN COMMERCIAL

60-4,112 Sections; applicability.

Sections 60-4,114.01 and 60-4,118.01 to 60-4,130.05 shall apply to the operation of any motor vehicle except a commercial motor vehicle.

Source: Laws 1989, LB 285, § 62; Laws 1991, LB 44, § 2; Laws 1993, LB 105, § 8; Laws 1994, LB 211, § 4; Laws 1998, LB 320, § 4; Laws 2001, LB 38, § 27; Laws 2003, LB 562, § 5; Laws 2008, LB911, § 10; Laws 2011, LB158, § 2; Laws 2014, LB983, § 16.

60-4,113 Examining personnel; appointment; duties; examinations; issuance of certificate or receipt; license; state identification card; county treasurer; duties; delivery of license or card.

(1) The director shall appoint as his or her agents one or more department personnel who shall examine all applicants for a state identification card or an operator's license as provided in section 60-4,114, except as otherwise provided in subsection (8) of section 60-4,122. The same department personnel may be assigned to one or more counties by the director. In counties in which the county treasurer collects the fees and issues receipts, the county shall furnish office space for the administration of the operator's license examination. Department personnel shall conduct the examination of applicants and deliver to each successful applicant an issuance certificate or receipt. The certificate may be presented to the county treasurer within ninety days after issuance, and the county treasurer shall collect the fee and surcharge as provided in section 60-4,115 and issue a receipt which is valid for up to thirty days. If an operator's license is being issued, the receipt shall also authorize driving privileges for such thirty-day period. If department personnel refuse to issue an issuance certificate or receipt, the department personnel shall state such cause in writing and deliver such written cause to the applicant.

(2) The department may provide for the central production and issuance of operators' licenses and state identification cards. Production shall take place at a secure production facility designated by the director. The licenses and cards shall be of such a design and produced in such a way as to discourage, to the maximum extent possible, fraud in applicant enrollment, identity theft, and the forgery and counterfeiting of such licenses and cards. Delivery of an operator's license or state identification card shall be to the mailing address provided by the applicant at the time of application and may be provided by secure electronic delivery to specified contact information at the request of the applicant.

Source: Laws 1929, c. 148, § 2, p. 513; C.S.1929, § 60-402; Laws 1937, c. 141, § 12, p. 511; C.S.Supp.,1941, § 60-402; R.S.1943, § 60-404; Laws 1945, c. 141, § 2, p. 447; Laws 1945, c. 142, § 1, p. 454; Laws 1957, c. 366, § 36, p. 1270; Laws 1961, c. 307, § 4, p. 972; Laws 1961, c. 315, § 3, p. 999; Laws 1961, c. 316, § 3, p. 1009; Laws 1961, c. 317, § 1, p. 1016; Laws 1967, c. 389, § 1, p. 1212; Laws 1976, LB 329, § 1; Laws 1977, LB 90, § 3; R.S.1943, (1988), § 60-404; Laws 1989, LB 285, § 64; Laws 1999, LB 704, § 15; Laws 2001, LB 574, § 9; Laws 2008, LB911, § 11; Laws

2011, LB215, § 11; Laws 2016, LB311, § 9; Laws 2020, LB944, § 57.

Operative date November 14, 2020.

60-4,114 County treasurer; personnel; examination of applicant; denial or refusal of certificate; appeal; medical opinion.

(1) The county treasurer may employ such additional clerical help as may be necessary to assist him or her in the performance of the ministerial duties required of him or her under the Motor Vehicle Operator's License Act and, for such additional expense, shall be reimbursed as set out in section 60-4,115.

(2) The director may, in his or her discretion, appoint department personnel to examine all applicants who apply for an initial license or whose licenses have been revoked or canceled to ascertain such person's ability to operate a motor vehicle properly and safely.

(3) Except as otherwise provided in section 60-4,122, the application process, in addition to the other requisites of the act, shall include the following:

(a) An inquiry into the medical condition and visual ability of the applicant to operate a motor vehicle;

(b) An inquiry into the applicant's ability to drive and maneuver a motor vehicle, except that no driving skills test shall be conducted using an autocytle; and

(c) An inquiry touching upon the applicant's knowledge of the motor vehicle laws of this state, which shall include sufficient questions to indicate familiarity with the provisions thereof. Such knowledge inquiry may be performed remotely if proctored by an agent approved by the director.

(4) If an applicant is denied or refused a certificate for license or a license is canceled, such applicant or licensee shall have the right to an immediate appeal to the director from the decision. It shall be the duty of the director to review the appeal and issue a final order, to be made not later than ten days after the receipt of the appeal by the director. The director shall issue a final order not later than ten days following receipt of the medical opinion if the applicant or licensee submits reports from a physician of his or her choice for the director's consideration as provided in section 60-4,118.03. The applicant or licensee who files an appeal pursuant to this section shall notify the director in writing if he or she intends to submit records or reports for consideration. Such notice must be received by the director not later than ten days after an appeal is filed pursuant to this section to stay the director's decision until after the consideration of such records or reports as provided in section 60-4,118.03. After consideration of evidence in the records of the applicant or licensee, including any records submitted by the applicant or licensee, the director shall make a determination of the physical or mental ability of the applicant or licensee to operate a motor vehicle and shall issue a final order. The order shall be in writing, shall be accompanied by findings of fact and conclusions of law, and shall be sent by regular United States mail to the last-known address of the applicant or licensee. The order may be appealed as provided in section 60-4,105.

Source: Laws 1929, c. 148, § 6, p. 514; C.S.1929, § 60-406; Laws 1931, c. 101, § 1, p. 272; Laws 1937, c. 141, § 16, p. 514; C.S.Supp.,1941, § 60-406; R.S.1943, § 60-408; Laws 1945, c. 141, § 5, p. 450;

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Laws 1947, c. 207, § 2, p. 676; Laws 1957, c. 366, § 38, p. 1272; Laws 1961, c. 307, § 5, p. 972; Laws 1961, c. 315, § 6, p. 1003; Laws 1961, c. 316, § 6, p. 1013; Laws 1972, LB 1439, § 1; Laws 1981, LB 76, § 2; R.S.1943, (1988), § 60-408; Laws 1989, LB 285, § 63; Laws 1994, LB 211, § 9; Laws 1999, LB 704, § 16; Laws 2001, LB 38, § 28; Laws 2001, LB 574, § 10; Laws 2011, LB215, § 12; Laws 2012, LB751, § 23; Laws 2015, LB231, § 22; Laws 2017, LB644, § 12; Laws 2020, LB944, § 58.

Operative date November 14, 2020.

60-4,114.01 Applicant for Class O or Class M license; issuance of LPD-learner’s permit; restriction on reapplication for license.

An applicant for a Class O or Class M license that fails three successive tests of his or her ability to drive and maneuver a motor vehicle safely as provided in subdivision (3)(b) of section 60-4,114 may be issued an LPD-learner’s permit. The applicant shall not be eligible to reapply for the Class O or Class M license and retake such test until he or she presents proof of successful completion of a department-approved driver training school or until he or she has held an LPD-learner’s permit for at least ninety days.

Source: Laws 2011, LB158, § 3.

60-4,115 Fees; allocation; identity security surcharge.

(1) Fees for operators’ licenses and state identification cards shall be collected by department personnel or the county treasurer and distributed according to the table in subsection (2) of this section, except for the ignition interlock permit and associated fees as outlined in subsection (4) of this section. County officials shall remit the county portion of the fees collected to the county treasurer for placement in the county general fund. All other fees collected shall be remitted to the State Treasurer for credit to the appropriate fund.

(2) The fees provided in this subsection in the following dollar amounts apply for operators’ licenses and state identification cards.

Document	Total Fee	County General Fund	Department of Motor Vehicles Cash Fund	State General Fund
State identification card:				
Valid for 1 year or less	5.00	2.75	1.25	1.00
Valid for more than 1 year but not more than 2 years	10.00	2.75	4.00	3.25
Valid for more than 2 years but not more than 3 years	14.00	2.75	5.25	6.00
Valid for more than 3 years but not more than 4 years	19.00	2.75	8.00	8.25
Valid for more than 4 years for person under 21	24.00	2.75	10.25	11.00
Valid for 5 years	24.00	3.50	10.25	10.25
Replacement	11.00	2.75	6.00	2.25
Class O or M operator’s license:				
Valid for 1 year or less	5.00	2.75	1.25	1.00
Valid for more than 1 year but not more than 2 years	10.00	2.75	4.00	3.25
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Document	Total Fee	County General Fund	Department of Motor Vehicles Cash Fund	State General Fund
Valid for more than 2 years but not more than 3 years	14.00	2.75	5.25	6.00
Valid for more than 3 years but not more than 4 years	19.00	2.75	8.00	8.25
Valid for 5 years	24.00	3.50	10.25	10.25
Bioptic or telescopic lens restriction:				
Valid for 1 year or less	5.00	0	5.00	0
Valid for more than 1 year but not more than 2 years	10.00	2.75	4.00	3.25
Replacement	11.00	2.75	6.00	2.25
Add, change, or remove class, endorsement, or restriction	5.00	0	5.00	0
Provisional operator's permit:				
Original	15.00	2.75	12.25	0
Bioptic or telescopic lens restriction:				
Valid for 1 year or less	5.00	0	5.00	0
Valid for more than 1 year but not more than 2 years	15.00	2.75	12.25	0
Replacement	11.00	2.75	6.00	2.25
Add, change, or remove class, endorsement, or restriction	5.00	0	5.00	0
LPD-learner's permit:				
Original	8.00	.25	5.00	2.75
Replacement	11.00	2.75	6.00	2.25
Add, change, or remove class, endorsement, or restriction	5.00	0	5.00	0
LPE-learner's permit:				
Original	8.00	.25	5.00	2.75
Replacement	11.00	2.75	6.00	2.25
Add, change, or remove class, endorsement, or restriction	5.00	0	5.00	0
School permit:				
Original	8.00	.25	5.00	2.75
Replacement	11.00	2.75	6.00	2.25
Add, change, or remove class, endorsement, or restriction	5.00	0	5.00	0
Farm permit:				
Original or renewal	5.00	.25	0	4.75
Replacement	5.00	.25	0	4.75
Temporary	5.00	.25	0	4.75
Add, change, or remove class, endorsement, or restriction	5.00	0	5.00	0
Driving permits:				
Employment	45.00	0	5.00	40.00
Medical hardship	45.00	0	5.00	40.00
Replacement	10.00	.25	5.00	4.75
Add, change, or remove class, endorsement, or restriction	5.00	0	5.00	0
Commercial driver's license:				
Valid for 1 year or less	11.00	1.75	5.00	4.25
Valid for more than 1 year but not more than 2 years	22.00	1.75	5.00	15.25
Valid for more than 2 years but not more than 3 years	33.00	1.75	5.00	26.25
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Document	Total Fee	County General Fund	Department of Motor Vehicles Cash Fund	State General Fund
Valid for more than 3 years but not more than 4 years	44.00	1.75	5.00	37.25
Valid for 5 years	55.00	1.75	5.00	48.25
Bioptic or telescopic lens restriction:				
Valid for one year or less	11.00	1.75	5.00	4.25
Valid for more than 1 year but not more than 2 years	22.00	1.75	5.00	15.25
Replacement	11.00	2.75	6.00	2.25
Add, change, or remove class, endorsement, or restriction	10.00	1.75	5.00	3.25
CLP-commercial learner's permit:				
Original or renewal	10.00	.25	5.00	4.75
Replacement	10.00	.25	5.00	4.75
Add, change, or remove class, endorsement, or restriction	10.00	.25	5.00	4.75
Seasonal permit:				
Original or renewal	10.00	.25	5.00	4.75
Replacement	10.00	.25	5.00	4.75
Add, change, or remove class, endorsement, or restriction	10.00	.25	5.00	4.75

(3) If the department issues an operator's license or a state identification card and collects the fees, the department shall remit the county portion of the fees to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

(4)(a) The fee for an ignition interlock permit shall be forty-five dollars. Five dollars of the fee shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund. Forty dollars of the fee shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Ignition Interlock Fund.

(b) The fee for a replacement ignition interlock permit shall be eleven dollars. Two dollars and seventy-five cents of the fee shall be remitted to the county treasurer for credit to the county general fund. Six dollars of the fee shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund. Two dollars and twenty-five cents of the fee shall be remitted to the State Treasurer for credit to the General Fund.

(c) The fee for adding, changing, or removing a class, endorsement, or restriction on an ignition interlock permit shall be five dollars. The fee shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

(5) The department and its agents may collect an identity security surcharge to cover the cost of security and technology practices used to protect the identity of applicants for and holders of operators' licenses and state identification cards and to reduce identity theft, fraud, and forgery and counterfeiting of such licenses and cards to the maximum extent possible. The surcharge shall be in addition to all other required fees for operators' licenses and state identification cards. The amount of the surcharge shall be determined by the department.

The surcharge shall not exceed eight dollars. The surcharge shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

Source: Laws 1929, c. 148, § 7, p. 515; C.S.1929, § 60-407; Laws 1931, c. 101, § 2, p. 272; Laws 1937, c. 148, § 17, p. 515; Laws 1941, c. 128, § 1, p. 483; Laws 1941, c. 176, § 1, p. 687; C.S.Supp.,1941, § 60-407; R.S.1943, § 60-409; Laws 1945, c. 141, § 6, p. 452; Laws 1947, c. 207, § 3, p. 677; Laws 1949, c. 181, § 3, p. 525; Laws 1951, c. 195, § 12, p. 742; Laws 1955, c. 242, § 1, p. 757; Laws 1957, c. 366, § 39, p. 1273; Laws 1961, c. 315, § 7, p. 1004; Laws 1961, c. 316, § 7, p. 1014; Laws 1963, c. 359, § 2, p. 1151; Laws 1967, c. 234, § 3, p. 624; Laws 1976, LB 329, § 2; Laws 1977, LB 90, § 5; Laws 1981, LB 207, § 1; Laws 1985, Second Spec. Sess., LB 5, § 1; R.S.1943, (1988), § 60-409; Laws 1989, LB 285, § 65; Laws 1992, LB 319, § 4; Laws 1993, LB 491, § 12; Laws 1995, LB 467, § 11; Laws 1998, LB 309, § 5; Laws 1998, LB 320, § 5; Laws 1999, LB 704, § 17; Laws 2001, LB 574, § 11; Laws 2005, LB 1, § 5; Laws 2006, LB 1008, § 2; Laws 2008, LB736, § 4; Laws 2008, LB911, § 12; Laws 2009, LB497, § 3; Laws 2011, LB170, § 2; Laws 2011, LB215, § 13; Laws 2011, LB667, § 28; Laws 2014, LB777, § 4; Laws 2014, LB983, § 17; Laws 2016, LB311, § 10; Laws 2018, LB347, § 1.

60-4,115.01 Fee payment returned or not honored; department powers; notice to applicant; contents; payment; department; duties.

(1) If a fee required under the Motor Vehicle Operator's License Act for issuance of any operator's license or state identification card has been paid by check, draft, or other financial transaction, including an electronic financial transaction, and the check, draft, or financial transaction has been returned or not honored because of insufficient funds, no account, a stop-payment order, or any other reason, the department may cancel or refuse to issue or renew the operator's license or state identification card. Such license shall remain canceled or shall not be issued until the applicant has made full payment as required by subsection (4) of this section.

(2) Prior to taking action described in subsection (1) of this section, the department shall notify the applicant of the proposed action and the reasons for such action in writing, by first-class mail, mailed to the applicant's last-known mailing address provided by the applicant at the time of application.

(3) The department may take the action described in subsection (1) of this section no sooner than seven days after the notice required in subsection (2) of this section has been made.

(4) If an operator's license or state identification card is canceled or refused by the department pursuant to this section, the department shall issue or reinstate the operator's license or state identification card without delay upon the full payment of the fees owed by the applicant and payment of costs as authorized by section 84-620.

Source: Laws 2016, LB311, § 11.

60-4,116 Applicant; department; duties.

Prior to the issuance of any original or renewal operator's license, the issuance of a replacement operator's license, or the reissuance of any such

license with a change of any classification, endorsement, or restriction, the department shall:

(1) Check the driving record of the applicant as maintained by the department or by any other state which has issued an operator's license to the applicant;

(2) Contact the Commercial Driver License Information System to determine whether the applicant possesses any valid commercial learner's permit or commercial driver's license issued by any other state, whether such license or the applicant's privilege to operate a commercial motor vehicle has been suspended, revoked, or canceled, or whether the applicant has been disqualified from operating a commercial motor vehicle; and

(3) Contact the National Driver Register to determine if the applicant (a) has been disqualified from operating any motor vehicle, (b) has had an operator's license suspended, revoked, or canceled, (c) is not eligible, or (d) is deceased.

Source: Laws 2003, LB 562, § 6; Laws 2011, LB178, § 4; Laws 2012, LB751, § 24; Laws 2014, LB777, § 5; Laws 2014, LB983, § 18.

60-4,117 Operator's license or state identification card; form; department personnel or county treasurer; duties.

(1) An applicant shall present an issuance certificate to the county treasurer for an operator's license or state identification card. Department personnel or the county treasurer shall collect the applicable fee and surcharge as prescribed in section 60-4,115 and issue a receipt which is valid for up to thirty days. If there is cause for an operator's license to be issued, the receipt shall also authorize driving privileges for such thirty-day period. The license or card shall be delivered as provided in section 60-4,113.

(2) The operator's license and state identification card shall be in a form prescribed by the department. The license and card may include security features prescribed by the department. The license and card shall be conspicuously marked Nebraska Operator's License or Nebraska Identification Card, shall be, to the maximum extent practicable, tamper and forgery proof, and shall include the following information:

- (a) The full legal name and principal residence address of the holder;
- (b) The holder's full facial digital image;
- (c) A physical description of the holder, including gender, height, weight, and eye and hair colors;
- (d) The holder's date of birth;
- (e) The holder's signature;
- (f) The class of motor vehicle which the holder is authorized to operate and any applicable endorsements or restrictions;
- (g) The issuance and expiration date of the license or card;
- (h) The organ and tissue donation information specified in section 60-494;
- (i) A veteran designation as provided in section 60-4,189; and
- (j) Such other marks and information as the director may determine.

(3) Each operator's license and state identification card shall contain the following encoded, machine-readable information: The holder's full legal name; date of birth; gender; race or ethnicity; document issue date; document expira-

tion date; principal residence address; unique identification number; revision date; inventory control number; and state of issuance.

Source: Laws 1929, c. 148, § 4, p. 513; C.S.1929, § 60-404; Laws 1937, c. 141, § 14, p. 512; C.S.Supp.,1941, § 60-404; R.S.1943, § 60-406; Laws 1959, c. 286, § 2, p. 1082; Laws 1961, c. 315, § 4, p. 1000; Laws 1961, c. 316, § 4, p. 1008; Laws 1977, LB 90, § 4; R.S. 1943, (1988), § 60-406; Laws 1989, LB 285, § 67; Laws 2001, LB 34, § 4; Laws 2001, LB 38, § 29; Laws 2001, LB 574, § 12; Laws 2008, LB911, § 13; Laws 2011, LB215, § 14; Laws 2013, LB93, § 5; Laws 2016, LB311, § 12; Laws 2019, LB192, § 2.
Operative date January 1, 2021.

60-4,118 Vision requirements; persons with physical impairments; physical or mental incompetence; prohibited act; penalty.

(1)(a) No operator's license shall be granted to any applicant until such applicant satisfies the examiner that he or she possesses sufficient powers of eyesight to enable him or her to obtain a Class O license and to operate a motor vehicle on the highways of this state with a reasonable degree of safety, including:

(i) A minimum acuity level of vision. Such level may be obtained through the use of standard eyeglasses, contact lenses, or bioptic or telescopic lenses which are specially constructed vision correction devices which include a lens system attached to or used in conjunction with a carrier lens; and

(ii) A minimum field of vision. Such field of vision may be obtained through standard eyeglasses, contact lenses, or the carrier lens of the bioptic or telescopic lenses.

(b) The department may adopt and promulgate rules and regulations specifying such requirements.

(2) If a vision aid is used by the applicant to meet the vision requirements of this section, the operator's license of the applicant shall be restricted to the use of such vision aid when operating the motor vehicle. If the applicant fails to meet the vision requirements, the examiner shall require the applicant to present an optometrist's or ophthalmologist's statement certifying the vision reading obtained when testing the applicant within ninety days of the applicant's license examination. If the vision reading meets the vision requirements prescribed by the department, the vision requirements of this section shall have been met. If the vision reading demonstrates that the applicant is required to use bioptic or telescopic lenses to operate a motor vehicle, the statement from the optometrist or ophthalmologist shall also indicate when the applicant needs to be reexamined for purposes of meeting the vision requirements for an operator's license as prescribed by the department. If such time period is two years or more after the date of the application, the license shall be valid for two years. If such time period is less than two years, the license shall be valid for such time period.

(3) If the applicant for an operator's license discloses that he or she has any other physical impairment which may affect the safety of operation by such applicant of a motor vehicle, the examiner shall require the applicant to show cause why such license should be granted and, through such personal examination and demonstration as may be prescribed by the director, to show the necessary ability to safely operate a motor vehicle on the highways. If the

examiner is then satisfied that such applicant has the ability to safely operate a motor vehicle, an operator's license may be issued to the applicant subject, at the discretion of the director, to a limitation to operate only such motor vehicles at such time, for such purpose, and within such area as the license shall designate.

(4)(a) The director may, when requested by a law enforcement officer, when the director has reason to believe that a person may be physically or mentally incompetent to operate a motor vehicle, or when a person's driving record appears to the department to justify an examination, give notice to the person to appear before an examiner or a designee of the director for examination concerning the person's ability to operate a motor vehicle safely. Any such request by a law enforcement officer shall be accompanied by written justification for such request and shall be approved by a supervisory law enforcement officer, police chief, or county sheriff.

(b) A refusal to appear before an examiner or a designee of the director for an examination after notice to do so shall be unlawful and shall result in the immediate cancellation of the person's operator's license by the director.

(c) If the person cannot qualify at the examination by an examiner, his or her operator's license shall be immediately surrendered to the examiner and forwarded to the director who shall cancel the person's operator's license.

(d) If the director determines that the person lacks the physical or mental ability to operate a motor vehicle, the director shall notify the person in writing of the decision. Upon receipt of the notice, the person shall immediately surrender his or her operator's license to the director who shall cancel the person's operator's license.

(e) Refusal to surrender an operator's license on demand shall be unlawful, and any person failing to surrender his or her operator's license as required by this subsection shall be guilty of a Class III misdemeanor.

Source: Laws 1929, c. 148, § 5, p. 514; C.S.1929, § 60-405; Laws 1931, c. 104, § 2, p. 277; Laws 1937, c. 141, § 15, p. 512; C.S.Supp.,1941, § 60-405; R.S.1943, § 60-407; Laws 1945, c. 141, § 4, p. 449; Laws 1949, c. 179, § 11, p. 511; Laws 1951, c. 200, § 1, p. 753; Laws 1955, c. 240, § 1, p. 751; Laws 1955, c. 241, § 1, p. 754; Laws 1957, c. 272, § 1, p. 995; Laws 1959, c. 286, § 3, p. 1082; Laws 1959, c. 292, § 1, p. 1094; Laws 1961, c. 315, § 5, p. 1000; Laws 1961, c. 316, § 5, p. 1009; Laws 1963, c. 358, § 1, p. 1144; Laws 1963, c. 359, § 1, p. 1148; Laws 1965, c. 219, § 2, p. 637; Laws 1965, c. 381, § 1, p. 1230; Laws 1967, c. 234, § 2, p. 621; Laws 1971, LB 725, § 1; Laws 1973, LB 90, § 1; Laws 1974, LB 611, § 1; Laws 1974, LB 821, § 14; Laws 1977, LB 39, § 76; Laws 1984, LB 710, § 1; Laws 1984, LB 811, § 4; Laws 1987, LB 224, § 22; Laws 1988, LB 1093, § 1; Laws 1989, LB 284, § 5; R.S.1943, (1988), § 60-407; Laws 1989, LB 285, § 68; Laws 1990, LB 742, § 3; Laws 1993, LB 564, § 15; Laws 1994, LB 211, § 10; Laws 1995, LB 37, § 9; Laws 1995, LB 467, § 12; Laws 1998, LB 309, § 6; Laws 1998, LB 320, § 6; Laws 1999, LB 585, § 2; Laws 1999, LB 704, § 18; Laws 2001, LB 38, § 30; Laws 2001, LB 387, § 5; Laws 2006, LB 1008, § 3; Laws 2017, LB644, § 13; Laws 2019, LB270, § 34.

60-4,118.02 Repealed. Laws 2017, LB644, § 21.**60-4,118.03 Mental, medical, or vision problems; records and reports; examinations; reports; appeal; immunity.**

Whenever the director reviews the denial or cancellation of an operator's license because of mental, medical, or vision problems that may affect the person's ability to safely operate a motor vehicle as provided in sections 60-4,114 and 60-4,118, the director may consider records and reports from a qualified physician. The applicant or licensee may cause a written report to be forwarded to the director by a physician of his or her choice pursuant to an immediate appeal to the director under section 60-4,114. The director shall grant reasonable time for the applicant or licensee to submit such records. The director shall give due consideration to any such report.

Reports received by the director for the purpose of assisting the director in determining whether a person is qualified to be licensed shall be for the confidential use of the director and any designees of the director and may not be divulged to any person other than the applicant or licensee or used in evidence in any legal proceeding, except that a report may be admitted in an appeal of an order of the director based on the report. Any person aggrieved by a decision of the director made pursuant to this section may appeal the decision as provided in section 60-4,105.

No person examining any applicant or licensee shall be liable in tort or otherwise for any opinion, recommendation, or report presented to the director if such action was taken in good faith and without malice.

Source: Laws 1994, LB 211, § 7; Laws 2017, LB644, § 14.

60-4,118.04 Repealed. Laws 2017, LB644, § 21.**60-4,118.05 Age requirements; license issued; when.**

(1) No operator's license referred to in section 60-4,118 shall, under any circumstances, be issued to any person who has not attained the age of seventeen years.

(2) No operator's license shall be issued to a person under eighteen years of age applying for an operator's license under section 60-4,118 unless such person:

(a) Has possessed a valid provisional operator's permit for at least a twelve-month period beginning on the date of issuance of such person's provisional operator's permit; and

(b) Has not accumulated three or more points pursuant to section 60-4,182 during the twelve-month period immediately preceding the date of the application for the operator's license.

(3) The department may waive the written examination and the driving test required under section 60-4,118 for any person seventeen to twenty-one years of age applying for his or her initial operator's license if he or she has been issued a provisional operator's permit. The department shall not waive the written examination and the driving test required under this section if the person is applying for a CLP-commercial learner's permit or commercial driver's license or if the operator's license being applied for contains a class or

endorsement which is different from the class or endorsement of the provisional operator's permit.

Source: Laws 2001, LB 38, § 31; Laws 2008, LB911, § 14; Laws 2014, LB983, § 19.

60-4,118.06 Ignition interlock permit; issued; when; operation restriction; revocation of permit by director; when.

(1) Upon receipt by the director of (a) a certified copy of a court order issued pursuant to section 60-6,211.05, a certified copy of an order for installation of an ignition interlock device and issuance of an ignition interlock permit pursuant to section 60-6,197.03, or a copy of an order from the Board of Pardons pursuant to section 83-1,127.02, (b) sufficient evidence that the person has surrendered his or her operator's license to the department and installed an approved ignition interlock device in accordance with such order, and (c) payment of the fee provided in section 60-4,115, such person may apply for an ignition interlock permit. A person subject to administrative license revocation under sections 60-498.01 to 60-498.04 shall be eligible for an ignition interlock permit as provided in such sections. The director shall issue an ignition interlock permit only for the operation of a motor vehicle equipped with an ignition interlock device. All permits issued pursuant to this subsection shall indicate that the permit is not valid for the operation of any commercial motor vehicle.

(2) Upon expiration of the revocation period or upon expiration of an order issued by the Board of Pardons pursuant to section 83-1,127.02, a person may apply to the department in writing for issuance of an operator's license. Regardless of whether the license surrendered by such person under subsection (1) of this section has expired, the person shall apply for a new operator's license pursuant to the Motor Vehicle Operator's License Act.

(3)(a) An ignition interlock permit shall not be issued under this section or sections 60-498.01 to 60-498.04 to any person except in cases of a violation of subdivision (3)(b) or (c) of section 28-306, subdivision (3)(b) or (c) of section 28-394, or section 28-1254, 60-6,196, 60-6,197, 60-6,197.06, or 60-6,198.

(b) An ignition interlock permit shall only be available to a holder of a Class M or O operator's license.

(4) The director shall revoke a person's ignition interlock permit issued under this section or sections 60-498.01 to 60-498.04 upon receipt of an (a) abstract of conviction indicating that the person had his or her operating privileges revoked or canceled or (b) administrative order revoking or canceling the person's operating privileges, if such conviction or order resulted from an incident other than the incident which resulted in the application for the ignition interlock permit.

Source: Laws 2001, LB 38, § 32; Laws 2003, LB 209, § 9; Laws 2008, LB736, § 5; Laws 2009, LB497, § 4; Laws 2010, LB924, § 2; Laws 2011, LB667, § 29; Laws 2012, LB751, § 25; Laws 2013, LB158, § 2; Laws 2019, LB269, § 3.

60-4,119 Operators' licenses; state identification cards; digital image and digital signature; exception; procedure.

(1) All state identification cards and operators' licenses, except farm permits, shall include a digital image and a digital signature of the cardholder or licensee as provided in section 60-484.02. Receipts for state identification cards and operators' licenses shall be issued by the county treasurer or the Department of Motor Vehicles. The director shall negotiate and enter into a contract to provide the necessary equipment, supplies, and forms for the issuance of the licenses and cards. All costs incurred by the Department of Motor Vehicles under this section shall be paid by the state out of appropriations made to the department. All costs of capturing the digital images and digital signatures shall be paid by the issuer from the fees provided to the issuer pursuant to section 60-4,115.

(2) A person who is out of the state at the time of renewal of his or her operator's license may apply for a license upon payment of a fee as provided in section 60-4,115. The license may be issued at any time within one year after the expiration of the original license. Such application shall be made to the department, and the department shall issue the license.

(3) Any operator's license and any state identification card issued to a minor as defined in section 53-103.23, as such definition may be amended from time to time by the Legislature, shall be of a distinct designation, of a type prescribed by the director, from the operator's license or state identification card of a person who is not a minor.

Source: Laws 1977, LB 90, § 1; Laws 1978, LB 574, § 3; Laws 1981, LB 46, § 1; Laws 1982, LB 877, § 1; Laws 1984, LB 811, § 3; Laws 1986, LB 575, § 1; Laws 1989, LB 284, § 4; R.S.1943, (1988), § 60-406.04; Laws 1989, LB 285, § 69; Laws 1990, LB 980, § 9; Laws 1993, LB 201, § 1; Laws 1995, LB 467, § 13; Laws 1999, LB 704, § 19; Laws 2001, LB 574, § 13; Laws 2005, LB 1, § 6; Laws 2010, LB861, § 80; Laws 2014, LB777, § 6.

60-4,120 Operator's license; state identification card; replacement.

(1) Any person duly licensed or holding a valid state identification card issued under the Motor Vehicle Operator's License Act who loses his or her operator's license or card may make application to the department for a replacement license or card.

(2) If any person changes his or her name because of marriage or divorce or by court order or a common-law name change, he or she shall apply to the department for a replacement operator's license or state identification card and furnish proof of identification in accordance with section 60-484. If any person changes his or her address, the person shall apply to the department for a replacement operator's license or state identification card and furnish satisfactory evidence of such change. The application shall be made within sixty days after the change of name or address.

(3) In the event a mutilated or unreadable operator's license is held by any person duly licensed under the act or a mutilated or unreadable state identification card which was issued under the act is held by a person, such person may obtain a replacement license or card. Upon report of the mutilated or unreadable license or card and application for a replacement license or card, a replacement license or card may be issued if the department is satisfied that the original license or card is mutilated or unreadable.

(4) If any person duly licensed under the act loses his or her operator's license or if any holder of a state identification card loses his or her card while temporarily out of the state, he or she may make application to the department for a replacement operator's license or card by applying to the department and reporting such loss. Upon receipt of a correctly completed application, the department shall cause to be issued a replacement operator's license or card.

(5) Any person who holds a valid operator's license or state identification card without a digital image shall surrender such license or card to the department within thirty days after resuming residency in this state. After the thirty-day period, such license or card shall be considered invalid and no license or card shall be issued until the individual has made application for replacement or renewal.

(6) Application for a replacement operator's license or state identification card shall include the information required under sections 60-484 and 60-484.04.

(7) An applicant may obtain a replacement operator's license or state identification card pursuant to subsection (1) or (3) of this section by electronic means in a manner prescribed by the department. No replacement license or card shall be issued unless the applicant has a digital image and digital signature preserved in the digital system.

(8) Each replacement operator's license or state identification card shall be issued with the same expiration date as the license or card for which the replacement is issued. The replacement license or card shall also state the new issuance date. Upon issuance of any replacement license or card, the license or card for which the replacement is issued shall be void.

(9) A replacement operator's license or state identification card issued under this section shall be delivered to the applicant as provided in section 60-4,113 after the county treasurer or department collects the fee and surcharge prescribed in section 60-4,115 and issues the applicant a receipt with driving privileges which is valid for up to thirty days.

Source: Laws 1929, c. 148, § 9, p. 517; C.S.1929, § 60-409; Laws 1937, c. 141, § 19, p. 517; Laws 1941, c. 176, § 2, p. 689; C.S.Supp.,1941, § 60-409; R.S.1943, § 60-415; Laws 1945, c. 141, § 8, p. 453; Laws 1947, c. 207, § 4, p. 678; Laws 1961, c. 315, § 10, p. 1005; Laws 1961, c. 316, § 10, p. 1015; Laws 1967, c. 234, § 7, p. 626; Laws 1969, c. 506, § 2, p. 2083; Laws 1971, LB 134, § 1; Laws 1971, LB 371, § 1; Laws 1972, LB 1296, § 2; Laws 1977, LB 90, § 6; Laws 1978, LB 606, § 1; Laws 1981, LB 46, § 3; Laws 1984, LB 811, § 6; Laws 1986, LB 575, § 2; Laws 1989, LB 284, § 9; R.S.1943, (1988), § 60-415; Laws 1989, LB 285, § 70; Laws 1993, LB 126, § 1; Laws 1993, LB 201, § 2; Laws 1994, LB 76, § 572; Laws 1998, LB 309, § 7; Laws 2001, LB 574, § 14; Laws 2005, LB 1, § 7; Laws 2011, LB215, § 15; Laws 2012, LB751, § 26; Laws 2014, LB777, § 7.

60-4,120.01 Provisional operator's permit; application; issuance; operation restrictions.

(1)(a) Any person who is at least sixteen years of age but less than eighteen years of age may be issued a provisional operator's permit by the Department

of Motor Vehicles. The provisional operator's permit shall expire on the applicant's eighteenth birthday.

(b) No provisional operator's permit shall be issued to any person unless such person:

(i) Has possessed a valid LPD-learner's permit, LPE-learner's permit, or SCP-school permit for at least a six-month period beginning on the date of issuance of such person's LPD-learner's permit, LPE-learner's permit, or SCP-school permit; and

(ii) Has not accumulated three or more points pursuant to section 60-4,182 during the six-month period immediately preceding the date of the application for the provisional operator's permit.

(c) The requirements for the provisional operator's permit prescribed in subdivisions (2)(a) and (b) of this section may be completed prior to the applicant's sixteenth birthday. A person may apply for a provisional operator's permit and take the driving test and the written examination, if required, at any time within sixty days prior to his or her sixteenth birthday upon proof of age in the manner provided in section 60-484.

(2) In order to obtain a provisional operator's permit, the applicant shall present (a)(i) proof of successful completion of a department-approved driver safety course which includes behind-the-wheel driving specifically emphasizing (A) the effects of the consumption of alcohol on a person operating a motor vehicle, (B) occupant protection systems, (C) risk assessment, and (D) railroad crossing safety and (ii) proof of successful completion of a written examination and driving test administered by a driver safety course instructor or (b) a certificate in a form prescribed by the department, signed by a parent, guardian, or licensed driver at least twenty-one years of age, verifying that the applicant has completed fifty hours of lawful motor vehicle operation including at least ten hours of motor vehicle operation between sunset and sunrise, under conditions that reflect department-approved driver safety course curriculum, with a parent, guardian, or adult at least twenty-one years of age, who has a current Nebraska operator's license or who is licensed in another state. If the applicant presents such a certificate, the applicant shall be required to successfully complete a driving test administered by the department. The written examination shall be waived if the applicant has been issued a Nebraska LPD-learner's permit or has been issued a Nebraska LPE-learner's permit and such permit is valid or has been expired for no more than one year. However, the department shall not waive the written examination if the provisional operator's permit being applied for contains a class or endorsement which is different from the class or endorsement of the LPD-learner's or LPE-learner's permit. Upon presentation by the applicant of a form prescribed by the department showing successful completion of the driver safety course, the written examination and driving test may be waived. Upon presentation of the certificate, the written examination but not the driving test may be waived. Licensing staff shall waive the written examination and the driving test if the applicant has been issued a school permit and such permit is valid or has expired no more than one year prior to application. The written examination shall not be waived if the provisional operator's permit being applied for contains a class or endorsement which is different from the class or endorsement of the school permit.

(3)(a) The holder of a provisional operator's permit shall only operate a motor vehicle on the highways of this state during the period beginning at 6 a.m. and ending at 12 midnight except when he or she is en route to or from his or her residence to his or her place of employment or a school activity. The holder of a provisional operator's permit may operate a motor vehicle on the highways of this state at any hour of the day or night if accompanied by a parent, guardian, or adult at least twenty-one years of age, who has a current Nebraska operator's license or who is licensed in another state.

(b) The holder of a provisional operator's permit shall only operate a motor vehicle on the highways of this state during the first six months of holding the permit with no more than one passenger who is not an immediate family member and who is under nineteen years of age.

(c) The holder of a provisional operator's permit shall not use any type of interactive wireless communication device while operating a motor vehicle on the highways of this state.

(d) Enforcement of subdivisions (a), (b), and (c) of this subsection shall be accomplished only as a secondary action when the holder of the provisional operator's permit has been cited or charged with a violation of some other law.

(4) Department personnel or the county treasurer shall collect the fee and surcharge prescribed in section 60-4,115 for the issuance of each provisional operator's permit.

Source: Laws 1998, LB 320, § 7; Laws 1999, LB 704, § 20; Laws 2001, LB 387, § 6; Laws 2001, LB 574, § 15; Laws 2005, LB 1, § 8; Laws 2005, LB 675, § 2; Laws 2007, LB415, § 4; Laws 2008, LB911, § 15; Laws 2016, LB311, § 13.

60-4,120.02 Provisional operator's permit; violations; revocation; not eligible for ignition interlock permit.

(1) Any person convicted of violating a provisional operator's permit issued pursuant to section 60-4,120.01 by operating a motor vehicle in violation of subsection (3) of such section shall be guilty of an infraction and may have his or her provisional operator's permit revoked by the court pursuant to section 60-496 for a time period specified by the court. Before such person applies for another provisional operator's permit, he or she shall pay a reinstatement fee as provided in section 60-499.01 after the period of revocation has expired.

(2) A copy of an abstract of the court's conviction, including an adjudication, shall be transmitted to the director pursuant to sections 60-497.01 to 60-497.04.

(3) Any person who holds a provisional operator's permit and has violated subdivision (3)(b) or (c) of section 28-306, subdivision (3)(b) or (c) of section 28-394, or section 28-1254, 60-6,196, 60-6,197, 60-6,197.06, or 60-6,198 shall not be eligible for an ignition interlock permit.

(4) For purposes of this section, conviction includes any adjudication of a juvenile.

Source: Laws 1998, LB 320, § 8; Laws 1999, LB 704, § 21; Laws 2001, LB 38, § 33; Laws 2012, LB751, § 27; Laws 2019, LB269, § 4.

60-4,121 Military service; renewal of operator's license; period valid.

(1) The operator's license of any person serving on active duty, other than members of the National Guard or reserves activated for training purposes

only, outside the State of Nebraska as a member of the United States Armed Forces, or the spouse of any such person or a dependent of such member of the armed forces, shall be valid during such person's period of active duty and for not more than sixty days immediately following such person's date of separation from service.

(2) Each individual who is applying for renewal of his or her operator's license shall submit his or her previous license to the department personnel or, when the previous license is unavailable, furnish proof of identification in accordance with section 60-484.

Source: Laws 1929, c. 148, § 8, p. 516; C.S.1929, § 60-408; Laws 1937, c. 141, § 18, p. 515; C.S.Supp.,1941, § 60-408; R.S.1943, § 60-411; Laws 1945, c. 141, § 7, p. 453; Laws 1947, c. 207, § 4, p. 678; Laws 1961, c. 315, § 8, p. 1004; Laws 1961, c. 316, § 8, p. 1014; Laws 1967, c. 389, § 2, p. 1213; Laws 1967, c. 234, § 5, p. 625; Laws 1971, LB 244, § 1; Laws 1982, LB 877, § 2; Laws 1984, LB 811, § 5; Laws 1985, LB 240, § 1; Laws 1989, LB 284, § 7; R.S.1943, (1988), § 60-411; Laws 1989, LB 285, § 71; Laws 1996, LB 974, § 2; Laws 1997, LB 22, § 1; Laws 1999, LB 704, § 22; Laws 2011, LB215, § 16.

60-4,122 Operator's license; state identification card; renewal procedure; law examination; exceptions; department; powers.

(1) Except as otherwise provided in subsections (2), (3), and (8) of this section, no original or renewal operator's license shall be issued to any person until such person has demonstrated his or her ability to operate a motor vehicle safely as provided in section 60-4,114.

(2) Except as otherwise provided in this section and section 60-4,127, any person who renews his or her Class O or Class M license shall demonstrate his or her ability to drive and maneuver a motor vehicle safely as provided in subdivision (3)(b) of section 60-4,114 only at the discretion of department personnel, except that a person required to use bioptic or telescopic lenses shall be required to demonstrate his or her ability to drive and maneuver a motor vehicle safely each time he or she renews his or her license.

(3) Any person who renews his or her Class O or Class M license prior to or within one year after its expiration may not be required to demonstrate his or her knowledge of the motor vehicle laws of this state as provided in subdivision (3)(c) of section 60-4,114 if his or her driving record abstract maintained in the computerized records of the department shows that such person's license is not impounded, suspended, revoked, or canceled.

(4) Except for operators' licenses issued to persons required to use bioptic or telescopic lenses, any person who renews his or her operator's license which has been valid for fifteen months or less shall not be required to take any examination required under section 60-4,114.

(5) Any person who renews a state identification card shall appear before department personnel and present his or her current state identification card or shall follow the procedure for electronic renewal in subsection (9) of this section. Proof of identification shall be required as prescribed in sections 60-484 and 60-4,181 and the information and documentation required by section 60-484.04.

(6) A nonresident who applies for an initial operator's license in this state and who holds a valid operator's license from another state which is his or her state of residence may not be required to demonstrate his or her knowledge of the motor vehicle laws of this state if he or she surrenders to the department his or her valid out-of-state operator's license.

(7) An applicant for an original operator's license may not be required to demonstrate his or her knowledge of the motor vehicle laws of this state if he or she has been issued a Nebraska LPD-learner's permit that is valid or has been expired for no more than one year. The written examination shall not be waived if the original operator's license being applied for contains a class or endorsement which is different from the class or endorsement of the Nebraska LPD-learner's permit.

(8)(a) A qualified licensee as determined by the department who is twenty-one years of age or older, whose license expires prior to his or her seventy-second birthday, and who has a digital image and digital signature preserved in the digital system may renew his or her Class O or Class M license twice by electronic means in a manner prescribed by the department using the preserved digital image and digital signature without taking any examination required under section 60-4,114 if such renewal is prior to or within one year after the expiration of the license, if his or her driving record abstract maintained in the records of the department shows that such person's license is not impounded, suspended, revoked, or canceled, and if his or her driving record indicates that he or she is otherwise eligible. Every licensee, including a licensee who is out of the state at the time of renewal, must apply for renewal in person at least once every sixteen years and have a new digital image and digital signature captured.

(b) In order to allow for an orderly progression through the various types of operators' licenses issued to persons under twenty-one years of age, a qualified holder of an operator's license who is under twenty-one years of age and who has a digital image and digital signature preserved in the digital system may apply for an operator's license by electronic means in a manner prescribed by the department using the preserved digital image and digital signature if the applicant has passed any required examinations prior to application, if his or her driving record abstract maintained in the records of the department shows that such person's operator's license is not impounded, suspended, revoked, or canceled, and if his or her driving record indicates that he or she is otherwise eligible.

(9) Any person who is twenty-one years of age or older and who has been issued a state identification card with a digital image and digital signature may electronically renew his or her state identification card by electronic means in a manner prescribed by the department using the preserved digital image and digital signature. Every person renewing a state identification card under this subsection, including a person who is out of the state at the time of renewal, must apply for renewal in person at least once every sixteen years and have a new digital image and digital signature captured.

(10) In addition to services available at driver license offices, the department may develop requirements for using electronic means for online issuance of operators' licenses and state identification cards to qualified holders as determined by the department.

Source: Laws 1967, c. 234, § 6, p. 625; Laws 1984, LB 694, § 1; Laws 1989, LB 284, § 8; R.S.1943, (1988), § 60-411.01; Laws 1989, LB

285, § 72; Laws 1990, LB 369, § 16; Laws 1990, LB 742, § 4; Laws 1990, LB 980, § 10; Laws 1993, LB 370, § 87; Laws 1998, LB 320, § 9; Laws 1999, LB 704, § 23; Laws 2001, LB 387, § 7; Laws 2001, LB 574, § 16; Laws 2008, LB911, § 16; Laws 2011, LB158, § 4; Laws 2011, LB215, § 17; Laws 2014, LB777, § 8; Laws 2018, LB909, § 79; Laws 2019, LB270, § 35.

60-4,123 LPD-learner's permit; application; issuance; operation restrictions.

(1) Any person who is at least fifteen years of age may apply for an LPD-learner's permit from the department. In order to obtain an LPD-learner's permit, the applicant shall successfully complete a written examination. A person may take the written examination beginning sixty days prior to his or her fifteenth birthday but shall not be issued a permit until he or she is fifteen years of age. The written examination may be waived for any person who has been issued an LPE-learner's permit, LPD-learner's permit, or SCP-school permit that has been expired for no more than one year.

(2) Upon successful completion of the written examination and the payment of a fee and surcharge as prescribed in section 60-4,115, the applicant shall be issued an LPD-learner's permit as provided in section 60-4,113. The permit shall be valid for twelve months.

(3)(a) The holder of an LPD-learner's permit shall only operate a motor vehicle on the highways of this state if he or she is accompanied at all times by a licensed operator who is at least twenty-one years of age and who has been licensed by this state or another state and if (i) for all motor vehicles other than autocycles, motorcycles, or mopeds, he or she is actually occupying the seat beside the licensed operator, (ii) in the case of an autocycle, he or she is actually occupying the seat beside or in front of the licensed operator, or (iii) in the case of a motorcycle, other than an autocycle, or a moped, he or she is within visual contact of and under the supervision of, in the case of a motorcycle, a licensed motorcycle operator or, in the case of a moped, a licensed motor vehicle operator.

(b) The holder of an LPD-learner's permit shall not use any type of interactive wireless communication device while operating a motor vehicle on the highways of this state. Enforcement of this subdivision shall be accomplished only as a secondary action when the holder of the LPD-learner's permit has been cited or charged with a violation of some other law.

(4) Department personnel or the county treasurer shall collect the fee and surcharge prescribed in section 60-4,115 for the issuance of each LPD-learner's permit.

Source: Laws 1989, LB 285, § 73; Laws 1991, LB 44, § 3; Laws 1998, LB 320, § 10; Laws 1999, LB 704, § 24; Laws 2001, LB 574, § 17; Laws 2005, LB 675, § 3; Laws 2007, LB415, § 5; Laws 2008, LB911, § 17; Laws 2015, LB231, § 23; Laws 2016, LB311, § 14; Laws 2018, LB909, § 80.

60-4,123.01 Fourteen-year-old person; operation permitted.

For purposes of driver training, any person who has attained or will attain the age of fourteen years on or before October 15 of the current year may operate a motor vehicle, other than an autocycle, upon the highways of this state if he or she is accompanied or, in the case of a motorcycle, other than an

autocycle, or a moped, supervised at all times by a licensed operator who is a driver training instructor certified by the Commissioner of Education.

Source: Laws 1991, LB 44, § 4; Laws 2015, LB231, § 24; Laws 2018, LB909, § 81.

60-4,124 School permit; LPE-learner's permit; issuance; operation restrictions; violations; penalty; not eligible for ignition interlock permit.

(1) A person who is younger than sixteen years and three months of age but is older than fourteen years and two months of age may be issued a school permit if such person either resides outside a city of the metropolitan, primary, or first class or attends a school which is outside a city of the metropolitan, primary, or first class and if such person has held an LPE-learner's permit for two months. A school permit shall not be issued until such person has demonstrated that he or she is capable of successfully operating a motor vehicle, moped, or motorcycle and has in his or her possession an issuance certificate authorizing the county treasurer to issue a school permit. In order to obtain an issuance certificate, the applicant shall present (a) proof of successful completion of a department-approved driver safety course which includes behind-the-wheel driving specifically emphasizing (i) the effects of the consumption of alcohol on a person operating a motor vehicle, (ii) occupant protection systems, (iii) risk assessment, and (iv) railroad crossing safety and (b)(i) proof of successful completion of a written examination and driving test administered by a driver safety course instructor or (ii) a certificate in a form prescribed by the department, signed by a parent, guardian, or licensed driver at least twenty-one years of age, verifying that the applicant has completed fifty hours of lawful motor vehicle operation, under conditions that reflect department-approved driver safety course curriculum, with a parent, guardian, or adult at least twenty-one years of age, who has a current Nebraska operator's license or who is licensed in another state. The department may waive the written examination if the applicant has been issued an LPE-learner's permit or LPD-learner's permit and if such permit is valid or has expired no more than one year prior to application. The written examination shall not be waived if the permit being applied for contains a class or endorsement which is different from the class or endorsement of the LPE-learner's permit.

(2) A person holding a school permit may operate a motor vehicle, moped, or motorcycle or an autocycle:

(a) To and from where he or she attends school, or property used by the school he or she attends for purposes of school events or functions, over the most direct and accessible route by the nearest highway from his or her place of residence to transport such person or any family member who resides with such person to attend duly scheduled courses of instruction and extracurricular or school-related activities at the school he or she attends or on property used by the school he or she attends; or

(b) Under the personal supervision of a licensed operator. Such licensed operator shall be at least twenty-one years of age and licensed by this state or another state and shall (i) for all motor vehicles other than autocycles, motorcycles, or mopeds, actually occupy the seat beside the permitholder, (ii) in the case of an autocycle, actually occupy the seat beside or behind the permitholder, or (iii) in the case of a motorcycle, other than an autocycle, or a moped, if the permitholder is within visual contact of and under the supervision of, in the

case of a motorcycle, a licensed motorcycle operator or, in the case of a moped, a licensed motor vehicle operator.

(3) The holder of a school permit shall not use any type of interactive wireless communication device while operating a motor vehicle on the highways of this state. Enforcement of this subsection shall be accomplished only as a secondary action when the holder of the school permit has been cited or charged with a violation of some other law.

(4) A person who is younger than sixteen years of age but is over fourteen years of age may be issued an LPE-learner's permit, which permit shall be valid for a period of three months. An LPE-learner's permit shall not be issued until such person successfully completes a written examination prescribed by the department and demonstrates that he or she has sufficient powers of eyesight to safely operate a motor vehicle, moped, or motorcycle or an autocycle.

(5)(a) While holding the LPE-learner's permit, the person may operate a motor vehicle on the highways of this state if (i) for all motor vehicles other than autocycles, motorcycles, or mopeds, he or she has seated next to him or her a person who is a licensed operator, (ii) in the case of an autocycle, he or she has seated next to or behind him or her a person who is a licensed operator, or (iii) in the case of a motorcycle, other than an autocycle, or a moped, he or she is within visual contact of and is under the supervision of a person who, in the case of a motorcycle, is a licensed motorcycle operator or, in the case of a moped, is a licensed motor vehicle operator. Such licensed motor vehicle or motorcycle operator shall be at least twenty-one years of age and licensed by this state or another state.

(b) The holder of an LPE-learner's permit shall not use any type of interactive wireless communication device while operating a motor vehicle on the highways of this state. Enforcement of this subdivision shall be accomplished only as a secondary action when the holder of the LPE-learner's permit has been cited or charged with a violation of some other law.

(6) Department personnel or the county treasurer shall collect the fee and surcharge prescribed in section 60-4,115 from each successful applicant for a school or LPE-learner's permit. All school permits shall be subject to impoundment or revocation under the terms of section 60-496. Any person who violates the terms of a school permit shall be guilty of an infraction and shall not be eligible for another school, farm, LPD-learner's, or LPE-learner's permit until he or she has attained the age of sixteen years.

(7) Any person who holds a permit issued under this section and has violated subdivision (3)(b) or (c) of section 28-306, subdivision (3)(b) or (c) of section 28-394, or section 28-1254, 60-6,196, 60-6,197, 60-6,197.06, or 60-6,198 shall not be eligible for an ignition interlock permit.

Source: Laws 1989, LB 285, § 74; Laws 1998, LB 320, § 11; Laws 2001, LB 387, § 8; Laws 2001, LB 574, § 18; Laws 2005, LB 675, § 4; Laws 2006, LB 853, § 9; Laws 2007, LB415, § 6; Laws 2008, LB911, § 18; Laws 2012, LB751, § 28; Laws 2015, LB231, § 25; Laws 2016, LB311, § 15; Laws 2016, LB814, § 1; Laws 2018, LB909, § 82; Laws 2019, LB269, § 5.

60-4,125 LPD-learner's permit; LPE-learner's permit; violations; impoundment or revocation of permit; effect on eligibility for operator's license; not eligible for ignition interlock permit.

(1) For any minor convicted or adjudicated of violating the terms of an LPD-learner's permit issued pursuant to section 60-4,123 or an LPE-learner's permit issued pursuant to section 60-4,124, the court shall, in addition to any other penalty or disposition, order the impoundment or revocation of such learner's permit and order that such minor shall not be eligible for another operator's license or school, farm, LPD-learner's, or LPE-learner's permit until he or she has attained the age of sixteen years.

(2) Any person who holds an LPD-learner's permit issued pursuant to section 60-4,123 and has violated subdivision (3)(b) or (c) of section 28-306, subdivision (3)(b) or (c) of section 28-394, or section 28-1254, 60-6,196, 60-6,197, 60-6,197.06, or 60-6,198 shall not be eligible for an ignition interlock permit.

(3) A copy of the court's abstract or adjudication shall be transmitted to the director who shall place in an impound status or revoke the LPD-learner's or LPE-learner's permit of such minor in accordance with the order of the court and not again issue another operator's license or school, farm, LPD-learner's, or LPE-learner's permit to such minor until such minor has attained the age of sixteen years.

Source: Laws 1963, c. 359, § 7, p. 1153; R.S.1943, (1988), § 60-409.05; Laws 1989, LB 285, § 75; Laws 1991, LB 420, § 13; Laws 1998, LB 320, § 12; Laws 2001, LB 38, § 34; Laws 2004, LB 353, § 1; Laws 2012, LB751, § 29; Laws 2019, LB269, § 6.

60-4,126 Farm permit; issuance; violations; penalty; not eligible for ignition interlock permit.

(1) Any person who is younger than sixteen years of age but is over thirteen years of age and resides upon a farm in this state or is fourteen years of age or older and is employed for compensation upon a farm in this state may obtain a farm permit authorizing the operation of farm tractors, minitrucks, and other motorized implements of farm husbandry upon the highways of this state if the applicant for such farm permit furnishes satisfactory proof of age and satisfactorily demonstrates that he or she has knowledge of the operation of such equipment and of the rules of the road and laws respecting the operation of motor vehicles upon the highways of this state. Any person under sixteen years of age but not less than thirteen years of age may obtain a temporary permit to operate such equipment for a six-month period after presentation to the department of a request for the temporary permit signed by the person's parent or guardian and payment of the fee and surcharge prescribed in section 60-4,115. After the expiration of the six-month period, it shall be unlawful for such person to operate such equipment upon the highways of this state unless he or she has been issued a farm permit under this section. The fee for an original, renewal, or replacement farm permit shall be the fee and surcharge prescribed in section 60-4,115. All farm permits shall be subject to revocation under the terms of section 60-496. Any person who violates the terms of a farm permit shall be guilty of an infraction and shall not be eligible for another school, farm, LPD-learner's, or LPE-learner's permit until he or she has attained the age of sixteen years.

(2) Any person who holds a permit issued under this section and has violated subdivision (3)(b) or (c) of section 28-306, subdivision (3)(b) or (c) of section

28-394, or section 28-1254, 60-6,196, 60-6,197, 60-6,197.06, or 60-6,198 shall not be eligible for an ignition interlock permit.

Source: Laws 1989, LB 285, § 76; Laws 1993, LB 491, § 13; Laws 1998, LB 320, § 13; Laws 2001, LB 574, § 19; Laws 2008, LB911, § 19; Laws 2010, LB650, § 31; Laws 2012, LB751, § 30; Laws 2014, LB777, § 9; Laws 2019, LB269, § 7.

60-4,127 Motorcycle operation; Class M license required; issuance; examination.

(1) No person shall operate a motorcycle on the alleys or highways of the State of Nebraska until such person has obtained a Class M license. No such license shall be issued until the applicant has (a) met the vision and physical requirements established under section 60-4,118 for operation of a motor vehicle and (b) successfully completed an examination, including the actual operation of a motorcycle, prescribed by the director, except that the required examination may be waived, including the actual operation of a motorcycle, if the applicant presents proof of successful completion of a motorcycle safety course under the Motorcycle Safety Education Act within the immediately preceding twenty-four months.

(2) Department personnel shall conduct the examination of the applicants and deliver to each successful applicant an issuance certificate or a receipt. If department personnel issue a receipt, department personnel shall collect the fee and surcharge as provided in section 60-4,115 and issue a receipt with driving privileges which is valid for up to thirty days. In counties where the county treasurer collects fees and issues receipts, the certificate may be presented to the county treasurer within ninety days after issuance. Upon presentation of an issuance certificate, the county treasurer shall collect the fee and surcharge for a Class M license as prescribed by section 60-4,115 and issue a receipt with driving privileges which is valid for up to thirty days. If department personnel refuse to issue an issuance certificate or receipt, the department personnel shall state such cause in writing and deliver such written cause to the applicant. The license shall be delivered as provided in section 60-4,113. If the applicant is the holder of an operator's license, the county treasurer or department personnel shall have endorsed on the license the authorization to operate a motorcycle. Fees for Class M licenses shall be as provided by section 60-4,115.

(3) For purposes of this section, motorcycle does not include an autocycle.

Source: Laws 1967, c. 234, § 8, p. 626; Laws 1971, LB 962, § 1; Laws 1974, LB 328, § 2; Laws 1974, LB 821, § 13; Laws 1977, LB 90, § 2; Laws 1981, LB 22, § 15; Laws 1986, LB 1004, § 1; R.S. 1943, (1988), § 60-403.01; Laws 1989, LB 285, § 77; Laws 1990, LB 369, § 17; Laws 1993, LB 201, § 3; Laws 1993, LB 370, § 88; Laws 1999, LB 704, § 25; Laws 2001, LB 574, § 20; Laws 2008, LB911, § 20; Laws 2011, LB170, § 3; Laws 2011, LB215, § 18; Laws 2016, LB311, § 16; Laws 2018, LB909, § 83.

Cross References

Motorcycle Safety Education Act, see section 60-2120.

60-4,128 Motorcycle operation without Class M license; penalty.

(1) Any person violating the provisions of section 60-4,127 shall be guilty of a traffic infraction and shall upon conviction thereof be fined not less than ten dollars nor more than one hundred dollars. In addition, a person operating a motorcycle without a Class M license may be required to complete the basic motorcycle safety course as provided in the Motorcycle Safety Education Act.

(2) For purposes of this section, motorcycle does not include an autocycle.

Source: Laws 1971, LB 1041, § 1; Laws 1975, LB 328, § 4; R.S.1943, (1988), § 60-403.04; Laws 1989, LB 285, § 78; Laws 1990, LB 827, § 1; Laws 2018, LB909, § 84.

Cross References

Motorcycle Safety Education Act, see section 60-2120.

60-4,129 Employment driving permit; issuance; conditions; violations; penalty; revocation.

(1) Any person whose operator's license is revoked under section 60-4,183 or 60-4,186 or suspended under section 43-3318 shall be eligible to operate any motor vehicle, except a commercial motor vehicle, in this state under an employment driving permit. An employment driving permit issued due to a revocation under section 60-4,183 or 60-4,186 is valid for the period of revocation. An employment driving permit issued due to a suspension of an operator's license under section 43-3318 is valid for no more than three months and cannot be renewed.

(2) Any person whose operator's license has been suspended or revoked pursuant to any law of this state, except section 43-3318, 60-4,183, or 60-4,186, shall not be eligible to receive an employment driving permit during the period of such suspension or revocation.

(3) A person who is issued an employment driving permit may operate any motor vehicle, except a commercial motor vehicle, (a) from his or her residence to his or her place of employment and return and (b) during the normal course of employment if the use of a motor vehicle is necessary in the course of such employment. Such permit shall indicate for which purposes the permit may be used. All permits issued pursuant to this section shall indicate that the permit is not valid for the operation of any commercial motor vehicle.

(4) The operation of a motor vehicle by the holder of an employment driving permit, except as provided in this section, shall be unlawful. Any person who violates this section shall be guilty of a Class IV misdemeanor.

(5) The director shall revoke a person's employment driving permit upon receipt of an abstract of conviction, other than a conviction which is based upon actions which resulted in the application for such employment driving permit, indicating that the person committed an offense for which points are assessed pursuant to section 60-4,182. If the permit is revoked in this manner, the person shall not be eligible to receive an employment driving permit for the remainder of the period of suspension or revocation of his or her operator's license.

Source: Laws 1975, LB 259, § 5; Laws 1977, LB 41, § 15; Laws 1982, LB 568, § 8; Laws 1986, LB 779, § 1; R.S.1943, (1988), § 39-669.34; Laws 1989, LB 285, § 79; Laws 1992, LB 291, § 16; Laws 1993,

LB 370, § 89; Laws 1997, LB 752, § 140; Laws 2003, LB 209, § 10; Laws 2010, LB805, § 6; Laws 2011, LB667, § 30; Laws 2011, LB675, § 3.

60-4,130.03 Operator less than twenty-one years of age; driver improvement course; suspension; reinstatement.

(1) Any person less than twenty-one years of age who holds an operator's license or a provisional operator's permit and who has accumulated, within any twelve-month period, a total of six or more points on his or her driving record pursuant to section 60-4,182 shall be notified by the Department of Motor Vehicles of that fact and ordered to attend and successfully complete a driver improvement course consisting of at least eight hours of department-approved instruction. Notice shall be sent by regular United States mail to the last-known address as shown in the records of the department. If such person fails to complete the driver improvement course within three months after the date of notification, he or she shall have his or her operator's license suspended by the department.

(2) The director shall issue an order summarily suspending an operator's license until the licensee turns twenty-one years of age. Such order shall be sent by regular United States mail to the last-known address as shown in the records of the department. Such person shall not have his or her operator's license reinstated until he or she (a) has successfully completed the driver improvement course or has attained the age of twenty-one years and (b) has complied with section 60-4,100.01.

Source: Laws 1998, LB 320, § 14; Laws 2001, LB 38, § 35; Laws 2012, LB751, § 31.

60-4,130.04 Commercial driver safety course instructors; requirements; driver safety course; requirements.

Commercial driver safety course instructors shall possess competence as outlined in rules and regulations adopted and promulgated by the Department of Motor Vehicles. Instructors who teach the department-approved driver safety course in a public school or institution and possess competence as outlined in a driver's education endorsement shall be eligible to sign a form prescribed by the department or electronically submit test results to the department showing successful completion of the driver safety course. Each public school or institution offering a department-approved driver safety course shall be required to obtain a certificate and pay the fee pursuant to section 60-4,130.05. The Nebraska Safety Center shall offer a department-approved driver safety course at least once each year in any county where no approved course is offered.

Source: Laws 1998, LB 320, § 15; Laws 2018, LB909, § 85.

(h) PROVISIONS APPLICABLE TO OPERATION
OF COMMERCIAL MOTOR VEHICLES

60-4,131 Sections; applicability; terms, defined.

(1) Sections 60-462.01 and 60-4,132 to 60-4,172 shall apply to the operation of any commercial motor vehicle.

(2) For purposes of such sections:

(a) Disqualification means:

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

(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. part 386, that a person is no longer qualified to operate a commercial motor vehicle under 49 C.F.R. part 391; or

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

(b) Downgrade means the state:

(i) Allows the driver of a commercial motor vehicle to change his or her self-certification to interstate, but operating exclusively in transportation or operation excepted from 49 C.F.R. part 391, as provided in 49 C.F.R. 390.3(f), 391.2, 391.68, or 398.3;

(ii) Allows the driver of a commercial motor vehicle to change his or her self-certification to intrastate only, if the driver qualifies under a state's physical qualification requirements for intrastate only;

(iii) Allows the driver of a commercial motor vehicle to change his or her certification to intrastate, but operating exclusively in transportation or operations excepted from all or part of a state driver qualification requirement; or

(iv) Removes the commercial driver's license privilege from the operator's license;

(c) 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;

(d) 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;

(e) Endorsement means an authorization to an individual's CLP-commercial learner's permit or commercial driver's license required to permit the individual to operate certain types of commercial motor vehicles;

(f) Foreign means outside the fifty United States and the District of Columbia;

(g) Imminent hazard means the existence of a condition relating to hazardous material that presents a substantial likelihood that death, serious illness, severe personal injury, or a substantial endangerment to health, property, or the environment may occur before the reasonably foreseeable completion date of a formal proceeding begun to lessen the risk of that death, illness, injury, or endangerment;

(h) Issue and issuance means initial issuance, transfer, renewal, or upgrade of a CLP-commercial learner's permit, commercial driver's license, nondomiciled CLP-commercial learner's permit, or nondomiciled commercial driver's license, as described in 49 C.F.R. 383.73;

(i) Medical examiner means an individual certified by the Federal Motor Carrier Safety Administration and listed on the National Registry of Certified Medical Examiners in accordance with 49 C.F.R. part 390, subpart D;

(j) Medical examiner's certificate means a form meeting the requirements of 49 C.F.R. 391.43 issued by a medical examiner in compliance with such regulation;

(k) Medical variance means the Federal Motor Carrier Safety Administration has provided a driver with either an exemption letter permitting operation of a commercial motor vehicle pursuant to 49 C.F.R. 381, subpart C, or 49 C.F.R. 391.64 or a Skill Performance Evaluation Certificate permitting operation of a commercial motor vehicle pursuant to 49 C.F.R. 391.49;

(l) Nondomiciled CLP-commercial learner's permit or nondomiciled commercial driver's license means a CLP-commercial learner's permit or commercial driver's license, respectively, issued by this state or other jurisdiction under either of the following two conditions:

(i) To an individual domiciled in a foreign country meeting the requirements of 49 C.F.R. 383.23(b)(1); or

(ii) To an individual domiciled in another state meeting the requirements of 49 C.F.R. 383.23(b)(2);

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

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

(o) 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;

(p) Tank vehicle means any commercial motor vehicle that is designed to transport any liquid or gaseous materials within a tank or tanks that have an individual rated capacity of more than one hundred nineteen gallons and an aggregate rated capacity of one thousand gallons or more and that are either permanently or temporarily attached to the vehicle or the chassis. A commercial motor vehicle transporting an empty storage container tank, not designed for transportation, with a rated capacity of one thousand gallons or more that is temporarily attached to a flatbed trailer is not considered a tank vehicle;

(q) Third-party skills test examiner means a person employed by a third-party tester who is authorized by this state to administer the commercial driver's license skills tests specified in 49 C.F.R. part 383, subparts G and H;

(r) Third-party tester means a person, including, but not limited to, another state, a motor carrier, a private driver training facility or other private institution, or a department, agency, or instrumentality of a local government, authorized by this state to employ skills test examiners to administer the commercial driver's license skills tests specified in 49 C.F.R. part 383, subparts G and H;

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

(t) Vehicle group means a class or type of vehicle with certain operating characteristics.

Source: Laws 1989, LB 285, § 81; Laws 1990, LB 980, § 11; Laws 1993, LB 420, § 5; Laws 1996, LB 323, § 2; Laws 2003, LB 562, § 7; Laws 2005, LB 76, § 7; Laws 2011, LB178, § 5; Laws 2014, LB983, § 20; Laws 2016, LB666, § 4; Laws 2016, LB977, § 14; Laws 2018, LB629, § 2; Laws 2018, LB909, § 86.

60-4,131.01 Individuals operating commercial motor vehicles for military purposes; applicability of sections.

Sections 60-462.01 and 60-4,132 to 60-4,172 shall not apply to individuals who operate commercial motor vehicles for military purposes, including and limited to:

- (1) Active duty military personnel;
- (2) Members of the military reserves, other than military technicians;
- (3) Active duty United States Coast Guard personnel; and
- (4) Members of the National Guard on active duty, including:
 - (a) Personnel on full-time National Guard duty;
 - (b) Personnel on part-time National Guard training; and
 - (c) National Guard military technicians required to wear military uniforms.

Such individuals must have a valid military driver's license unless such individual is operating the vehicle under written orders from a commanding officer in an emergency declared by the federal government or by the State of Nebraska.

Source: Laws 2006, LB 853, § 13; Laws 2011, LB178, § 6; Laws 2014, LB983, § 21; Laws 2018, LB629, § 3; Laws 2018, LB909, § 87.

60-4,132 Purposes of sections.

The purposes of sections 60-462.01, 60-4,133, and 60-4,137 to 60-4,172 are to implement the requirements mandated by the federal Commercial Motor Vehicle Safety Act of 1986, 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 as such acts and regulations existed on January 1, 2020, 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.

Source: Laws 1989, LB 285, § 82; Laws 1993, LB 7, § 2; Laws 1993, LB 420, § 6; Laws 2002, LB 499, § 1; Laws 2003, LB 562, § 8; Laws 2005, LB 76, § 8; Laws 2011, LB178, § 7; Laws 2014, LB983, § 22; Laws 2018, LB629, § 4; Laws 2018, LB909, § 88; Laws 2019, LB79, § 14; Laws 2020, LB944, § 59.

Operative date November 14, 2020.

60-4,133 Person possessing commercial driver's license authorizing operation of Class A combination vehicle; rights.

Any person possessing a valid commercial driver's license authorizing the operation of a Class A combination vehicle may lawfully operate a Class A, B, or C commercial motor vehicle without a hazardous materials endorsement if such person:

- (1) Is acting within the scope of his or her employment as an employee of a custom harvester operation, agrichemical business, farm retail outlet and supplier, or livestock feeder; and
- (2) Is operating a service vehicle that is:

- (a) Transporting diesel fuel in a quantity of one thousand gallons or less; and
- (b) Clearly marked with a “flammable” or “combustible” placard, as appropriate.

Source: Laws 2018, LB629, § 5.

60-4,134 Holder of Class A commercial driver’s license; hazardous materials endorsement not required; conditions.

In conformance with section 7208 of the federal Fixing America’s Surface Transportation Act and 49 C.F.R. 383.3(i), as such section and regulation existed on January 1, 2020, no hazardous materials endorsement authorizing the holder of a Class A commercial driver’s license to operate a commercial motor vehicle transporting diesel fuel shall be required if such driver is (1) operating within the state and acting within the scope of his or her employment as an employee of a custom harvester operation, an agrichemical business, a farm retail outlet and supplier, or a livestock feeder and (2) operating a service vehicle that is (a) transporting diesel in a quantity of one thousand gallons or less and (b) clearly marked with a flammable or combustible placard, as appropriate.

Source: Laws 2018, LB909, § 90; Laws 2019, LB79, § 15; Laws 2020, LB944, § 60.

Operative date November 14, 2020.

60-4,137 Operation of commercial motor vehicle; valid commercial driver’s license or valid CLP-commercial learner’s permit required.

Any resident of this state operating a commercial motor vehicle on the highways of this state shall possess a valid commercial driver’s license or a valid CLP-commercial learner’s permit issued pursuant to the Motor Vehicle Operator’s License Act.

Source: Laws 1989, LB 285, § 87; Laws 1993, LB 7, § 3; Laws 1993, LB 420, § 7; Laws 2001, LB 108, § 1; Laws 2003, LB 562, § 9; Laws 2005, LB 76, § 9; Laws 2011, LB178, § 8; Laws 2014, LB983, § 23.

60-4,138 Commercial drivers’ licenses and restricted commercial drivers’ licenses; classification.

(1) Commercial drivers’ licenses and restricted commercial drivers’ licenses shall be issued by the department in compliance with 49 C.F.R. parts 383 and 391, shall be classified as provided in subsection (2) of this section, and shall bear such endorsements and restrictions as are provided in subsections (3) and (4) of this section.

(2) Commercial motor vehicle classifications for purposes of commercial drivers’ licenses shall be as follows:

(a) Class A Combination Vehicle—Any combination of motor vehicles and towed vehicles with a gross vehicle weight rating of more than twenty-six thousand pounds if the gross vehicle weight rating of the vehicles being towed are in excess of ten thousand pounds;

(b) Class B Heavy Straight Vehicle—Any single commercial motor vehicle with a gross vehicle weight rating of twenty-six thousand one pounds or more

or any such commercial motor vehicle towing a vehicle with a gross vehicle weight rating not exceeding ten thousand pounds; and

(c) Class C Small Vehicle—Any single commercial motor vehicle with a gross vehicle weight rating of less than twenty-six thousand one pounds or any such commercial motor vehicle towing a vehicle with a gross vehicle weight rating not exceeding ten thousand pounds comprising:

(i) Motor vehicles designed to transport sixteen or more passengers, including the driver; and

(ii) Motor vehicles used in the transportation of hazardous materials and required to be placarded pursuant to section 75-364.

(3) The endorsements to a commercial driver's license shall be as follows:

(a) T—Double/triple trailers;

(b) P—Passenger;

(c) N—Tank vehicle;

(d) H—Hazardous materials;

(e) X—Combination tank vehicle and hazardous materials; and

(f) S—School bus.

(4) The restrictions to a commercial driver's license shall be as follows:

(a) E—No manual transmission equipped commercial motor vehicle;

(b) K—Operation of a commercial motor vehicle only in intrastate commerce;

(c) L—Operation of only a commercial motor vehicle which is not equipped with air brakes;

(d) M—Operation of a commercial motor vehicle which is not a Class A passenger vehicle;

(e) N—Operation of a commercial motor vehicle which is not a Class A or Class B passenger vehicle;

(f) O—No tractor-trailer commercial motor vehicle;

(g) V—Operation of a commercial motor vehicle for drivers with medical variance documentation. The documentation shall be required to be carried on the driver's person while operating a commercial motor vehicle; and

(h) Z—No full air brake equipped commercial motor vehicle.

Source: Laws 1989, LB 285, § 88; Laws 1990, LB 980, § 14; Laws 1993, LB 420, § 8; Laws 1996, LB 938, § 1; Laws 2003, LB 562, § 10; Laws 2006, LB 1007, § 6; Laws 2011, LB178, § 9; Laws 2014, LB983, § 24; Laws 2020, LB944, § 61.

Operative date November 14, 2020.

60-4,139 Commercial motor vehicle; nonresident; operating privilege.

Any nonresident may operate a commercial motor vehicle upon the highways of this state if (1) such nonresident has in his or her immediate possession a valid commercial driver's license or a valid commercial learner's permit issued by his or her state of residence or by a jurisdiction with standards that are in accord with 49 C.F.R. parts 383 and 391, (2) the license or permit is not suspended, revoked, or canceled, (3) such nonresident is not disqualified from

operating a commercial motor vehicle, and (4) the commercial motor vehicle is not operated in violation of any downgrade.

Source: Laws 1989, LB 285, § 89; Laws 2001, LB 108, § 2; Laws 2006, LB 853, § 10; Laws 2011, LB178, § 10; Laws 2014, LB983, § 25.

60-4,141 Operation outside classification of license; restrictions; violation; penalty.

(1) Except as provided in subsections (2), (3), and (4) 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)(a) Any person holding a CLP-commercial 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 a CLP-commercial 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 licensing staff who is designated by the director under section 60-4,149 or an examiner 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 a CLP-commercial learner's permit shall not operate a commercial motor vehicle transporting hazardous materials. A holder of a commercial learner's permit may operate a Class A combination vehicle, Class B heavy straight vehicle, or Class C small vehicle, as appropriate.

(b) A CLP-commercial learner's permit shall only be allowed to bear any of the following endorsements: (i) P—Passenger; (ii) S—School bus; and (iii) N—Tank vehicle.

(c) A CLP-commercial learner's permit shall only be allowed to bear any of the following restrictions: (i) K—Operation of a commercial motor vehicle only in intrastate commerce; (ii) L—Operation of only a commercial motor vehicle which is not equipped with air brakes; (iii) V—Operation of a commercial motor vehicle for drivers with medical variance documentation; (iv) P—No passengers in commercial motor vehicle bus; (v) X—No cargo in commercial motor vehicle tank vehicle; (vi) M—Operation of a commercial motor vehicle that is not a Class A passenger vehicle; and (vii) N—Operation of a commercial motor vehicle that is not a Class A or Class B passenger vehicle.

(3) Except for nonresident individuals who are enrolled and taking training in a driver training school in this state, any holder of a nonresident commercial learner's permit or nonresident commercial driver's license who is in this state for a period of thirty consecutive days or more shall apply for a Nebraska-issued CLP-commercial learner's permit or commercial driver's license and shall surrender to the department any operator's license issued to such nonresident by any other state.

(4) Except for individuals who are enrolled and taking training in a driver training school in this state, any holder of a nondomiciled commercial learner's permit or nondomiciled commercial driver's license issued by another state who is in this state for a period of thirty consecutive days or more shall apply for a Nebraska-issued CLP-commercial learner's permit or commercial driver's license and shall surrender to the department any operator's license issued to such individual by any other state.

(5) An operator's license surrendered pursuant to this section may be returned to the driver after the license has been perforated with the word "VOID".

(6) 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.

Source: Laws 1989, LB 285, § 91; Laws 1990, LB 980, § 15; Laws 1993, LB 7, § 4; Laws 1999, LB 704, § 28; Laws 2005, LB 76, § 10; Laws 2014, LB983, § 26; Laws 2020, LB944, § 62.
Operative date November 14, 2020.

60-4,142 CLP-commercial learner's permit issuance; renewal.

Any resident or nondomiciled applicant may obtain a CLP-commercial learner's permit from the department by making application to licensing staff of the department. An applicant shall present proof to licensing staff that he or she holds a valid Class O license or commercial driver's license or a foreign nondomiciled applicant shall successfully complete the requirements for the Class O license before a CLP-commercial learner's permit is issued. An applicant shall also successfully complete the commercial driver's license general knowledge examination under section 60-4,155 and examinations for all previously issued endorsements as provided in 49 C.F.R. 383.25(a)(3) and 49 C.F.R. 383.153(b)(2)(vii). Upon application, the examination may be waived if the applicant presents a Nebraska commercial driver's license which is valid or has been expired for less than one year, presents a valid commercial driver's license from another state, or is renewing a CLP-commercial learner's permit. The CLP-commercial learner's permit shall be valid for a period of one hundred eighty days. The CLP-commercial learner's permit holder may renew the CLP-commercial learner's permit for an additional one hundred eighty days without retaking the general and endorsement knowledge tests. The successful applicant shall pay the fee prescribed in section 60-4,115 for the issuance or renewal of a CLP-commercial learner's permit.

Source: Laws 1989, LB 285, § 92; Laws 1990, LB 980, § 17; Laws 1998, LB 320, § 17; Laws 2001, LB 108, § 3; Laws 2001, LB 574, § 23; Laws 2003, LB 562, § 13; Laws 2006, LB 853, § 11; Laws 2012, LB751, § 32; Laws 2014, LB983, § 27; Laws 2016, LB311, § 17.

60-4,143 Commercial driver's license; CLP-commercial learner's permit; issuance; restriction; surrender of other licenses.

(1) No commercial driver's license or CLP-commercial 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 CLP-commercial 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, while the person's operator's license is suspended, revoked, or canceled in this or any other state, or when the Commercial Driver License Information System indicates "not-certified".

(3) The department 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 destroyed, and the director shall send notice to the other state that the operator's license has been surrendered.

Source: Laws 1989, LB 285, § 93; Laws 2005, LB 76, § 11; Laws 2011, LB178, § 11; Laws 2014, LB983, § 28.

60-4,144 Commercial driver's license; CLP-commercial learner's permit; applications; contents; application; demonstration of knowledge and skills; information and documentation required; verification.

(1) An applicant for issuance of any original or renewal commercial driver's license or an applicant for a change of class of commercial motor vehicle, endorsement, or restriction shall demonstrate his or her knowledge and skills for operating a commercial motor vehicle as prescribed in the Motor Vehicle Operator's License Act. An applicant for a commercial driver's license shall provide the information and documentation required by this section and section 60-4,144.01. Such information and documentation shall include any additional information required by 49 C.F.R. parts 383 and 391 and also include:

(a) 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; and

(b) The names of all states where the applicant has been licensed to operate any type of motor vehicle in the ten years prior to the date of application.

(2)(a) Before being issued a CLP-commercial learner's permit or commercial driver's license, the applicant shall provide (i) his or her full legal name, date of birth, mailing address, gender, race or ethnicity, and social security number, (ii) two forms of proof of address of his or her principal residence unless the applicant is a program participant under the Address Confidentiality Act, except that a nondomiciled applicant for a CLP-commercial learner's permit or nondomiciled commercial driver's license holder does not have to provide proof of residence in Nebraska, (iii) evidence of identity as required by this section, and (iv) a brief physical description of himself or herself.

(b) The applicant's social security number shall not be printed on the CLP-commercial learner's permit or commercial driver's license and shall be used only (i) to furnish information to the United States Selective Service System under section 60-483, (ii) with the permission of the director in connection with the certification of the status of an individual's driving record in this state or

any other state, (iii) for purposes of child support enforcement pursuant to section 42-358.08 or 43-512.06, (iv) 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, (v) to furnish information to the Department of Revenue under section 77-362.02, or (vi) to furnish information to the Secretary of State for purposes of the Election Act.

(c) No person shall be a holder of a CLP-commercial learner's permit or commercial driver's license and a state identification card at the same time.

(3) Before being issued a CLP-commercial learner's permit or commercial driver's license, an applicant, except a nondomiciled applicant, shall provide proof that this state is his or her state of residence. Acceptable proof of residence is a document with the person's name and residential address within this state.

(4)(a) Before being issued a CLP-commercial learner's permit or commercial driver's license, an applicant shall provide proof of identity.

(b) The following are acceptable as proof of identity:

(i) A valid, unexpired United States passport;

(ii) A certified copy of a birth certificate filed with a state office of vital statistics or equivalent agency in the individual's state of birth;

(iii) A Consular Report of Birth Abroad issued by the United States Department of State;

(iv) A valid, unexpired permanent resident card issued by the United States Department of Homeland Security or United States Citizenship and Immigration Services;

(v) An unexpired employment authorization document issued by the United States Department of Homeland Security;

(vi) An unexpired foreign passport with a valid, unexpired United States visa affixed accompanied by the approved form documenting the applicant's most recent admittance into the United States;

(vii) A Certificate of Naturalization issued by the United States Department of Homeland Security;

(viii) A Certificate of Citizenship issued by the United States Department of Homeland Security;

(ix) A driver's license or identification card issued in compliance with the standards established by the REAL ID Act of 2005, Public Law 109-13, division B, section 1, 119 Stat. 302; or

(x) Such other documents as the director may approve.

(c) If an applicant presents one of the documents listed under subdivision (b)(i), (ii), (iii), (iv), (vii), or (viii) of this subsection, the verification of the applicant's identity will also provide satisfactory evidence of lawful status.

(d) If the applicant presents one of the identity documents listed under subdivision (b)(v), (vi), or (ix) of this subsection, the verification of the identity documents does not provide satisfactory evidence of lawful status. The applicant must also present a second document from subdivision (4)(b) of this section, a document from subsection (5) of this section, or documentation issued by the United States Department of Homeland Security or other federal

agencies demonstrating lawful status as determined by the United States Citizenship and Immigration Services.

(e) An applicant may present other documents as designated by the director as proof of identity. Any documents accepted shall be recorded according to a written exceptions process established by the director.

(5)(a) Whenever a person is renewing, replacing, upgrading, transferring, or applying as a nondomiciled individual to this state for a CLP-commercial learner's permit or commercial driver's license, the Department of Motor Vehicles shall verify the citizenship in the United States of the person or the lawful status in the United States of the person.

(b) The following are acceptable as proof of citizenship or lawful status:

(i) A valid, unexpired United States passport;

(ii) A certified copy of a birth certificate filed with a state office of vital statistics or equivalent agency in the individual's state of birth, Puerto Rico, the Virgin Islands, Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands;

(iii) A Consular Report of Birth Abroad issued by the United States Department of State;

(iv) A Certificate of Naturalization issued by the United States Department of Homeland Security;

(v) A Certificate of Citizenship issued by the United States Department of Homeland Security; or

(vi) A valid, unexpired Permanent Resident Card issued by the United States Department of Homeland Security or United States Citizenship and Immigration Services.

(6) An applicant may present other documents as designated by the director as proof of lawful status. Any documents accepted shall be recorded according to a written exceptions process established by the director.

(7)(a) An applicant shall obtain a nondomiciled CLP-commercial driver's license or nondomiciled CLP-commercial learner's permit:

(i) If the applicant is domiciled in a foreign jurisdiction and the Federal Motor Carrier Safety Administrator has not determined that the commercial motor vehicle operator testing and licensing standards of that jurisdiction meet the standards contained in subparts G and H of 49 C.F.R. part 383; or

(ii) If the applicant is domiciled in a state that is prohibited from issuing commercial learners' permits and commercial drivers' licenses in accordance with 49 C.F.R. 384.405. Such person is eligible to obtain a nondomiciled CLP-commercial learner's permit or nondomiciled commercial driver's license from Nebraska that complies with the testing and licensing standards contained in subparts F, G, and H of 49 C.F.R. part 383.

(b) An applicant for a nondomiciled CLP-commercial learner's permit and nondomiciled commercial driver's license must do the following:

(i) Complete the requirements to obtain a CLP-commercial learner's permit or a commercial driver's license under the Motor Vehicle Operator's License Act, except that an applicant domiciled in a foreign jurisdiction must provide an unexpired employment authorization document issued by the United States Citizenship and Immigration Services or an unexpired foreign passport accom-

panied by an approved I-94 form documenting the applicant's most recent admittance into the United States. No proof of domicile is required;

(ii) After receipt of the nondomiciled CLP-commercial learner's permit or nondomiciled commercial driver's license and, for as long as the permit or license is valid, notify the Department of Motor Vehicles of any adverse action taken by any jurisdiction or governmental agency, foreign or domestic, against his or her driving privileges. Such adverse actions include, but are not limited to, license disqualification or disqualification from operating a commercial motor vehicle for the convictions described in 49 C.F.R. 383.51. Notifications must be made within the time periods specified in 49 C.F.R. 383.33; and

(iii) Provide a mailing address to the Department of Motor Vehicles. If the applicant is applying for a foreign nondomiciled CLP-commercial learner's permit or foreign nondomiciled commercial driver's license, he or she must provide a Nebraska mailing address and his or her employer's mailing address to the Department of Motor Vehicles.

(c) An applicant for a nondomiciled CLP-commercial learner's permit or nondomiciled commercial driver's license who holds a foreign operator's license is not required to surrender his or her foreign operator's license.

(8) Any person applying for a CLP-commercial learner's permit or commercial driver's license may answer the following:

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

(b) Do you wish to have a veteran designation displayed on the front of your operator's license to show that you served in the armed forces of the United States? (To be eligible you must register with the Nebraska Department of Veterans' Affairs registry.)

(c) Do you wish to include your name in the Donor Registry of Nebraska and donate your organs and tissues at the time of your death?

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

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

(9) Application for a CLP-commercial learner's permit or commercial driver's license shall include a signed oath, affirmation, or declaration of the applicant that the information provided on the application for the permit or license is true and correct.

(10) Any person applying for a CLP-commercial learner's permit or commercial driver's license must make one of the certifications in section 60-4,144.01 and any certification required under section 60-4,146 and must provide such certifications to the Department of Motor Vehicles in order to be issued a CLP-commercial learner's permit or a commercial driver's license.

(11) Every person who holds any commercial driver's license must provide to the department medical certification as required by section 60-4,144.01. The department may provide notice and prescribe medical certification compliance requirements for all holders of commercial drivers' licenses. Holders of commercial drivers' licenses who fail to meet the prescribed medical certification compliance requirements may be subject to downgrade.

Source: Laws 1989, LB 285, § 94; Laws 1992, LB 1178, § 4; Laws 1994, LB 76, § 575; Laws 1997, LB 635, § 21; Laws 1999, LB 147, § 3;

Laws 1999, LB 704, § 29; Laws 2000, LB 1317, § 8; Laws 2001, LB 34, § 5; Laws 2003, LB 228, § 13; Laws 2003, LB 562, § 14; Laws 2004, LB 208, § 7; Laws 2004, LB 559, § 4; Laws 2005, LB 76, § 12; Laws 2008, LB911, § 21; Laws 2011, LB178, § 12; Laws 2011, LB215, § 19; Laws 2012, LB751, § 33; Laws 2014, LB983, § 29; Laws 2015, LB575, § 29; Laws 2016, LB47, § 3; Laws 2016, LB311, § 18; Laws 2019, LB192, § 3.
Operative date January 1, 2021.

Cross References

Address Confidentiality Act, see section 42-1201.

Donor Registry of Nebraska, see section 71-4822.

Election Act, see section 32-101.

Nebraska Department of Veterans' Affairs registry, see section 80-414.

60-4,144.01 Commercial drivers' licenses; certification required; medical examiner's certificate.

Certification shall be made as follows:

(1) A person must certify that he or she operates or expects to operate a commercial motor vehicle in interstate commerce, is both subject to and meets the qualification requirements under 49 C.F.R. part 391, and is required to obtain a medical examiner's certificate by 49 C.F.R. 391.45. The medical examination required in order to obtain a medical examiner's certificate shall be conducted by a medical examiner who is listed on the National Registry of Certified Medical Examiners. Any nonexcepted holder of a commercial learner's permit or commercial driver's license who certifies that he or she will operate a commercial motor vehicle in nonexcepted, interstate commerce must maintain a current medical examiner's certificate and provide a copy of it to the department in order to maintain his or her medical certification status;

(2) A person must certify that he or she operates or expects to operate a commercial motor vehicle in interstate commerce, but engages exclusively in transportation or operations excepted under 49 C.F.R. 390.3(f), 391.2, 391.68, or 398.3 from all or part of the qualification requirements of 49 C.F.R. part 391, and is therefore not required to obtain a medical examiner's certificate by 49 C.F.R. 391.45;

(3) A person must certify that he or she operates a commercial motor vehicle only in intrastate commerce and therefore is subject to state driver qualification requirements as provided in section 75-363; or

(4) A person must certify that he or she operates a commercial motor vehicle in intrastate commerce, but engages exclusively in transportation or operations excepted from all or parts of the state driver qualification requirements.

Source: Laws 2011, LB178, § 13; Laws 2014, LB983, § 30; Laws 2016, LB666, § 5.

60-4,144.02 Commercial drivers' licenses; CLP-commercial learner's permit; medical examiner's certificate; department; duties; failure of driver to comply; department; duties.

(1) For each operator of a commercial motor vehicle required to have a commercial driver's license or CLP-commercial learner's permit, the department, in compliance with 49 C.F.R. 383.73, shall:

(a) Post the driver's self-certification of type of driving under 49 C.F.R. 383.71(a)(1)(ii);

(b) Retain the medical examiner's certificate of any driver required to provide documentation of physical qualification for three years beyond the date the certificate was issued; and

(c) Post the information from the medical examiner's certificate within ten calendar days to the Commercial Driver License Information System driver record, including:

(i) The medical examiner's name;

(ii) The medical examiner's telephone number;

(iii) The date of the medical examiner's certificate issuance;

(iv) The medical examiner's license number and the state that issued it;

(v) The medical examiner's National Registry identification number (if the National Registry of Medical Examiners, mandated by 49 U.S.C. 31149(d), requires one);

(vi) The indicator of the medical certification status, either "certified" or "not-certified";

(vii) The expiration date of the medical examiner's certificate;

(viii) The existence of any medical variance on the medical certificate, such as an exemption, Skill Performance Evaluation (SPE) certification, or grandfather provisions;

(ix) Any restrictions, for example, corrective lenses, hearing aid, or required to have possession of an exemption letter or Skill Performance Evaluation certificate while on duty; and

(x) The date the medical examiner's certificate information was posted to the Commercial Driver License Information System driver record.

(2) The department shall, within ten calendar days of the driver's medical certification status expiring or a medical variance expiring or being rescinded, update the medical certification status of that driver as "not-certified".

(3) Within ten calendar days of receiving information from the Federal Motor Carrier Safety Administration regarding issuance or renewal of a medical variance for a driver, the department shall update the Commercial Driver License Information System driver record to include the medical variance information provided by the Federal Motor Carrier Safety Administration.

(4)(a) If a driver's medical certification or medical variance expires, or the Federal Motor Carrier Safety Administration notifies the department that a medical variance was removed or rescinded, the department shall:

(i) Notify the holder of the commercial driver's license or CLP-commercial learner's permit of his or her "not-certified" medical certification status and that the CLP-commercial learner's permit or commercial driver's license privilege will be removed from the driver's license or permit unless the driver submits a current medical certificate or medical variance or changes his or her self-certification to driving only in excepted or intrastate commerce, if permitted by the department; and

(ii) Initiate established department procedures for downgrading the license. The commercial driver's license downgrade shall be completed and recorded

within sixty days of the driver's medical certification status becoming "not-certified" to operate a commercial motor vehicle.

(b) If a driver fails to provide the department with the certification contained in 49 C.F.R. 383.71(a)(1)(ii), or a current medical examiner's certificate if the driver self-certifies according to 49 C.F.R. 383.71(a)(1)(ii)(A) that he or she is operating in nonexcepted interstate commerce as required by 49 C.F.R. 383.71(h), the department shall mark that Commercial Driver License Information System driver record as "not-certified" and initiate a commercial driver's license downgrade following department procedures in accordance with subdivision (4)(a)(ii) of this section. The CLP-commercial learner's permit or commercial driver's license shall be canceled and marked as "not-certified".

Source: Laws 2011, LB178, § 14; Laws 2014, LB983, § 31; Laws 2016, LB666, § 6.

60-4,144.03 Temporary CLP-commercial learner's permit or commercial driver's license; issuance; renewal.

(1) The department shall issue a CLP-commercial learner's permit or a commercial driver's license that is temporary only to any applicant who presents documentation under section 60-4,144 that shows his or her authorized stay in the United States is temporary. A CLP-commercial learner's permit or a commercial driver's license that is temporary shall be valid only during the period of time of the applicant's authorized stay in the United States or, if there is no definite end to the period of authorized stay, a period of one year.

(2) A CLP-commercial learner's permit or a commercial driver's license that is temporary shall clearly indicate that it is temporary with a special notation that states the date on which it expires.

(3) A CLP-commercial learner's permit or a commercial driver's license that is temporary may be renewed only upon presentation of valid documentary evidence that the status, by which the applicant qualified for the CLP-commercial learner's permit or commercial driver's license that is temporary, has been extended by the United States Department of Homeland Security.

Source: Laws 2014, LB983, § 32.

60-4,144.04 CLP-commercial learner's permit; precondition to issuance of commercial driver's license.

(1) The issuance of a CLP-commercial learner's permit is a precondition to the initial issuance of a commercial driver's license. The issuance of a CLP-commercial learner's permit is also a precondition to the upgrade of a commercial driver's license if the upgrade requires a skills test, however, the CLP-commercial learner's permit holder is not eligible to take the skills test in the first fourteen days after initial issuance of the CLP-commercial learner's permit.

(2) The CLP-commercial learner's permit holder is not eligible to take the commercial driver's license skills test in the first fourteen days after initial issuance of the CLP-commercial learner's permit.

Source: Laws 2014, LB983, § 33.

60-4,145 Repealed. Laws 2014, LB983, § 69.

60-4,146 Application; requirements of federal law; certification.

(1) In addition to certifying himself or herself under this section, an applicant shall also certify himself or herself under section 60-4,144.01.

(2) Upon making application pursuant to section 60-4,144 or 60-4,148.01, any applicant who operates or expects to operate a commercial motor vehicle in interstate or foreign commerce and who is not subject to 49 C.F.R. part 391 shall certify that he or she is not subject to 49 C.F.R. part 391. Any applicant making certification pursuant to this subsection shall meet the physical and vision requirements established in section 60-4,118 and shall be subject to the provisions of such section.

(3) Upon making application pursuant to section 60-4,144 or 60-4,148.01, any applicant who operates or expects to operate a commercial motor vehicle solely in intrastate commerce and who is subject to 49 C.F.R. part 391 adopted pursuant to section 75-363 shall certify that the applicant meets the qualification requirements of 49 C.F.R. part 391.

(4) Upon making application for a CLP-commercial learner's permit or commercial driver's license, any applicant who operates or expects to operate a commercial motor vehicle solely in intrastate commerce and who is not subject to 49 C.F.R. part 391 adopted pursuant to section 75-363 shall certify that he or she is not subject to 49 C.F.R. part 391. Any applicant making certification pursuant to this subsection shall meet the physical and vision requirements established in section 60-4,118 and shall be subject to the provisions of such section.

(5) An applicant who certifies that he or she is not subject to 49 C.F.R. part 391 under subsection (2) or (4) of this section shall answer the following questions on the application:

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

- (i) lost voluntary control or consciousness ... yes ... no
- (ii) experienced vertigo or multiple episodes of dizziness or fainting ... yes ... no
- (iii) experienced disorientation ... yes ... no
- (iv) experienced seizures ... yes ... no
- (v) experienced impairment of memory, memory loss ... yes ... no

Please explain:

(b) 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:

(c) 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:

Source: Laws 1989, LB 285, § 96; Laws 1990, LB 980, § 19; Laws 1994, LB 211, § 11; Laws 1996, LB 938, § 2; Laws 1998, LB 320, § 18;

Laws 1999, LB 704, § 31; Laws 2006, LB 1007, § 8; Laws 2011, LB178, § 16; Laws 2012, LB751, § 34; Laws 2014, LB983, § 34; Laws 2016, LB977, § 16; Laws 2017, LB644, § 15.

60-4,146.01 Restricted commercial driver's license; seasonal permit; application or examiner's certificate; operation permitted; term; violation; penalty.

(1) Any resident of this state who is a seasonal commercial motor vehicle operator for a farm-related or ranch-related service industry may apply for a restricted commercial driver's license. If the applicant is an individual, the application or examiner's certificate shall include the applicant's social security number. A restricted commercial driver's license shall authorize the holder to operate any Class B Heavy Straight Vehicle commercial motor vehicle or any Class B Heavy Straight Vehicle or Class C Small Vehicle commercial motor vehicle required to be placarded pursuant to section 75-364 when the hazardous material being transported is (a) diesel fuel in quantities of one thousand gallons or less, (b) liquid fertilizers in vehicles or implements of husbandry with total capacities of three thousand gallons or less, or (c) solid fertilizers that are not transported or mixed with any organic substance within one hundred fifty miles of the employer's place of business or the farm or ranch being served.

(2) Any applicant for a restricted commercial driver's license or seasonal permit shall be eighteen years of age or older, shall have possessed a valid operator's license during the twelve-month period immediately preceding application, and shall demonstrate, in a manner to be prescribed by the director, that:

(a) If the applicant has possessed a valid operator's license for two or more years, that in the two-year period immediately preceding application the applicant:

- (i) Has not possessed more than one operator's license at one time;
- (ii) Has not been subject to any order of suspension, revocation, or cancellation of any type;
- (iii) Has no convictions involving any type or classification of motor vehicle of the disqualification offenses enumerated in sections 60-4,168 and 60-4,168.01; and
- (iv) Has no convictions for traffic law violations that are accident-connected and no record of at-fault accidents; and

(b) If the applicant has possessed a valid operator's license for more than one but less than two years, the applicant shall demonstrate that he or she meets the requirements prescribed in subdivision (a) of this subsection for the entire period of his or her driving record history.

(3) The commercial motor vehicle operating privilege as conferred by the restricted commercial driver's license shall be valid for five years if annually revalidated by the seasonal permit which shall be valid for no more than one hundred eighty consecutive days in any twelve-month period. To revalidate the restricted commercial driver's license, the applicant shall meet the requirements of subsection (2) of this section and shall designate a time period he or she desires the commercial motor vehicle operating privilege to be valid. The time period designated by the applicant shall appear and be clearly indicated on the seasonal permit. A seasonal permit shall not be issued to any person more than once in any twelve-month period. The holder of a restricted commer-

cial driver's license shall operate commercial motor vehicles in the course or scope of his or her employment within one hundred fifty miles of the employer's place of business or the farm or ranch currently being served.

(4) Any person who violates any provision of this section shall, upon conviction, be guilty of a Class III misdemeanor. In addition to any penalty imposed by the court, the director shall also revoke such person's restricted commercial driver's license and shall disqualify such person from operating any commercial motor vehicle in Nebraska for a period of five years.

(5) The Department of Motor Vehicles may adopt and promulgate rules and regulations to carry out the requirements of this section.

(6) For purposes of this section:

(a) Agricultural chemical business means any business that transports agricultural chemicals predominately to or from a farm or ranch;

(b) Farm-related or ranch-related service industry means any custom harvester, retail agricultural outlet or supplier, agricultural chemical business, or livestock feeder which operates commercial motor vehicles for the purpose of transporting agricultural products, livestock, farm machinery and equipment, or farm supplies to or from a farm or ranch;

(c) Retail agricultural outlet or supplier means any retail outlet or supplier that transports either agricultural products, farm machinery, farm supplies, or both, predominately to or from a farm or ranch; and

(d) Seasonal commercial motor vehicle operator means any person who, exclusively on a seasonal basis, operates a commercial motor vehicle for a farm-related or ranch-related service industry.

Source: Laws 1993, LB 420, § 13; Laws 1996, LB 323, § 3; Laws 1997, LB 752, § 142; Laws 1998, LB 309, § 8; Laws 1999, LB 704, § 32; Laws 2019, LB270, § 36.

60-4,147.01 Driver's record; disclosure of convictions; requirements.

The department, 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 CLP-commercial learner's permit driver's conviction or 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.

Source: Laws 2005, LB 76, § 16; Laws 2014, LB983, § 35.

60-4,147.02 Hazardous materials endorsement; USA PATRIOT Act requirements.

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 regulations

adopted pursuant thereto as of January 1, 2020, for the issuance of licenses to operate commercial motor vehicles transporting hazardous materials.

Source: Laws 2005, LB 76, § 17; Laws 2006, LB 853, § 12; Laws 2007, LB239, § 5; Laws 2008, LB756, § 17; Laws 2009, LB331, § 10; Laws 2010, LB805, § 7; Laws 2011, LB212, § 6; Laws 2012, LB751, § 35; Laws 2013, LB35, § 5; Laws 2014, LB776, § 6; Laws 2015, LB313, § 6; Laws 2016, LB929, § 8; Laws 2017, LB263, § 67; Laws 2018, LB909, § 89; Laws 2019, LB79, § 16; Laws 2020, LB944, § 63.

Operative date November 14, 2020.

60-4,147.03 Hazardous materials endorsement; application process.

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.

Source: Laws 2005, LB 76, § 18; Laws 2016, LB666, § 7.

60-4,148 Commercial drivers' licenses; issuance.

(1) All commercial drivers' licenses shall be issued by the department as provided in sections 60-4,148.01 and 60-4,149. Successful applicants shall pay the fee and surcharge prescribed in section 60-4,115.

(2) Any person making application to add or remove a class of commercial motor vehicle, any endorsement, or any restriction to or from a previously issued and outstanding commercial driver's license shall pay the fee and surcharge prescribed in section 60-4,115. The fee for an original or renewal seasonal permit to revalidate the restricted commercial motor vehicle operating privilege to a previously issued and outstanding restricted commercial driver's license shall be the fee and surcharge prescribed in section 60-4,115.

Source: Laws 1989, LB 285, § 98; Laws 1990, LB 980, § 20; Laws 1991, LB 854, § 2; Laws 1993, LB 420, § 10; Laws 1997, LB 752, § 143; Laws 1998, LB 309, § 9; Laws 1999, LB 704, § 33; Laws 2001, LB 574, § 24; Laws 2008, LB911, § 22; Laws 2016, LB977, § 17.

60-4,148.01 Commercial drivers' licenses; CLP-commercial learners' permits; electronic renewal and replacement; department; duties; applicant; requirements; renewal; fee and surcharge; delivery.

(1) The department may develop and offer methods for successful applicants to obtain commercial drivers' licenses electronically and for the electronic renewal and replacement of commercial drivers' licenses and CLP-commercial learners' permits.

(2)(a) An applicant who has successfully passed the knowledge and skills tests for a commercial driver's license pursuant to section 60-4,149 and who has a digital image and digital signature preserved in the digital system that is not more than ten years old may obtain a commercial driver's license using the

preserved digital image and digital signature by electronic means in a manner prescribed by the department pursuant to this subsection.

(b) To be eligible to obtain a license pursuant to this subsection:

(i) There must have been no changes to the applicant's name since his or her most recent application for a CLP-commercial learner's permit;

(ii) The new license must not contain a hazardous materials endorsement;

(iii) The applicant must meet the requirements of section 60-4,144 and submit the information and documentation and make the certifications required under section 60-4,144; and

(iv) The applicant must satisfy any other eligibility criteria that the department may prescribe pursuant to subsection (6) of this section.

(c) The successful applicant shall pay the fee and surcharge prescribed in section 60-4,115. Upon receipt of such fee and surcharge and an application it deems satisfactory, the department shall deliver the license by mail.

(3)(a) An applicant whose commercial driver's license or CLP-commercial learner's permit expires prior to his or her seventy-second birthday and who has a digital image and digital signature preserved in the digital system may, once every ten years, renew such license or permit using the preserved digital image and digital signature by electronic means in a manner prescribed by the department pursuant to this subsection.

(b) To be eligible for renewal under this subsection:

(i) The renewal must be prior to or within one year after expiration of such license or permit;

(ii) The driving record abstract maintained in the department's computerized records must show that such license or permit is not suspended, revoked, canceled, or disqualified;

(iii) There must be no changes to the applicant's name or to the class, endorsements, or restrictions on such license or permit;

(iv) The applicant must not hold a hazardous materials endorsement or must relinquish such endorsement;

(v) The applicant must meet the requirements of section 60-4,144 and submit the information and documentation and make the certifications required under section 60-4,144; and

(vi) The applicant must satisfy any other eligibility criteria that the department may prescribe pursuant to subsection (6) of this section.

(c) Every applicant seeking renewal of his or her commercial driver's license or CLP-commercial learner's permit must apply for renewal in person at least once every ten years and have a new digital image and digital signature captured.

(d) An applicant seeking renewal under this subsection (3) shall pay the fee and surcharge prescribed in section 60-4,115. Upon receipt of such fee and surcharge and an application it deems satisfactory, the department shall deliver the renewal license or permit by mail.

(4)(a) Any person holding a commercial driver's license or CLP-commercial learner's permit who has a digital image and digital signature not more than ten years old preserved in the digital system and who loses his or her license or permit, who requires issuance of a replacement license or permit because of a

change of address, or whose license or permit is mutilated or unreadable may obtain a replacement commercial driver's license or CLP-commercial learner's permit using the preserved digital image and digital signature by electronic means in a manner prescribed by the department pursuant to this subsection.

(b) To be eligible to obtain a replacement license or permit pursuant to this subsection:

(i) There must be no changes to the applicant's name and no changes to the class, endorsements, or restrictions on such license or permit;

(ii) The applicant must meet the requirements of section 60-4,144 and submit the information and documentation and make the certifications required under section 60-4,144; and

(iii) The applicant must satisfy any other eligibility criteria that the department may prescribe pursuant to subsection (6) of this section.

(c) An application for a replacement license or permit because of a change of address shall be made within sixty days after the change of address.

(d) An applicant seeking replacement under this subsection (4) shall pay the fee and surcharge prescribed in section 60-4,115. Upon receipt of such fee and surcharge and an application it deems satisfactory, the department shall deliver the replacement license or permit by mail. The replacement license or permit shall be subject to the provisions of subsection (4) of section 60-4,150.

(5) An application to obtain a commercial driver's license or to renew or replace a commercial driver's license or CLP-commercial learner's permit because of a change of name may not be made electronically pursuant to this section and shall be made in person at a licensing station within sixty days after the change of name.

(6) The department may adopt and promulgate rules and regulations governing eligibility for the use of electronic methods for successful applicants to obtain commercial drivers' licenses and for the renewal and replacement of commercial drivers' licenses and CLP-commercial learners' permits, taking into consideration medical and vision requirements, safety concerns, and any other factors consistent with the purposes of the Motor Vehicle Operator's License Act that the director deems relevant.

Source: Laws 2016, LB977, § 15.

60-4,149 Commercial driver's license; CLP-commercial learner's permit; department personnel; examination; office space; issuance; delivery; electronic submission.

(1) The director shall appoint as his or her agents one or more department personnel who shall examine all applicants for a commercial driver's license or a CLP-commercial learner's permit as provided in section 60-4,144. The same department personnel may be assigned to one or more counties by the director. In counties in which the county treasurer collects the fees and issues receipts, the county shall furnish office space for the administration of the license or permit examination. Department personnel shall conduct the examination of applicants and deliver to each successful applicant an issuance certificate or receipt. The certificate may be presented to the county treasurer within ninety days after issuance, and the county treasurer shall collect the fee and surcharge as provided in section 60-4,115 and issue a receipt which is valid for up to thirty days. If a commercial driver's license or CLP-commercial learner's

permit is being issued, the receipt shall also authorize driving privileges for such thirty-day period. If department personnel refuse to issue an issuance certificate or receipt, the department personnel shall state such cause in writing and deliver such written cause to the applicant.

(2)(a) The segments of the driving skills examination shall be administered and successfully completed in the following order: Pre-trip inspection, basic vehicle control skills, and on-road skills. If an applicant fails one segment of the driving skills examination:

(i) The applicant cannot continue to the next segment of the examination; and

(ii) Scores for the passed segments of the examination are only valid during initial issuance of a CLP-commercial learner's permit. If a CLP-commercial learner's permit is renewed, all three segments of the skills examination must be retaken.

(b) Passing scores for the knowledge and skills tests must meet the standards contained in 49 C.F.R. 383.135.

(3) Except as provided for in sections 60-4,157 and 60-4,158, all commercial driver's license examinations shall be conducted by department personnel designated by the director. Each successful applicant shall be issued a certificate or receipt entitling the applicant to secure a commercial driver's license. If department personnel refuse to issue such certificate or receipt, he or she shall state such cause in writing and deliver the same to the applicant. Department personnel shall not be required to hold a commercial driver's license to administer a driving skills examination and occupy the seat beside an applicant for a commercial driver's license.

(4) The successful applicant shall, within ten days after renewal or within twenty-four hours after initial issuance, pay the fee and surcharge as provided in section 60-4,115. A receipt with driving privileges which is valid for up to thirty days shall be issued. The commercial driver's license shall be delivered to the applicant as provided in section 60-4,113.

(5) In lieu of proceeding under subsection (4) of this section, the successful applicant may pay the fee and surcharge as provided in section 60-4,115 and electronically submit an application prescribed by the department in a manner prescribed by the department pursuant to section 60-4,148.01.

Source: Laws 1989, LB 285, § 99; Laws 1990, LB 980, § 21; Laws 1999, LB 704, § 34; Laws 2008, LB911, § 23; Laws 2011, LB215, § 20; Laws 2014, LB983, § 36; Laws 2016, LB311, § 19; Laws 2016, LB977, § 18.

60-4,149.01 Commercial drivers' licenses; law examination; exceptions; waiver.

(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 commercial driver's license holder surrenders his or her valid out-of-state commercial driver's license to licensing staff.

Source: Laws 1993, LB 420, § 9; Laws 1996, LB 938, § 3; Laws 1999, LB 704, § 35; Laws 2001, LB 387, § 9; Laws 2005, LB 76, § 13; Laws 2014, LB983, § 37.

60-4,149.02 Commercial drivers' licenses; driving skills examination; exemption for driver with military commercial motor vehicle experience; conditions and limitations; applicant; certification.

A commercial driver's license examiner shall not require the driving skills examination for a commercial motor vehicle driver with military commercial motor vehicle experience who is currently licensed at the time of his or her application for a commercial driver's license and may substitute an applicant's driving record in combination with certain driving experience. The department may impose conditions and limitations as allowed under 49 C.F.R. 383 to restrict the applicants from whom the department may accept alternative requirements for the driving skills examination authorized in section 60-4,155. Such conditions and limitations shall require at least the following:

(1) An applicant must certify that, during the two-year period immediately prior to applying for a commercial driver's license, he or she:

(a) Has not had more than one operator's license, except for a military operator's license;

(b) Has not had any operator's license suspended, revoked, or canceled;

(c) Has not had any convictions for any type of motor vehicle for the disqualifying offenses contained in 49 C.F.R. 383.51(b);

(d) Has not had more than one conviction for any type of motor vehicle for serious traffic violations contained in 49 C.F.R. 383.51(c);

(e) Has not had any conviction for a violation of military, state, or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with any traffic accident; and

(f) Has no record of an accident in which he or she was at fault; and

(2) An applicant must provide evidence and certify that he or she:

(a) Is regularly employed or was regularly employed within the last ninety days in a military position requiring operation of a commercial motor vehicle;

(b) Was exempted from the commercial driver's license requirements in 49 C.F.R. 383.3(c); and

(c) Was operating a vehicle representative of the commercial motor vehicle the driver applicant operates or expects to operate, for at least two years immediately preceding discharge from the military.

Source: Laws 2014, LB983, § 40.

60-4,150 Commercial driver's license; CLP-commercial learner's permit; replacement; application; delivery.

(1) Any person holding a commercial driver's license or CLP-commercial learner's permit who loses his or her license or permit, who requires issuance of a replacement license or permit because of a change of name or address, or whose license or permit is mutilated or unreadable may obtain a replacement commercial driver's license or CLP-commercial learner's permit by filing an application pursuant to this section and by furnishing proof of identification in accordance with section 60-4,144. Any person seeking a replacement license or permit for such reasons, except because of a change of name, may also obtain a replacement license or permit by submitting an electronic application pursuant to section 60-4,148.01.

(2) An application for a replacement license or permit because of a change of name or address shall be made within sixty days after the change of name or address.

(3) A replacement commercial driver's license or CLP-commercial learner's permit issued pursuant to this section shall be delivered to the applicant as provided in section 60-4,113 after department personnel or the county treasurer collects the fee and surcharge prescribed in section 60-4,115 and issues the applicant a receipt with driving privileges which is valid for up to thirty days. Replacement commercial drivers' licenses or CLP-commercial learners' permits issued pursuant to this section shall be issued in the manner provided for the issuance of original and renewal commercial drivers' licenses or permits as provided for by section 60-4,149.

(4) Upon issuance of any replacement commercial driver's license or permit, the commercial driver's license or CLP-commercial learner's permit for which the replacement license or permit is issued shall be void. Each replacement commercial driver's license or CLP-commercial learner's permit shall be issued with the same expiration date as the license or permit for which the replacement is issued. The replacement license or permit shall also state the new issuance date.

Source: Laws 1989, LB 285, § 100; Laws 1990, LB 980, § 22; Laws 1993, LB 126, § 2; Laws 1998, LB 309, § 10; Laws 2001, LB 574, § 25; Laws 2005, LB 1, § 9; Laws 2008, LB911, § 24; Laws 2010, LB805, § 8; Laws 2011, LB215, § 21; Laws 2014, LB777, § 10; Laws 2014, LB983, § 38; Laws 2016, LB311, § 20; Laws 2016, LB977, § 19.

60-4,151 Commercial driver's license; RCDL-restricted commercial driver's license; SEP-seasonal permit; CLP-commercial learner's permit; form.

(1)(a) The commercial driver's license shall be conspicuously marked Nebraska Commercial Driver's License and shall be, to the maximum extent practicable, tamper and forgery proof. The commercial driver's license shall be marked Nondomiciled if the license is a nondomiciled commercial driver's license.

(b) The form of the commercial driver's license shall also comply with section 60-4,117.

(2) The RCDL-restricted commercial driver's license shall be conspicuously marked Nebraska Restricted Commercial Driver's License and shall be, to the maximum extent practicable, tamper and forgery proof. The RCDL-restricted commercial driver's license shall contain such additional information as deemed necessary by the director.

(3) The SEP-seasonal permit shall contain such information as deemed necessary by the director but shall include the time period during which the commercial motor vehicle operating privilege is effective. The SEP-seasonal permit shall be valid only when held in conjunction with an RCDL-restricted commercial driver's license.

(4) The CLP-commercial learner's permit shall be conspicuously marked Nebraska Commercial Learner's Permit and shall be, to the maximum extent practicable, tamper and forgery proof. The permit shall also be marked Non-domiciled if the permit is a nondomiciled CLP-commercial learner's permit.

Source: Laws 1989, LB 285, § 101; Laws 1992, LB 1178, § 5; Laws 1993, LB 420, § 11; Laws 2001, LB 34, § 6; Laws 2001, LB 574, § 26; Laws 2008, LB911, § 25; Laws 2011, LB215, § 22; Laws 2014, LB983, § 39.

60-4,153 Issuance of license; department; duties.

Prior to the issuance of any original or renewal commercial driver's license, the reissuance of any commercial driver's license with a change of any classification, endorsement, or restriction, or the issuance of a CLP-commercial learner's permit, the department shall, within twenty-four hours prior to issuance if the applicant does not currently possess a valid commercial driver's license or CLP-commercial learner's permit issued by this state and within ten days prior to the issuance or reissuance for all other applicants:

(1) Check the driving record of the applicant as maintained by the department or by any other state which has issued an operator's license to the applicant;

(2) Contact the Commercial Driver License Information System to determine whether the applicant possesses any valid commercial driver's license or commercial learner's permit issued by any other state, whether such license or permit or the applicant's privilege to operate a commercial motor vehicle has been suspended, revoked, or canceled, or whether the applicant has been disqualified from operating a commercial motor vehicle; and

(3) Contact the National Driver Register to determine if the applicant (a) has been disqualified from operating any motor vehicle, (b) has had an operator's license suspended, revoked, or canceled for cause in the three-year period ending on the date of application, (c) has been convicted of operation of a motor vehicle while under the influence of or while impaired by alcohol or a controlled substance, a traffic violation arising in connection with a fatal traffic accident, reckless driving, racing on the highways, failure to render aid or provide identification when involved in an accident which resulted in a fatality or personal injury, or perjury or the knowledgeable making of a false affidavit or statement to officials in connection with activities governed by a law, rule, or regulation related to the operation of a motor vehicle, (d) is not eligible, or (e) is deceased.

Source: Laws 1989, LB 285, § 103; Laws 1999, LB 704, § 36; Laws 2011, LB178, § 17; Laws 2014, LB983, § 41.

60-4,154 Issuance of license or permit; director notify Commercial Driver License Information System; department; post information.

(1) Prior to the issuance of any original or renewal commercial driver's license, the reissuance of any commercial driver's license with a change of any classification, endorsement, or restriction, or the issuance of a CLP-commercial learner's permit, the director shall notify the Commercial Driver License Information System of the issuance and shall provide the applicant's name, social security number, and any other required information to the operator of the system.

(2) The department shall post information from the medical examiner's certificate to the Commercial Driver License Information System in accordance with section 60-4,144.02 and 49 C.F.R. 383.73.

Source: Laws 1989, LB 285, § 104; Laws 2011, LB178, § 18; Laws 2014, LB983, § 42.

60-4,155 Department; duties; rules and regulations.

The Department of Motor Vehicles shall establish standards and requirements for the testing of applicants for commercial drivers' licenses, endorsements, and restrictions. The standards and requirements developed by the department for written knowledge and driving skills examinations for commercial drivers' licenses shall substantially comply with the requirements of the Commercial Driver's License Standards, 49 C.F.R. part 383, subparts G and H. The department may adopt and promulgate rules and regulations to carry out this section.

Source: Laws 1989, LB 285, § 105; Laws 2019, LB270, § 37.

60-4,156 Repealed. Laws 2014, LB983, § 69.

60-4,157 Driving skills examination; waiver based on third-party tester; licensure in another state; report of examination results.

(1) A commercial driver's license examiner may waive the driving skills examination when an applicant presents evidence, on a form to be prescribed by the director, that he or she has successfully passed a driving skills examination administered by a third-party tester.

(2) A third-party skills test examiner may administer a driving skills examination to an applicant who has taken training in this state but is to be licensed in another state. The driving skills examination results shall be reported by the third-party skills test examiner to the department. The department shall transmit electronically the driving skills examination results directly from this state to the licensing state in an efficient and secure manner to be determined by the director.

(3) A third-party skills test examiner who is also a skills instructor either as part of a school, training program, or otherwise is prohibited from administering a skills test to an applicant who received skills training by that skills test examiner.

Source: Laws 1989, LB 285, § 107; Laws 2014, LB983, § 43.

60-4,158 Third-party testers; applicant; criminal history record check; fingerprints; rules and regulations; fees; violation; penalty.

(1) The director shall adopt and promulgate rules and regulations governing the certification of third-party testers by the department. Such rules and

regulations shall substantially comply with the requirements of 49 C.F.R. 383.75. A third-party skills test examiner employed by a certified third-party tester is not required to hold a commercial driver's license to administer a driving skills examination and occupy the seat beside an applicant for a commercial driver's license.

(2)(a) An applicant to be certified as a third-party skills test examiner shall provide fingerprints to the Nebraska State Patrol. The Nebraska State Patrol shall undertake a search for criminal history record information relating to such applicant, including transmittal of the applicant's fingerprints to the Federal Bureau of Investigation for a national criminal history record information check. The criminal history record information shall include information concerning the applicant from federal repositories of such information and repositories of such information in other states if authorized by federal law. The Nebraska State Patrol shall issue a report to the department that includes the criminal history record information concerning the applicant. The applicant shall pay the actual cost of the fingerprinting and criminal background check.

(b) A third-party skills test examiner shall be subject to a national criminal history record information check.

(c) The department shall maintain a record of the results of the criminal background check and third-party skills test examiner test training and certification of all third-party skills test examiners.

(d) The department shall rescind the certification to administer commercial driver's license tests of all third-party skills test examiners who:

(i) Do not successfully complete the required refresher training every four years; or

(ii) Do not pass a national criminal history record information check. Criteria for not passing the criminal background check must include at least the following:

(A) Any felony conviction within the last ten years; or

(B) Any conviction involving fraudulent activities.

(3) A certification to conduct third-party testing shall be valid for two years, and the department shall charge a fee of one hundred dollars to issue or renew the certification of any third-party tester. The department shall remit the fees collected to the State Treasurer for credit to the General Fund.

(4) Any third-party tester who violates any of the rules and regulations adopted and promulgated pursuant to this section shall be subject to having his or her certification revoked by the department.

Source: Laws 1989, LB 285, § 108; Laws 1999, LB 704, § 37; Laws 2014, LB983, § 44.

60-4,159 Licensee; permit holder; convictions; disqualifications; notification required; violation; penalty.

(1) Any person possessing a commercial driver's license or CLP-commercial learner's permit issued by the department shall, within ten days after 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 or CLP-commercial learner's permit 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 or CLP-commercial learner's permit issued by the department whose commercial driver's license or CLP-commercial learner's permit is suspended, revoked, or canceled by any state, who loses the privilege to operate a commercial motor vehicle in any state for any period, or who is disqualified from operating 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.

Source: Laws 1989, LB 285, § 109; Laws 2005, LB 76, § 14; Laws 2014, LB983, § 45.

60-4,160 Refusal or denial of application; notice; appeal.

Written notice shall be delivered to any applicant whose application for a commercial driver's license or CLP-commercial learner's permit is refused or denied for cause. The applicant shall have a right to an immediate appeal to the director upon receipt of such notice. The director shall hear the appeal and render a prompt finding not later than ten days after receipt of the appeal.

Source: Laws 1989, LB 285, § 110; Laws 2014, LB983, § 46.

60-4,162 Employment as driver; employer; duties; violation; penalty.

(1) Each employer shall require prospective applicants for employment as a driver of a commercial motor vehicle to provide the information required by section 60-4,161.

(2) No employer may knowingly allow, require, permit, or authorize a driver to operate a commercial motor vehicle in the United States in any of the following circumstances:

(a) During any period in which the driver does not have a current commercial learner's permit or commercial driver's license or does not have a commercial learner's permit or commercial driver's license with the proper class or endorsements. An employer may not use a driver to operate a commercial motor vehicle who violates any restriction on the driver's commercial learner's permit or commercial driver's license;

(b) During any period in which the driver has a commercial learner's permit or commercial driver's license disqualified by a state, has lost the right to operate a commercial motor vehicle in a state, or has been disqualified from operating a commercial motor vehicle;

(c) During any period in which the driver has more than one commercial learner's permit or commercial driver's license;

(d) During any period in which the driver, the commercial motor vehicle he or she is operating, or the motor carrier operation is subject to an out-of-service order; or

(e) In violation of a federal, state, or local law or regulation pertaining to railroad-highway grade crossings.

(3) Any employer who violates this section shall, upon conviction, be guilty of a Class III misdemeanor.

Source: Laws 1989, LB 285, § 112; Laws 2002, LB 499, § 2; Laws 2014, LB983, § 47.

60-4,164 Alcoholic liquor; implied consent to submit to chemical tests; refusal or failure; penalty; officer; report.

(1) Any person who operates or is in the actual physical control of a commercial motor vehicle upon a highway in this state shall be deemed to have given his or her consent to submit to a chemical test or tests of his or her blood or breath for the purpose of determining the amount of alcoholic content in his or her blood or breath.

(2) Any law enforcement officer who has been duly authorized to make arrests for violations of traffic laws of this state or of ordinances of any city or village who, after stopping or detaining the operator of any commercial motor vehicle, has reasonable grounds to believe that the operator was driving or in the actual physical control of a commercial motor vehicle while having any alcoholic liquor in his or her body may require such operator to submit to a chemical test or tests of his or her blood or breath for the purpose of determining the alcoholic content of such blood or breath.

(3) Any law enforcement officer who has been duly authorized to make arrests for violations of traffic laws of this state or of ordinances of any city or village may require any person who operates or has in his or her actual physical control a commercial motor vehicle upon a highway in this state to submit to a preliminary breath test of his or her breath for alcoholic content if the officer has reasonable grounds to believe that such person has any alcoholic liquor in his or her body, has committed a moving traffic violation, or has been involved in a traffic accident. Any such person who refuses to submit to a preliminary breath test shall be placed under arrest and shall be guilty of a Class V misdemeanor. Any person arrested for refusing to submit to a preliminary breath test or any person who submits to a preliminary breath test the results of which indicate the presence of any alcoholic liquor in such person's body may, upon the direction of a law enforcement officer, be required to submit to a chemical test or tests of his or her blood or breath for a determination of the alcoholic content.

(4) Any person operating or in the actual physical control of a commercial motor vehicle who submits to a chemical test or tests of his or her blood or breath which discloses the presence of any alcoholic liquor in his or her body shall be placed out of service for twenty-four hours by the law enforcement officer.

(5) Any person operating or in the actual physical control of a commercial motor vehicle who refuses to submit to a chemical test or tests of his or her blood or breath or any person operating or in the actual physical control of a commercial motor vehicle who submits to a chemical test or tests of his or her blood or breath which discloses an alcoholic concentration of: (a) Four-hundredths of one gram or more by weight of alcohol per one hundred milliliters of his or her blood or (b) four-hundredths of one gram or more by weight of alcohol per two hundred ten liters of his or her breath shall be placed

out of service for twenty-four hours by the law enforcement officer, and the officer shall forward to the director a sworn report. The director may accept a sworn report submitted electronically. The report shall state that the person was operating or in the actual physical control of a commercial motor vehicle, was requested to submit to the required chemical test or tests, and refused to submit to the required chemical test or tests or submitted to the required chemical test or tests and possessed an alcohol concentration at or in excess of that specified by this subsection.

(6) Any person involved in a commercial motor vehicle accident in this state may be required to submit to a chemical test or tests of his or her blood or breath by any law enforcement officer if the officer has reasonable grounds to believe that such person was driving or was in actual physical control of a commercial motor vehicle on a highway in this state while under the influence of alcoholic liquor at the time of the accident. A person involved in a commercial motor vehicle accident subject to the implied consent law of this state shall not be deemed to have withdrawn consent to submit to a chemical test or tests of his or her blood or breath by reason of leaving this state. If the person refuses a test or tests under this section and leaves the state for any reason following an accident, he or she shall remain subject to this section upon return.

Source: Laws 1989, LB 285, § 114; Laws 1992, LB 872, § 6; Laws 1993, LB 191, § 2; Laws 1996, LB 323, § 6; Laws 2011, LB667, § 31.

60-4,167 Alcoholic liquor; officer's report; notice of disqualification; hearing before director; procedure.

Upon receipt of a law enforcement officer's sworn report provided for in section 60-4,164, the director shall serve the notice of disqualification to the person who is the subject of the report by regular United States mail to the person's last-known address appearing on the records of the director. If the address on the director's records differs from the address on the arresting officer's report, the notice of disqualification shall be sent to both addresses. The notice of disqualification shall contain a statement explaining the operation of the disqualification procedure and the rights of the person. The director shall also provide to the person a self-addressed envelope and a petition form which the person may use to request a hearing before the director to contest the disqualification. The petition form shall clearly state on its face that the petition must be completed and delivered to the department or postmarked within ten days after receipt or the person's right to a hearing to contest the disqualification will be foreclosed. The director shall prescribe and approve the form for the petition, the self-addressed envelope, and the notice of disqualification. If not contested, the disqualification shall automatically take effect thirty days after the date of mailing of the notice of disqualification by the director. Any chemical test or tests made under section 60-4,164, if made in conformity with the requirements of section 60-6,201, shall be competent evidence of the alcoholic content of such person's blood or breath. The commercial driver's license or commercial learner's permit of the person who is the subject of the report shall be automatically disqualified upon the expiration of thirty days after the date of the mailing of the notice of disqualification by the director. The director shall conduct the hearing in the county in which the violation occurred or in any county agreed to by the parties. Upon receipt of a petition, the director shall notify the petitioner of the date and location for the hearing by

regular United States mail postmarked at least seven days prior to the hearing date.

After granting the petitioner an opportunity to be heard on such issue, if it is not shown to the director that the petitioner's refusal to submit to such chemical test or tests was reasonable or unless it is shown to the director that the petitioner was not operating or in the actual physical control of a commercial motor vehicle with an alcoholic concentration in his or her blood or breath equal to or in excess of that specified in subsection (5) of section 60-4,164, the director shall enter an order pursuant to section 60-4,169 revoking the petitioner's commercial driver's license or commercial learner's permit and the petitioner's privilege to operate a commercial motor vehicle in this state and disqualifying the person from operating a commercial motor vehicle for the period specified by section 60-4,168.

Source: Laws 1989, LB 285, § 117; Laws 1993, LB 191, § 5; Laws 1993, LB 370, § 92; Laws 1996, LB 323, § 8; Laws 2012, LB751, § 36; Laws 2014, LB983, § 48.

60-4,167.01 Alcoholic liquor; disqualification decision; director; duties.

(1) The director shall reduce the decision disqualifying a commercial driver from operating a commercial motor vehicle pursuant to a hearing under section 60-4,167 to writing and the director shall notify the person in writing of the disqualification within seven days following a hearing. The decision shall set forth the period of disqualification and be served by mailing it to such person by regular United States mail to the address provided to the director at the hearing or, if the person does not appear at the hearing, to the address appearing on the records of the director. If the address on the director's records differs from the address on the arresting peace officer's report, the notice shall be sent to both addresses.

(2) If the director does not disqualify the commercial driver from operating a commercial motor vehicle, the director shall notify the person in writing of the decision within seven days following a hearing. The notice shall be mailed by regular United States mail as provided in subsection (1) of this section. No reinstatement fee shall be charged.

Source: Laws 1996, LB 323, § 9; Laws 2012, LB751, § 37.

60-4,168 Disqualification; when.

(1) Except as provided in subsections (2) and (3) of this section, a person shall be disqualified from operating 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) Operating 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, operating any motor vehicle in violation of section 60-6,196 or 60-6,197 or under the influence of a controlled substance;

(b) Operating 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 operated by the person or, beginning September 30, 2005, leaving the scene of an accident involving any motor vehicle operated 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, operating a commercial motor vehicle after his or her commercial driver's license has been suspended, revoked, or canceled or the driver is disqualified from operating 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 operating a commercial motor vehicle for three years.

(3) A person shall be disqualified from operating 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;

(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; or

(c) Used a commercial motor vehicle in the commission of a felony involving an act or practice of severe forms of trafficking in persons, as defined and described in 22 U.S.C. 7102(11), as such section existed on January 1, 2020.

(4)(a) A person is disqualified from operating 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 operating 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) A person shall be disqualified from operating a commercial motor vehicle for at least one year if, on or after July 8, 2015, the person has been convicted of fraud related to the issuance of his or her CLP-commercial learner's permit or commercial driver's license.

(7) If the department receives credible information that a CLP-commercial learner's permit holder or a commercial driver's license holder is suspected, but has not been convicted, on or after July 8, 2015, of fraud related to the issuance of his or her CLP-commercial learner's permit or commercial driver's license, the department must require the driver to retake the skills and knowledge tests. Within thirty days after receiving notification from the department that retesting is necessary, the affected CLP-commercial learner's permit holder or commercial driver's license holder must make an appointment or otherwise schedule to take the next available test. If the CLP-commercial learner's permit holder or commercial driver's license holder fails to make an appointment within thirty days, the department must disqualify his or her CLP-commercial learner's permit or commercial driver's license. If the driver fails either the knowledge or skills test or does not take the test, the department must disqualify his or her CLP-commercial learner's permit or commercial driver's license. If the holder of a CLP-commercial learner's permit or commercial driver's license has had his or her CLP-commercial learner's permit or commercial driver's license disqualified, he or she must reapply for a CLP-commercial learner's permit or commercial driver's license under department procedures applicable to all applicants for a CLP-commercial learner's permit or commercial driver's license.

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

(9) 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.

(10) 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, operating a commercial motor vehicle without a commercial driver's license;

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

(h) Beginning September 30, 2005, operating 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;

(i) Beginning October 27, 2013, texting while driving as described in section 60-6,179.02; and

(j) Using a handheld mobile telephone as described in section 60-6,179.02.

(11) Each period of disqualification imposed under this section shall be served consecutively and separately.

Source: Laws 1989, LB 285, § 118; Laws 1990, LB 980, § 24; Laws 1993, LB 191, § 6; Laws 1993, LB 370, § 93; Laws 1996, LB 323, § 11; Laws 2001, LB 773, § 13; Laws 2002, LB 499, § 3; Laws 2003, LB 562, § 16; Laws 2005, LB 76, § 15; Laws 2012, LB751, § 38; Laws 2014, LB983, § 49; Laws 2016, LB311, § 21; Laws 2016, LB666, § 8; Laws 2017, LB263, § 68; Laws 2020, LB944, § 64.
Operative date November 14, 2020.

60-4,168.01 Out-of-service order; violation; disqualification; when.

(1) Except as provided in subsection (2) of this section, a person who is convicted of violating an out-of-service order while operating a commercial motor vehicle which is transporting nonhazardous materials shall be subject to disqualification as follows:

(a) A person shall be disqualified from operating a commercial motor vehicle for a period of at least one hundred eighty days but no more than one year upon a court conviction for violating an out-of-service order;

(b) A person shall be disqualified from operating a commercial motor vehicle for a period of at least two years but no more than five years upon a second court conviction for violating an out-of-service order, which arises out of a separate incident, during any ten-year period; and

(c) A person shall be disqualified from operating a commercial motor vehicle for a period of at least three years but no more than five years upon a third or subsequent court conviction for violating an out-of-service order, which arises out of a separate incident, during any ten-year period.

(2) A person who is convicted of violating an out-of-service order while operating a commercial motor vehicle which is transporting hazardous materials required to be placarded pursuant to section 75-364 or while operating a commercial motor vehicle designed or used to transport sixteen or more passengers, including the driver, shall be subject to disqualification as follows:

(a) A person shall be disqualified from operating a commercial motor vehicle for a period of at least one hundred eighty days but no more than two years upon conviction for violating an out-of-service order; and

(b) A person shall be disqualified from operating a commercial motor vehicle for a period of at least three years but no more than five years upon a second or subsequent conviction for violating an out-of-service order, which arises out of a separate incident, during any ten-year period.

(3) For purposes of this section, out-of-service order has the same meaning as in section 75-362.

(4) Each period of disqualification imposed under this section shall be served consecutively and separately.

Source: Laws 1996, LB 323, § 5; Laws 2003, LB 562, § 17; Laws 2009, LB204, § 2; Laws 2017, LB263, § 69.

60-4,169 Revocation; when.

Whenever it comes to the attention of the director that any person when operating a motor vehicle has, based upon the records of the director, been convicted of or administratively determined to have committed an offense for which disqualification is required pursuant to section 60-4,146.01, 60-4,168, or 60-4,168.01, the director shall summarily revoke (1) the commercial driver's license or CLP-commercial learner's permit and privilege of such person to operate a commercial motor vehicle in this state or (2) the privilege, if such person is a nonresident, of operating a commercial motor vehicle in this state. Any revocation ordered by the director pursuant to this section shall commence on the date of the signing of the order of revocation or the date of the release of such person from the jail or a Department of Correctional Services adult correctional facility, whichever is later, unless the order of the court requires the jail time and the revocation to run concurrently.

Source: Laws 1989, LB 285, § 119; Laws 1993, LB 31, § 19; Laws 1993, LB 420, § 12; Laws 1996, LB 323, § 12; Laws 2001, LB 38, § 37; Laws 2010, LB805, § 9; Laws 2014, LB983, § 50.

60-4,170 Revocation; notice; failure to surrender license or permit; violation; penalty; appeal.

Within ten days after the revocation provided for by section 60-4,169, the director shall notify in writing the person whose commercial driver's license, CLP-commercial learner's permit, or privilege to operate a commercial motor vehicle has been revoked that such license, permit, or privilege has been revoked. Such notice shall: (1) Contain a list of the disqualifying convictions or administrative determinations upon which the director relies as his or her

authority for the revocation, with the dates on which such disqualifying violations occurred and the dates of such convictions or administrative determinations and the trial courts or administrative agencies in which such convictions or administrative determinations were rendered; (2) state the term of revocation; (3) include a demand that the commercial driver's license or CLP-commercial learner's permit be returned to the director immediately; and (4) be served by mailing the notice to such person by regular United States mail to the address of such person. Any person refusing or failing to surrender a commercial driver's license or CLP-commercial learner's permit as required by this section shall, upon conviction, be guilty of a Class III misdemeanor.

Any person who feels himself or herself aggrieved because of a revocation pursuant to section 60-4,169 may appeal from such revocation in the manner set forth in section 60-4,105. Such appeal shall not suspend the order of revocation unless a stay of such revocation shall be allowed by the court pending a final determination of the review. The license of any person claiming to be aggrieved shall not be restored to such person, in the event of a final judgment of a court against such person, until the full time of revocation, as fixed by the director, has elapsed.

Source: Laws 1989, LB 285, § 120; Laws 1999, LB 704, § 38; Laws 2012, LB751, § 39; Laws 2014, LB983, § 51.

60-4,171 Issuance of Class O or M operator's license; reinstatement of commercial driver's license or CLP-commercial learner's permit; when.

(1) Following any period of revocation ordered by a court, a resident who has had a commercial driver's license or CLP-commercial learner's permit revoked pursuant to section 60-4,169 may apply for a Class O or M operator's license.

(2) Any person who has had his or her commercial driver's license or CLP-commercial learner's permit revoked pursuant to section 60-4,169 may, at the end of such revocation period, apply to have his or her eligibility for a commercial driver's license or CLP-commercial learner's permit reinstated. The applicant shall (a) apply to the department and meet the requirements of section 60-4,144, (b) take the commercial driver's license knowledge and driving skills examinations prescribed pursuant to section 60-4,155 if applying for a commercial driver's license, (c) certify pursuant to section 60-4,144.01 and meet the applicable medical requirements for such certification, (d) be subject to a check of his or her driving record, (e) pay the fees specified in section 60-4,115 and a reinstatement fee as provided in section 60-499.01, and (f) surrender any operator's license issued pursuant to subsection (1) of this section.

Source: Laws 1989, LB 285, § 121; Laws 1993, LB 420, § 14; Laws 1993, LB 491, § 14; Laws 1997, LB 752, § 144; Laws 1999, LB 704, § 39; Laws 2001, LB 38, § 38; Laws 2001, LB 574, § 27; Laws 2011, LB178, § 19; Laws 2014, LB983, § 52.

60-4,172 Nonresident licensee or permit holder; conviction within state; director; duties.

(1) Within ten days after receiving an abstract of conviction of any nonresident who holds a commercial learner's permit or commercial driver's license for any violation of state law or local ordinance related to motor vehicle traffic control, other than parking violations, committed in a commercial motor

vehicle operated in this state, the director shall notify the driver licensing authority which licensed the nonresident who holds a commercial learner's permit or commercial driver's license and the Commercial Driver License Information System of such conviction.

(2)(a) Within ten days after disqualifying a nonresident who holds a commercial learner's permit or commercial driver's license or canceling, revoking, or suspending the commercial learner's permit or commercial driver's license held by a nonresident, for a period of at least sixty days, the department shall notify the driver licensing authority which licensed the nonresident and the Commercial Driver License Information System of such action.

(b) The notification shall include both the disqualification and the violation that resulted in the disqualification, cancellation, revocation, or suspension. The notification and the information it provides shall be recorded on the driver's record.

(3) Within ten days after receiving an abstract of conviction of any nonresident who holds a commercial learner's permit or commercial driver's license for any violation of state law or local ordinance related to motor vehicle traffic control, other than parking violations, committed in any type of motor vehicle operated in this state, the director shall notify the driver licensing authority which licensed the nonresident and the Commercial Driver License Information System of such conviction.

(4) Within ten days after receiving an abstract of conviction of any nonresident who holds a driver's license for any violation of state law or local ordinance related to motor vehicle traffic control, other than parking violations, committed in a commercial motor vehicle operated in this state, the director shall notify the driver licensing authority which licensed the nonresident.

Source: Laws 1989, LB 285, § 122; Laws 2003, LB 562, § 19; Laws 2014, LB983, § 53.

(j) STATE IDENTIFICATION CARDS

60-4,180 State identification card; issuance authorized; prior cards; invalid.

Any person who is a resident of this state may obtain a state identification card with a digital image of the person included. State identification cards shall be issued in the manner provided in section 60-4,181. Any identification card issued under prior law prior to January 1, 1990, shall be invalid after such date.

Source: Laws 1989, LB 284, § 3; Laws 1993, LB 201, § 5; Laws 2001, LB 574, § 28; Laws 2014, LB777, § 11.

Cross References

Application, see section 60-484.

Duplicate or replacement card, see section 60-4,120.

Expiration, see section 60-490.

Photograph affixed to card, see section 60-4,119.

Prohibited acts, see section 60-491.

Renewal procedure, see section 60-4,122.

Violations, penalties, see section 60-491.

60-4,181 State identification cards; issuance; requirements; form; delivery; cancellation.

(1) Each applicant for a state identification card shall provide the information and documentation required by sections 60-484 and 60-484.04. The form of the

state identification card shall comply with section 60-4,117. The applicant shall present an issuance certificate to the county treasurer for a state identification card. Department personnel or the county treasurer shall collect the fee and surcharge as prescribed in section 60-4,115 and issue a receipt to the applicant which is valid up to thirty days. The state identification card shall be delivered to the applicant as provided in section 60-4,113.

(2) The director may summarily cancel any state identification card, and any judge or magistrate may order a state identification card canceled in a judgment of conviction, if the application or information presented by the applicant contains any false or fraudulent statements which were deliberately and knowingly made as to any matter material to the issuance of the card or if the application or information presented by the applicant does not contain required or correct information. Any state identification card so obtained shall be void from the date of issuance. Any judgment of conviction ordering cancellation of a state identification card shall be transmitted to the director who shall cancel the card.

(3) No person shall be a holder of a state identification card and an operator's license at the same time.

Source: Laws 1989, LB 284, § 6; Laws 1989, LB 285, § 130; Laws 1992, LB 1178, § 6; Laws 1993, LB 491, § 15; Laws 1994, LB 76, § 576; Laws 1995, LB 467, § 14; Laws 1996, LB 1073, § 2; Laws 1997, LB 21, § 1; Laws 1997, LB 635, § 22; Laws 1998, LB 309, § 11; Laws 1999, LB 147, § 4; Laws 1999, LB 704, § 41; Laws 2000, LB 1317, § 9; Laws 2001, LB 34, § 7; Laws 2001, LB 574, § 29; Laws 2003, LB 228, § 14; Laws 2004, LB 559, § 5; Laws 2008, LB911, § 26; Laws 2011, LB215, § 23; Laws 2016, LB311, § 22; Laws 2016, LB666, § 9.

(k) POINT SYSTEM

60-4,182 Point system; offenses enumerated.

In order to prevent and eliminate successive traffic violations, there is hereby provided a point system dealing with traffic violations as disclosed by the files of the director. The following point system shall be adopted:

- (1) Conviction of motor vehicle homicide - 12 points;
- (2) Third offense drunken driving in violation of any city or village ordinance or of section 60-6,196, as disclosed by the conviction record of the court's order - 12 points;
- (3) Failure to stop and render aid as required under section 60-697 in the event of involvement in a motor vehicle accident resulting in the death or personal injury of another - 6 points;
- (4) Failure to stop and report as required under section 60-696 or any city or village ordinance in the event of a motor vehicle accident resulting in property damage - 6 points;
- (5) Driving a motor vehicle while under the influence of alcoholic liquor or any drug or when such person has a concentration of eight-hundredths of one gram or more by weight of alcohol per one hundred milliliters of his or her blood or per two hundred ten liters of his or her breath in violation of any city or village ordinance or of section 60-6,196 - 6 points;

(6) Willful reckless driving in violation of any city or village ordinance or of section 60-6,214 or 60-6,217 - 6 points;

(7) Careless driving in violation of any city or village ordinance or of section 60-6,212 - 4 points;

(8) Negligent driving in violation of any city or village ordinance - 3 points;

(9) Reckless driving in violation of any city or village ordinance or of section 60-6,213 - 5 points;

(10) Speeding in violation of any city or village ordinance or any of sections 60-6,185 to 60-6,190 and 60-6,313:

(a) More than five miles per hour but not more than ten miles per hour over the speed limit - 2 points;

(b) More than ten miles per hour but not more than thirty-five miles per hour over the speed limit - 3 points, except that one point shall be assessed upon conviction of exceeding by not more than ten miles per hour, two points shall be assessed upon conviction of exceeding by more than ten miles per hour but not more than fifteen miles per hour, and three points shall be assessed upon conviction of exceeding by more than fifteen miles per hour but not more than thirty-five miles per hour the speed limits provided for in subdivision (1)(f), (g), (h), or (i) of section 60-6,186; and

(c) More than thirty-five miles per hour over the speed limit - 4 points;

(11) Failure to yield to a pedestrian not resulting in bodily injury to a pedestrian - 2 points;

(12) Failure to yield to a pedestrian resulting in bodily injury to a pedestrian - 4 points;

(13) Using a handheld wireless communication device in violation of section 60-6,179.01 or texting while driving in violation of subsection (1) or (3) of section 60-6,179.02 - 3 points;

(14) Using a handheld mobile telephone in violation of subsection (2) or (4) of section 60-6,179.02 - 3 points;

(15) Unlawful obstruction or interference of the view of an operator in violation of section 60-6,256 - 1 point;

(16) A violation of subsection (1) of section 60-6,175 - 3 points; and

(17) All other traffic violations involving the operation of motor vehicles by the operator for which reports to the Department of Motor Vehicles are required under sections 60-497.01 and 60-497.02 - 1 point.

Subdivision (17) of this section does not include violations involving an occupant protection system or a three-point safety belt system pursuant to section 60-6,270; parking violations; violations for operating a motor vehicle without a valid operator's license in the operator's possession; muffler violations; overwidth, overheight, or overlength violations; autocycle, motorcycle, or moped protective helmet violations; or overloading of trucks.

All such points shall be assessed against the driving record of the operator as of the date of the violation for which conviction was had. Points may be reduced by the department under section 60-4,188.

In all cases, the forfeiture of bail not vacated shall be regarded as equivalent to the conviction of the offense with which the operator was charged.

The point system shall not apply to persons convicted of traffic violations committed while operating a bicycle as defined in section 60-611 or an electric personal assistive mobility device as defined in section 60-618.02.

Source: Laws 1953, c. 219, § 1, p. 768; Laws 1955, c. 156, § 1, p. 457; Laws 1957, c. 168, § 1, p. 587; Laws 1957, c. 366, § 26, p. 1261; Laws 1959, c. 169, § 2, p. 617; Laws 1959, c. 174, § 1, p. 625; Laws 1961, c. 185, § 3, p. 571; Laws 1967, c. 235, § 2, p. 630; R.R.S.1943, § 39-7,128; Laws 1974, LB 590, § 1; Laws 1974, LB 873, § 4; Laws 1975, LB 328, § 1; Laws 1975, LB 381, § 4; Laws 1976, LB 265, § 1; Laws 1983, LB 204, § 1; Laws 1985, LB 496, § 2; Laws 1987, LB 224, § 3; Laws 1987, LB 430, § 3; Laws 1988, LB 428, § 6; Laws 1992, LB 958, § 2; R.S.Supp.,1992, § 39-669.26; Laws 1993, LB 370, § 80; Laws 1993, LB 575, § 17; Laws 1996, LB 901, § 2; Laws 2001, LB 166, § 3; Laws 2001, LB 773, § 14; Laws 2002, LB 1105, § 446; Laws 2006, LB 925, § 3; Laws 2007, LB35, § 1; Laws 2008, LB621, § 1; Laws 2010, LB945, § 1; Laws 2011, LB500, § 1; Laws 2012, LB751, § 40; Laws 2012, LB1039, § 1; Laws 2014, LB983, § 54; Laws 2015, LB95, § 8; Laws 2015, LB231, § 26; Laws 2018, LB909, § 91; Laws 2018, LB1009, § 2; Laws 2019, LB270, § 38; Laws 2020, LB944, § 65.

Operative date November 14, 2020.

Cross References

Assessment of points when person is placed on probation, see section 60-497.01.

60-4,184 Revocation of license; notice; failure to return license; procedure; penalty; appeal; effect.

Within ten days after the revocation provided for by section 60-4,183, the director shall notify in writing the person whose operator's license has been revoked that such license has been revoked. Such notice shall:

(1) Contain a list of the convictions for violations upon which the director relies as his or her authority for the revocation, with the dates of such violations upon which convictions were had and the dates of such convictions, the trial courts in which such judgments of conviction were rendered, and the points charged for each conviction;

(2) State the term of such revocation;

(3) Include a demand that the license be returned to the director immediately; and

(4) Be served by mailing it to such person by regular United States mail to the last-known residence of such person or, if such address is unknown, to the last-known business address of such person.

If any person fails to return his or her license to the director as demanded, the director shall immediately direct any peace officer or authorized representative of the director to secure possession of such license and return the license to the director. A refusal to surrender an operator's license on demand shall be unlawful, and any person failing to surrender his or her license as required by this section shall be guilty of a Class III misdemeanor.

Any person who feels aggrieved because of such revocation may appeal from such revocation in the manner set forth in section 60-4,105. Such appeal shall

not suspend the order of revocation of such license unless a stay of such order is allowed by a judge of such court pending a final determination of the review. The license of any person claiming to be aggrieved shall not be restored to such person, in the event the final judgment of a court finds against such person, until the full time of revocation, as fixed by the Department of Motor Vehicles, has elapsed.

Source: Laws 1953, c. 219, § 3, p. 770; Laws 1955, c. 157, § 1, p. 460; Laws 1957, c. 242, § 32, p. 845; Laws 1957, c. 366, § 28, p. 1263; Laws 1959, c. 174, § 3, p. 627; R.R.S.1943, § 39-7,130; Laws 1975, LB 263, § 2; Laws 1989, LB 285, § 4; R.S.Supp.,1992, § 39-669.28; Laws 1993, LB 370, § 82; Laws 1999, LB 704, § 42; Laws 2012, LB751, § 41.

(I) VETERAN NOTATION

60-4,189 Operator's license; state identification card; veteran designation; Department of Motor Vehicles; duties; replacement license or card.

(1) An operator's license or a state identification card shall include a veteran designation on the front of the license or card as directed by the department if the individual applying for such license or card is eligible for the license or card and:

(a)(i) Has served in the United States Army, United States Army Reserve, United States Navy, United States Navy Reserve, United States Marine Corps, United States Marine Corps Reserve, United States Coast Guard, United States Coast Guard Reserve, United States Air Force, United States Air Force Reserve, or National Guard and was discharged or otherwise separated with a characterization of honorable or general (under honorable conditions) from such service; or

(ii) Has served as a commissioned officer in the United States Public Health Service or the National Oceanic and Atmospheric Administration, was detailed to any branch of the armed forces of the United States for service on active or reserve duty, and was discharged or otherwise separated with a characterization of honorable or general (under honorable conditions) as proven with valid orders from the United States Department of Defense, a statement of service provided by the United States Public Health Service, or a report of transfer or discharge provided by the National Oceanic and Atmospheric Administration;

(b) Registers with the Department of Veterans' Affairs pursuant to section 80-414 as verification of such service; and

(c) Indicates on the application under section 60-484 his or her wish to include such veteran designation on his or her license or card.

(2) The Department of Motor Vehicles shall consult the registry established pursuant to section 80-414 before placing the veteran designation on the operator's license or state identification card issued to the applicant. Such designation shall not be authorized unless the registry verifies the applicant's eligibility. If eligible, the designation to be placed on the applicant's license or card shall be as follows:

(a) The words "Guard-Veteran" for any veteran of the National Guard;

(b) The words "Reserve-Veteran" for any veteran who served on reserve duty;

or

(c) The word “Veteran” for all other veterans.

(3) If the Director of Motor Vehicles discovers evidence of fraud in an application under this section, the director may summarily cancel the license or state identification card and send notice of the cancellation to the licensee or cardholder. If the Department of Motor Vehicles has information that an individual is no longer eligible for the veteran designation, the department may summarily cancel the license and send notice of the cancellation to the licensee or cardholder. The veteran designation shall not be restored until the Department of Motor Vehicles subsequently verifies the applicant’s eligibility by consulting the registry of the Department of Veterans’ Affairs.

(4) The veteran designation authorized in this section shall continue to be included on the license or card upon renewal of such license or card if the licensee or cardholder, at the time of renewal, indicates the desire to include the veteran designation.

(5) An individual may obtain a replacement operator’s license or state identification card to add or remove the veteran designation authorized in this section by applying to the Department of Motor Vehicles for such replacement license or card and, if adding the veteran designation, by meeting the requirements of subsection (1) of this section. The fee for such replacement license or card shall be the fee provided in section 60-4,115.

Source: Laws 2013, LB93, § 4; Laws 2019, LB192, § 4.
Operative date January 1, 2021.

ARTICLE 5

MOTOR VEHICLE SAFETY RESPONSIBILITY

(a) DEFINITIONS

Section
60-501. Terms, defined.

(b) ADMINISTRATION

60-506.01. Report of accident; effect.

(c) SECURITY FOLLOWING ACCIDENT

60-507. Accident; damage in excess of one thousand dollars; suspend license; suspend privilege of operation by nonresident; notice; exception; proof of financial responsibility; failure to furnish information; effect.

(d) PROOF OF FINANCIAL RESPONSIBILITY

60-520. Judgments; payments sufficient to satisfy requirements.
60-547. Bond; proof of financial responsibility.

(a) DEFINITIONS

60-501 Terms, defined.

For purposes of the Motor Vehicle Safety Responsibility Act, unless the context otherwise requires:

- (1) Department means Department of Motor Vehicles;
- (2) Former military vehicle means a motor vehicle that was manufactured for use in any country’s military forces and is maintained to accurately represent its military design and markings, regardless of the vehicle’s size or weight, but is no longer used, or never was used, by a military force;

(3) Golf car vehicle means a vehicle that has at least four wheels, has a maximum level ground speed of less than twenty miles per hour, has a maximum payload capacity of one thousand two hundred pounds, has a maximum gross vehicle weight of two thousand five hundred pounds, has a maximum passenger capacity of not more than four persons, and is designed and manufactured for operation on a golf course for sporting and recreational purposes;

(4) Judgment means any judgment which shall have become final by the expiration of the time within which an appeal might have been perfected without being appealed, or by final affirmation on appeal, rendered by a court of competent jurisdiction of any state or of the United States, (a) upon a cause of action arising out of the ownership, maintenance, or use of any motor vehicle for damages, including damages for care and loss of services, because of bodily injury to or death of any person or for damages because of injury to or destruction of property, including the loss of use thereof, or (b) upon a cause of action on an agreement of settlement for such damages;

(5) License means any license issued to any person under the laws of this state pertaining to operation of a motor vehicle within this state;

(6) Low-speed vehicle means a (a) four-wheeled motor vehicle (i) whose speed attainable in one mile is more than twenty miles per hour and not more than twenty-five miles per hour on a paved, level surface, (ii) whose gross vehicle weight rating is less than three thousand pounds, and (iii) that complies with 49 C.F.R. part 571, as such part existed on January 1, 2020, or (b) three-wheeled motor vehicle (i) whose maximum speed attainable is not more than twenty-five miles per hour on a paved, level surface, (ii) whose gross vehicle weight rating is less than three thousand pounds, and (iii) which is equipped with a windshield and an occupant protection system. A motorcycle with a sidecar attached is not a low-speed vehicle;

(7) Minitruck means a foreign-manufactured import vehicle or domestic-manufactured vehicle which (a) is powered by an internal combustion engine with a piston or rotor displacement of one thousand five hundred cubic centimeters or less, (b) is sixty-seven inches or less in width, (c) has a dry weight of four thousand two hundred pounds or less, (d) travels on four or more tires, (e) has a top speed of approximately fifty-five miles per hour, (f) is equipped with a bed or compartment for hauling, (g) has an enclosed passenger cab, (h) is equipped with headlights, taillights, turnsignals, windshield wipers, a rearview mirror, and an occupant protection system, and (i) has a four-speed, five-speed, or automatic transmission;

(8) Motor vehicle means any self-propelled vehicle which is designed for use upon a highway, including trailers designed for use with such vehicles, mini-trucks, and low-speed vehicles. Motor vehicle includes a former military vehicle. Motor vehicle does not include (a) mopeds as defined in section 60-637, (b) traction engines, (c) road rollers, (d) farm tractors, (e) tractor cranes, (f) power shovels, (g) well drillers, (h) every vehicle which is propelled by electric power obtained from overhead wires but not operated upon rails, (i) electric personal assistive mobility devices as defined in section 60-618.02, (j) off-road designed vehicles, including, but not limited to, golf car vehicles, go-carts, riding lawnmowers, garden tractors, all-terrain vehicles and utility-type vehicles as defined in section 60-6,355, minibikes as defined in section 60-636, and snowmobiles as defined in section 60-663, and (k) bicycles as defined in section 60-611;

(9) Nonresident means every person who is not a resident of this state;

(10) Nonresident's operating privilege means the privilege conferred upon a nonresident by the laws of this state pertaining to the operation by him or her of a motor vehicle or the use of a motor vehicle owned by him or her in this state;

(11) Operator means every person who is in actual physical control of a motor vehicle;

(12) Owner means a person who holds the legal title of a motor vehicle, or in the event (a) a motor vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee or (b) a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purposes of the act;

(13) Person means every natural person, firm, partnership, limited liability company, association, or corporation;

(14) Proof of financial responsibility means evidence of ability to respond in damages for liability, on account of accidents occurring subsequent to the effective date of such proof, arising out of the ownership, maintenance, or use of a motor vehicle, (a) in the amount of twenty-five thousand dollars because of bodily injury to or death of one person in any one accident, (b) subject to such limit for one person, in the amount of fifty thousand dollars because of bodily injury to or death of two or more persons in any one accident, and (c) in the amount of twenty-five thousand dollars because of injury to or destruction of property of others in any one accident;

(15) Registration means registration certificate or certificates and registration plates issued under the laws of this state pertaining to the registration of motor vehicles;

(16) State means any state, territory, or possession of the United States, the District of Columbia, or any province of the Dominion of Canada; and

(17) The forfeiture of bail, not vacated, or of collateral deposited to secure an appearance for trial shall be regarded as equivalent to conviction of the offense charged.

Source: Laws 1949, c. 178, § 1, p. 482; Laws 1957, c. 366, § 42, p. 1275; Laws 1959, c. 298, § 1, p. 1107; Laws 1959, c. 299, § 1, p. 1123; Laws 1971, LB 644, § 4; Laws 1972, LB 1196, § 4; Laws 1973, LB 365, § 1; Laws 1979, LB 23, § 14; Laws 1983, LB 253, § 1; Laws 1987, LB 80, § 11; Laws 1993, LB 121, § 385; Laws 1993, LB 370, § 94; Laws 2002, LB 1105, § 447; Laws 2010, LB650, § 32; Laws 2011, LB289, § 26; Laws 2012, LB898, § 3; Laws 2012, LB1155, § 15; Laws 2015, LB95, § 9; Laws 2016, LB929, § 9; Laws 2017, LB263, § 70; Laws 2018, LB909, § 92; Laws 2019, LB79, § 17; Laws 2019, LB156, § 13; Laws 2019, LB270, § 39; Laws 2020, LB944, § 66.

Operative date November 14, 2020.

(b) ADMINISTRATION

60-506.01 Report of accident; effect.

If the Department of Motor Vehicles receives Part II of a report of an accident from the Department of Transportation pursuant to section 60-699, it shall be presumed for purposes of the Motor Vehicle Safety Responsibility Act that the Part II information is true, and such presumption shall be accepted, when applicable, as satisfying the requirements of sections 60-507, 60-508, and 60-509.

Source: Laws 1961, c. 319, § 6, p. 1021; Laws 1993, LB 575, § 44; Laws 2017, LB263, § 71.

(c) SECURITY FOLLOWING ACCIDENT

60-507 Accident; damage in excess of one thousand dollars; suspend license; suspend privilege of operation by nonresident; notice; exception; proof of financial responsibility; failure to furnish information; effect.

(1) Within ninety days after the receipt by the Department of Transportation of a report of a motor vehicle accident within this state which has resulted in bodily injury or death, or damage to the property of any one person, including such operator, to an apparent extent in excess of one thousand dollars, the Department of Motor Vehicles shall suspend (a) the license of each operator of a motor vehicle in any manner involved in such accident and (b) the privilege, if such operator is a nonresident, of operating a motor vehicle within this state, unless such operator deposits security in a sum which shall be sufficient, in the judgment of the Department of Motor Vehicles, to satisfy any judgment or judgments for damages resulting from such accident which may be recovered against such operator and unless such operator gives proof of financial responsibility.

Notice of such suspension shall be sent by the Department of Motor Vehicles by regular United States mail to such operator not less than twenty days prior to the effective date of such suspension at his or her last-known mailing address as shown by the records of the department and shall state the amount required as security and the requirement of proof of financial responsibility. In the event a person involved in a motor vehicle accident within this state fails to make a report to the Department of Motor Vehicles indicating the extent of his or her injuries or the damage to his or her property within thirty days after the accident, and the department does not have sufficient information on which to base an evaluation of such injury or damage, the department, after reasonable notice to such person, may not require any deposit of security for the benefit or protection of such person. If the operator fails to respond to the notice on or before twenty days after the date of the notice, the director shall summarily suspend the operator's license or privilege and issue an order of suspension.

(2) The order of suspension provided for in subsection (1) of this section shall not be entered by the Department of Motor Vehicles if the department determines that in its judgment there is no reasonable possibility of a judgment being rendered against such operator.

(3) In determining whether there is a reasonable possibility of judgment being rendered against such operator, the department shall consider all reports and information filed in connection with the accident.

(4) The order of suspension provided for in subsection (1) of this section shall advise the operator that he or she has a right to appeal the order of suspension in accordance with the provisions set forth in section 60-503.

(5) The order of suspension provided for in subsection (1) of this section shall be sent by regular United States mail to the person's last-known mailing address as shown by the records of the department.

Source: Laws 1949, c. 178, § 7, p. 486; Laws 1953, c. 215, § 3, p. 763; Laws 1957, c. 366, § 45, p. 1278; Laws 1959, c. 298, § 5, p. 1111; Laws 1961, c. 319, § 7, p. 1022; Laws 1967, c. 392, § 1, p. 1218; Laws 1972, LB 1303, § 2; Laws 1973, LB 417, § 4; Laws 1985, LB 94, § 6; Laws 1997, LB 10, § 2; Laws 2003, LB 185, § 1; Laws 2012, LB751, § 42; Laws 2017, LB339, § 181.

(d) PROOF OF FINANCIAL RESPONSIBILITY

60-520 Judgments; payments sufficient to satisfy requirements.

Judgments in excess of the amounts specified in subdivision (14) of section 60-501 shall, for the purpose of the Motor Vehicle Safety Responsibility Act only, be deemed satisfied when payments in the amounts so specified have been credited thereon. Payments made in settlement of any claims because of bodily injury, death, or property damage arising from a motor vehicle accident shall be credited in reduction of the respective amounts so specified.

Source: Laws 1949, c. 178, § 20, p. 492; Laws 2010, LB650, § 33; Laws 2011, LB289, § 27; Laws 2012, LB1155, § 16; Laws 2019, LB156, § 14.

60-547 Bond; proof of financial responsibility.

Proof of financial responsibility may be evidenced by the bond of a surety company duly authorized to transact business within this state, or a bond with at least two individual sureties who each own real estate within this state, which real estate shall be scheduled in the bond approved by a judge of a court of record. The bond shall be conditioned for the payment of the amounts specified in subdivision (14) of section 60-501. It shall be filed with the department and shall not be cancelable except after ten days' written notice to the department. Such bond shall constitute a lien in favor of the state upon the real estate so scheduled of any surety, which lien shall exist in favor of any holder of a final judgment against the person who has filed such bond, for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damages because of injury to or destruction of property, including the loss of use thereof, resulting from the ownership, maintenance, use, or operation of a motor vehicle after such bond was filed, upon the filing of notice to that effect by the department in the office of the register of deeds of the county where such real estate shall be located.

Source: Laws 1949, c. 178, § 47, p. 498; Laws 2010, LB650, § 34; Laws 2011, LB289, § 28; Laws 2012, LB1155, § 17; Laws 2019, LB156, § 15.

ARTICLE 6

NEBRASKA RULES OF THE ROAD

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§ 60-601

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Section

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(a) GENERAL PROVISIONS

60-601 Rules, how cited.

Sections 60-601 to 60-6,383 shall be known and may be cited as the Nebraska Rules of the Road.

Source: Laws 1973, LB 45, § 122; Laws 1989, LB 285, § 9; Laws 1992, LB 291, § 14; Laws 1992, LB 872, § 5; R.S.Supp., 1992, § 39-6,122; Laws 1993, LB 370, § 97; Laws 1993, LB 564, § 14; Laws 1996, LB 901, § 3; Laws 1996, LB 1104, § 2; Laws 1997, LB 91, § 1; Laws 1998, LB 309, § 12; Laws 1999, LB 585, § 3; Laws 2001, LB 38, § 42; Laws 2002, LB 1105, § 448; Laws 2002, LB 1303, § 10; Laws 2004, LB 208, § 8; Laws 2006, LB 853, § 14; Laws 2006, LB 925, § 4; Laws 2008, LB736, § 6; Laws 2008, LB756, § 18; Laws 2009, LB92, § 1; Laws 2010, LB650, § 35; Laws 2010, LB945, § 2; Laws 2011, LB164, § 1; Laws 2011, LB289, § 29; Laws 2011, LB667, § 32; Laws 2011, LB675, § 4; Laws 2012, LB751, § 43; Laws 2012, LB1155, § 18; Laws 2014, LB1039, § 1; Laws 2015, LB231, § 27; Laws 2015, LB641, § 1; Laws 2016, LB977, § 20; Laws 2018, LB909, § 93; Laws 2018, LB1009, § 3; Laws 2019, LB81, § 1; Laws 2019, LB156, § 16.

60-605 Definitions, where found.

For purposes of the Nebraska Rules of the Road, the definitions found in sections 60-606 to 60-676 shall be used.

Source: Laws 1993, LB 370, § 101; Laws 1996, LB 901, § 4; Laws 1997, LB 91, § 2; Laws 2001, LB 38, § 43; Laws 2006, LB 853, § 15; Laws 2006, LB 925, § 5; Laws 2008, LB756, § 19; Laws 2010, LB650, § 36; Laws 2011, LB289, § 30; Laws 2012, LB1155, § 19; Laws 2015, LB231, § 28; Laws 2018, LB1009, § 4; Laws 2019, LB81, § 2; Laws 2019, LB156, § 17.

60-610.01 Autocycle, defined.

Autocycle means any motor vehicle (1) having a seat that does not require the operator to straddle or sit astride it, (2) designed to travel on three wheels in contact with the ground, (3) having antilock brakes, (4) designed to be controlled with a steering wheel and pedals, and (5) in which the operator and passenger ride either side by side or in tandem in a seating area that is equipped with a manufacturer-installed three-point safety belt system for each occupant and that has a seating area that either (a) is completely enclosed and is equipped with manufacturer-installed airbags and a manufacturer-installed roll cage or (b) is not completely enclosed and is equipped with a manufacturer-installed rollover protection system.

Source: Laws 2015, LB231, § 29; Laws 2018, LB909, § 94.

60-611 Bicycle, defined.

Bicycle shall mean (1) every device propelled solely by human power, upon which any person may ride, and having two tandem wheels either of which is more than fourteen inches in diameter or (2) a device with two or three wheels, fully operative pedals for propulsion by human power, and an electric motor with a capacity not exceeding seven hundred fifty watts which produces no more than one brake horsepower and is capable of propelling the bicycle at a maximum design speed of no more than twenty miles per hour on level ground.

Source: Laws 1993, LB 370, § 107; Laws 2015, LB95, § 10.

60-620.01 Former military vehicle, defined.

Former military vehicle means a motor vehicle that was manufactured for use in any country's military forces and is maintained to accurately represent its military design and markings, regardless of the vehicle's size or weight, but is no longer used, or never was used, by a military force.

Source: Laws 2019, LB156, § 18.

60-622.01 Golf car vehicle, defined.

Golf car vehicle means a vehicle that has at least four wheels, has a maximum level ground speed of less than twenty miles per hour, has a maximum payload capacity of one thousand two hundred pounds, has a maximum gross vehicle weight of two thousand five hundred pounds, has a maximum passenger capacity of not more than four persons, is designed and manufactured for operation on a golf course for sporting and recreational purposes, and is not being operated within the boundaries of a golf course.

Source: Laws 2012, LB1155, § 20.

60-628.01 Low-speed vehicle, defined.

Low-speed vehicle means a (1) four-wheeled motor vehicle (a) whose speed attainable in one mile is more than twenty miles per hour and not more than twenty-five miles per hour on a paved, level surface, (b) whose gross vehicle weight rating is less than three thousand pounds, and (c) that complies with 49 C.F.R. part 571, as such part existed on January 1, 2020, or (2) three-wheeled motor vehicle (a) whose maximum speed attainable is not more than twenty-five miles per hour on a paved, level surface, (b) whose gross vehicle weight rating is less than three thousand pounds, and (c) which is equipped with a windshield and an occupant protection system. A motorcycle with a sidecar attached is not a low-speed vehicle.

Source: Laws 2011, LB289, § 31; Laws 2016, LB929, § 10; Laws 2017, LB263, § 72; Laws 2018, LB909, § 95; Laws 2019, LB79, § 18; Laws 2019, LB270, § 40; Laws 2020, LB944, § 67.
Operative date November 14, 2020.

60-631 Manual, defined.

Manual shall mean the Manual on Uniform Traffic Control Devices adopted by the Department of Transportation pursuant to section 60-6,118.

Source: Laws 1993, LB 370, § 127; Laws 2017, LB339, § 182.

60-636.01 Minitruck, defined.

Minitruck means a foreign-manufactured import vehicle or domestic-manufactured vehicle which (1) is powered by an internal combustion engine with a piston or rotor displacement of one thousand five hundred cubic centimeters or less, (2) is sixty-seven inches or less in width, (3) has a dry weight of four thousand two hundred pounds or less, (4) travels on four or more tires, (5) has a top speed of approximately fifty-five miles per hour, (6) is equipped with a bed or compartment for hauling, (7) has an enclosed passenger cab, (8) is equipped with headlights, taillights, turnsignals, windshield wipers, a rearview mirror, and an occupant protection system, and (9) has a four-speed, five-speed, or automatic transmission.

Source: Laws 2010, LB650, § 37; Laws 2012, LB898, § 4.

60-637 Moped, defined.

Moped shall mean a device with fully operative pedals for propulsion by human power, an automatic transmission, and a motor with a cylinder capacity not exceeding fifty cubic centimeters which produces no more than two brake horsepower and is capable of propelling the device at a maximum design speed of no more than thirty miles per hour on level ground.

Source: Laws 1993, LB 370, § 133; Laws 2015, LB95, § 11.

60-638 Motor vehicle, defined.

Motor vehicle shall mean every self-propelled land vehicle, not operated upon rails, except bicycles, mopeds, self-propelled chairs used by persons who are disabled, and electric personal assistive mobility devices.

Source: Laws 1993, LB 370, § 134; Laws 2002, LB 1105, § 451; Laws 2015, LB95, § 12.

60-639 Motorcycle, defined.

Motorcycle means every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, excluding tractors and electric personal assistive mobility devices. Motorcycle includes an auticycle.

Source: Laws 1993, LB 370, § 135; Laws 2002, LB 1105, § 452; Laws 2015, LB231, § 30; Laws 2018, LB909, § 96.

60-640 Motor-driven cycle, defined.

(1) Motor-driven cycle means every motorcycle, including every motor scooter, with a motor which produces not to exceed five brake horsepower as measured at the drive shaft, mopeds, and every bicycle with motor attached except for a bicycle as described in subdivision (2) of section 60-611. Motor-driven cycle shall not include an electric personal assistive mobility device.

(2) For purposes of this section, motorcycle does not include an auticycle.

Source: Laws 1993, LB 370, § 136; Laws 2002, LB 1105, § 453; Laws 2015, LB95, § 13; Laws 2018, LB909, § 97.

60-641.01 On-track equipment, defined.

On-track equipment means any railroad locomotive or any other car, rolling stock, equipment, or other device operated upon stationary rails either alone or coupled to other railroad locomotives, cars, rolling stock, equipment, or devices.

Source: Laws 2019, LB81, § 3.

60-658 School bus, defined.

School bus shall mean any motor vehicle which complies with the general design, equipment, and color requirements adopted and promulgated pursuant to subdivision (12) of section 79-318 and which is used to transport students to or from school or in connection with school activities but shall not include buses operated by common carriers in urban transportation of school students.

Source: Laws 1993, LB 370, § 154; Laws 1993, LB 575, § 5; Laws 2009, LB549, § 3; Laws 2013, LB222, § 20.

60-658.01 School crossing zone, defined.

School crossing zone means the area of a roadway designated to the public by the Department of Transportation or any county, city, or village as a school crossing zone through the use of a sign or traffic control device as specified by the department or any county, city, or village in conformity with the manual but does not include any area of a freeway. A school crossing zone starts at the location of the first sign or traffic control device identifying the school crossing zone and continues until a sign or traffic control device indicates that the school crossing zone has ended.

Source: Laws 1997, LB 91, § 3; Laws 2017, LB339, § 183.

60-667.01 Super-two highway, defined.

Super-two highway means a two-lane highway designed primarily for through traffic with passing lanes spaced intermittently and on alternating sides

of the highway to provide predictable opportunities to pass slower moving vehicles.

Source: Laws 2018, LB1009, § 5.

(b) POWERS OF STATE AND LOCAL AUTHORITIES

60-680 Regulation of highways by local authority; police powers.

(1) Any local authority with respect to highways under its jurisdiction and within the reasonable exercise of the police power may:

- (a) Regulate or prohibit stopping, standing, or parking;
- (b) Regulate traffic by means of peace officers or traffic control devices;
- (c) Regulate or prohibit processions or assemblages on the highways;
- (d) Designate highways or roadways for use by traffic moving in one direction;
- (e) Establish speed limits for vehicles in public parks;
- (f) Designate any highway as a through highway or designate any intersection as a stop or yield intersection;
- (g) Restrict the use of highways as authorized in section 60-681;
- (h) Regulate operation of bicycles and require registration and inspection of such, including requirement of a registration fee;
- (i) Regulate operation of electric personal assistive mobility devices;
- (j) Regulate or prohibit the turning of vehicles or specified types of vehicles;
- (k) Alter or establish speed limits authorized in the Nebraska Rules of the Road;
- (l) Designate no-passing zones;
- (m) Prohibit or regulate use of controlled-access highways by any class or kind of traffic except those highways which are a part of the state highway system;
- (n) Prohibit or regulate use of heavily traveled highways by any class or kind of traffic it finds to be incompatible with the normal and safe movement of traffic, except that such regulations shall not be effective on any highway which is part of the state highway system unless authorized by the Department of Transportation;
- (o) Establish minimum speed limits as authorized in the rules;
- (p) Designate hazardous railroad grade crossings as authorized in the rules;
- (q) Designate and regulate traffic on play streets;
- (r) Prohibit pedestrians from crossing a roadway in a business district or any designated highway except in a crosswalk as authorized in the rules;
- (s) Restrict pedestrian crossings at unmarked crosswalks as authorized in the rules;
- (t) Regulate persons propelling push carts;
- (u) Regulate persons upon skates, coasters, sleds, and other toy vehicles;
- (v) Notwithstanding any other provision of law, adopt and enforce an ordinance or resolution prohibiting the use of engine brakes on the National System of Interstate and Defense Highways that has a grade of less than five degrees within its jurisdiction. For purposes of this subdivision, engine brake means a

device that converts a power producing engine into a power-absorbing air compressor, resulting in a net energy loss;

(w) Adopt and enforce such temporary or experimental regulations as may be necessary to cover emergencies or special conditions; and

(x) Adopt other traffic regulations except as prohibited by state law or contrary to state law.

(2) No local authority, except an incorporated city with more than forty thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census, shall erect or maintain any traffic control device at any location so as to require the traffic on any state highway or state-maintained freeway to stop before entering or crossing any intersecting highway unless approval in writing has first been obtained from the Department of Transportation.

(3) No ordinance or regulation enacted under subdivision (1)(d), (e), (f), (g), (j), (k), (l), (m), (n), (p), (q), or (s) of this section shall be effective until traffic control devices giving notice of such local traffic regulations are erected upon or at the entrances to such affected highway or part thereof affected as may be most appropriate.

Source: Laws 1973, LB 45, § 97; R.S.1943, (1988), § 39-697; Laws 1993, LB 370, § 176; Laws 2000, LB 1361, § 2; Laws 2002, LB 491, § 2; Laws 2002, LB 1105, § 455; Laws 2017, LB113, § 48; Laws 2017, LB339, § 184.

60-681 Highways, travel on; regulation by local authorities; when authorized; signs.

Local authorities may by ordinance or resolution prohibit the operation of vehicles upon any highway or impose restrictions as to the weight of vehicles, for a total period not to exceed one hundred eighty days in any one calendar year, when operated upon any highway under the jurisdiction of and for the maintenance of which such local authorities are responsible whenever any such highway by reason of deterioration, rain, snow, or other climatic condition will be seriously damaged or destroyed unless the use of vehicles thereon is prohibited or the permissible weight thereof reduced. Such local authorities enacting any such ordinance or resolution shall erect or cause to be erected and maintained signs designating the provisions of the ordinance or resolution at each end of that portion of any highway affected thereby, and the ordinance or resolution shall not be effective until such signs are erected and maintained.

Local authorities may also, by ordinance or resolution, prohibit the operation of trucks or other commercial vehicles or impose limitations as to the weight thereof on designated highways, which prohibitions and limitations shall be designated by appropriate signs placed on such highways.

Source: Laws 1931, c. 110, § 35, p. 316; C.S.Supp.,1941, § 39-1166; R.S.1943, § 39-770; R.S.1943, (1988), § 39-6,189; Laws 1993, LB 370, § 177; Laws 2016, LB977, § 21.

(c) PENALTY AND ENFORCEMENT PROVISIONS

60-692 Failure to satisfy judgment; effect.

When any person fails within thirty working days to satisfy any judgment imposed for any traffic infraction, it shall be the duty of the clerk of the court in

which such judgment is rendered within this state to transmit a copy of such judgment to the Department of Motor Vehicles as provided in section 60-4,100.

Source: Laws 1973, LB 45, § 110; Laws 1991, LB 420, § 6; R.S.Supp.,1992, § 39-6,110; Laws 1993, LB 370, § 188; Laws 2017, LB259, § 14.

(d) ACCIDENTS AND ACCIDENT REPORTING

60-695 Peace officers; investigation of traffic accident; duty to report; Department of Transportation; powers; duties.

It shall be the duty of any peace officer who investigates any traffic accident in the performance of his or her official duties in all instances of an accident resulting in injury or death to any person or in which estimated damage exceeds one thousand dollars to the property of any one person to submit an original report of such investigation to the Accident Records Bureau of the Department of Transportation within ten days after each such accident. The department shall have authority to collect accident information it deems necessary and shall prescribe and furnish appropriate forms for reporting.

Source: Laws 1973, LB 45, § 104; Laws 1985, LB 94, § 1; Laws 1988, LB 1030, § 41; R.S.1943, (1988), § 39-6,104; Laws 1993, LB 370, § 191; Laws 2003, LB 185, § 3; Laws 2017, LB339, § 185.

60-697 Accident; driver's duty; penalty.

(1) The driver of any vehicle involved in an accident upon either a public highway, private road, or private drive, resulting in injury or death to any person, shall (a) immediately stop such vehicle at the scene of such accident and ascertain the identity of all persons involved, (b) give his or her name and address and the license number of the vehicle and exhibit his or her operator's license to the person struck or the occupants of any vehicle collided with, and (c) render to any person injured in such accident reasonable assistance, including the carrying of such person to a physician or surgeon for medical or surgical treatment if it is apparent that such treatment is necessary or is requested by the injured person.

(2) Any person violating any of the provisions of this section shall upon conviction thereof be punished as provided in section 60-698.

Source: Laws 1931, c. 110, § 28, p. 314; C.S.Supp.,1941, § 39-1159; R.S.1943, § 39-762; Laws 1947, c. 148, § 2(1), p. 409; Laws 1949, c. 119, § 1, p. 315; Laws 1949, c. 120, § 1, p. 317; R.R.S.1943, § 39-762; R.S.1943, (1988), § 39-6,104.01; Laws 1993, LB 370, § 193; Laws 2005, LB 274, § 240; Laws 2006, LB 925, § 8; Laws 2011, LB675, § 5.

Cross References

Operator's license, assessment of points, revocation, see sections 60-497.01, 60-498, and 60-4,182 et seq.

60-698 Accident; failure to stop; penalty.

(1) Any person convicted of violating section 60-697 relative to the duty to stop in the event of certain accidents shall be guilty of (a) a Class IIIA felony if the accident resulted in an injury to any person other than a serious bodily injury as defined in section 60-6,198 or death or (b) a Class III felony if the

accident resulted in the death of any person or serious bodily injury as defined in section 60-6,198.

(2) The court shall, as part of the judgment of conviction, order such person not to drive any motor vehicle for any purpose for a period of not less than one year nor more than fifteen years from the date ordered by the court and shall order that the operator's license of such person be revoked for a like period. The order of the court shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked, whichever is later.

Source: Laws 1931, c. 110, § 56, p. 324; C.S.Supp.,1941, § 39-1187; R.S.1943, § 39-763; Laws 1953, c. 214, § 2, p. 757; R.R.S.1943, § 39-763; Laws 1978, LB 748, § 27; R.S.1943, (1988), § 39-6,104.03; Laws 1993, LB 31, § 18; Laws 1993, LB 370, § 194; Laws 1997, LB 772, § 6; Laws 2006, LB 925, § 9; Laws 2011, LB675, § 6.

60-699 Accidents; reports required of operators and owners; when; supplemental reports; reports of peace officers open to public inspection; limitation on use as evidence; violation; penalty.

(1) The operator of any vehicle involved in an accident resulting in injuries or death to any person or damage to the property of any one person, including such operator, to an apparent extent of more than one thousand dollars shall within ten days forward a report of such accident to the Department of Transportation. If the operator is physically incapable of making the report, the owner of the motor vehicle involved in the accident shall, within ten days from the time he or she learns of the accident, report the matter in writing to the Department of Transportation. The Department of Transportation or Department of Motor Vehicles may require operators involved in accidents to file supplemental reports of accidents upon forms furnished by it whenever the original report is insufficient in the opinion of either department. The operator or the owner of the motor vehicle shall make such other and additional reports relating to the accident as either department requires. Such records shall be retained for the period of time specified by the State Records Administrator pursuant to the Records Management Act.

(2) The report of accident required by this section shall be in two parts. Part I shall be in such form as the Department of Transportation may prescribe and shall disclose full information concerning the accident. Part II shall be in such form as the Department of Motor Vehicles may prescribe and shall disclose sufficient information to disclose whether or not the financial responsibility requirements of the Motor Vehicle Safety Responsibility Act are met through the carrying of liability insurance.

(3) Upon receipt of a report of accident, the Department of Transportation shall determine the reportability and classification of the accident and enter all information into a computerized data base. Upon completion, the Department of Transportation shall electronically send Part II of the report to the Department of Motor Vehicles for purposes of section 60-506.01.

(4) Such reports shall be without prejudice. All reports made by peace officers, made to or filed with peace officers in their respective offices or departments, or filed with or made by or to any other law enforcement agency of the state shall be open to public inspection, but accident reports filed by the

operator or owner of a motor vehicle pursuant to this section shall not be open to public inspection. The fact that a report by an operator or owner has been so made shall be admissible in evidence solely to prove compliance with this section, but no such report or any part of or statement contained in the report shall be admissible in evidence for any other purpose in any trial, civil or criminal, arising out of such accidents nor shall the report be referred to in any way or be any evidence of the negligence or due care of either party at the trial of any action at law to recover damages.

(5) The failure by any person to report an accident as provided in this section or to correctly give the information required in connection with the report shall be a Class V misdemeanor.

Source: Laws 1931, c. 110, § 29, p. 315; C.S.Supp.,1941, § 39-1160; R.S.1943, § 39-764; Laws 1951, c. 120, § 1, p. 531; Laws 1953, c. 215, § 1, p. 761; Laws 1961, c. 189, § 2, p. 580; Laws 1961, c. 319, § 1, p. 1019; Laws 1973, LB 417, § 1; R.S.Supp.,1973, § 39-764; Laws 1985, LB 94, § 2; R.S.1943, (1988), § 39-6,104.04; Laws 1993, LB 370, § 195; Laws 1993, LB 575, § 24; Laws 2003, LB 185, § 4; Laws 2017, LB263, § 73; Laws 2017, LB339, § 186.

Cross References

Motor Vehicle Safety Responsibility Act, see section 60-569.

Records Management Act, see section 84-1220.

60-6,101 Accidents; coroner; report to Department of Transportation.

Any coroner or other official performing the duties of coroner shall report in writing to the Department of Transportation the death of any person within his or her jurisdiction as the result of an accident involving a motor vehicle and the circumstances of such accident. Such report by the coroner shall be made within ten days after such death.

Source: Laws 1974, LB 66, § 1; R.S.1943, (1988), § 39-6,104.06; Laws 1993, LB 370, § 197; Laws 1993, LB 590, § 1; Laws 2017, LB339, § 187.

60-6,102 Accident; death; driver; pedestrian sixteen years of age or older; coroner; examine body; amount of alcohol or drugs; report to Department of Transportation; public information.

In the case of a driver who dies within four hours after being in a motor vehicle accident, including a motor vehicle accident in which one or more persons in addition to such driver is killed, and of a pedestrian sixteen years of age or older who dies within four hours after being struck by a motor vehicle, the coroner or other official performing the duties of coroner shall examine the body and cause such tests to be made as are necessary to determine the amount of alcohol or drugs in the body of such driver or pedestrian. Such information shall be included in each report submitted pursuant to sections 60-6,101 to 60-6,104 and shall be tabulated on a monthly basis by the Department of Transportation. Such information, including the identity of the deceased and any such amount of alcohol or drugs, shall be public information and may be released or disclosed as provided by the department.

Source: Laws 1974, LB 66, § 2; R.S.1943, (1988), § 39-6,104.07; Laws 1993, LB 370, § 198; Laws 1993, LB 590, § 2; Laws 2017, LB339, § 188; Laws 2019, LB190, § 3.

60-6,103 Accident; driver or pedestrian sixteen years of age or older; person killed; submit to chemical test; results in writing to Director-State Engineer; public information.

Any surviving driver or pedestrian sixteen years of age or older who is involved in a motor vehicle accident in which a person is killed shall be requested, if he or she has not otherwise been directed by a peace officer to submit to a chemical test under section 60-6,197, to submit to a chemical test of blood, urine, or breath as the peace officer directs for the purpose of determining the amount of alcohol or drugs in his or her body fluid. The results of such test shall be reported in writing to the Director-State Engineer who shall tabulate such results on a monthly basis. Such information, including the identity of such driver or pedestrian and any such amount of alcohol or drugs, shall be public information and may be released or disclosed as provided by the Department of Transportation. The provisions of sections 60-6,199, 60-6,200, and 60-6,202 shall, when applicable, apply to the tests provided for in this section.

Source: Laws 1974, LB 66, § 3; R.S.1943, (1988), § 39-6,104.08; Laws 1993, LB 370, § 199; Laws 1993, LB 590, § 3; Laws 2017, LB339, § 189; Laws 2019, LB190, § 4.

60-6,106 Accidents; reports; expenses; reimbursement to county by Department of Transportation.

The Department of Transportation shall reimburse any county for expenses and costs incurred by the county pursuant to sections 60-6,101 to 60-6,105. The department shall provide the official in each county with the appropriate reporting form.

Source: Laws 1974, LB 66, § 6; R.S.1943, (1988), § 39-6,104.11; Laws 1993, LB 370, § 202; Laws 1993, LB 590, § 4; Laws 2017, LB339, § 190.

60-6,107 Accidents; Department of Health and Human Services; Department of Transportation; rules and regulations.

(1) Except as provided in subsection (2) of this section, the Department of Health and Human Services shall adopt necessary rules and regulations for the administration of the provisions of sections 60-6,101 to 60-6,106.

(2) The Department of Transportation may adopt and promulgate rules and regulations which provide for the release and disclosure of the results of tests conducted under sections 60-6,102 and 60-6,103.

Source: Laws 1974, LB 66, § 7; R.S.1943, (1988), § 39-6,104.12; Laws 1993, LB 370, § 203; Laws 1993, LB 590, § 5; Laws 1996, LB 1044, § 283; Laws 2007, LB296, § 233; Laws 2017, LB339, § 191; Laws 2019, LB190, § 5.

(e) APPLICABILITY OF TRAFFIC LAWS

60-6,109 Drivers to exercise due care with pedestrian; audible signal.

Notwithstanding the other provisions of the Nebraska Rules of the Road, every driver of a vehicle shall exercise due care, which shall include, but not be limited to, leaving a safe distance of no less than three feet clearance, when

applicable, to avoid colliding with any pedestrian upon any roadway and shall give an audible signal when necessary and shall exercise proper precaution upon observing any child or obviously confused or incapacitated person upon a roadway.

Source: Laws 1973, LB 45, § 44; R.S.1943, (1988), § 39-644; Laws 1993, LB 370, § 205; Laws 2012, LB1030, § 1.

60-6,115 Closed road; travel permitted; when.

Notwithstanding the provisions of subsection (1) of section 60-6,119, when the Department of Transportation, any local authority, or its authorized representative or permittee has closed, in whole or in part, by barricade or otherwise, during repair or construction, any portion of any highway, the restrictions upon the use of such highway shall not apply to persons living along such closed highway or to persons who would need to travel such highway during the normal course of their operations if no other route of travel is available to such person, but extreme care shall be exercised by such persons on such highway.

Source: Laws 1993, LB 370, § 211; Laws 2017, LB339, § 192.

(f) TRAFFIC CONTROL DEVICES

60-6,118 Manual on Uniform Traffic Control Devices; adoption by Department of Transportation.

Consistent with the provisions of the Nebraska Rules of the Road, the Department of Transportation may adopt and promulgate rules and regulations adopting and implementing a manual providing a uniform system of traffic control devices on all highways within this state which, together with any supplements adopted by the department, shall be known as the Manual on Uniform Traffic Control Devices.

Source: Laws 1973, LB 45, § 98; Laws 1984, LB 677, § 1; R.S.1943, (1988), § 39-698; Laws 1993, LB 370, § 214; Laws 2017, LB339, § 193.

60-6,120 Placing and maintaining traffic control devices; jurisdiction.

(1) The Department of Transportation shall place and maintain, or provide for such placing and maintaining, such traffic control devices, conforming to the manual, upon all state highways as it deems necessary to indicate and to carry out the Nebraska Rules of the Road or to regulate, warn, or guide traffic.

(2)(a) In incorporated cities and villages with less than forty thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census, the department shall have exclusive jurisdiction regarding the erection and maintenance of traffic control devices on the state highway system but shall not place traffic control devices on the state highway system within incorporated cities of more than twenty-five hundred inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census without consultation with the proper city officials.

(b) In incorporated cities of forty thousand or more inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census, except on state-maintained freeways of the state highway system where the department retains exclusive jurisdiction, the city shall have jurisdiction regarding erection and maintenance of traffic control devices on the state highway system after consultation with the department, except that there shall be joint jurisdiction with the department for such traffic control devices for which the department accepts responsibility for the erection and maintenance.

(3) No local authority shall place or maintain any traffic control device upon any highway under the jurisdiction of the department, except by permission of the department, or on any state-maintained freeway of the state highway system.

(4) The placing of traffic control devices by the department shall not be a departmental rule, regulation, or order subject to the statutory procedures for such rules, regulations, or orders but shall be considered as establishing precepts extending the provisions of the Nebraska Rules of the Road as necessary to regulate, warn, or guide traffic. Violation of such traffic control devices shall be punishable as provided in the rules.

Source: Laws 1973, LB 45, § 10; R.S.1943, (1988), § 39-610; Laws 1993, LB 370, § 216; Laws 2017, LB113, § 49; Laws 2017, LB339, § 194.

60-6,126.01 Road name signs; authorized.

Local authorities may place and maintain road name signs on the same sign posts as signs under the jurisdiction of the Department of Transportation when highway visibility would not be impaired. Local authorities may also place and maintain road name signs in the right-of-way of any highway under the jurisdiction of the Department of Transportation when highway visibility would not be impaired.

Source: Laws 2006, LB 853, § 17; Laws 2017, LB339, § 195.

60-6,129 Interference with official traffic control devices or railroad signs or signals; prohibited; liability in civil action.

(1) No person shall, without lawful authority, attempt to or in fact alter, deface, injure, knock down, or remove any traffic control device, any railroad sign or signal, or any part of such a device, sign, or signal.

(2) Any person who moves, alters, damages, or destroys warning devices placed upon roads which the Department of Transportation or any local authority or its representative has closed in whole or in part for the protection of the public or for the protection of the highway from damage during construction, improvement, or maintenance operation and thereby causes injury or death to any person or damage to any property, equipment, or material thereon shall be liable, subject to sections 25-21,185 and 25-21,185.07 to 25-21,185.12, for the full or allocated amount of such death, injury, or damage, and such amount may be recovered by the injured or damaged party or his or

her legal representative in a civil action brought in any court of competent jurisdiction.

Source: Laws 1973, LB 45, § 19; Laws 1992, LB 262, § 10; R.S.Supp.,1992, § 39-619; Laws 1993, LB 370, § 225; Laws 2017, LB339, § 196.

60-6,130 Signs, markers, devices, or notices; prohibited acts; penalty.

(1) Any person who willfully or maliciously shoots upon the public highway and injures, defaces, damages, or destroys any signs, monuments, road markers, traffic control devices, traffic surveillance devices, or other public notices lawfully placed upon such highways shall be guilty of a Class III misdemeanor.

(2) No person shall willfully or maliciously injure, deface, alter, or knock down any sign, traffic control device, or traffic surveillance device.

(3) It shall be unlawful for any person, other than a duly authorized representative of the Department of Transportation, a county, or a municipality, to remove any sign, traffic control device, or traffic surveillance device placed along a highway for traffic control, warning, or informational purposes by official action of the department, county, or municipality. It shall be unlawful for any person to possess a sign or device which has been removed in violation of this subsection.

(4) Any person violating subsection (2) or (3) of this section shall be guilty of a Class II misdemeanor and shall be assessed liquidated damages in the amount of the value of the sign, traffic control device, or traffic surveillance device and the cost of replacing it.

Source: G.S.1873, c. 58, § 100, p. 743; R.S.1913, § 3040; Laws 1915, c. 60, § 1, p. 154; C.S.1922, § 2791; C.S.1929, § 39-1026; R.S.1943, § 39-714; Laws 1971, LB 331, § 1; C.S.Supp.,1972, § 39-714; Laws 1977, LB 41, § 9; Laws 1989, LB 283, § 1; R.S.Supp.,1992, § 39-619.01; Laws 1993, LB 370, § 226; Laws 2017, LB339, § 197.

(g) USE OF ROADWAY AND PASSING

60-6,133 Overtaking and passing rules; vehicles proceeding in same direction.

Except when overtaking and passing on the right is permitted, the following rules shall govern the overtaking and passing of vehicles proceeding in the same direction:

(1) The driver of a vehicle overtaking another vehicle proceeding in the same direction shall first give a visible signal of his or her intention and shall pass to the left of the other vehicle at a safe distance and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle;

(2) The driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle and shall not increase the speed of his or her vehicle until completely passed by the overtaking vehicle; and

(3) The driver of a vehicle overtaking a bicycle or electric personal assistive mobility device proceeding in the same direction shall exercise due care, which shall include, but not be limited to, leaving a safe distance of no less than three feet clearance, when applicable, when passing a bicycle or electric personal

assistive mobility device and shall maintain such clearance until safely past the overtaken bicycle or electric personal assistive mobility device.

Source: Laws 1973, LB 45, § 22; R.S.1943, (1988), § 39-622; Laws 1993, LB 370, § 229; Laws 1993, LB 575, § 6; Laws 2000, LB 1361, § 3; Laws 2012, LB1030, § 2.

60-6,137 No-passing zones; exception.

(1) The Department of Transportation and local authorities may determine those portions of any highway under their respective jurisdictions where overtaking and passing or driving to the left of the center of the roadway would be especially hazardous and may by appropriate signs or markings on the roadway indicate the beginning and end of such zones. When such signs or markings are in place and clearly visible to an ordinarily observant person, every driver of a vehicle shall obey such indications.

(2) Where signs or markings are in place to define a no-passing zone, no driver shall at any time drive on the left side of the roadway within such no-passing zone or on the left side of any pavement striping designed to mark such no-passing zone throughout its length.

(3) This section shall not apply (a) under the conditions described in subdivision (1)(b) of section 60-6,131 or (b) to the driver of a vehicle turning left into or from an alley, private road, or driveway unless otherwise prohibited by signs.

Source: Laws 1973, LB 45, § 26; R.S.1943, (1988), § 39-626; Laws 1993, LB 370, § 233; Laws 2017, LB339, § 198.

60-6,138 One-way roadways and rotary traffic islands; jurisdiction; exception for emergency vehicles.

(1) The Department of Transportation and local authorities with respect to highways under their respective jurisdictions may designate any highway, roadway, part of a roadway, or specific lanes upon which vehicular traffic shall proceed in one direction at all times or at such times as shall be indicated by traffic control devices.

(2) Except for emergency vehicles, no vehicle shall be operated, backed, pushed, or otherwise caused to move in a direction which is opposite to the direction designated by competent authority on any deceleration lane, acceleration lane, access ramp, shoulder, or roadway.

(3) A vehicle which passes around a rotary traffic island shall be driven only to the right of such island.

Source: Laws 1973, LB 45, § 27; R.S.1943, (1988), § 39-627; Laws 1993, LB 370, § 234; Laws 2017, LB339, § 199.

60-6,139 Driving on roadways laned for traffic; rules; traffic control devices.

Whenever any roadway has been divided into two or more clearly marked lanes for traffic, the following rules, in addition to all others consistent with this section, shall apply:

(1) A vehicle shall be driven as nearly as practicable within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety;

(2) Upon a roadway which is divided into three lanes and provides for two-way movement of traffic, a vehicle shall not be driven in the center lane except (a) when overtaking and passing another vehicle traveling in the same direction when such center lane is clear of traffic within a safe distance, (b) in preparation for making a left turn, or (c) when such center lane is at the time allocated exclusively to traffic moving in the same direction that the vehicle is proceeding and such allocation is designated by traffic control devices;

(3) Traffic control devices may be erected by the Department of Transportation or local authorities to direct specified traffic to use a designated lane or to designate those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway and drivers of vehicles shall obey the directions of every such device; and

(4) Traffic control devices may be installed by the department or local authorities to prohibit the changing of lanes on sections of roadway and drivers of vehicles shall obey the directions of every such device.

Source: Laws 1973, LB 45, § 28; R.S.1943, (1988), § 39-628; Laws 1993, LB 370, § 235; Laws 2017, LB339, § 200.

60-6,144 Restrictions on use of controlled-access highway.

Use of a freeway and entry thereon by the following shall be prohibited at all times except by permit from the Department of Transportation or from the local authority in the case of freeways not under the jurisdiction of the department:

- (1) Pedestrians except in areas specifically designated for that purpose;
- (2) Hitchhikers or walkers;
- (3) Vehicles not self-propelled;
- (4) Bicycles, motor-driven cycles, motor scooters not having motors of more than ten horsepower, and electric personal assistive mobility devices;
- (5) Animals led, driven on the hoof, ridden, or drawing a vehicle;
- (6) Funeral processions;
- (7) Parades or demonstrations;
- (8) Vehicles, except emergency vehicles, unable to maintain minimum speed as provided in the Nebraska Rules of the Road;
- (9) Construction equipment;
- (10) Implements of husbandry, whether self-propelled or towed, except as provided in section 60-6,383;
- (11) Vehicles with improperly secured attachments or loads;
- (12) Vehicles in tow, when the connection consists of a chain, rope, or cable, except disabled vehicles which shall be removed from such freeway at the nearest interchange;
- (13) Vehicles with deflated pneumatic, metal, or solid tires or continuous metal treads except maintenance vehicles;
- (14) Any person standing on or near a roadway for the purpose of soliciting or selling to an occupant of any vehicle; or

(15) Overdimensional vehicles.

Source: Laws 1973, LB 45, § 33; R.S.1943, (1988), § 39-633; Laws 1993, LB 370, § 240; Laws 1993, LB 575, § 8; Laws 2002, LB 1105, § 457; Laws 2006, LB 853, § 18; Laws 2016, LB977, § 23; Laws 2017, LB339, § 201.

60-6,145 Official signs on controlled-access highway.

The Department of Transportation and local authorities shall erect and maintain at appropriate locations official signs on freeways under their respective jurisdictions apprising motorists of the restrictions placed upon the use of such highways by the Nebraska Rules of the Road. When the department or local authority posts such signs, it need not follow the usual rules and procedure of posting signs on or near freeways nor shall the department be required to conform with the formalities of public hearings. When such signs are erected, no person shall violate the restrictions stated on such signs.

Source: Laws 1973, LB 45, § 34; R.S.1943, (1988), § 39-634; Laws 1993, LB 370, § 241; Laws 2017, LB339, § 202.

(i) PEDESTRIANS

60-6,152.01 Person operating wheelchair; rights and duties applicable to pedestrian.

Any disabled person operating a manual or motorized wheelchair on a sidewalk or across a roadway or shoulder in a crosswalk shall have all the rights and duties applicable to a pedestrian under the same circumstances.

Source: Laws 2015, LB641, § 2.

60-6,153 Pedestrians' right-of-way in crosswalk; traffic control devices.

(1) Except at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided, when traffic control signals are not in place or not in operation, the driver of a vehicle shall yield the right-of-way to a pedestrian crossing the roadway within a crosswalk who is in the lane in which the driver is proceeding or is in the lane immediately adjacent thereto by bringing his or her vehicle to a complete stop.

(2) No pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to stop.

(3) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle.

(4) At or adjacent to the intersection of two highways at which a path designated for bicycles and pedestrians is controlled by a traffic control signal, a pedestrian who lawfully enters a highway where the path crosses the highway shall have the right-of-way within the crossing with respect to vehicles and bicycles.

(5) The Department of Transportation and local authorities in their respective jurisdictions may, after an engineering and traffic investigation, designate unmarked crosswalk locations where pedestrian crossing is prohibited or

where pedestrians shall yield the right-of-way to vehicles. Such restrictions shall be effective only when traffic control devices indicating such restrictions are in place.

Source: Laws 1973, LB 45, § 42; Laws 1979, LB 395, § 1; R.S.1943, (1988), § 39-642; Laws 1993, LB 370, § 249; Laws 2016, LB716, § 1; Laws 2017, LB339, § 203.

Cross References

Failure to yield to pedestrian, assessment of points against operator's license, see section 60-4,182 et seq.

60-6,154 Crossing at other than crosswalks; yield right-of-way.

(1) Every pedestrian who crosses a roadway at any point other than within a marked crosswalk, or within an unmarked crosswalk at an intersection, shall yield the right-of-way to all vehicles upon the roadway.

(2) Any pedestrian who crosses a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all vehicles upon the roadway.

(3) Between adjacent intersections at which traffic control signals are in operation, pedestrians shall not cross at any place except in a marked crosswalk.

(4) Where a path designated for bicycles and pedestrians crosses a highway, a pedestrian who is in the crossing in accordance with the traffic control device shall have the right-of-way within the crossing with respect to vehicles and bicycles.

(5) No pedestrian shall cross a roadway intersection diagonally unless authorized by traffic control devices, and when authorized to cross diagonally, pedestrians shall cross only in accordance with the traffic control devices pertaining to such crossing movements.

(6) Local authorities and the Department of Transportation, by erecting appropriate official traffic control devices, may, within their respective jurisdictions, prohibit pedestrians from crossing any roadway in a business district or any designated highway except in a crosswalk.

Source: Laws 1973, LB 45, § 43; R.S.1943, (1988), § 39-643; Laws 1993, LB 370, § 250; Laws 2016, LB716, § 2; Laws 2017, LB339, § 204.

(j) TURNING AND SIGNALS

60-6,159 Required position and method of turning; right-hand and left-hand turns; traffic control devices.

(1) Both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.

(2) The driver of a vehicle intending to turn left at any intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle and, after entering the intersection, the left turn shall be made so as to leave the intersection, as nearly as practicable, in the extreme left-hand lane lawfully available to traffic moving in such direction upon the roadway being entered. Whenever practicable, the left turn shall be made in that portion of the intersection to the left of the center of the intersection.

(3) The Department of Transportation and local authorities in their respective jurisdictions may cause traffic control devices to be placed within or adjacent to intersections and thereby require and direct that a different course from that specified in this section be traveled by vehicles turning at an intersection, and when such devices are so placed, no driver of a vehicle shall turn a vehicle at an intersection other than as directed and required by such devices.

Source: Laws 1973, LB 45, § 50; R.S.1943, (1988), § 39-650; Laws 1993, LB 370, § 255; Laws 2017, LB339, § 205.

(k) STOPPING, STANDING, PARKING, AND BACKING UP

60-6,164 Stopping, parking, or standing upon a roadway, freeway, or bridge; limitations; duties of driver.

(1) No person shall stop, park, or leave standing any vehicle, whether attended or unattended, upon a roadway outside of a business or residential district when it is practicable to stop, park, or leave such vehicle off such part of a highway, but in any event an unobstructed width of the roadway opposite a standing vehicle shall be left for the free passage of other vehicles and a clear view of such stopped vehicle shall be available from a distance of two hundred feet in each direction upon such highway. Such parking, stopping, or standing shall in no event exceed twenty-four hours.

(2) No person shall stop, park, or leave standing any vehicle on a freeway except in areas designated or unless so directed by a peace officer, except that when a vehicle is disabled or inoperable or the driver of the vehicle is ill or incapacitated, such vehicle shall be permitted to park, stop, or stand on the shoulder facing in the direction of travel with all wheels and projecting parts of such vehicle completely clear of the traveled lanes, but in no event shall such parking, standing, or stopping upon the shoulder of a freeway exceed twelve hours.

(3) No person, except law enforcement, fire department, emergency management, public or private ambulance, or authorized Department of Transportation or local authority personnel, shall loiter or stand or park any vehicle upon any bridge, highway, or structure which is located above or below or crosses over or under the roadway of any highway or approach or exit road thereto.

(4) Whenever a vehicle is disabled or inoperable in a roadway or for any reason obstructs the regular flow of traffic for reasons other than an accident, the driver shall move or cause the vehicle to be moved as soon as practical so as to not obstruct the regular flow of traffic.

(5) This section does not apply to the driver of any vehicle which is disabled while on the roadway in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving such disabled vehicle in such position until such time as it can be removed pursuant to subsection (4) of this section.

Source: Laws 1973, LB 45, § 70; R.S.1943, (1988), § 39-670; Laws 1993, LB 370, § 260; Laws 1996, LB 43, § 11; Laws 2007, LB561, § 2; Laws 2017, LB339, § 206.

60-6,166 Stopping, standing, or parking prohibited; exceptions.

(1) Except when necessary to avoid conflict with other traffic or when in compliance with law or the directions of a peace officer or traffic control device, no person shall:

(a) Stop, stand, or park any vehicle:

(i) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;

(ii) On a sidewalk;

(iii) Within an intersection;

(iv) On a crosswalk;

(v) Between a safety zone and the adjacent curb or within thirty feet of points on the curb immediately opposite the ends of a safety zone unless the Department of Transportation or the local authority indicates a different length by signs or markings;

(vi) Alongside or opposite any street excavation or obstruction when stopping, standing, or parking would obstruct traffic;

(vii) Upon any bridge or other elevated structure over a highway or within a highway tunnel;

(viii) On any railroad track; or

(ix) At any place where official signs prohibit stopping;

(b) Stand or park a vehicle, whether occupied or not, except momentarily to pick up or discharge a passenger or passengers:

(i) In front of a public or private driveway;

(ii) Within fifteen feet of a fire hydrant;

(iii) Within twenty feet of a crosswalk at an intersection;

(iv) Within thirty feet of any flashing signal, stop sign, yield sign, or other traffic control device located at the side of a roadway;

(v) Within twenty feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five feet of such entrance when properly signposted; or

(vi) At any place where official signs prohibit standing; or

(c) Park a vehicle, whether occupied or not, except temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers:

(i) Within fifty feet of the nearest rail of a railroad crossing; or

(ii) At any place where official signs prohibit parking.

(2) No person shall move a vehicle not lawfully under his or her control into any such prohibited area or away from a curb such a distance as shall be unlawful.

Source: Laws 1973, LB 45, § 72; R.S.1943, (1988), § 39-672; Laws 1993, LB 370, § 262; Laws 2017, LB339, § 207.

60-6,167 Parking regulations; signs; control by Department of Transportation or local authority.

(1) Except as otherwise provided in this section, any vehicle stopped or parked upon a two-way roadway where parking is permitted shall be so stopped or parked with the right-hand wheels parallel to and within twelve

inches of the right-hand curb or edge of such roadway. No vehicle shall be parked upon a roadway when there is a shoulder adjacent to the roadway which is available for parking.

(2) Except when otherwise provided by a local authority, every vehicle stopped or parked upon a one-way roadway shall be so stopped or parked parallel to the curb or edge of such roadway, in the direction of authorized traffic movement, with its right-hand wheels within twelve inches of the right-hand curb or edge of the roadway or its left-hand wheels within twelve inches of the left-hand curb or edge of such roadway.

(3) A local authority may permit angle or center parking on any roadway, except that angle or center parking shall not be permitted on any federal-aid highway or on any part of the state highway system unless the Director-State Engineer has determined that such roadway is of sufficient width to permit angle or center parking without interfering with the free movement of traffic.

(4) The Department of Transportation or a local authority may prohibit or restrict stopping, standing, or parking on highways under its respective jurisdiction outside the corporate limits of any city or village and erect and maintain proper and adequate signs thereon. No person shall stop, stand, or park any vehicle in violation of the restrictions stated on such signs.

Source: Laws 1973, LB 45, § 73; R.S.1943, (1988), § 39-673; Laws 1993, LB 370, § 263; Laws 1993, LB 575, § 18; Laws 2017, LB339, § 208.

60-6,168 Unattended motor vehicles; conditions.

No person having control or charge of a motor vehicle shall allow such vehicle to stand unattended on a highway without first: (1) Stopping the motor of such vehicle; (2) except for vehicles equipped with motor starters that may be actuated without a key, locking the ignition and removing the key from the ignition; (3) effectively setting the brakes thereon; and (4) when standing upon any roadway, turning the front wheels of such vehicle to the curb or side of such roadway.

Source: Laws 1973, LB 45, § 74; R.S.1943, (1988), § 39-674; Laws 1993, LB 370, § 264; Laws 2017, LB263, § 74.

(I) SPECIAL STOPS

60-6,170 Obedience to signal indicating approach of train or on-track equipment; prohibited acts.

(1) Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances set forth in this section, the driver of such vehicle shall stop within fifty feet but not less than fifteen feet from the nearest rail of such railroad and shall not proceed until he or she can do so safely. The requirements of this subsection shall apply when:

(a) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train or on-track equipment;

(b) A crossing gate is lowered or a flagperson gives or continues to give a signal of the approach or passage of a railroad train or on-track equipment;

(c) A railroad train or on-track equipment approaching within approximately one-quarter mile of the highway crossing emits a signal audible from such

distance and such railroad train or on-track equipment, by reason of its speed or nearness to such crossing, is an immediate hazard;

(d) An approaching railroad train or on-track equipment is plainly visible and is in hazardous proximity to such crossing;

(e) A stop sign is erected at such crossing; or

(f) A passive warning device is located at or in advance of such crossing and an approaching railroad train or on-track equipment is audible as described in subdivision (c) of this subsection or plainly visible and in hazardous proximity to such crossing. For purposes of this subdivision, passive warning device means the type of traffic control device, including a sign, marking, or other device, located at or in advance of a railroad grade crossing to indicate the presence of such crossing but which does not change aspect upon the approach or presence of a railroad train or on-track equipment.

(2) No person shall drive any vehicle through, around, or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed.

Source: Laws 1973, LB 45, § 55; R.S.1943, (1988), § 39-655; Laws 1993, LB 370, § 266; Laws 2019, LB81, § 4.

60-6,171 Railroad crossing stop signs; jurisdiction.

The Department of Transportation and local authorities on highways under their respective jurisdictions may designate particularly dangerous highway grade crossings of railroads and erect stop signs at the crossings. When such stop signs are erected, the driver of any vehicle shall stop within fifty feet but not less than fifteen feet from the nearest rail of such railroad and shall proceed only upon exercising due care.

Source: Laws 1973, LB 45, § 56; R.S.1943, (1988), § 39-656; Laws 1993, LB 370, § 267; Laws 2017, LB339, § 209.

60-6,172 Buses and school buses required to stop at all railroad grade crossings; exceptions.

(1) The driver of any bus carrying passengers for hire or of any school bus, before crossing at grade any track of a railroad, shall stop such vehicle within fifty feet but not less than fifteen feet from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching railroad train or on-track equipment and for signals indicating the approach of a railroad train or on-track equipment, except as otherwise provided in the Nebraska Rules of the Road. The driver shall not proceed until he or she can do so safely. After stopping as required by this section and upon proceeding when it is safe to do so, the driver of any such vehicle shall cross only in such gear of the vehicle that there will be no necessity for changing gears while traversing such track and the driver shall not shift gears while crossing such track.

(2) No stop shall be made at any such crossing when a peace officer or a flagperson directs traffic to proceed or at an abandoned or exempted grade crossing which is clearly marked as such by or with the consent of competent authority when such markings can be read from the driver's position.

Source: Laws 1973, LB 45, § 57; Laws 1974, LB 863, § 1; R.S.1943, (1988), § 39-657; Laws 1993, LB 370, § 268; Laws 2019, LB81, § 5.

60-6,173 Grade crossings; certain carriers; required to stop; exceptions.

(1) The driver of any vehicle which is required to be placarded pursuant to section 75-364, before crossing at a grade any track of a railroad on streets and highways, shall stop such vehicle not more than fifty feet nor less than fifteen feet from the nearest rail or railroad and while stopped shall listen and look in both directions along the track for an approaching railroad train or on-track equipment. The driver shall not proceed until precaution has been taken to ascertain that the course is clear.

(2) The requirements of subsection (1) of this section shall not apply:

(a) When a peace officer or a flagperson directs traffic to proceed;

(b) At an abandoned or exempted grade crossing which is clearly marked as such by or with the consent of competent authority when such markings can be read from the driver's position; or

(c) At railroad tracks used exclusively for industrial switching purposes within a business district.

(3) Nothing in this section shall be deemed to exempt the driver of any vehicle from compliance with the other requirements contained in the Nebraska Rules of the Road.

Source: Laws 1973, LB 45, § 58; R.S.1943, (1988), § 39-658; Laws 1993, LB 370, § 269; Laws 1998, LB 1056, § 1; Laws 2019, LB81, § 6.

60-6,174 Moving heavy equipment at railroad grade crossings; required to stop.

(1) No person shall operate or move any crawler-type tractor, any steam shovel, any derrick, any roller, or any equipment or structure having a normal operating speed of ten miles per hour or less or a vertical body or load clearance of less than one-half inch per foot of the distance between any two adjacent axles or in any event of less than nine inches, measured above the level surface of a roadway, upon or across any track at a railroad grade crossing without first complying with this section.

(2) Before making any such crossing, the person operating or moving any such vehicle or equipment shall first stop the same not less than fifteen feet nor more than fifty feet from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching railroad train or on-track equipment and for signals indicating the approach of a railroad train or on-track equipment. The person shall not proceed until the crossing can be made safely.

(3) No such crossing shall be made while warning is given by an automatic signal, by crossing gates, by a flagperson, or otherwise of the immediate approach of a railroad train or on-track equipment. If a flagperson is provided by the railroad, movement over the crossing shall be under his or her direction.

Source: Laws 1973, LB 45, § 59; R.S.1943, (1988), § 39-659; Laws 1993, LB 370, § 270; Laws 2019, LB81, § 7.

60-6,175 School bus; safety requirements; use of stop signal arm; use of warning signal lights; violations; penalty.

(1) Upon meeting or overtaking, from the front or rear, any school bus on which the yellow warning signal lights are flashing, the driver of a motor

vehicle shall reduce the speed of such vehicle to not more than twenty-five miles per hour, shall bring such vehicle to a complete stop when the school bus is stopped, the stop signal arm is extended, and the flashing red signal lights are turned on, and shall remain stopped until the flashing red signal lights are turned off, the stop signal arm is retracted, and the school bus resumes motion. This section shall not apply to approaching traffic in the opposite direction on a divided highway or to approaching traffic when there is displayed a sign as provided in subsection (8) of this section directing traffic to proceed. Any person violating this subsection shall be guilty of a Class IV misdemeanor, shall be fined five hundred dollars, and shall be assessed points on his or her motor vehicle operator's license pursuant to section 60-4,182.

(2) Except as provided in subsection (8) of this section, the driver of any school bus, when stopping to receive or discharge pupils, shall turn on flashing yellow warning signal lights at a distance of not less than three hundred feet when inside the corporate limits of any city or village and not less than five hundred feet nor more than one thousand feet in any area outside the corporate limits of any city or village from the point where such pupils are to be received or discharged from the bus. At the point of receiving or discharging pupils, the bus driver shall bring the school bus to a stop, extend a stop signal arm, and turn on the flashing red signal lights. After receiving or discharging pupils, the bus driver shall turn off the flashing red signal lights, retract the stop signal arm, and then proceed on the route.

(3)(a) Except as provided in subdivision (b) of this subsection, no school bus shall stop to load or unload pupils outside of the corporate limits of any city or village or on any part of the state highway system within the corporate limits of a city or village, unless there is at least four hundred feet of clear vision in each direction of travel.

(b) If four hundred feet of clear vision in each direction of travel is not possible as determined by the school district, a school bus may stop to load or unload pupils if there is proper signage installed indicating that a school bus stop is ahead.

(4) All pupils shall be received and discharged from the right front entrance of every school bus. If such pupils must cross a roadway, the bus driver shall instruct such pupils to cross in front of the school bus and the bus driver shall keep such school bus halted with the flashing red signal lights turned on and the stop signal arm extended until such pupils have reached the opposite side of such roadway.

(5) The driver of a vehicle upon a divided highway need not stop upon meeting or passing a school bus which is on a different roadway or when upon a freeway and such school bus is stopped in a loading zone which is a part of or adjacent to such highway and where pedestrians are not permitted to cross the roadway.

(6) Every school bus shall bear upon the front and rear thereof plainly visible signs containing the words school bus in letters not less than eight inches high.

(7) When a school bus is being operated upon a highway for purposes other than the actual transportation of children either to or from school or school-sponsored activities, all markings thereon indicating school bus shall be covered or concealed. The stop signal arm and system of flashing yellow warning signal lights and flashing red signal lights shall not be operable through the usual controls.

(8) When a school bus is (a) parked in a designated school bus loading area which is out of the flow of traffic and which is adjacent to a school site or (b) parked on a roadway which possesses more than one lane of traffic flowing in the same direction and which is adjacent to a school site, the bus driver shall engage only the hazard warning flasher lights when receiving or discharging pupils if a school bus loading area warning sign is displayed. Such signs shall not be directly attached to any school bus but shall be free standing and placed at the rear of a parked school bus or line of parked school buses. No school district shall utilize a school bus loading area warning sign unless such sign complies with the manual. The manual shall include the requirements for size, material, construction, and required wording. The cost of any sign shall be an obligation of the school district.

Source: Laws 1973, LB 45, § 60; Laws 1974, LB 863, § 2; Laws 1977, LB 41, § 11; Laws 1987, LB 347, § 1; R.S.1943, (1988), § 39-660; Laws 1993, LB 370, § 271; Laws 1993, LB 575, § 10; Laws 2012, LB1039, § 2; Laws 2013, LB500, § 1; Laws 2019, LB190, § 6.

60-6,176 Repealed. Laws 2019, LB190, § 8.

60-6,177 Signs relating to overtaking and passing school buses.

The Department of Transportation shall post on highways of the state highway system outside of business and residential districts signs to the effect that it is unlawful to pass school buses stopped to load or unload children. Such signs shall be adequate in size and number to properly inform the public of the provisions relative to such passing.

Source: Laws 1973, LB 45, § 61; R.S.1943, (1988), § 39-661; Laws 1993, LB 370, § 273; Laws 2017, LB339, § 211.

(m) MISCELLANEOUS RULES

60-6,179.01 Use of handheld wireless communication device; prohibited acts; enforcement; violation; penalty.

(1) This section does not apply to an operator of a commercial motor vehicle if section 60-6,179.02 applies.

(2) Except as otherwise provided in subsection (3) of this section, no person shall use a handheld wireless communication device to read a written communication, manually type a written communication, or send a written communication while operating a motor vehicle which is in motion.

(3) The prohibition in subsection (2) of this section does not apply to:

(a) A person performing his or her official duties as a law enforcement officer, a firefighter, an ambulance driver, or an emergency medical technician; or

(b) A person operating a motor vehicle in an emergency situation.

(4) Enforcement of this section by state or local law enforcement agencies shall be accomplished only as a secondary action when a driver of a motor vehicle has been cited or charged with a traffic violation or some other offense.

(5) Any person who violates this section shall be guilty of a traffic infraction. Any person who is found guilty of a traffic infraction under this section shall be

assessed points on his or her motor vehicle operator's license pursuant to section 60-4,182 and shall be fined:

- (a) Two hundred dollars for the first offense;
 - (b) Three hundred dollars for a second offense; and
 - (c) Five hundred dollars for a third and subsequent offense.
- (6) For purposes of this section:

(a) Commercial motor vehicle has the same meaning as in section 75-362;

(b)(i) Handheld wireless communication device means any device that provides for written communication between two or more parties and is capable of receiving, displaying, or transmitting written communication.

(ii) Handheld wireless communication device includes, but is not limited to, a mobile or cellular telephone, a text messaging device, a personal digital assistant, a pager, or a laptop computer.

(iii) Handheld wireless communication device does not include an electronic device that is part of the motor vehicle or permanently attached to the motor vehicle or a handsfree wireless communication device; and

(c) Written communication includes, but is not limited to, a text message, an instant message, electronic mail, and Internet web sites.

Source: Laws 2010, LB945, § 3; Laws 2012, LB751, § 44; Laws 2014, LB983, § 55.

60-6,179.02 Operator of commercial motor vehicle; operator of certain passenger motor vehicle; operator of school bus; texting while driving prohibited; exception; use of handheld mobile telephone while driving prohibited; exception; violation; penalty.

(1)(a) Except as otherwise provided in subdivision (1)(b) of this section, no operator of a commercial motor vehicle or a motor vehicle designed or used to transport between nine and fifteen passengers, including the driver, not for direct compensation, if the vehicle does not otherwise meet the definition of a commercial motor vehicle, shall engage in texting while driving such vehicle.

(b) Texting while driving is permissible by an operator of a commercial motor vehicle or a motor vehicle designed or used to transport between nine and fifteen passengers, including the driver, not for direct compensation, if the vehicle does not otherwise meet the definition of a commercial motor vehicle, when necessary to communicate with law enforcement officials or other emergency services.

(2)(a) Except as otherwise provided in subdivision (2)(b) of this section, no operator of a commercial motor vehicle or a motor vehicle designed or used to transport between nine and fifteen passengers, including the driver, not for direct compensation, if the vehicle does not otherwise meet the definition of a commercial motor vehicle, shall use a handheld mobile telephone while driving and no motor carrier shall allow or require its operators to use a handheld mobile telephone while driving such vehicle.

(b) Using a handheld mobile telephone is permissible by an operator of a commercial motor vehicle or a motor vehicle designed or used to transport between nine and fifteen passengers, including the driver, not for direct compensation, if the vehicle does not otherwise meet the definition of a

commercial motor vehicle, when necessary to communicate with law enforcement officials or other emergency services.

(3)(a) Except as otherwise provided in subdivision (3)(b) of this section, no operator of a school bus shall engage in texting during school bus operations.

(b) Texting while driving is permissible by an operator of a school bus during school bus operations when necessary to communicate with law enforcement officials or other emergency services.

(4)(a) Except as otherwise provided in subdivision (4)(b) of this section, no operator of a school bus shall use a handheld mobile telephone during school bus operations.

(b) Using a handheld mobile telephone is permissible by an operator of a school bus during school bus operations when necessary to communicate with law enforcement officials or other emergency services.

(5) Any person who violates this section shall be guilty of a traffic infraction. Any person who is found guilty of a traffic infraction under this section shall be subject to disqualification as provided in section 60-4,168, shall be assessed points on his or her motor vehicle operator's license pursuant to section 60-4,182, and shall be fined:

(a) Two hundred dollars for the first offense;

(b) Three hundred dollars for a second offense; and

(c) Five hundred dollars for a third and subsequent offense.

(6) For purposes of this section:

(a) Commercial motor vehicle has the same meaning as in section 75-362;

(b) Driving means operating a commercial motor vehicle, including while temporarily stationary because of traffic, a traffic control device, or other momentary delays. Driving does not include operating a commercial motor vehicle when the operator moves the vehicle to the side of, or off, a highway and halts in a location where the vehicle can safely remain stationary;

(c) Electronic device includes, but is not limited to, a cellular telephone; a personal digital assistant; a pager; a computer; or any other device used to input, write, send, receive, or read text;

(d) Mobile telephone means a mobile communication device that falls under or uses any commercial mobile radio service as defined in regulations of the Federal Communications Commission, 47 C.F.R. 20.3. Mobile telephone does not include two-way or citizens band radio services;

(e) School bus operations means the use of a school bus to transport school children or school personnel;

(f)(i) Texting means manually entering alphanumeric text into, or reading text from, an electronic device. This action includes, but is not limited to, short message service, emailing, instant messaging, a command or request to access an Internet web page, pressing more than a single button to initiate or terminate a voice communication using a mobile telephone, or engaging in any other form of electronic text retrieval or entry for present or future communication.

(ii) Texting does not include:

(A) Inputting, selecting, or reading information on a global positioning system or navigation system;

(B) Pressing a single button to initiate or terminate a voice communication using a mobile telephone; or

(C) Using a device capable of performing multiple functions, including, but not limited to, fleet management systems, dispatching devices, smartphones, citizens band radios, and music players, for a purpose other than texting; and

(g) Use a handheld mobile telephone means:

(i) Using at least one hand to hold a mobile telephone to conduct a voice communication;

(ii) Dialing or answering a mobile telephone by pressing more than a single button; or

(iii) Reaching for a mobile telephone in a manner that requires a driver to maneuver so that he or she is no longer in a seated driving position and restrained by a seat belt that is installed in accordance with 49 C.F.R. 393.93 and adjusted in accordance with the vehicle manufacturer's instructions.

Source: Laws 2012, LB751, § 45; Laws 2014, LB983, § 56.

(n) SPEED RESTRICTIONS

60-6,186 Speed; maximum limits; signs.

(1) Except when a special hazard exists that requires lower speed for compliance with section 60-6,185, the limits set forth in this section and sections 60-6,187, 60-6,188, 60-6,305, and 60-6,313 shall be the maximum lawful speeds unless reduced pursuant to subsection (2) of this section, and no person shall drive a vehicle on a highway at a speed in excess of such maximum limits:

(a) Twenty-five miles per hour in any residential district;

(b) Twenty miles per hour in any business district;

(c) Fifty miles per hour upon any highway that is gravel or not dustless surfaced;

(d) Fifty-five miles per hour upon any dustless-surfaced highway not a part of the state highway system;

(e) Sixty-five miles per hour upon any four-lane divided highway not a part of the state highway system;

(f) Sixty-five miles per hour upon any part of the state highway system other than an expressway, a super-two highway, or a freeway;

(g) Seventy miles per hour upon an expressway or a super-two highway that is part of the state highway system;

(h) Seventy miles per hour upon a freeway that is part of the state highway system but not part of the National System of Interstate and Defense Highways; and

(i) Seventy-five miles per hour upon the National System of Interstate and Defense Highways, except that the maximum speed limit shall be sixty-five miles per hour for:

(i) Any portion of the National System of Interstate and Defense Highways located in Douglas County; and

(ii) That portion of the National System of Interstate and Defense Highways designated as Interstate 180 in Lancaster County and Interstate 129 in Dakota County.

(2) The maximum speed limits established in subsection (1) of this section may be reduced by the Department of Transportation or by local authorities pursuant to section 60-6,188 or 60-6,190.

(3) The Department of Transportation and local authorities may erect and maintain suitable signs along highways under their respective jurisdictions in such number and at such locations as they deem necessary to give adequate notice of the speed limits established pursuant to subsection (1) or (2) of this section upon such highways.

Source: Laws 1973, LB 45, § 62; Laws 1974, LB 873, § 1; Laws 1975, LB 381, § 1; Laws 1977, LB 256, § 1; Laws 1987, LB 430, § 1; R.S.1943, (1988), § 39-662; Laws 1993, LB 370, § 282; Laws 1996, LB 901, § 7; Laws 2007, LB35, § 2; Laws 2017, LB339, § 212; Laws 2018, LB1009, § 6.

Cross References

Operator's license, assessment of points for speeding, see section 60-4,182 et seq.

60-6,188 Construction zone; signs; Director-State Engineer; authority.

(1) The maximum speed limit through any maintenance, repair, or construction zone on the state highway system shall be thirty-five miles per hour in rural areas and twenty-five miles per hour in urban areas.

(2) Such speed limits shall take effect only after appropriate signs giving notice of the speed limit are erected or displayed in a conspicuous place in advance of the area where the maintenance, repair, or construction activity is or will be taking place. Such signs shall conform to the manual and shall be regulatory signs imposing a legal obligation and restriction on all traffic proceeding into the maintenance, construction, or repair zone. The signs may be displayed upon a fixed, variable, or movable stand. While maintenance, construction, or repair is being performed, the signs may be mounted upon moving Department of Transportation vehicles displaying such signs well in advance of the maintenance zone.

(3) The Director-State Engineer may increase the speed limit through any highway maintenance, repair, or construction zone in increments of five miles per hour if the speed set does not exceed the maximum speed limits established in sections 60-6,186, 60-6,187, 60-6,189, 60-6,190, 60-6,305, and 60-6,313. The Director-State Engineer may delegate the authority to raise speed limits through any maintenance, repair, or construction zone to any department employee in a supervisory capacity or may delegate such authority to a county, municipal, or local engineer who has the duty to maintain the state highway system in such jurisdiction if the maintenance is performed on behalf of the department by contract with the local authority. Such increased speed limit through a maintenance, repair, or construction zone shall be effective when the Director-State Engineer or any officer to whom authority has been delegated gives a written order for such increase and signs posting such speed limit are erected or displayed.

(4) The Department of Transportation shall post signs in maintenance, repair, or construction zones which inform motorists that the fine for exceeding the posted speed limit in such zones is doubled.

Source: Laws 1993, LB 370, § 284; Laws 1996, LB 901, § 9; Laws 2017, LB339, § 213.

60-6,189 Driving over bridges; maximum speed; determination by Department of Transportation or local authority; effect.

(1) No person shall drive a vehicle over any public bridge, causeway, viaduct, or other elevated structure at a speed which is greater than the maximum speed which can be maintained with safety thereon when such structure is posted with signs as provided in subsection (2) of this section.

(2) The Department of Transportation or a local authority may conduct an investigation of any bridge or other elevated structure constituting a part of a highway under its jurisdiction, and if it finds that such structure cannot safely withstand vehicles traveling at the speed otherwise permissible, the department or local authority shall determine and declare the maximum speed of vehicles which such structure can safely withstand and shall cause suitable signs stating such maximum speed to be erected and maintained before each end of such structure.

(3) Upon the trial of any person charged with a violation of subsection (1) of this section, proof of such determination of the maximum speed by the department or local authority and the existence of such signs shall constitute conclusive evidence of the maximum speed which can be maintained with safety on such bridge or structure.

Source: Laws 1993, LB 370, § 285; Laws 2017, LB339, § 214.

Cross References

Operator's license, assessment of points for speeding, see section 60-4,182 et seq.

60-6,190 Establishment of state speed limits; power of Department of Transportation; other than state highway system; power of local authority; signs.

(1) Whenever the Department of Transportation determines, upon the basis of an engineering and traffic investigation, that any maximum speed limit is greater or less than is reasonable or safe under the conditions found to exist at any intersection, place, or part of the state highway system outside of the corporate limits of cities and villages as well as inside the corporate limits of cities and villages on freeways which are part of the state highway system, it may determine and set a reasonable and safe maximum speed limit for such intersection, place, or part of such highway which shall be the lawful speed limit when appropriate signs giving notice thereof are erected at such intersection, place, or part of the highway, except that the maximum rural and freeway limits shall not be exceeded. Such a maximum speed limit may be set to be effective at all times or at such times as are indicated upon such signs.

(2) The speed limits set by the department shall not be a departmental rule, regulation, or order subject to the statutory procedures for such rules, regulations, or orders but shall be an authorization over the signature of the Director-State Engineer and shall be maintained on permanent file at the headquarters of the department. Certified copies of such authorizations shall be available from the department at a reasonable cost for duplication. Any change to such

an authorization shall be made by a new authorization which cancels the previous authorization and establishes the new limit, but the new limit shall not become effective until signs showing the new limit are erected as provided in subsection (1) of this section.

(3) On county highways which are not part of the state highway system or within the limits of any state institution or any area under control of the Game and Parks Commission or a natural resources district and which are outside of the corporate limits of cities and villages, county boards shall have the same power and duty to alter the maximum speed limits as the department if the change is based on an engineering and traffic investigation comparable to that made by the department. The limit outside of a business or residential district shall not be decreased to less than thirty-five miles per hour.

(4) On all highways within their corporate limits, except on state-maintained freeways which are part of the state highway system, incorporated cities and villages shall have the same power and duty to alter the maximum speed limits as the department if the change is based on engineering and traffic investigation, except that no imposition of speed limits on highways which are part of the state highway system in cities and villages under forty thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census shall be effective without the approval of the department.

(5) The director of any state institution, the Game and Parks Commission, or a natural resources district, with regard to highways which are not a part of the state highway system, which are within the limits of such institution or area under Game and Parks Commission or natural resources district control, and which are outside the limits of any incorporated city or village, shall have the same power and duty to alter the maximum speed limits as the department if the change is based on an engineering and traffic investigation comparable to that made by the department.

(6) Not more than six such speed limits shall be set per mile along a highway, except in the case of reduced limits at intersections. The difference between adjacent speed limits along a highway shall not be reduced by more than twenty miles per hour, and there shall be no limit on the difference between adjacent speed limits for increasing speed limits along a highway.

(7) When the department or a local authority determines by an investigation that certain vehicles in addition to those specified in sections 60-6,187, 60-6,305, and 60-6,313 cannot with safety travel at the speeds provided in sections 60-6,186, 60-6,187, 60-6,189, 60-6,305, and 60-6,313 or set pursuant to this section or section 60-6,188 or 60-6,189, the department or local authority may restrict the speed limit for such vehicles on highways under its respective jurisdiction and post proper and adequate signs.

Source: Laws 1973, LB 45, § 63; Laws 1984, LB 861, § 17; Laws 1986, LB 436, § 1; R.S.1943, (1988), § 39-663; Laws 1993, LB 370, § 286; Laws 1996, LB 901, § 10; Laws 2010, LB805, § 11; Laws 2017, LB113, § 50; Laws 2017, LB339, § 215.

Cross References

Operator's license, assessment of points for speeding, see section 60-4,182 et seq.

60-6,193 Minimum speed regulation; impeding traffic.

(1) No person shall drive a motor vehicle at such a slow speed as to impede the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with law.

(2) On a freeway no motor vehicle, except emergency vehicles, shall be operated at a speed of less than forty miles per hour or at such a slow speed as to impede or block the normal and reasonable movement of traffic except when reduced speed is necessary for the safe operation of the motor vehicle because of weather, visibility, roadway, or traffic conditions. All vehicles entering or leaving such freeway from an acceleration or deceleration lane shall conform with the minimum speed regulations while they are within the roadway of the freeway. The minimum speed of forty miles per hour may be altered by the Department of Transportation or local authorities on freeways under their respective jurisdictions.

(3) Whenever the department or any local authority within its respective jurisdiction determines on the basis of an engineering and traffic investigation that low speeds on any part of a highway consistently impede the normal and reasonable movement of traffic, the department or such local authority may determine and declare a minimum speed limit below which no person shall drive a vehicle except when necessary for safe operation or in compliance with law.

(4) Vehicular, animal, and pedestrian traffic prohibited on freeways by the Nebraska Rules of the Road shall not travel on any other roadway where minimum speed limits of twenty miles per hour or more are posted.

(5) Any minimum speed limit which is imposed under subsection (2) or (3) of this section shall not be effective until appropriate and adequate signs are erected along the roadway affected by such regulation apprising motorists of such limitation.

(6) On any freeway, or other highway providing for two or more lanes of travel in one direction, vehicles shall not intentionally impede the normal flow of traffic by traveling side by side and at the same speed while in adjacent lanes. This subsection shall not be construed to prevent vehicles from traveling side by side in adjacent lanes because of congested traffic conditions.

Source: Laws 1973, LB 45, § 65; R.S.1943, (1988), § 39-665; Laws 1993, LB 370, § 289; Laws 2017, LB339, § 216.

(o) ALCOHOL AND DRUG VIOLATIONS

60-6,196.01 Driving under influence of alcoholic liquor or drug; additional penalty.

In addition to any other penalty provided for operating a motor vehicle in violation of section 60-6,196, if a person has a prior conviction as defined in section 60-6,197.02 for a violation punishable as a felony under section 60-6,197.03 and is subsequently found to have operated or been in the actual physical control of any motor vehicle when such person has (1) a concentration of two-hundredths of one gram or more by weight of alcohol per one hundred milliliters of his or her blood or (2) a concentration of two-hundredths of one gram or more by weight of alcohol per two hundred ten liters of his or her breath, such person shall be guilty of a Class IIIA misdemeanor.

Source: Laws 2011, LB675, § 7.

60-6,197 Driving under influence of alcoholic liquor or drugs; implied consent to submit to chemical test; when test administered; refusal; advisement; effect; violation; penalty.

(1) Any person who operates or has in his or her actual physical control a motor vehicle in this state shall be deemed to have given his or her consent to submit to a chemical test or tests of his or her blood, breath, or urine for the purpose of determining the concentration of alcohol or the presence of drugs in such blood, breath, or urine.

(2) Any peace officer who has been duly authorized to make arrests for violations of traffic laws of this state or of ordinances of any city or village may require any person arrested for any offense arising out of acts alleged to have been committed while the person was driving or was in actual physical control of a motor vehicle while under the influence of alcoholic liquor or drugs to submit to a chemical test or tests of his or her blood, breath, or urine for the purpose of determining the concentration of alcohol or the presence of drugs in such blood, breath, or urine when the officer has reasonable grounds to believe that such person was driving or was in the actual physical control of a motor vehicle in this state while under the influence of alcoholic liquor or drugs in violation of section 60-6,196.

(3) Any person arrested as described in subsection (2) of this section may, upon the direction of a peace officer, be required to submit to a chemical test or tests of his or her blood, breath, or urine for a determination of the concentration of alcohol or the presence of drugs. If the chemical test discloses the presence of a concentration of alcohol in violation of subsection (1) of section 60-6,196, the person shall be subject to the administrative license revocation procedures provided in sections 60-498.01 to 60-498.04 and upon conviction be punished as provided in sections 60-6,197.02 to 60-6,197.08. Any person who refuses to submit to such test or tests required pursuant to this section shall be subject to the administrative license revocation procedures provided in sections 60-498.01 to 60-498.04 and shall be guilty of a crime and upon conviction punished as provided in sections 60-6,197.02 to 60-6,197.08.

(4) Any person involved in a motor vehicle accident in this state may be required to submit to a chemical test or tests of his or her blood, breath, or urine by any peace officer if the officer has reasonable grounds to believe that the person was driving or was in actual physical control of a motor vehicle on a public highway in this state while under the influence of alcoholic liquor or drugs at the time of the accident. A person involved in a motor vehicle accident subject to the implied consent law of this state shall not be deemed to have withdrawn consent to submit to a chemical test of his or her blood, breath, or urine by reason of leaving this state. If the person refuses a test under this section and leaves the state for any reason following an accident, he or she shall remain subject to subsection (3) of this section and sections 60-498.01 to 60-498.04 upon return.

(5) Any person who is required to submit to a chemical blood, breath, or urine test or tests pursuant to this section shall be advised that refusal to submit to such test or tests is a separate crime for which the person may be charged. Failure to provide such advisement shall not affect the admissibility of the chemical test result in any legal proceedings. However, failure to provide such advisement shall negate the state's ability to bring any criminal charges against a refusing party pursuant to this section.

(6) Refusal to submit to a chemical blood, breath, or urine test or tests pursuant to this section shall be admissible evidence in any action for a violation of section 60-6,196 or a city or village ordinance enacted in conformance with such section.

Source: Laws 1959, c. 168, § 1, p. 613; Laws 1961, c. 187, § 2, p. 577; Laws 1963, c. 229, § 1, p. 716; Laws 1971, LB 948, § 2; Laws 1972, LB 1095, § 2; R.S.Supp.,1972, § 39-727.03; Laws 1982, LB 568, § 6; Laws 1986, LB 153, § 4; Laws 1987, LB 404, § 2; Laws 1987, LB 224, § 1; Laws 1988, LB 377, § 2; Laws 1990, LB 799, § 2; Laws 1992, LB 872, § 1; Laws 1992, LB 291, § 5; R.S.Supp.,1992, § 39-669.08; Laws 1993, LB 370, § 293; Laws 1993, LB 564, § 8; Laws 1996, LB 939, § 2; Laws 1998, LB 309, § 14; Laws 1999, LB 585, § 6; Laws 2000, LB 1004, § 2; Laws 2001, LB 38, § 48; Laws 2001, LB 773, § 16; Laws 2003, LB 209, § 12; Laws 2004, LB 208, § 11; Laws 2011, LB667, § 33.

Cross References

Applicability of statute to private property, see section 60-6,108.

Conviction of felony involving use of motor vehicle, transmittal of abstract, see section 60-497.02.

Ineligibility for pretrial diversion, see section 29-3604.

Operator's license, assessment of points and revocation, see sections 60-497.01, 60-498, and 60-4,182 et seq.

Violation of ordinance, prosecuting attorney, consult victim, see section 29-120.

60-6,197.01 Driving while license has been revoked; driving under influence of alcoholic liquor or drug; second and subsequent violations; restrictions on motor vehicles; additional restrictions authorized.

(1) Upon conviction for a violation described in section 60-6,197.06 or a second or subsequent violation of section 60-6,196 or 60-6,197, the court shall impose either of the following restrictions:

(a)(i) The court shall order all motor vehicles owned by the person so convicted immobilized at the owner's expense for a period of time not less than five days and not more than eight months and shall notify the Department of Motor Vehicles of the period of immobilization. Any immobilized motor vehicle shall be released to the holder of a bona fide lien on the motor vehicle executed prior to such immobilization when possession of the motor vehicle is requested as provided by law by such lienholder for purposes of foreclosing and satisfying such lien. If a person tows and stores a motor vehicle pursuant to this subdivision at the direction of a peace officer or the court and has a lien upon such motor vehicle while it is in his or her possession for reasonable towing and storage charges, the person towing the vehicle has the right to retain such motor vehicle until such lien is paid. For purposes of this subdivision, immobilized or immobilization means revocation or suspension, at the discretion of the court, of the registration of such motor vehicle or motor vehicles, including the license plates; and

(ii)(A) Any immobilized motor vehicle shall be released by the court without any legal or physical restraints to any registered owner who is not the registered owner convicted of a second or subsequent violation of section 60-6,196 or 60-6,197 if an affidavit is submitted to the court by such registered owner stating that the affiant is employed, that the motor vehicle subject to immobilization is necessary to continue that employment, that such employment is necessary for the well-being of the affiant's dependent children or parents, that the affiant will not authorize the use of the motor vehicle by any

person known by the affiant to have been convicted of a second or subsequent violation of section 60-6,196 or 60-6,197, that affiant will immediately report to a local law enforcement agency any unauthorized use of the motor vehicle by any person known by the affiant to have been convicted of a second or subsequent conviction of section 60-6,196 or 60-6,197, and that failure to release the motor vehicle would cause undue hardship to the affiant.

(B) A registered owner who executes an affidavit pursuant to subdivision (1)(a)(ii)(A) of this section which is acted upon by the court and who fails to immediately report an unauthorized use of the motor vehicle which is the subject of the affidavit is guilty of a Class IV misdemeanor and may not file any additional affidavits pursuant to subdivision (1)(a)(ii)(A) of this section.

(C) The department shall adopt and promulgate rules and regulations to implement the provisions of subdivision (1)(a) of this section; or

(b) As an alternative to subdivision (1)(a) of this section, the court shall order the convicted person, in order to operate a motor vehicle, to obtain an ignition interlock permit and install an ignition interlock device on each motor vehicle owned or operated by the convicted person if he or she was sentenced to an operator's license revocation of at least one year. If the person's operator's license has been revoked for at least a one-year period, after a minimum of a forty-five-day no driving period, the person may operate a motor vehicle with an ignition interlock permit and an ignition interlock device pursuant to this subdivision and shall retain the ignition interlock permit and ignition interlock device for not less than a one-year period or the period of revocation ordered by the court, whichever is longer. No ignition interlock permit may be issued until sufficient evidence is presented to the department that an ignition interlock device is installed on each vehicle and that the applicant is eligible for use of an ignition interlock device. If the person has an ignition interlock device installed as required under this subdivision, the person shall not be eligible for reinstatement of his or her operator's license until he or she has had the ignition interlock device installed for the period ordered by the court.

(2) In addition to the restrictions required by subdivision (1)(b) of this section, the court may require a person convicted of a second or subsequent violation of section 60-6,196 or 60-6,197 to use a continuous alcohol monitoring device and abstain from alcohol use for a period of time not to exceed the maximum term of license revocation ordered by the court. A continuous alcohol monitoring device shall not be ordered for a person convicted of a second or subsequent violation unless the installation of an ignition interlock device is also required.

Source: Laws 1999, LB 585, § 7; Laws 2001, LB 38, § 49; Laws 2006, LB 925, § 10; Laws 2008, LB736, § 7; Laws 2009, LB497, § 5; Laws 2010, LB924, § 3; Laws 2013, LB158, § 3.

60-6,197.02 Driving under influence of alcoholic liquor or drugs; implied consent to submit to chemical test; terms, defined; prior convictions; use; sentencing provisions; when applicable.

(1) A violation of section 60-6,196 or 60-6,197 shall be punished as provided in sections 60-6,196.01 and 60-6,197.03. For purposes of sentencing under sections 60-6,196.01 and 60-6,197.03:

(a) Prior conviction means a conviction for a violation committed within the fifteen-year period prior to the offense for which the sentence is being imposed as follows:

(i) For a violation of section 60-6,196:

(A) Any conviction for a violation of subdivision (3)(b) or (c) of section 28-306, subdivision (3)(b) or (c) of section 28-394, or section 28-1254, 60-6,196, 60-6,197, or 60-6,198;

(B) Any conviction for a violation of a city or village ordinance enacted in conformance with section 60-6,196 or 60-6,197; or

(C) Any conviction under a law of another state if, at the time of the conviction under the law of such other state, the offense for which the person was convicted would have been a violation of subdivision (3)(b) or (c) of section 28-306, subdivision (3)(b) or (c) of section 28-394, or section 28-1254, 60-6,196, 60-6,197, or 60-6,198; or

(ii) For a violation of section 60-6,197:

(A) Any conviction for a violation of subdivision (3)(b) or (c) of section 28-306, subdivision (3)(b) or (c) of section 28-394, or section 28-1254, 60-6,196, 60-6,197, or 60-6,198;

(B) Any conviction for a violation of a city or village ordinance enacted in conformance with section 60-6,196 or 60-6,197; or

(C) Any conviction under a law of another state if, at the time of the conviction under the law of such other state, the offense for which the person was convicted would have been a violation of subdivision (3)(b) or (c) of section 28-306, subdivision (3)(b) or (c) of section 28-394, or section 28-1254, 60-6,196, 60-6,197, or 60-6,198;

(b) Prior conviction includes any conviction under subdivision (3)(b) or (c) of section 28-306, subdivision (3)(b) or (c) of section 28-394, or section 28-1254, 60-6,196, 60-6,197, or 60-6,198, or any city or village ordinance enacted in conformance with section 60-6,196 or 60-6,197, as such sections or city or village ordinances existed at the time of such conviction regardless of subsequent amendments to any of such sections or city or village ordinances; and

(c) Fifteen-year period means the period computed from the date of the prior offense to the date of the offense which resulted in the conviction for which the sentence is being imposed.

(2) In any case charging a violation of section 60-6,196 or 60-6,197, the prosecutor or investigating agency shall use due diligence to obtain the person's driving record from the Department of Motor Vehicles and the person's driving record from other states where he or she is known to have resided within the last fifteen years. The prosecutor shall certify to the court, prior to sentencing, that such action has been taken. The prosecutor shall present as evidence for purposes of sentence enhancement a court-certified copy or an authenticated copy of a prior conviction in another state. The court-certified or authenticated copy shall be prima facie evidence of such prior conviction.

(3) For each conviction for a violation of section 60-6,196 or 60-6,197, the court shall, as part of the judgment of conviction, make a finding on the record as to the number of the convicted person's prior convictions. The convicted person shall be given the opportunity to review the record of his or her prior convictions, bring mitigating facts to the attention of the court prior to sentencing.

ing, and make objections on the record regarding the validity of such prior convictions.

(4) A person arrested for a violation of section 60-6,196 or 60-6,197 before January 1, 2012, but sentenced pursuant to section 60-6,197.03 for such violation on or after January 1, 2012, shall be sentenced according to the provisions of section 60-6,197.03 in effect on the date of arrest.

Source: Laws 2004, LB 208, § 12; Laws 2005, LB 594, § 2; Laws 2009, LB497, § 6; Laws 2011, LB667, § 34; Laws 2011, LB675, § 8.

60-6,197.03 Driving under influence of alcoholic liquor or drugs; implied consent to submit to chemical test; penalties.

Any person convicted of a violation of section 60-6,196 or 60-6,197 shall be punished as follows:

(1) Except as provided in subdivision (2) of this section, if such person has not had a prior conviction, such person shall be guilty of a Class W misdemeanor, and the court shall, as part of the judgment of conviction, order that the operator's license of such person be revoked for a period of six months from the date ordered by the court. The revocation order shall require that the person apply for an ignition interlock permit pursuant to section 60-6,211.05 for the revocation period and have an ignition interlock device installed on any motor vehicle he or she operates during the revocation period. Such revocation shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked.

If the court places such person on probation or suspends the sentence for any reason, the court shall, as one of the conditions of probation or sentence suspension, order that the operator's license of such person be revoked for a period of sixty days from the date ordered by the court. The court shall order that during the period of revocation the person apply for an ignition interlock permit pursuant to section 60-6,211.05. Such order of probation or sentence suspension shall also include, as one of its conditions, the payment of a five-hundred-dollar fine;

(2) If such person has not had a prior conviction and, as part of the current violation, had a concentration of fifteen-hundredths of one gram or more by weight of alcohol per one hundred milliliters of his or her blood or fifteen-hundredths of one gram or more by weight of alcohol per two hundred ten liters of his or her breath, such person shall be guilty of a Class W misdemeanor, and the court shall, as part of the judgment of conviction, revoke the operator's license of such person for a period of one year from the date ordered by the court. The revocation order shall require that the person apply for an ignition interlock permit pursuant to subdivision (1)(b) of section 60-6,197.01 for the revocation period and have an ignition interlock device installed on any motor vehicle he or she operates during the revocation period. Such revocation shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked.

If the court places such person on probation or suspends the sentence for any reason, the court shall, as one of the conditions of probation or sentence suspension, order that the operator's license of such person be revoked for a period of one year from the date ordered by the court. The revocation order shall require that the person apply for an ignition interlock permit pursuant to subdivision (1)(b) of section 60-6,197.01 for the revocation period and have an

ignition interlock device installed on any motor vehicle he or she operates during the revocation period. Such revocation shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked. Such order of probation or sentence suspension shall also include, as conditions, the payment of a five-hundred-dollar fine and either confinement in the city or county jail for two days or the imposition of not less than one hundred twenty hours of community service;

(3) Except as provided in subdivision (5) of this section, if such person has had one prior conviction, such person shall be guilty of a Class W misdemeanor, and the court shall, as part of the judgment of conviction, order that the operator's license of such person be revoked for a period of eighteen months from the date ordered by the court. The revocation order shall require that the person not drive for a period of forty-five days and that the person apply for an ignition interlock permit and have an ignition interlock device installed on any motor vehicle he or she owns or operates for at least one year. The court shall also issue an order pursuant to subdivision (1)(b) of section 60-6,197.01. If the person has an ignition interlock device installed as required under this subdivision, the person shall not be eligible for reinstatement of his or her operator's license until he or she has had the ignition interlock device installed for the period ordered by the court. The revocation shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked.

If the court places such person on probation or suspends the sentence for any reason, the court shall, as one of the conditions of probation or sentence suspension, order that the operator's license of such person be revoked for a period of eighteen months from the date ordered by the court. The revocation order shall require that the person not drive for a period of forty-five days and that the person apply for an ignition interlock permit and installation of an ignition interlock device for not less than a one-year period pursuant to section 60-6,211.05. The court shall also issue an order pursuant to subdivision (1)(b) of section 60-6,197.01. If the person has an ignition interlock device installed as required under this subdivision, the person shall not be eligible for reinstatement of his or her operator's license until he or she has had the ignition interlock device installed for the period ordered by the court. The order of probation or sentence suspension shall also include, as conditions, the payment of a five-hundred-dollar fine and either confinement in the city or county jail for ten days or the imposition of not less than two hundred forty hours of community service;

(4) Except as provided in subdivision (6) of this section, if such person has had two prior convictions, such person shall be guilty of a Class W misdemeanor, and the court shall, as part of the judgment of conviction, order that the operator's license of such person be revoked for a period of fifteen years from the date ordered by the court and shall issue an order pursuant to section 60-6,197.01. Such orders shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked.

If the court places such person on probation or suspends the sentence for any reason, the court shall, as one of the conditions of probation or sentence suspension, order that the operator's license of such person be revoked for a period of at least two years but not more than fifteen years from the date ordered by the court. The revocation order shall require that the person not

drive for a period of forty-five days, after which the court may order that during the period of revocation the person apply for an ignition interlock permit and installation of an ignition interlock device issued pursuant to section 60-6,211.05 and shall issue an order pursuant to subdivision (1)(b) of section 60-6,197.01. Such order of probation or sentence suspension shall also include, as conditions, the payment of a one-thousand-dollar fine and confinement in the city or county jail for thirty days;

(5) If such person has had one prior conviction and, as part of the current violation, had a concentration of fifteen-hundredths of one gram or more by weight of alcohol per one hundred milliliters of his or her blood or fifteen-hundredths of one gram or more by weight of alcohol per two hundred ten liters of his or her breath or refused to submit to a test as required under section 60-6,197, such person shall be guilty of a Class I misdemeanor, and the court shall, as part of the judgment of conviction, order payment of a one-thousand-dollar fine and revoke the operator's license of such person for a period of at least eighteen months but not more than fifteen years from the date ordered by the court and shall issue an order pursuant to section 60-6,197.01. Such revocation and order shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked. The court shall also sentence such person to serve at least ninety days' imprisonment in the city or county jail or an adult correctional facility.

If the court places such person on probation or suspends the sentence for any reason, the court shall, as one of the conditions of probation or sentence suspension, order that the operator's license of such person be revoked for a period of at least eighteen months but not more than fifteen years from the date ordered by the court. The revocation order shall require that the person not drive for a period of forty-five days and that during the period of revocation the person apply for an ignition interlock permit and installation of an ignition interlock device for not less than a one-year period issued pursuant to section 60-6,211.05. The court shall also issue an order pursuant to subdivision (1)(b) of section 60-6,197.01. If the person has an ignition interlock device installed as required under this subdivision, the person shall not be eligible for reinstatement of his or her operator's license until he or she has had the ignition interlock device installed for the period ordered by the court. The order of probation or sentence suspension shall also include, as conditions, the payment of a one-thousand-dollar fine and confinement in the city or county jail for thirty days;

(6) If such person has had two prior convictions and, as part of the current violation, had a concentration of fifteen-hundredths of one gram or more by weight of alcohol per one hundred milliliters of his or her blood or fifteen-hundredths of one gram or more by weight of alcohol per two hundred ten liters of his or her breath or refused to submit to a test as required under section 60-6,197, such person shall be guilty of a Class IIIA felony, and the court shall, as part of the judgment of conviction, revoke the operator's license of such person for a period of fifteen years from the date ordered by the court and shall issue an order pursuant to section 60-6,197.01. Such revocation and order shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked. The court shall also sentence such person to serve at least one hundred eighty days' imprisonment in the city or county jail or an adult correctional facility.

If the court places such person on probation or suspends the sentence for any reason, the court shall, as one of the conditions of probation or sentence suspension, order that the operator's license of such person be revoked for a period of at least five years but not more than fifteen years from the date ordered by the court. The revocation order shall require that the person not drive for a period of forty-five days, after which the court may order that during the period of revocation the person apply for an ignition interlock permit and installation of an ignition interlock device issued pursuant to section 60-6,211.05 and shall issue an order pursuant to subdivision (1)(b) of section 60-6,197.01. Such order of probation or sentence suspension shall also include, as conditions, the payment of a one-thousand-dollar fine, confinement in the city or county jail for sixty days, and, upon release from such confinement, the use of a continuous alcohol monitoring device and abstention from alcohol use at all times for no less than sixty days;

(7) Except as provided in subdivision (8) of this section, if such person has had three prior convictions, such person shall be guilty of a Class IIIA felony, and the court shall, as part of the judgment of conviction, order that the operator's license of such person be revoked for a period of fifteen years from the date ordered by the court and shall issue an order pursuant to section 60-6,197.01. Such orders shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked. The court shall also sentence such person to serve at least one hundred eighty days' imprisonment in the city or county jail or an adult correctional facility.

If the court places such person on probation or suspends the sentence for any reason, the court shall, as one of the conditions of probation or sentence suspension, order that the operator's license of such person be revoked for a period of fifteen years from the date ordered by the court. The revocation order shall require that the person not drive for a period of forty-five days, after which the court may order that during the period of revocation the person apply for an ignition interlock permit and installation of an ignition interlock device issued pursuant to section 60-6,211.05 and shall issue an order pursuant to subdivision (1)(b) of section 60-6,197.01. Such order of probation or sentence suspension shall also include, as conditions, the payment of a two-thousand-dollar fine, confinement in the city or county jail for ninety days, and, upon release from such confinement, the use of a continuous alcohol monitoring device and abstention from alcohol use at all times for no less than ninety days;

(8) If such person has had three prior convictions and, as part of the current violation, had a concentration of fifteen-hundredths of one gram or more by weight of alcohol per one hundred milliliters of his or her blood or fifteen-hundredths of one gram or more by weight of alcohol per two hundred ten liters of his or her breath or refused to submit to a test as required under section 60-6,197, such person shall be guilty of a Class IIA felony, with a minimum sentence of one year of imprisonment, and the court shall, as part of the judgment of conviction, revoke the operator's license of such person for a period of fifteen years from the date ordered by the court and shall issue an order pursuant to section 60-6,197.01. Such revocation and order shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked.

If the court places such person on probation or suspends the sentence for any reason, the court shall, as one of the conditions of probation or sentence

suspension, order that the operator's license of such person be revoked for a period of fifteen years from the date ordered by the court. The revocation order shall require that the person not drive for a period of forty-five days, after which the court may order that during the period of revocation the person apply for an ignition interlock permit and installation of an ignition interlock device issued pursuant to section 60-6,211.05 and shall issue an order pursuant to subdivision (1)(b) of section 60-6,197.01. Such order of probation or sentence suspension shall also include, as conditions, the payment of a two-thousand-dollar fine, confinement in the city or county jail for one hundred twenty days, and, upon release from such confinement, the use of a continuous alcohol monitoring device and abstention from alcohol use at all times for no less than one hundred twenty days;

(9) Except as provided in subdivision (10) of this section, if such person has had four or more prior convictions, such person shall be guilty of a Class IIA felony with a minimum sentence of two years' imprisonment, and the court shall, as part of the judgment of conviction, order that the operator's license of such person be revoked for a period of fifteen years from the date ordered by the court and shall issue an order pursuant to section 60-6,197.01. Such orders shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked.

If the court places such person on probation or suspends the sentence for any reason, the court shall, as one of the conditions of probation or sentence suspension, order that the operator's license of such person be revoked for a period of fifteen years from the date ordered by the court. The revocation order shall require that the person not drive for a period of forty-five days, after which the court may order that during the period of revocation the person apply for an ignition interlock permit and installation of an ignition interlock device issued pursuant to section 60-6,211.05 and shall issue an order pursuant to subdivision (1)(b) of section 60-6,197.01. Such order of probation or sentence suspension shall also include, as conditions, the payment of a two-thousand-dollar fine, confinement in the city or county jail for one hundred eighty days, and, upon release from such confinement, the use of a continuous alcohol monitoring device and abstention from alcohol use at all times for no less than one hundred eighty days; and

(10) If such person has had four or more prior convictions and, as part of the current violation, had a concentration of fifteen-hundredths of one gram or more by weight of alcohol per one hundred milliliters of his or her blood or fifteen-hundredths of one gram or more by weight of alcohol per two hundred ten liters of his or her breath or refused to submit to a test as required under section 60-6,197, such person shall be guilty of a Class II felony with a minimum sentence of two years' imprisonment and the court shall, as part of the judgment of conviction, revoke the operator's license of such person for a period of fifteen years from the date ordered by the court and shall issue an order pursuant to section 60-6,197.01. Such revocation and order shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked.

If the court places such person on probation or suspends the sentence for any reason, the court shall, as one of the conditions of probation or sentence suspension, order that the operator's license of such person be revoked for a period of fifteen years from the date ordered by the court. The revocation order shall require that the person not drive for a period of forty-five days, after

which the court may order that during the period of revocation the person apply for an ignition interlock permit and installation of an ignition interlock device issued pursuant to section 60-6,211.05 and shall issue an order pursuant to subdivision (1)(b) of section 60-6,197.01. Such order of probation or sentence suspension shall also include, as conditions, the payment of a two-thousand-dollar fine, confinement in the city or county jail for one hundred eighty days, and, upon release from such confinement, the use of a continuous alcohol monitoring device and abstention from alcohol use at all times for no less than one hundred eighty days.

Source: Laws 2004, LB 208, § 13; Laws 2005, LB 594, § 3; Laws 2006, LB 925, § 11; Laws 2007, LB578, § 4; Laws 2008, LB736, § 8; Laws 2009, LB497, § 7; Laws 2010, LB924, § 4; Laws 2011, LB667, § 35; Laws 2011, LB675, § 9; Laws 2013, LB158, § 4; Laws 2015, LB605, § 77; Laws 2016, LB1094, § 32.

60-6,197.05 Driving under influence of alcoholic liquor or drugs; implied consent to chemical test; revocation; effect.

Any period of revocation imposed by the court for a violation of section 60-6,196 or 60-6,197 shall be reduced by any period of revocation imposed under sections 60-498.01 to 60-498.04, including any period during which a person has a valid ignition interlock permit, arising from the same incident.

Source: Laws 2004, LB 208, § 15; Laws 2009, LB497, § 8; Laws 2011, LB667, § 36.

60-6,197.06 Operating motor vehicle during revocation period; penalties.

(1) Unless otherwise provided by law pursuant to an ignition interlock permit, any person operating a motor vehicle on the highways or streets of this state while his or her operator's license has been revoked pursuant to section 28-306, section 60-698, subdivision (4), (5), (6), (7), (8), (9), or (10) of section 60-6,197.03, or section 60-6,198, or pursuant to subdivision (2)(c) or (2)(d) of section 60-6,196 or subdivision (4)(c) or (4)(d) of section 60-6,197 as such subdivisions existed prior to July 16, 2004, shall be guilty of a Class IV felony, and the court shall, as part of the judgment of conviction, revoke the operator's license of such person for a period of fifteen years from the date ordered by the court and shall issue an order pursuant to section 60-6,197.01. Such revocation and order shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked.

(2) If such person has had a conviction under this section or under subsection (6) of section 60-6,196 or subsection (7) of section 60-6,197, as such subsections existed prior to July 16, 2004, and operates a motor vehicle on the highways or streets of this state while his or her operator's license has been revoked pursuant to such conviction, such person shall be guilty of a Class IIA felony, and the court shall, as part of the judgment of conviction, revoke the operator's license of such person for an additional period of fifteen years from the date ordered by the court and shall issue an order pursuant to section 60-6,197.01. Such revocation and order shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked.

Source: Laws 2004, LB 208, § 16; Laws 2006, LB 925, § 12; Laws 2009, LB497, § 9; Laws 2015, LB605, § 78; Laws 2016, LB275, § 1.

60-6,197.09 Driving under influence of alcoholic liquor or drugs; not eligible for probation or suspended sentence.

Notwithstanding the provisions of section 60-6,197.03, a person who commits a violation punishable under subdivision (3)(b) or (c) of section 28-306 or subdivision (3)(b) or (c) of section 28-394 or a violation of section 60-6,196, 60-6,197, or 60-6,198 while participating in criminal proceedings for a violation of section 60-6,196, 60-6,197, or 60-6,198, or a city or village ordinance enacted in accordance with section 60-6,196 or 60-6,197, or a law of another state if, at the time of the violation under the law of such other state, the offense for which the person was charged would have been a violation of section 60-6,197, shall not be eligible to receive a sentence of probation or a suspended sentence for either violation committed in this state.

Source: Laws 2006, LB 925, § 14; Laws 2011, LB667, § 37.

60-6,197.10 Driving under influence of alcohol or drugs; public education campaign; Department of Motor Vehicles; duties.

The Department of Motor Vehicles shall conduct an ongoing public education campaign to inform the residents of this state about the dangers and consequences of driving under the influence of alcohol or drugs in this state. Information shall include, but not be limited to, the criminal and administrative penalties for driving under the influence, any related laws, rules, instructions, and any explanatory matter. The department shall use its best efforts to utilize all available opportunities for making public service announcements on television and radio broadcasts for the public education campaign and to obtain and utilize federal funds for highway safety and other grants in conducting the public education campaign. The information may be included in publications containing information related to other motor vehicle laws and shall be given wide distribution by the department.

Source: Laws 2011, LB667, § 38.

60-6,198 Driving under influence of alcoholic liquor or drugs; serious bodily injury; violation; penalty.

(1) Any person who, while operating a motor vehicle in violation of section 60-6,196 or 60-6,197, proximately causes serious bodily injury to another person or an unborn child of a pregnant woman shall be guilty of a Class IIIA felony and the court shall, as part of the judgment of conviction, order the person not to drive any motor vehicle for any purpose for a period of at least sixty days and not more than fifteen years from the date ordered by the court and shall order that the operator's license of such person be revoked for the same period.

(2) For purposes of this section, serious bodily injury means bodily injury which involves a substantial risk of death, a substantial risk of serious permanent disfigurement, or a temporary or protracted loss or impairment of the function of any part or organ of the body.

(3) For purposes of this section, unborn child has the same meaning as in section 28-396.

(4) The crime punishable under this section shall be treated as a separate and distinct offense from any other offense arising out of acts alleged to have been committed while the person was in violation of this section.

Source: Laws 1986, LB 153, § 6; Laws 1992, LB 291, § 13; R.S.Supp.,1992, § 39-669.39; Laws 1993, LB 370, § 307; Laws 1997, LB 364, § 17; Laws 2001, LB 38, § 50; Laws 2006, LB 57, § 10; Laws 2011, LB667, § 39; Laws 2011, LB675, § 10.

Cross References

Conviction of felony involving use of vehicle, transmittal of abstract, see section 60-497.02.

60-6,209 License revocation; reinstatement; conditions; department; Board of Pardons; duties; fee.

(1) Any person whose operator's license has been revoked pursuant to a conviction for a violation of sections 60-6,196, 60-6,197, and 60-6,199 to 60-6,204 for a third or subsequent time for a period of fifteen years may apply to the Department of Motor Vehicles not more often than once per calendar year, on forms prescribed by the department, requesting the department to make a recommendation to the Board of Pardons for reinstatement of his or her eligibility for an operator's license. Upon receipt of the application and a nonrefundable application fee of one hundred dollars, the Director of Motor Vehicles shall review the application and make a recommendation for reinstatement or for denial of reinstatement. The department may recommend reinstatement if such person shows the following:

(a) Such person has completed a state-certified substance abuse program and is recovering or such person has substantially recovered from the dependency on or tendency to abuse alcohol or drugs, as determined by a counselor certified or licensed in this state;

(b) Such person has not been convicted, since the date of the revocation order, of any subsequent violations of section 60-6,196 or 60-6,197 or any comparable city or village ordinance and the applicant has not, since the date of the revocation order, submitted to a chemical test under section 60-6,197 that indicated an alcohol concentration in violation of section 60-6,196 or refused to submit to a chemical test under section 60-6,197;

(c) Such person has not been convicted, since the date of the revocation order, of driving while under suspension, revocation, or impoundment under section 60-4,109;

(d) Such person has abstained from the consumption of alcoholic beverages and the consumption of drugs except at the direction of a licensed physician or pursuant to a valid prescription;

(e) Such person's operator's license is not currently subject to suspension or revocation for any other reason; and

(f) Such person has agreed that, if the Board of Pardons reinstates such person's eligibility to apply for an ignition interlock permit, such person must provide proof, to the satisfaction of the department, that an ignition interlock device has been installed and is maintained on one or more motor vehicles such person operates for the duration of the original fifteen-year revocation period and such person must operate only motor vehicles so equipped for the duration of the original fifteen-year revocation period.

(2) In addition, the department may require other evidence from such person to show that restoring such person's privilege to drive will not present a danger to the health and safety of other persons using the highways.

(3) Upon review of the application, the director shall make the recommendation to the Board of Pardons in writing and shall briefly state the reasons for the recommendations. The recommendation shall include the original application and other evidence submitted by such person. The recommendation shall also include any record of any other applications such person has previously filed under this section.

(4) The department shall adopt and promulgate rules and regulations to govern the procedures for making a recommendation to the Board of Pardons.

(5) If the Board of Pardons reinstates such person's eligibility for an operator's license or an ignition interlock permit or orders a reprieve of such person's motor vehicle operator's license revocation, such reinstatement or reprieve may be conditioned for the duration of the original revocation period on such person's continued recovery and, if such person is a holder of an ignition interlock permit, shall be conditioned for the duration of the original revocation period on such person's operation of only motor vehicles equipped with an ignition interlock device. If such person is convicted of any subsequent violation of section 60-6,196 or 60-6,197, the reinstatement of the person's eligibility for an operator's license shall be withdrawn and such person's operator's license will be revoked by the Department of Motor Vehicles for the time remaining under the original revocation, independent of any sentence imposed by the court, after thirty days' written notice to the person by first-class mail at his or her last-known mailing address as shown by the records of the department.

(6) If the Board of Pardons reinstates a person's eligibility for an operator's license or an ignition interlock permit or orders a reprieve of such person's motor vehicle operator's license revocation, the board shall notify the Department of Motor Vehicles of the reinstatement or reprieve. Such person may apply for an operator's license upon payment of a fee of one hundred twenty-five dollars and the filing of proof of financial responsibility. The fees paid pursuant to this section shall be collected by the department and remitted to the State Treasurer. The State Treasurer shall credit seventy-five dollars of each fee to the General Fund and fifty dollars of each fee to the Department of Motor Vehicles Cash Fund.

Source: Laws 1992, LB 291, § 10; R.S.Supp.,1992, § 39-669.19; Laws 1993, LB 370, § 304; Laws 1998, LB 309, § 18; Laws 2001, LB 38, § 54; Laws 2003, LB 209, § 13; Laws 2004, LB 208, § 12; Laws 2004, LB 1083, § 102; Laws 2008, LB736, § 9; Laws 2014, LB998, § 12; Laws 2019, LB270, § 41.

60-6,211.05 Ignition interlock device; continuous alcohol monitoring device and abstention from alcohol use; orders authorized; prohibited acts; violation; penalty; costs; Department of Motor Vehicles Ignition Interlock Fund; created; use; investment; prohibited acts relating to tampering with device; hearing.

(1) If an order is granted under section 60-6,196 or 60-6,197 and sections 60-6,197.02 and 60-6,197.03, the court may order that the defendant install an ignition interlock device of a type approved by the Director of Motor Vehicles on each motor vehicle operated by the defendant during the period of revoca-

tion. Upon sufficient evidence of installation, the defendant may apply to the director for an ignition interlock permit pursuant to section 60-4,118.06. The device shall, without tampering or the intervention of another person, prevent the defendant from operating the motor vehicle when the defendant has an alcohol concentration greater than three-hundredths of one gram or more by weight of alcohol per one hundred milliliters of his or her blood or three-hundredths of one gram or more by weight of alcohol per two hundred ten liters of his or her breath. The Department of Motor Vehicles shall issue an ignition interlock permit to the defendant under section 60-4,118.06 only upon sufficient proof that a defendant has installed an ignition interlock device on any motor vehicle that the defendant will operate during his or her release.

(2) If the court orders installation of an ignition interlock device and issuance of an ignition interlock permit pursuant to subsection (1) of this section, the court may also order the use of a continuous alcohol monitoring device and abstention from alcohol use at all times. The device shall, without tampering or the intervention of another person, test and record the alcohol consumption level of the defendant on a periodic basis and transmit such information to probation authorities.

(3) Any order issued by the court pursuant to this section shall not take effect until the defendant is eligible to operate a motor vehicle pursuant to subsection (8) of section 60-498.01. A person shall be eligible to be issued an ignition interlock permit allowing operation of a motor vehicle equipped with an ignition interlock device if he or she is not subject to any other suspension, cancellation, required no-driving period, or period of revocation and has successfully completed the ignition interlock permit application process. The Department of Motor Vehicles shall review its records and the driving record abstract of any person who applies for an ignition interlock permit allowing operation of a motor vehicle equipped with an ignition interlock device to determine (a) the applicant's eligibility for an ignition interlock permit, (b) the applicant's previous convictions under section 60-6,196, 60-6,197, or 60-6,197.06 or any previous administrative license revocation, if any, and (c) if the applicant is subject to any required no-drive periods before the ignition interlock permit may be issued.

(4)(a) If the court orders an ignition interlock device or the Board of Pardons orders an ignition interlock device under section 83-1,127.02, the court or the Board of Pardons shall order the defendant to apply for an ignition interlock permit as provided in section 60-4,118.06 which indicates that the defendant is only allowed to operate a motor vehicle equipped with an ignition interlock device.

(b) Such court order shall remain in effect for a period of time as determined by the court not to exceed the maximum term of revocation which the court could have imposed according to the nature of the violation and shall allow operation by the defendant of only an ignition-interlock-equipped motor vehicle.

(c) Such Board of Pardons order shall remain in effect for a period of time not to exceed any period of revocation the applicant is subject to at the time the application for a reprieve is made.

(5) Any person restricted to operating a motor vehicle equipped with an ignition interlock device, pursuant to a Board of Pardons order, who operates upon the highways of this state a motor vehicle without such device or if the

device has been disabled, bypassed, or altered in any way, shall be punished as provided in subsection (3) of section 83-1,127.02.

(6) If a person ordered to use a continuous alcohol monitoring device and abstain from alcohol use pursuant to a court order as provided in subsection (2) of this section violates the provisions of such court order by removing, tampering with, or otherwise bypassing the continuous alcohol monitoring device or by consuming alcohol while required to use such device, he or she shall have his or her ignition interlock permit revoked and be unable to apply for reinstatement for the duration of the revocation period imposed by the court.

(7) The director shall adopt and promulgate rules and regulations regarding the approval of ignition interlock devices, the means of installing ignition interlock devices, and the means of administering the ignition interlock permit program.

(8)(a) The costs incurred in order to comply with the ignition interlock requirements of this section shall be paid directly to the ignition interlock provider by the person complying with an order for an ignition interlock permit and installation of an ignition interlock device.

(b) If the Department of Motor Vehicles has determined the person to be indigent and incapable of paying for the cost of installation, removal, or maintenance of the ignition interlock device in accordance with this section, such costs shall be paid out of the Department of Motor Vehicles Ignition Interlock Fund if such funds are available, according to rules and regulations adopted and promulgated by the department. Such costs shall also be paid out of the Department of Motor Vehicles Ignition Interlock Fund if such funds are available and if the court or the Board of Pardons, whichever is applicable, has determined the person to be indigent and incapable of paying for the cost of installation, removal, or maintenance of the ignition interlock device in accordance with this section. The Department of Motor Vehicles Ignition Interlock Fund is created. Money in the Department of Motor Vehicles Ignition Interlock Fund may be used for transfers to the General Fund at the direction of the Legislature. On October 1, 2017, or as soon thereafter as administratively possible, the State Treasurer shall transfer twenty-five thousand dollars from the Department of Motor Vehicles Ignition Interlock Fund to the Violence Prevention Cash Fund. On October 1, 2018, or as soon thereafter as administratively possible, the State Treasurer shall transfer twenty-five thousand dollars from the Department of Motor Vehicles Ignition Interlock Fund to the Violence Prevention Cash Fund. Any money in the Department of Motor Vehicles Ignition Interlock 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.

(9)(a)(i) An ignition interlock service facility shall notify the appropriate district probation office or the appropriate court, as applicable, of any evidence of tampering with or circumvention of an ignition interlock device, or any attempts to do so, when the facility becomes aware of such evidence. Failure of the facility to provide notification as provided in this subdivision is a Class V misdemeanor.

(ii) An ignition interlock service facility shall notify the Department of Motor Vehicles, if the ignition interlock permit is issued pursuant to sections 60-498.01 to 60-498.04, of any evidence of tampering with or circumvention of an ignition interlock device, or any attempts to do so, when the facility becomes

aware of such evidence. Failure of the facility to provide notification as provided in this subdivision is a Class V misdemeanor.

(b) If a district probation office receives evidence of tampering with or circumvention of an ignition interlock device, or any attempts to do so, from an ignition interlock service facility, the district probation office shall notify the appropriate court of such violation. The court shall immediately schedule an evidentiary hearing to be held within fourteen days after receiving such evidence, either from the district probation office or an ignition interlock service facility, and the court shall cause notice of the hearing to be given to the person operating a motor vehicle pursuant to an order under subsection (1) of this section. If the person who is the subject of such evidence does not appear at the hearing and show cause why the order made pursuant to subsection (1) of this section should remain in effect, the court shall rescind the original order. Nothing in this subsection shall apply to an order made by the Board of Pardons pursuant to section 83-1,127.02.

(10) Notwithstanding any other provision of law, the issuance of an ignition interlock permit by the Department of Motor Vehicles under section 60-498.01 or an order for the installation of an ignition interlock device and ignition interlock permit made pursuant to subsection (1) of this section as part of a conviction, as well as the administration of such court order by the Office of Probation Administration for the installation, maintenance, and removal of such device, as applicable, shall not be construed to create an order of probation when an order of probation has not been issued.

Source: Laws 1993, LB 564, § 6; Laws 1998, LB 309, § 24; Laws 2001, LB 38, § 55; Laws 2003, LB 209, § 15; Laws 2004, LB 208, § 22; Laws 2006, LB 925, § 16; Laws 2008, LB736, § 10; Laws 2009, LB497, § 10; Laws 2010, LB924, § 5; Laws 2011, LB667, § 40; Laws 2012, LB751, § 46; Laws 2013, LB158, § 5; Laws 2013, LB199, § 27; Laws 2017, LB331, § 28.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

60-6,211.08 Open alcoholic beverage container; consumption of alcoholic beverages; prohibited acts; applicability of section to certain passengers of limousine or bus.

(1) For purposes of this section:

(a) Alcoholic beverage means (i) beer, ale porter, stout, and other similar fermented beverages, including sake or similar products, of any name or description containing one-half of one percent or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor, (ii) wine of not less than one-half of one percent of alcohol by volume, or (iii) distilled spirits which is that substance known as ethyl alcohol, ethanol, or spirits of wine in any form, including all dilutions and mixtures thereof from whatever source or by whatever process produced. Alcoholic beverage does not include trace amounts not readily consumable as a beverage;

(b) Highway means a road or street including the entire area within the right-of-way;

(c) Limousine means a luxury vehicle used to provide prearranged passenger transportation on a dedicated basis at a premium fare that has a seating

capacity of at least five and no more than fourteen persons behind the driver with a physical partition separating the driver seat from the passenger compartment. Limousine does not include taxicabs, hotel or airport buses or shuttles, or buses;

(d) Open alcoholic beverage container, except as provided in subsection (3) of section 53-123.04 and subdivision (1)(c) of section 53-123.11, means any bottle, can, or other receptacle:

(i) That contains any amount of alcoholic beverage; and

(ii)(A) That is open or has a broken seal or (B) the contents of which are partially removed; and

(e) Passenger area means the area designed to seat the driver and passengers while the motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while in their seating positions, including any compartments in such area. Passenger area does not include the area behind the last upright seat of such motor vehicle if the area is not normally occupied by the driver or a passenger and the motor vehicle is not equipped with a trunk.

(2) Except as otherwise provided in this section, it is unlawful for any person in the passenger area of a motor vehicle to possess an open alcoholic beverage container while the motor vehicle is located in a public parking area or on any highway in this state.

(3) Except as provided in section 53-186 or subsection (4) of this section, it is unlawful for any person to consume an alcoholic beverage (a) in a public parking area or on any highway in this state or (b) inside a motor vehicle while in a public parking area or on any highway in this state.

(4) This section does not apply to persons who are passengers of, but not drivers of, a limousine or bus being used in a charter or special party service as defined by rules and regulations adopted and promulgated by the Public Service Commission and subject to Chapter 75, article 3. Such passengers may possess open alcoholic beverage containers and may consume alcoholic beverages while such limousine or bus is in a public parking area or on any highway in this state if (a) the driver of the limousine or bus is prohibited from consuming alcoholic liquor and (b) alcoholic liquor is not present in any area that is readily accessible to the driver while in the driver's seat, including any compartments in such area.

Source: Laws 1999, LB 585, § 4; Laws 2006, LB 562, § 6; Laws 2011, LB281, § 3.

60-6,211.11 Prohibited acts relating to ignition interlock device; violation; penalty.

(1) Except as provided in subsection (2) of this section, any person ordered by a court or the Department of Motor Vehicles to operate only motor vehicles equipped with an ignition interlock device is guilty of a Class I misdemeanor if he or she (a) tampers with or circumvents and then operates a motor vehicle equipped with an ignition interlock device installed under the court order or Department of Motor Vehicles order while the order is in effect or (b) operates a motor vehicle which is not equipped with an ignition interlock device in violation of the court order or Department of Motor Vehicles order.

(2) Any person ordered by a court or the Department of Motor Vehicles to operate only motor vehicles equipped with an ignition interlock device is guilty

of a Class IV felony if he or she (a)(i) tampers with or circumvents and then operates a motor vehicle equipped with an ignition interlock device installed under the court order or Department of Motor Vehicles order while the order is in effect or (ii) operates a motor vehicle which is not equipped with an ignition interlock device in violation of the court order or Department of Motor Vehicles order and (b) operates the motor vehicle as described in subdivision (a)(i) or (ii) of this subsection when he or she has a concentration of two-hundredths of one gram or more by weight of alcohol per one hundred milliliters of his or her blood or a concentration of two-hundredths of one gram or more by weight of alcohol per two hundred ten liters of his or her breath.

(3) Any person who otherwise operates a motor vehicle equipped with an ignition interlock device in violation of the requirements of the court order or Department of Motor Vehicles order under which the device was installed shall be guilty of a Class III misdemeanor.

Source: Laws 2011, LB667, § 41; Laws 2014, LB998, § 13.

(q) LIGHTING AND WARNING EQUIPMENT

60-6,219 Motor vehicle; autocycle or motorcycle; lights; requirements; prohibited acts.

(1) Every motor vehicle upon a highway within this state during the period from sunset to sunrise and at any other time when there is not sufficient light to render clearly discernible persons or vehicles upon the highway at a distance of five hundred feet ahead shall be equipped with lighted headlights and taillights as respectively required in this section for different classes of vehicles.

(2) Every motor vehicle, other than an autocycle, a motorcycle, a road roller, or road machinery, shall be equipped with two or more headlights, at the front of and on opposite sides of the motor vehicle. The headlights shall comply with the requirements and limitations set forth in sections 60-6,221 and 60-6,223.

(3) Every motor vehicle and trailer, other than an autocycle, a motorcycle, a road roller, or road machinery, shall be equipped with one or more taillights, at the rear of the motor vehicle or trailer, exhibiting a red light visible from a distance of at least five hundred feet to the rear of such vehicle.

(4) Every autocycle or motorcycle shall be equipped with at least one and not more than two headlights and with a taillight exhibiting a red light visible from a distance of at least five hundred feet to the rear of such autocycle or motorcycle. The headlights shall comply with the requirements and limitations set forth in sections 60-6,221 and 60-6,223.

(5) The requirement in this section as to the distance from which lights must render obstructions visible or within which lights must be visible shall apply during the time stated in this section upon a straight, level, unlighted highway under normal atmospheric conditions.

(6) It shall be unlawful for any owner or operator of any motor vehicle to operate such vehicle upon a highway unless:

(a) The condition of the lights and electric circuit is such as to give substantially normal light output;

(b) Each taillight shows red directly to the rear, the lens covering each taillight is unbroken, each taillight is securely fastened, and the electric circuit is free from grounds or shorts;

(c) There is no more than one spotlight except for law enforcement personnel, government employees, and public utility employees;

(d) There are no more than two auxiliary driving lights and every such auxiliary light meets the requirements for auxiliary driving lights provided in section 60-6,225;

(e) If equipped with any lighting device, other than headlights, spotlights, or auxiliary driving lights, which projects a beam of light of an intensity greater than twenty-five candlepower, such lighting device meets the requirements of subsection (4) of section 60-6,225; and

(f) If equipped with side cowl or fender lights, there are no more than two such lights and each such side cowl or fender light emits an amber or white light.

Source: Laws 1931, c. 110, § 43, p. 319; Laws 1935, c. 134, § 8, p. 488; Laws 1939, c. 78, § 4, p. 319; C.S.Supp.,1941, § 39-1174; R.S. 1943, § 39-778; Laws 1955, c. 152, § 1, p. 450; Laws 1957, c. 366, § 6, p. 1249; R.R.S.1943, § 39-778; Laws 1975, LB 11, § 2; Laws 1981, LB 544, § 2; Laws 1987, LB 224, § 6; Laws 1989, LB 283, § 2; R.S.Supp.,1992, § 39-6,138; Laws 1993, LB 370, § 315; Laws 1993, LB 575, § 32; Laws 1995, LB 59, § 2; Laws 2015, LB231, § 31.

Cross References

Motor-driven cycles, light requirements, see section 60-6,187.

60-6,226 Brake and turnsignal light requirements; exceptions; signaling requirements.

(1) Any motor vehicle having four or more wheels which is manufactured or assembled, whether from a kit or otherwise, after January 1, 1954, designed or used for the purpose of carrying passengers or freight, any autocycle, or any trailer, in use on a highway, shall be equipped with brake and turnsignal lights in good working order.

(2) Motorcycles other than autocycles, motor-driven cycles, motor scooters, bicycles, electric personal assistive mobility devices, vehicles used solely for agricultural purposes, vehicles not designed and intended primarily for use on a highway, and, during daylight hours, fertilizer trailers as defined in section 60-326 and implements of husbandry designed primarily or exclusively for use in agricultural operations shall not be required to have or maintain in working order signal lights required by this section, but they may be so equipped. The operator thereof shall comply with the requirements for utilizing hand and arm signals or for utilizing such signal lights if the vehicle is so equipped.

Source: Laws 1993, LB 370, § 322; Laws 1995, LB 59, § 4; Laws 2002, LB 1105, § 458; Laws 2003, LB 238, § 6; Laws 2005, LB 274, § 243; Laws 2015, LB231, § 32; Laws 2018, LB909, § 99.

Cross References

Hand and arm signals, see sections 60-6,162 and 60-6,163.

60-6,230 Lights; rotating or flashing; colored lights; when permitted.

(1) Except as provided in this section and sections 60-6,231 to 60-6,233, no person shall operate any motor vehicle or any equipment of any description on any highway in this state with any rotating or flashing light.

(2) Except for stop lights and directional signals, which may be red, yellow, or amber, no person shall display any color of light other than red on the rear of any motor vehicle or any equipment of any kind on any highway within this state.

(3) Amber rotating or flashing lights shall be displayed on vehicles of the Military Department for purpose of convoy control when on any state emergency mission.

(4) A single flashing white light may be displayed on the roof of school transportation vehicles during extremely adverse weather conditions.

(5) Blue and amber rotating or flashing lights may be displayed on (a) vehicles when operated by the Department of Transportation or any local authority for the inspection, construction, repair, or maintenance of highways, roads, or streets or (b) vehicles owned and operated by any public utility for the construction, maintenance, and repair of utility infrastructure on or near any highway.

Source: Laws 1969, c. 327, § 2, p. 1170; C.S.Supp.,1972, § 39-788.01; Laws 1979, LB 127, § 1; R.S.1943, (1988), § 39-6,148; Laws 1993, LB 370, § 326; Laws 1995, LB 59, § 6; Laws 2008, LB196, § 3; Laws 2015, LB181, § 1; Laws 2016, LB977, § 24; Laws 2017, LB339, § 217.

60-6,232 Rotating or flashing amber light; when permitted.

A rotating or flashing amber light or lights shall be displayed on the roof of any motor vehicle being operated by any rural mail carrier outside the corporate limits of any municipality in this state on or near any highway in the process of delivering mail.

A rotating or flashing amber light or lights may be displayed on (1) any vehicle of the Military Department while on any state emergency mission, (2) any motor vehicle being operated by any public utility, vehicle service, or towing service or any publicly or privately owned construction or maintenance vehicle while performing its duties on or near any highway, (3) any motor vehicle being operated by any member of the Civil Air Patrol, (4) any pilot vehicle escorting an overdimensional load, (5) any vehicle while actually engaged in the moving of houses, buildings, or other objects of extraordinary bulk, including unbaled livestock forage as authorized by subdivision (2)(f) of section 60-6,288, (6) any motor vehicle owned by or operated on behalf of a railroad carrier that is stopped to load or unload passengers, or (7) any motor vehicle operated by or for an emergency management worker as defined in section 81-829.39 or a storm spotter as defined in section 81-829.67 who is activated by a local emergency management organization.

Source: Laws 1969, c. 327, § 4, p. 1171; Laws 1971, LB 365, § 1; R.S.Supp.,1972, § 39-788.03; Laws 1977, LB 427, § 1; R.S.1943, (1988), § 39-6,150; Laws 1993, LB 370, § 328; Laws 1995, LB 59, § 7; Laws 2000, LB 1361, § 4; Laws 2005, LB 471, § 1; Laws 2011, LB573, § 1.

60-6,233 Rotating or flashing red light or red and blue lights; when permitted; application; permit; expiration.

(1)(a) A rotating or flashing red light or lights or such light or lights in combination with a blue light or lights may be displayed on any motor vehicle operated by any volunteer firefighter, peace officer, or physician medical director anywhere in this state while actually en route to the scene of a fire or other emergency requiring his or her services as a volunteer firefighter, peace officer, or physician medical director, but only after its use has been authorized in writing by the county sheriff and, with respect to a physician medical director, such person has successfully completed an emergency vehicle operator course.

(b) Application for a permit to display such light shall be made in writing to the sheriff on forms to be prescribed and furnished by the Superintendent of Law Enforcement and Public Safety. The application shall be accompanied by a statement that the applicant is a volunteer firefighter, peace officer, or physician medical director and is requesting issuance of the permit. The statement shall be signed by the applicant's superior.

(c) The permit shall be carried at all times in the vehicle named in the permit. Each such permit shall expire on December 31 of each year and shall be renewed in the same manner as it was originally issued.

(d) The sheriff may at any time revoke such permit upon a showing of abuse thereof or upon receipt of notice from the applicant's superior that the holder thereof is no longer an active volunteer firefighter, peace officer, or physician medical director. Any person whose permit has been so revoked shall upon demand surrender it to the sheriff or his or her authorized agent.

(2) A rotating or flashing red light or lights or such light or lights in combination with a blue light or lights may be displayed on any motor vehicle being used by rescue squads actually en route to, at, or returning from any emergency requiring their services, or by any privately owned wrecker when engaged in emergency services at the scene of an accident, or at a disabled vehicle, located outside the city limits of a city of the metropolitan or primary class, but only after its use has been authorized in writing by the county sheriff. Applications shall be made and may be revoked in the same manner as for volunteer firefighters as provided in subsection (1) of this section.

(3) For purposes of this section, physician medical director has the same meaning as in section 38-1210.

Source: Laws 1969, c. 327, § 5, p. 1171; Laws 1971, LB 365, § 2; R.S.Supp.,1972, § 39-788.04; Laws 1981, LB 64, § 2; Laws 1989, LB 416, § 2; R.S.Supp.,1992, § 39-6,151; Laws 1993, LB 370, § 329; Laws 2019, LB8, § 1.

(r) BRAKES

60-6,244 Motor vehicles; brakes; requirements.

(1) Every motor vehicle when operated upon a highway shall be equipped with brakes adequate to control the movement of and to stop and to hold such vehicle, including two separate means of applying the brakes, each of which means shall be effective to apply the brakes to at least two wheels and so constructed that no part which is liable to failure shall be common to the two, except that a motorcycle shall be required to be equipped with only one brake. All such brakes shall be maintained at all times in good working order.

(2) It shall be unlawful for any owner or operator of any motor vehicle, other than a motorcycle, to operate such motor vehicle upon a highway unless the brake equipment thereon qualifies with regard to maximum stopping distances from a speed of twenty miles per hour on dry asphalt or concrete pavement free from loose materials as follows:

- (a) Two-wheel brakes, maximum stopping distance, forty feet;
- (b) Four or more wheel brakes, vehicles up to seven thousand pounds gross weight, maximum stopping distance, thirty feet;
- (c) Four or more wheel brakes, vehicles seven thousand pounds or more gross weight, maximum stopping distance, thirty-five feet;
- (d) All hand, parking, or emergency brakes, vehicles up to seven thousand pounds gross weight, maximum stopping distance, fifty-five feet; and
- (e) All hand, parking, or emergency brakes, vehicles seven thousand pounds or more gross weight, maximum stopping distance, sixty-five feet.

(3) All braking distances specified in this section shall apply to all vehicles whether unloaded or loaded to the maximum capacity permitted by law.

(4) The retarding force of one side of the vehicle shall not exceed the retarding force on the opposite side so as to prevent the vehicle stopping in a straight line.

(5) For purposes of this section, motorcycle does not include an auticycle.

Source: Laws 1931, c. 110, § 38, p. 317; Laws 1939, c. 78, § 2, p. 318; C.S.Supp.,1941, § 39-1169; R.S.1943, § 39-773; Laws 1977, LB 314, § 2; R.S.1943, (1988), § 39-6,133; Laws 1993, LB 370, § 340; Laws 2018, LB909, § 100.

(s) TIRES

60-6,250 Tires; requirements; cleats or projections prohibited; exceptions; permissive uses; special permits; exceptions.

(1) Every solid rubber tire on a vehicle moved on any highway shall have rubber on its entire traction surface at least one inch thick above the edge of the flange of the entire periphery.

(2) No tire on a vehicle moved on a highway shall have on its periphery any clock, stud, flange, cleat, or spike or any other protuberance of any material other than rubber which projects beyond the tread of the traction surface of the tire, except that:

(a) This prohibition shall not apply to pneumatic tires with metal or metal-type studs not exceeding five-sixteenths of an inch in diameter inclusive of the stud-casing with an average protrusion beyond the tread surface of not more than seven sixty-fourths of an inch between November 1 and April 1, except that school buses, mail carrier vehicles, and emergency vehicles shall be permitted to use metal or metal-type studs at any time during the year;

(b) It shall be permissible to use farm machinery with tires having protuberances which will not injure the highway; and

(c) It shall be permissible to use tire chains of reasonable proportions upon any vehicle when required for safety because of snow, ice, or other condition tending to cause a vehicle to slide or skid.

(3) No person shall operate or move on any highway any motor vehicle, trailer, or semitrailer (a) having any metal tire in contact with the roadway or (b) equipped with solid rubber tires, except that this subsection shall not apply to farm vehicles having a gross weight of ten thousand pounds or less or to implements of husbandry.

(4) The Department of Transportation and local authorities in their respective jurisdictions may, in their discretion, issue special permits authorizing the operation upon a highway of traction engines or tractors having movable tracks with transverse corrugations upon the periphery of such movable tracks or farm tractors or other farm machinery.

Source: Laws 1931, c. 110, § 36, p. 317; C.S.Supp.,1941, § 39-1167; R.S.1943, § 39-771; Laws 1965, c. 217, § 1, p. 633; Laws 1971, LB 678, § 2; R.S.Supp.,1972, § 39-771; Laws 1980, LB 619, § 3; Laws 1983, LB 50, § 1; Laws 1987, LB 504, § 3; R.S.1943, (1988), § 39-6,131; Laws 1993, LB 370, § 346; Laws 2017, LB339, § 218.

(t) WINDSHIELDS, WINDOWS, AND MIRRORS

60-6,254 Operator; view to rear required; outside mirrors authorized.

(1) No person shall drive a motor vehicle, other than a motorcycle, on a highway when the motor vehicle is so constructed or loaded as to prevent the driver from obtaining a view of the highway to the rear by looking backward from the driver's position unless such vehicle is equipped with a right-side and a left-side outside mirror so located as to reflect to the driver a view of the highway for a distance of at least two hundred feet to the rear of such vehicle. Temporary outside mirrors and attachments used when towing a vehicle shall be removed from such motor vehicle or retracted within the outside dimensions thereof when it is operated upon the highway without such trailer.

(2) For purposes of this section, motorcycle does not include an autocycle.

Source: Laws 1931, c. 110, § 40, p. 318; C.S.Supp.,1941, § 39-1171; R.S.1943, § 39-775; Laws 1971, LB 396, § 3; R.S.Supp.,1972, § 39-775; Laws 1977, LB 314, § 1; R.S.1943, (1988), § 39-6,124; Laws 1993, LB 370, § 350; Laws 2018, LB909, § 101.

60-6,255 Windshield and windows; nontransparent material prohibited; windshield equipment; requirements.

(1) Every motor vehicle registered pursuant to the Motor Vehicle Registration Act, except motorcycles, shall be equipped with a front windshield.

(2) It shall be unlawful for any person to drive any vehicle upon a highway with any sign, poster, or other nontransparent material upon the front windshield, side wing vents, or side or rear windows of such motor vehicle other than a certificate or other paper required to be so displayed by law. The front windshield, side wing vents, and side or rear windows may have a visor or other shade device which is easily moved aside or removable, is normally used by a motor vehicle operator during daylight hours, and does not impair the driver's field of vision.

(3) Every windshield on a motor vehicle, other than a motorcycle, shall be equipped with a device for cleaning rain, snow, or other moisture from the

windshield, which device shall be so constructed as to be controlled or operated by the driver of the vehicle.

(4) For purposes of this section, motorcycle does not include an autocytle.

Source: Laws 1931, c. 110, § 41, p. 318; C.S.Supp.,1941, § 39-1172; R.S.1943, § 39-776; Laws 1977, LB 314, § 3; Laws 1987, LB 504, § 7; Laws 1989, LB 155, § 1; R.S.Supp.,1992, § 39-6,136; Laws 1993, LB 370, § 351; Laws 2005, LB 274, § 245; Laws 2018, LB909, § 102.

Cross References

Motor Vehicle Registration Act, see section 60-301.

60-6,256 Objects placed or hung to obstruct or interfere with view of operator; unlawful; enforcement; penalty.

(1) It shall be unlawful for any person to operate a motor vehicle with any object placed or hung in or upon the motor vehicle, except required or permitted equipment of the motor vehicle, in such a manner as to significantly and materially obstruct or interfere with the view of the operator through the windshield or to prevent the operator from having a clear and full view of the road and condition of traffic behind the motor vehicle. Any sticker or identification authorized or required by the federal government or any agency thereof or the State of Nebraska or any political subdivision thereof may be placed upon the windshield of the motor vehicle without violating this section.

(2) Enforcement of this section by state or local law enforcement agencies shall be accomplished only as a secondary action when a driver of a motor vehicle has been cited or charged with a traffic violation or some other offense.

(3) Any person who violates this section is guilty of a traffic infraction. Any person who is found guilty of a traffic infraction under this section shall be assessed points on his or her motor vehicle operator's license pursuant to section 60-4,182 and shall be fined:

- (a) Fifty dollars for the first offense;
- (b) One hundred dollars for a second offense; and
- (c) One hundred fifty dollars for a third and subsequent offense.

Source: Laws 1959, c. 173, § 1, p. 624; R.R.S.1943, § 39-7,123.04; Laws 1977, LB 41, § 30; R.S.1943, (1988), § 39-6,170; Laws 1993, LB 370, § 352; Laws 2011, LB500, § 2.

Cross References

Interference with view of driver by passengers or load prohibited, see section 60-6,179.

60-6,263 Safety glass; requirements; vehicles built after January 1, 1935; motorcycle windshield; requirements; violation; penalty.

(1) It shall be unlawful to operate on any highway in this state any motor vehicle, other than a motorcycle, manufactured or assembled, whether from a kit or otherwise, after January 1, 1935, which is designed or used for the purpose of carrying passengers unless such vehicle is equipped in all doors, windows, and windshields with safety glass. Any windshield attached to a motorcycle shall be manufactured of products which will successfully withstand discoloration due to exposure to sunlight or abnormal temperatures over an extended period of time.

(2) For purposes of this section, motorcycle does not include an autocycle.

(3) The owner or operator of any motor vehicle operated in violation of this section shall be guilty of a Class III misdemeanor.

Source: Laws 1933, c. 101, § 2, p. 413; Laws 1937, c. 145, § 2, p. 554; C.S.Supp.,1941, § 39-1195; R.S.1943, § 39-7,101; Laws 1977, LB 314, § 4; R.S.1943, (1988), § 39-6,155; Laws 1993, LB 370, § 359; Laws 2003, LB 238, § 7; Laws 2018, LB909, § 103.

(u) OCCUPANT PROTECTION SYSTEMS AND
THREE-POINT SAFETY BELT SYSTEMS

60-6,265 Occupant protection system and three-point safety belt system, defined.

For purposes of sections 60-6,266 to 60-6,273:

(1) Occupant protection system means a system utilizing a lap belt, a shoulder belt, or any combination of belts installed in a motor vehicle which (a) restrains drivers and passengers and (b) conforms to Federal Motor Vehicle Safety Standards, 49 C.F.R. 571.207, 571.208, 571.209, and 571.210, as such standards existed on January 1, 2020, or, as a minimum standard, to the federal motor vehicle safety standards for passenger restraint systems applicable for the motor vehicle's model year; and

(2) Three-point safety belt system means a system utilizing a combination of a lap belt and a shoulder belt installed in a motor vehicle which restrains drivers and passengers.

Source: Laws 1993, LB 370, § 361; Laws 2004, LB 227, § 1; Laws 2006, LB 853, § 19; Laws 2007, LB239, § 6; Laws 2008, LB756, § 21; Laws 2009, LB331, § 11; Laws 2015, LB231, § 33; Laws 2018, LB42, § 1; Laws 2019, LB79, § 19; Laws 2020, LB944, § 68.
Operative date November 14, 2020.

60-6,266 Occupant protection system; 1973 year model and later motor vehicles; requirements; three-point safety belt system; violation; penalty.

(1) Every motor vehicle designated by the manufacturer as 1973 year model or later operated on any highway, road, or street in this state, except farm tractors and implements of husbandry designed primarily or exclusively for use in agricultural operations, autocycles, motorcycles, motor-driven cycles, mopeds, and buses, shall be equipped with an occupant protection system of a type which:

(a) Meets the requirements of 49 C.F.R. 571.208, 571.209, and 571.210 as such regulations currently exist or as the regulations existed when the occupant protection system was originally installed by the manufacturer; or

(b) If the occupant protection system has been replaced, meets the requirements of 49 C.F.R. 571.208, 571.209, and 571.210 that applied to the originally installed occupant protection system or of a more recently issued version of such regulations. The purchaser of any such vehicle may designate the make or brand of or furnish such occupant protection system to be installed.

(2) Every autocycle shall be equipped with a three-point safety belt system.

(3) Any person selling a motor vehicle in this state not in compliance with this section shall be guilty of a Class V misdemeanor.

Source: Laws 1963, c. 214, § 1, p. 687; R.R.S.1943, § 39-7,123.05; Laws 1977, LB 41, § 31; Laws 1985, LB 496, § 3; Laws 1992, LB 958, § 8; R.S.Supp.,1992, § 39-6,171; Laws 1993, LB 370, § 362; Laws 2015, LB231, § 34.

60-6,267 Use of restraint system, occupant protection system, or three-point safety belt system; when; information and education program.

(1) Any person in Nebraska who drives any motor vehicle which has or is required to have an occupant protection system or a three-point safety belt system shall ensure that all children up to eight years of age being transported by such vehicle (a) use a child passenger restraint system of a type which meets Federal Motor Vehicle Safety Standard 213 as developed by the National Highway Traffic Safety Administration, as such standard existed on January 1, 2009, and which is correctly installed in such vehicle and (b) occupy a seat or seats, other than a front seat, if such seat or seats are so equipped with such passenger restraint system and such seat or seats are not already occupied by a child or children under eight years of age. In addition, all children up to two years of age shall use a rear-facing child passenger restraint system until the child outgrows the child passenger restraint system manufacturer's maximum allowable height or weight.

(2) Any person in Nebraska who drives any motor vehicle which has or is required to have an occupant protection system or a three-point safety belt system shall ensure that all children eight years of age and less than eighteen years of age being transported by such vehicle use an occupant protection system.

(3) Subsections (1) and (2) of this section apply to autocycles and to every motor vehicle which is equipped with an occupant protection system or is required to be equipped with restraint systems pursuant to Federal Motor Vehicle Safety Standard 208, as such standard existed on January 1, 2009, except taxicabs, mopeds, motorcycles, and any motor vehicle designated by the manufacturer as a 1963 year model or earlier which is not equipped with an occupant protection system.

(4) Whenever any licensed physician determines, through accepted medical procedures, that use of a child passenger restraint system by a particular child would be harmful by reason of the child's weight, physical condition, or other medical reason, the provisions of subsection (1) or (2) of this section shall be waived. The driver of any vehicle transporting such a child shall carry on his or her person or in the vehicle a signed written statement of the physician identifying the child and stating the grounds for such waiver.

(5) The drivers of authorized emergency vehicles shall not be subject to the requirements of subsection (1) or (2) of this section when operating such authorized emergency vehicles pursuant to their employment.

(6) A driver of a motor vehicle shall not be subject to the requirements of subsection (1) or (2) of this section if the motor vehicle is being operated in a parade or exhibition and the parade or exhibition is being conducted in accordance with applicable state law and local ordinances and resolutions.

(7) The Department of Transportation shall develop and implement an ongoing statewide public information and education program regarding the use of child passenger restraint systems and occupant protection systems and the availability of distribution and discount programs for child passenger restraint systems.

(8) All persons being transported by a motor vehicle operated by a holder of a provisional operator's permit or a school permit shall use such motor vehicle's occupant protection system or a three-point safety belt system.

(9) For purposes of this section, motorcycle does not include an autocycle.

Source: Laws 1983, LB 306, § 2; Laws 1985, LB 259, § 1; Laws 1990, LB 958, § 1; Laws 1992, LB 958, § 3; R.S.Supp., 1992, § 39-6,103.01; Laws 1993, LB 370, § 363; Laws 2000, LB 410, § 1; Laws 2002, LB 1073, § 1; Laws 2004, LB 227, § 2; Laws 2006, LB 853, § 20; Laws 2007, LB239, § 7; Laws 2008, LB756, § 22; Laws 2009, LB219, § 1; Laws 2009, LB331, § 12; Laws 2011, LB67, § 1; Laws 2015, LB231, § 35; Laws 2017, LB339, § 219; Laws 2018, LB42, § 2; Laws 2018, LB909, § 104.

60-6,268 Use of restraint system or occupant protection system; violations; penalty; enforcement; when.

(1) A person violating any provision of subsection (1) or (2) of section 60-6,267 shall be guilty of an infraction as defined in section 29-431 and shall be fined twenty-five dollars for each violation. The failure to provide a child restraint system for more than one child in the same vehicle at the same time, as required in such subsection, shall not be treated as a separate offense.

(2) Enforcement of subsection (2) or (8) of section 60-6,267 shall be accomplished only as a secondary action when an operator of a motor vehicle has been cited or charged with a violation or some other offense unless the violation involves a person under the age of eighteen years riding in or on any portion of the vehicle not designed or intended for the use of passengers when the vehicle is in motion.

Source: Laws 1983, LB 306, § 3; R.S.1943, (1988), § 39-6,103.02; Laws 1993, LB 370, § 364; Laws 2000, LB 410, § 2; Laws 2002, LB 1073, § 2; Laws 2004, LB 227, § 3; Laws 2011, LB67, § 2.

60-6,270 Occupant protection system; three-point safety belt system; use required; when; exceptions.

(1) Except as provided in subsection (2) or (3) of this section, no driver shall operate a motor vehicle upon a highway or street in this state unless the driver and each front-seat occupant in the vehicle are wearing occupant protection systems and all occupant protection systems worn are properly adjusted and fastened.

(2) Except as otherwise provided in subsection (3) of this section, no driver shall operate an autocycle upon a highway or street of this state unless the driver is wearing a three-point safety belt system and it is properly adjusted and fastened.

(3) The following persons shall not be required to wear an occupant protection system or a three-point safety belt system:

(a) A person who possesses written verification from a physician that the person is unable to wear an occupant protection system or a three-point safety belt system for medical reasons;

(b) A rural letter carrier of the United States Postal Service while performing his or her duties as a rural letter carrier between the first and last delivery points; and

(c) A member of an emergency medical service while involved in patient care.

(4) For purposes of this section, motor vehicle means a vehicle required by section 60-6,266 to be equipped with an occupant protection system or a three-point safety belt system.

Source: Laws 1985, LB 496, § 6; Laws 1992, LB 958, § 6; R.S.Supp.,1992, § 39-6,103.07; Laws 1993, LB 370, § 366; Laws 1993, LB 575, § 23; Laws 1997, LB 138, § 41; Laws 2015, LB231, § 36.

60-6,272 Occupant protection system; three-point safety belt system; violation; penalty.

Any person who violates section 60-6,270 shall be guilty of a traffic infraction and shall be fined twenty-five dollars, but no court costs shall be assessed against him or her nor shall any points be assessed against the driving record of such person. Regardless of the number of persons in such vehicle not wearing an occupant protection system or a three-point safety belt system pursuant to such section, only one violation shall be assessed against the driver of such motor vehicle for each time the motor vehicle is stopped and a violation of such section is found.

Source: Laws 1985, LB 496, § 5; Laws 1992, LB 958, § 5; R.S.Supp.,1992, § 39-6,103.06; Laws 1993, LB 370, § 368; Laws 1993, LB 575, § 22; Laws 2015, LB231, § 37.

60-6,273 Occupant protection system; three-point safety belt system; violation; evidence; when admissible.

Evidence that a person was not wearing an occupant protection system or a three-point safety belt system at the time he or she was injured shall not be admissible in regard to the issue of liability or proximate cause but may be admissible as evidence concerning mitigation of damages, except that it shall not reduce recovery for damages by more than five percent.

Source: Laws 1985, LB 496, § 7; Laws 1992, LB 958, § 7; R.S.Supp.,1992, § 39-6,103.08; Laws 1993, LB 370, § 369; Laws 2015, LB231, § 38.

(w) HELMETS

60-6,279 Protective helmets; required; when.

(1) A person shall not operate or be a passenger in an autocycle described in subsection (2) of this section, on a motorcycle other than an autocycle, or on a moped on any highway in this state unless such person is wearing a protective helmet of the type and design manufactured for use by operators of such vehicles and unless such helmet is secured properly on his or her head with a chin strap while the vehicle is in motion. All such protective helmets shall be

designed to reduce injuries to the user resulting from head impacts and shall be designed to protect the user by remaining on the user's head, deflecting blows, resisting penetration, and spreading the force of impact. Each such helmet shall consist of lining, padding, and chin strap and shall meet or exceed the standards established in the United States Department of Transportation's Federal Motor Vehicle Safety Standard No. 218, 49 C.F.R. 571.218, for motorcycle helmets.

(2) This section applies to an autocycle that has a seating area that is not completely enclosed.

Source: Laws 1988, LB 428, § 2; R.S.1943, (1988), § 39-6,211; Laws 1993, LB 370, § 375; Laws 2018, LB909, § 105.

(y) SIZE, WEIGHT, AND LOAD

60-6,288 Vehicles; width limit; exceptions; conditions; Director-State Engineer; powers.

(1) No vehicle which exceeds a total outside width of one hundred two inches, including any load but excluding designated safety devices, shall be permitted on any portion of the National System of Interstate and Defense Highways. The Director-State Engineer shall adopt and promulgate rules and regulations, consistent with federal requirements, designating safety devices which shall be excluded in determining vehicle width.

(2) No vehicle which exceeds a total outside width of one hundred two inches, including any load but excluding designated safety devices, shall be permitted on any highway which is not a portion of the National System of Interstate and Defense Highways, except that such prohibition shall not apply to:

(a) Farm equipment in temporary movement, during daylight hours or during hours of darkness when the clearance light requirements of section 60-6,235 are fully complied with, in the normal course of farm operations;

(b) Combines eighteen feet or less in width, while in the normal course of farm operations and while being driven during daylight hours or during hours of darkness when the clearance light requirements of section 60-6,235 are fully complied with;

(c) Combines in excess of eighteen feet in width, while in the normal course of farm operations, while being driven during daylight hours for distances of twenty-five miles or less on highways and while preceded by a well-lighted pilot vehicle or flagperson, except that such combines may be driven on highways while in the normal course of farm operations for distances of twenty-five miles or less and while preceded by a well-lighted pilot vehicle or flagperson during hours of darkness when the clearance light requirements of section 60-6,235 are fully complied with;

(d) Combines and vehicles used in transporting combines or other implements of husbandry, and only when transporting combines or other implements of husbandry, to be engaged in harvesting or other agricultural work, while being transported into or through the state during daylight hours, when the total width including the width of the combine or other implement of husbandry being transported does not exceed fifteen feet, except that vehicles used in transporting combines or other implements of husbandry may, when necessary to the harvesting operation or other agricultural work, travel unloaded for

distances not to exceed twenty-five miles, while the combine or other implement of husbandry to be transported is engaged in a harvesting operation or other agricultural work;

(e) Farm equipment dealers or their representatives as authorized under section 60-6,382 driving, delivering, or picking up farm equipment, including portable livestock buildings not exceeding fourteen feet in width, or implements of husbandry during daylight hours;

(f) Livestock forage vehicles loaded or unloaded that comply with subsection (2) of section 60-6,305;

(g) During daylight hours only, vehicles en route to pick up, delivering, or returning unloaded from delivery of baled livestock forage which, including the load if any, may be twelve feet in width;

(h) Mobile homes or prefabricated livestock buildings not exceeding sixteen feet in width and with an outside tire width dimension not exceeding one hundred twenty inches moving during daylight hours;

(i) Self-propelled specialized mobile equipment with a fixed load when:

(i) The self-propelled specialized mobile equipment will be transported on a state highway, excluding any portion of the National System of Interstate and Defense Highways, on a city street, or on a road within the corporate limits of a city;

(ii) The city in which the self-propelled specialized mobile equipment is intended to be transported has authorized a permit pursuant to section 60-6,298 for the transportation of the self-propelled specialized mobile equipment, specifying the route to be used and the hours during which the self-propelled specialized mobile equipment can be transported, except that no permit shall be issued by a city for travel on a state highway containing a bridge or structure which is structurally inadequate to carry the self-propelled specialized mobile equipment as determined by the Department of Transportation;

(iii) The self-propelled specialized mobile equipment's gross weight does not exceed ninety-four thousand pounds if the self-propelled specialized mobile equipment has four axles or seventy-two thousand pounds if the self-propelled specialized mobile equipment has three axles; and

(iv) If the self-propelled specialized mobile equipment has four axles, the maximum weight on each set of tandem axles does not exceed forty-seven thousand pounds, or if the self-propelled specialized mobile equipment has three axles, the maximum weight on the front axle does not exceed twenty-five thousand pounds and the total maximum weight on the rear tandem axles does not exceed forty-seven thousand pounds;

(j) Vehicles which have been issued a permit pursuant to section 60-6,299; or

(k) A motor home or travel trailer, as those terms are defined in section 71-4603, which may exceed one hundred and two inches if such excess width is attributable to an appurtenance that extends no more than six inches beyond the body of the vehicle. For purposes of this subdivision, the term appurtenance includes (i) an awning and its support hardware and (ii) any appendage that is intended to be an integral part of a motor home or travel trailer and that is installed by the manufacturer or dealer. The term appurtenance does not include any item that is temporarily affixed or attached to the exterior of the motor home or travel trailer for purposes of transporting the vehicular unit

from one location to another. Appurtenances shall not be considered in calculating the gross trailer area as defined in section 71-4603.

(3) The Director-State Engineer, with respect to highways under his or her jurisdiction, may designate certain highways upon which vehicles of no more than ninety-six inches in width may be permitted to travel. Highways so designated shall be limited to one or more of the following:

- (a) Highways with traffic lanes of ten feet or less;
- (b) Highways upon which are located narrow bridges; and
- (c) Highways which because of sight distance, surfacing, unusual curves, topographic conditions, or other unusual circumstances would not in the opinion of the Director-State Engineer safely accommodate vehicles of more than ninety-six inches in width.

Source: Laws 1933, c. 105, § 1, p. 425; C.S.Supp.,1941, § 39-1032; R.S.1943, § 39-719; Laws 1957, c. 156, § 1, p. 563; Laws 1961, c. 182, § 1, p. 544; Laws 1963, c. 219, § 1, p. 691; Laws 1963, c. 220, § 1, p. 693; Laws 1963, c. 221, § 1, p. 697; Laws 1965, c. 212, § 1, p. 621; Laws 1969, c. 308, § 2, p. 1101; Laws 1973, LB 491, § 1; R.S.Supp.,1973, § 39-719; Laws 1974, LB 593, § 1; Laws 1975, LB 306, § 1; Laws 1977, LB 427, § 2; Laws 1978, LB 576, § 1; Laws 1978, LB 750, § 2; Laws 1980, LB 284, § 1; Laws 1981, LB 285, § 2; Laws 1982, LB 417, § 1; Laws 1983, LB 244, § 1; Laws 1985, LB 553, § 3; Laws 1990, LB 369, § 3; R.S.Supp.,1992, § 39-6,177; Laws 1993, LB 370, § 384; Laws 1993, LB 413, § 1; Laws 1993, LB 575, § 35; Laws 1997, LB 226, § 1; Laws 1999, LB 704, § 47; Laws 2000, LB 1361, § 5; Laws 2001, LB 376, § 3; Laws 2008, LB756, § 23; Laws 2014, LB1039, § 3; Laws 2017, LB339, § 220.

Cross References

Weighing stations, see sections 60-1301 to 60-1309.

60-6,288.01 Person moving certain buildings or objects; notice required; contents; violation; penalty.

(1) Any person moving a building or an object that, in combination with the transporting vehicle, is over fifteen feet six inches high or wider than the roadway on a county or township road shall notify the local authority and the electric utility responsible for the infrastructure, including poles, wires, substations, and underground residential distribution cable boxes adjacent to or crossing the roadway along the route over which such building or object is being transported. Notification shall be made at least ten days prior to the move. Notification shall specifically describe the transporting vehicle, the width, length, height, and weight of the building or object to be moved, the route to be used, and the date and hours during which the building or object will be transported. Complying with the notification requirement of this section does not exempt the person from complying with any other federal, state, or local authority permit or notification requirements.

(2) Proof of the notification required under subsection (1) of this section must be carried by any person moving a building or an object as described in this section.

(3) Any person who fails to comply with the notification requirements of this section shall be guilty of a Class II misdemeanor.

Source: Laws 2011, LB164, § 2; Laws 2016, LB973, § 3.

60-6,289 Vehicles; height; limit; height of structure; damages.

(1) No vehicle unladen or with load shall exceed a height of fourteen feet, six inches, except:

(a) Combines or vehicles used in transporting combines, to be engaged in harvesting within or without the state, moving into or through the state during daylight hours when the overall height does not exceed fifteen feet, six inches;

(b) Livestock forage vehicles with or without load that comply with subsection (2) of section 60-6,305;

(c) Farm equipment or implements of husbandry being driven, picked up, or delivered during daylight hours by farm equipment dealers or their representatives as authorized under section 60-6,382 shall not exceed fifteen feet, six inches;

(d) Self-propelled specialized mobile equipment with a fixed load when the requirements of subdivision (2)(i) of section 60-6,288 are met;

(e) Vehicles which have been issued a permit pursuant to section 60-6,299; or

(f) Vehicles with a baled livestock forage load that comply with subsection (4) of section 60-6,305 when the overall height does not exceed fifteen feet, six inches.

(2) No person shall be required to raise, alter, construct, or reconstruct any underpass, bridge, wire, or other structure to permit the passage of any vehicle having a height, unladen or with load, in excess of twelve feet, six inches. The owners, lessees, and operators, jointly and severally, of vehicles exceeding twelve feet, six inches, in height shall assume the risk of loss to the vehicle or its load and shall be liable for any damages that result to overhead obstructions from operation of a vehicle exceeding twelve feet, six inches, in height.

Source: Laws 1933, c. 105, § 2, p. 425; C.S.Supp.,1941, § 39-1033; Laws 1943, c. 133, § 1, p. 446; R.S.1943, § 39-720; Laws 1951, c. 117, § 1, p. 526; Laws 1957, c. 156, § 2, p. 563; Laws 1969, c. 308, § 3, p. 1102; Laws 1973, LB 491, § 2; R.S.Supp.,1973, § 39-720; Laws 1974, LB 593, § 2; Laws 1977, LB 211, § 3; Laws 1978, LB 750, § 3; Laws 1980, LB 284, § 2; Laws 1985, LB 553, § 4; R.S.1943, (1988), § 39-6,178; Laws 1993, LB 370, § 385; Laws 2000, LB 1361, § 6; Laws 2008, LB756, § 24; Laws 2010, LB820, § 1; Laws 2014, LB1039, § 4.

60-6,290 Vehicles; length; limit; exceptions.

(1)(a) No vehicle shall exceed a length of forty feet, extreme overall dimensions, inclusive of front and rear bumpers including load, except that:

(i) A bus or a motor home, as defined in section 71-4603, may exceed the forty-foot limitation but shall not exceed a length of forty-five feet;

(ii) A truck-tractor may exceed the forty-foot limitation;

(iii) A semitrailer operating in a truck-tractor single semitrailer combination, which semitrailer was actually and lawfully operating in the State of Nebraska on December 1, 1982, may exceed the forty-foot limitation;

(iv) A semitrailer operating in a truck-tractor single semitrailer combination, which semitrailer was not actually and lawfully operating in the State of Nebraska on December 1, 1982, may exceed the forty-foot limitation but shall not exceed a length of fifty-three feet including load;

(v) A semitrailer operating in a truck-tractor single semitrailer combination, while transporting baled livestock forage, may exceed the forty-foot limitation but shall not exceed a length of fifty-nine feet six inches including load; and

(vi) An articulated bus vehicle operated by a transit authority established under the Transit Authority Law or regional metropolitan transit authority established pursuant to section 18-804 may exceed the forty-foot limitation. For purposes of this subdivision (vi), an articulated bus vehicle shall not exceed sixty-five feet in length.

(b) No combination of vehicles shall exceed a length of sixty-five feet, extreme overall dimensions, inclusive of front and rear bumpers and including load, except:

(i) One truck and one trailer, loaded or unloaded, used in transporting implements of husbandry to be engaged in harvesting, while being transported into or through the state during daylight hours if the total length does not exceed seventy-five feet including load;

(ii) A truck-tractor single semitrailer combination;

(iii) A truck-tractor semitrailer trailer combination, but the semitrailer trailer portion of such combination shall not exceed sixty-five feet inclusive of connective devices;

(iv) A driveaway saddlemount vehicle transporter combination and driveaway saddlemount with fullmount vehicle transporter combination, but the total overall length shall not exceed ninety-seven feet;

(v) A stinger-steered automobile transporter, but the total overall length shall not exceed eighty feet, inclusive of a front overhang of less than four feet and a rear overhang of less than six feet. For purposes of this subdivision, automobile transporter means any vehicle combination designed and used for the transport of assembled highway vehicles, including truck camper units. An automobile transporter shall not be prohibited from the transport of cargo or general freight on a backhaul, so long as it is in compliance with weight limitations for a truck-tractor and semitrailer combination; and

(vi) A towaway trailer transporter combination, but the total overall length shall not exceed eighty-two feet. For purposes of this subdivision, towaway trailer transporter combination means a combination of vehicles consisting of a trailer transporter towing unit and two trailers or semitrailers with a total weight that does not exceed twenty-six thousand pounds, and in which the trailers or semitrailers carry no property and constitute inventory property of a manufacturer, distributor, or dealer of such trailers or semitrailers.

(c) A truck shall be construed to be one vehicle for the purpose of determining length.

(d) A trailer shall be construed to be one vehicle for the purpose of determining length.

(2) Subsection (1) of this section shall not apply to:

(a) Extra-long vehicles which have been issued a permit pursuant to section 60-6,292;

- (b) Vehicles which have been issued a permit pursuant to section 60-6,299;
 - (c) The temporary moving of farm machinery during daylight hours in the normal course of farm operations;
 - (d) The movement of unbaled livestock forage vehicles, loaded or unloaded;
 - (e) The movement of public utility or other construction and maintenance material and equipment at any time;
 - (f) Farm equipment dealers or their representatives as authorized under section 60-6,382 driving, delivering, or picking up farm equipment or implements of husbandry within the county in which the dealer maintains his or her place of business, or in any adjoining county or counties, and return;
 - (g) The overhang of any motor vehicle being hauled upon any lawful combination of vehicles, but such overhang shall not exceed the distance from the rear axle of the hauled motor vehicle to the closest bumper thereof;
 - (h) The overhang of a combine to be engaged in harvesting, while being transported into or through the state driven during daylight hours by a truck-tractor semitrailer combination, but the length of the semitrailer, including overhang, shall not exceed sixty-three feet and the maximum semitrailer length shall not exceed fifty-three feet;
 - (i) Any self-propelled specialized mobile equipment with a fixed load when the requirements of subdivision (2)(i) of section 60-6,288 are met; or
 - (j) One truck-tractor two trailer combination or one truck-tractor semitrailer trailer combination used in transporting equipment utilized by custom harvesters under contract to agricultural producers to harvest wheat, soybeans, or milo during the months of April through November but the length of the property-carrying units, excluding load, shall not exceed eighty-one feet six inches.
- (3) The length limitations of this section shall be exclusive of safety and energy conservation devices such as rearview mirrors, turnsignal lights, marker lights, steps and handholds for entry and egress, flexible fender extensions, mudflaps and splash and spray suppressant devices, load-induced tire bulge, refrigeration units or air compressors, and other devices necessary for safe and efficient operation of commercial motor vehicles, except that no device excluded from the limitations of this section shall have by its design or use the capability to carry cargo.

Source: Laws 1933, c. 102, § 1, p. 414; Laws 1933, c. 105, § 3, p. 425; Laws 1935, c. 86, § 1, p. 277; Laws 1939, c. 50, § 1, p. 217; C.S.Supp.,1941, § 39-1034; R.S.1943, § 39-721; Laws 1947, c. 146, § 1, p. 402; Laws 1951, c. 117, § 2, p. 527; Laws 1953, c. 133, § 1, p. 413; Laws 1957, c. 156, § 3, p. 564; Laws 1959, c. 164, § 1, p. 599; Laws 1959, c. 165, § 1, p. 603; Laws 1961, c. 309, § 1, p. 980; Laws 1963, c. 220, § 2, p. 694; Laws 1963, c. 222, § 1, p. 699; Laws 1963, c. 223, § 1, p. 701; Laws 1965, c. 213, § 1, p. 625; Laws 1971, LB 530, § 1; C.S.Supp.,1972, § 39-721; Laws 1974, LB 920, § 2; Laws 1979, LB 112, § 1; Laws 1980, LB 284, § 3; Laws 1980, LB 785, § 2; Laws 1982, LB 383, § 1; Laws 1983, LB 411, § 1; Laws 1984, LB 983, § 3; Laws 1985, LB 553, § 5; Laws 1987, LB 224, § 13; R.S.1943, (1988), § 39-6,179; Laws 1993, LB 370, § 386; Laws 1993, LB 575, § 36; Laws 1996, LB 1104, § 3; Laws 1997, LB 720, § 18; Laws 2000,

LB 1361, § 7; Laws 2001, LB 376, § 4; Laws 2006, LB 853, § 21; Laws 2008, LB756, § 25; Laws 2012, LB740, § 1; Laws 2014, LB1039, § 5; Laws 2016, LB735, § 1; Laws 2019, LB492, § 40; Laws 2020, LB944, § 69.

Operative date November 14, 2020.

Cross References

Transit Authority Law, see section 14-1826.

60-6,291 Violations; penalty.

Except as provided in subsection (3) of section 60-6,288.01, any person who violates any provision of sections 60-6,288 to 60-6,290 or who drives, moves, causes, or knowingly permits to be moved on any highway any vehicle or vehicles which exceed the limitations as to width, length, or height as provided in such sections for which a penalty is not elsewhere provided shall be guilty of a Class III misdemeanor.

Source: Laws 1933, c. 105, § 8, p. 431; Laws 1941, c. 76, § 1, p. 312; C.S.Supp.,1941, § 39-1037; R.S.1943, § 39-725; Laws 1949, c. 115, § 1, p. 309; Laws 1953, c. 134, § 6, p. 421; Laws 1955, c. 151, § 2, p. 449; R.R.S.1943, § 39-725; Laws 1974, LB 593, § 4; Laws 1977, LB 41, § 35; R.S.1943, (1988), § 39-6,188; Laws 1993, LB 370, § 387; Laws 1993, LB 121, § 207; Laws 1994, LB 884, § 81; Laws 2011, LB164, § 3; Laws 2016, LB973, § 4.

60-6,292 Extra-long vehicle combinations; permit; conditions; fee; rules and regulations; violation; penalty.

(1) The Department of Transportation may issue permits for the use of extra-long vehicle combinations. Such permits shall allow the extra-long vehicle combinations to operate only on the National System of Interstate and Defense Highways and only if such vehicles are empty and are being delivered for the manufacturer or retailer, except that a highway located not more than six miles from the National System of Interstate and Defense Highways may also be designated in such permits if it is determined by the Director-State Engineer that such designation is necessary for the permitholder to have access to the National System of Interstate and Defense Highways. An annual permit for such use may be issued to each qualified carrier company or individual. The carrier company or individual shall maintain a copy of such annual permit in each truck-tractor operating as a part of an extra-long vehicle combination. The fee for such permit shall be two hundred fifty dollars per year.

(2) The permit shall allow operation of the following extra-long vehicle combinations of not more than three cargo units and not fewer than six axles nor more than nine axles:

(a) A truck-tractor, a semitrailer, and two trailers having an overall combination length of not more than one hundred five feet. Semitrailers and trailers shall be of approximately equal lengths;

(b) A truck-tractor, semitrailer, and single trailer having an overall length of not more than one hundred five feet. Semitrailers and trailers shall be of approximately equal lengths; and

(c) A truck-tractor, semitrailer, or single trailer, one trailer of which is not more than forty-eight feet long, the other trailer of which is not more than

twenty-eight feet long nor less than twenty-six feet long, and the entire combination of which is not more than ninety-five feet long. The shorter trailer shall be operated as the rear trailer.

For purposes of this subsection, a semitrailer used with a converter dolly shall be considered a trailer.

(3) The department shall adopt and promulgate rules and regulations governing the issuance of the permits, including, but not limited to, selection of carriers, driver qualifications, equipment selection, hours of operations, weather conditions, road conditions, and safety considerations.

(4) Any person who violates this section shall be guilty of a Class IV misdemeanor.

Source: Laws 1984, LB 983, § 1; R.S.1943, (1988), § 39-6,179.01; Laws 1993, LB 370, § 388; Laws 2017, LB339, § 221.

60-6,294 Vehicles; weight limit; further restrictions by Department of Transportation, when authorized; axle load; load limit on bridges; overloading; liability.

(1) Every vehicle, whether operated singly or in a combination of vehicles, and every combination of vehicles shall comply with subsections (2) and (3) of this section except as provided in sections 60-6,294.01, 60-6,297, and 60-6,383. The limitations imposed by this section shall be supplemental to all other provisions imposing limitations upon the size and weight of vehicles.

(2) No wheel of a vehicle or trailer equipped with pneumatic or solid rubber tires shall carry a gross load in excess of ten thousand pounds on any highway nor shall any axle carry a gross load in excess of twenty thousand pounds on any highway. An axle load shall be defined as the total load transmitted to the highway by all wheels the centers of which may be included between two parallel transverse vertical planes forty inches apart extending across the full width of the vehicle.

(3) No group of two or more consecutive axles shall carry a load in pounds in excess of the value given in the following table corresponding to the distance in feet between the extreme axles of the group, measured longitudinally to the nearest foot, except that the maximum load carried on any group of two or more axles shall not exceed eighty thousand pounds on the National System of Interstate and Defense Highways unless the Director-State Engineer pursuant to section 60-6,295 authorizes a greater weight.

Distance in feet between the extremes of any group of two or more consecutive axles	Maximum load in pounds carried on any group of two or more consecutive axles					
	Two Axles	Three Axles	Four Axles	Five Axles	Six Axles	Seven Axles
4	34,000					

NEBRASKA RULES OF THE ROAD

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5	34,000				
6	34,000				
7	34,000				
8	34,000	42,000			
9	39,000	42,500			
10	40,000	43,500			
11		44,000			
12		45,000	50,000		
13		45,500	50,500		
14		46,500	51,500		
15		47,000	52,000		
16		48,000	52,500	58,000	
17		48,500	53,500	58,500	
18		49,500	54,000	59,000	
19		50,000	54,500	60,000	
20		51,000	55,500	60,500	
21		51,500	56,000	61,000	
22		52,500	56,500	61,500	
23		53,000	57,500	62,500	
24		54,000	58,000	63,000	
25		54,500	58,500	63,500	69,000
26		55,500	59,500	64,000	69,500
27		56,000	60,000	65,000	70,000
28		57,000	60,500	65,500	71,000
29		57,500	61,500	66,000	71,500
30		58,500	62,000	66,500	72,000
31		59,000	62,500	67,500	72,500
32		60,000	63,500	68,000	73,000
33			64,000	68,500	74,000
34			64,500	69,000	74,500
35			65,500	70,000	75,000

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MOTOR VEHICLES

36	66,000	70,500	75,500	
37	66,500	71,000	76,000	81,500
38	67,500	72,000	77,000	82,000
39	68,000	72,500	77,500	82,500
40	68,500	73,000	78,000	83,500
41	69,500	73,500	78,500	84,000
42	70,000	74,000	79,000	84,500
43	70,500	75,000	80,000	85,000
44	71,500	75,500	80,500	85,500
45	72,000	76,000	81,000	86,000
46	72,500	76,500	81,500	87,000
47	73,500	77,500	82,000	87,500
48	74,000	78,000	83,000	88,000
49	74,500	78,500	83,500	88,500
50	75,500	79,000	84,000	89,000
51	76,000	80,000	84,500	89,500
52	76,500	80,500	85,000	90,500
53	77,500	81,000	86,000	91,000
54	78,000	81,500	86,500	91,500
55	78,500	82,500	87,000	92,000
56	79,500	83,000	87,500	92,500
57	80,000	83,500	88,000	93,000
58		84,000	89,000	94,000
59		85,000	89,500	94,500
60		85,500	90,000	95,000

(4) The distance between axles shall be measured to the nearest foot. When a fraction is exactly one-half foot, the next larger whole number shall be used, except that:

(a) Any group of three axles shall be restricted to a maximum load of thirty-four thousand pounds unless the distance between the extremes of the first and third axles is at least ninety-six inches in fact; and

(b) The maximum gross load on any group of two axles, the distance between the extremes of which is more than eight feet but less than eight feet six inches, shall be thirty-eight thousand pounds.

(5) The limitations of subsections (2) through (4) of this section shall apply as stated to all main, rural, and intercity highways but shall not be construed as inhibiting heavier axle loads in metropolitan areas, except on the National System of Interstate and Defense Highways, if such loads are not prohibited by city ordinance.

(6) The weight limitations of wheel and axle loads as defined in subsections (2) through (4) of this section shall be restricted to the extent deemed necessary by the Department of Transportation for a reasonable period when road subgrades or pavements are weak or are materially weakened by climatic conditions.

(7) Two consecutive sets of tandem axles may carry a gross load of thirty-four thousand pounds each when the overall distance between the first and last axles of such consecutive sets of tandem axles is thirty-six, thirty-seven, or thirty-eight feet except as provided in section 60-6,297. Such vehicles shall be subject to section 60-6,301.

(8) If any vehicle crosses a bridge with a total gross load in excess of the posted capacity of such bridge and as a result of such crossing any damage results to the bridge, the owner of such vehicle shall be responsible for all of such damage.

(9) Vehicles equipped with a greater number of axles than provided in the table in subsection (3) of this section shall be legal if they do not exceed the maximum load upon any wheel or axle, the maximum load upon any group of two or more consecutive axles, and the total gross weight, or any of such weights as provided in subsections (2) and (3) of this section.

(10) Subsections (1) through (9) of this section shall not apply to a vehicle which has been issued a permit pursuant to section 60-6,299, self-propelled specialized mobile equipment with a fixed load when the requirements of subdivision (2)(i) of section 60-6,288 are met, or an emergency vehicle when the requirements of subdivision (1)(a)(v) of section 60-6,298 are met.

(11) Any two consecutive axles the centers of which are more than forty inches and not more than ninety-six inches apart, measured to the nearest inch between any two adjacent axles in the series, shall be defined as tandem axles, and the gross weight transmitted to the road surface through such series shall not exceed thirty-four thousand pounds. No axle of the series shall exceed the maximum weight permitted under this section for a single axle.

(12) Dummy axles shall be disregarded in determining the lawful weight of a vehicle or vehicle combination for operation on the highway. Dummy axle shall mean an axle attached to a vehicle or vehicle combination in a manner so that it does not articulate or substantially equalize the load and does not carry at least the lesser of eight thousand pounds or eight percent of the gross weight of the vehicle or vehicle combination.

(13) The maximum gross weight limit and the axle weight limit for any vehicle or combination of vehicles equipped with idle reduction technology may be increased by an amount necessary to compensate for the additional weight of the idle reduction technology as provided in 23 U.S.C. 127(a)(12), as such section existed on October 1, 2012. The additional amount of weight allowed by this subsection shall not exceed five hundred fifty pounds and shall not be construed to be in addition to the five-percent-in-excess-of-maximum-load provision of subdivision (1) of section 60-6,301.

(14)(a) The maximum gross weight for any vehicle or combination of vehicles (i) operated on the National System of Interstate and Defense Highways, including adjoining portions of the state highway system for reasonable access to terminals and facilities for food, fuel, repairs, and rest, as designated by the Department of Transportation, and (ii) powered (A) by an engine fueled primarily by natural gas or (B) primarily by means of electric battery power, may exceed the gross weight limitations provided in subsections (2), (3), (4), (7), (9), and (11) of this section in an amount that:

- (b)(i) Is up to a maximum of two thousand pounds; and
- (ii) Does not exceed eighty-two thousand pounds.

(15) For purposes of this subsection, emergency vehicle means a vehicle designed to be used under emergency conditions to transport personnel and equipment and to support the suppression of fires and mitigation of other hazardous situations. An emergency vehicle may exceed the gross load limitations provided in subsections (2), (3), (4), (7), (9), and (11) of this section on the National System of Interstate and Defense Highways, including adjoining portions of the state highway system for reasonable access to terminals and facilities for food, fuel, repairs, and rest, as designated by the Department of Transportation, up to a gross vehicle weight of eighty-six thousand pounds, and that does not exceed:

- (a) Twenty-four thousand pounds on a single steering axle;
- (b) Thirty-three thousand five hundred pounds on a single drive axle;
- (c) Sixty-two thousand pounds on a tandem axle; or
- (d) Fifty-two thousand pounds on a tandem rear drive steer axle.

Source: Laws 1933, c. 105, § 4, p. 426; Laws 1939, c. 50, § 2, p. 218; C.S.Supp.,1941, § 39-1035; Laws 1943, c. 133, § 2, p. 446; R.S. 1943, § 39-722; Laws 1945, c. 91, § 1, p. 312; Laws 1947, c. 147, § 1, p. 403; Laws 1953, c. 131, § 9, p. 404; Laws 1953, c. 134, § 1, p. 416; Laws 1959, c. 164, § 2, p. 600; Laws 1969, c. 318, § 1, p. 1150; C.S.Supp.,1972, § 39-722; Laws 1980, LB 284, § 4; Laws 1982, LB 383, § 2; Laws 1984, LB 726, § 1; Laws 1985, LB 553, § 6; Laws 1987, LB 132, § 1; Laws 1990, LB 369, § 4; R.S.Supp.,1992, § 39-6,180; Laws 1993, LB 370, § 390; Laws 1995, LB 186, § 1; Laws 1996, LB 1104, § 4; Laws 2000, LB 1361, § 8; Laws 2005, LB 82, § 3; Laws 2008, LB756, § 26; Laws 2016, LB977, § 25; Laws 2017, LB339, § 222; Laws 2018, LB909, § 106; Laws 2020, LB944, § 70.

Operative date November 14, 2020.

Cross References

Special load restrictions, rules and regulations of Department of Transportation, adoption, penalty, see sections 39-102 and 39-103.
Weighing stations, see sections 60-1301 to 60-1309.

60-6,297 Disabled vehicles; length, load, width, height limitations; exception; special single trip permit; liability.

(1) Subdivision (1)(b) of section 60-6,290 and subsections (2) and (3) of section 60-6,294 shall not apply to a vehicle or combination of vehicles disabled or wrecked on a highway or right-of-way when the vehicle or combination of vehicles is towed to a place of secure safekeeping by any wrecker or tow truck performing a wrecker or towing service.

(2) Subdivision (1)(b) of section 60-6,290 and subsections (2) and (3) of section 60-6,294 shall not apply to a single vehicle that is disabled or wrecked when the single vehicle is towed by any wrecker or tow truck to a place for repair or to a point of storage or is being transported by a covered heavy-duty tow and recovery vehicle.

(3)(a) Section 60-6,288, subsection (1) of section 60-6,289, subdivision (1)(b) of section 60-6,290, and subsections (2) and (3) of section 60-6,294 shall not apply to a vehicle or combination of vehicles permitted by the Department of Transportation for overwidth, overheight, overlength, or overweight operation that is disabled or wrecked on a highway or right-of-way when the vehicle or combination of vehicles is towed if the vehicle or combination of vehicles is towed by any wrecker or tow truck performing a wrecker or towing service to the first or nearest place of secure safekeeping off the traveled portion of the highway that can accommodate the parking of such disabled vehicle or combination of vehicles.

(b) After the vehicle or combination of vehicles has been towed to a place of secure safekeeping, such vehicle or combination of vehicles shall then be operated in compliance with section 60-6,288, subsection (1) of section 60-6,289, subdivision (1)(b) of section 60-6,290, and subsections (2) and (3) of section 60-6,294, or the vehicle or combination of vehicles shall acquire a special single trip permit from the department for the movement of the overwidth, overheight, overlength, or overweight vehicle or combination of vehicles beyond the first or nearest place of secure safekeeping to its intended destination.

(4) The owners, lessees, and operators of any wrecker or tow truck exceeding the width, height, length, or weight restrictions while towing a disabled or wrecked vehicle or combination of vehicles shall be jointly and severally liable for any injury or damages that result from the operation of the wrecker or tow truck while exceeding such restrictions.

(5) If a disabled or wrecked vehicle or combination of vehicles is towed, the wrecker or tow truck shall be connected with the air brakes and brake lights of the towed vehicle or combination of vehicles.

(6) For purposes of this section:

(a) Covered heavy-duty tow and recovery vehicle means a vehicle that (i) is transporting a disabled vehicle on the National System of Interstate and Defense Highways from the place where the vehicle became disabled to the nearest appropriate repair facility, including such segments of highways off the National System of Interstate and Defense Highways that connect the nearest appropriate repair facility to the National System of Interstate and Defense Highways and adjoining portions of the state highway system for reasonable access to terminals and facilities for food, fuel, repairs, and rest, as designated by the Department of Transportation, and (ii) has a gross vehicle weight that is equal to or exceeds the gross vehicle weight of the disabled vehicle being transported;

(b) Place of secure safekeeping means a location off the traveled portion of the highway that can accommodate the parking of the disabled or wrecked vehicle or combination of vehicles in order for the vehicle or combination of vehicles to be repaired or moved to a point of storage; and

(c) Wrecker or tow truck means an emergency commercial vehicle equipped, designed, and used to assist or render aid and transport or tow a disabled

vehicle or combination of vehicles from a highway or right-of-way to a place of secure safekeeping.

Source: Laws 1982, LB 383, § 3; R.S.1943, (1988), § 39-6,180.02; Laws 1993, LB 370, § 393; Laws 2003, LB 137, § 1; Laws 2005, LB 82, § 4; Laws 2011, LB35, § 1; Laws 2017, LB339, § 223; Laws 2020, LB944, § 71.

Operative date November 14, 2020.

60-6,298 Vehicles; size; weight; load; overweight; special, continuing, or continuous permit; issuance discretionary; conditions; penalty; continuing permit; fees.

(1)(a) The Department of Transportation or the Nebraska State Patrol, with respect to highways under its jurisdiction including the National System of Interstate and Defense Highways, and local authorities, with respect to highways under their jurisdiction, may in their discretion upon application and good cause being shown therefor issue a special, continuing, or continuous permit in writing authorizing the applicant or his or her designee:

(i) To operate or move a vehicle, a combination of vehicles, or objects of a size or weight of vehicle or load exceeding the maximum specified by law when such permit is necessary:

(A) To further the national defense or the general welfare;

(B) To permit movement of cost-saving equipment to be used in highway or other public construction or in agricultural land treatment; or

(C) Because of an emergency, an unusual circumstance, or a very special situation;

(ii) To operate vehicles, for a distance up to one hundred twenty miles, loaded up to fifteen percent greater than the maximum weight specified by law, or up to ten percent greater than the maximum length specified by law, or both, except that any combination with two or more cargo-carrying units, not including the truck-tractor, also known as a longer combination vehicle, may only operate for a distance up to seventy miles loaded up to fifteen percent greater than the maximum weight specified by law, or up to ten percent greater than the maximum length specified by law, or both, when carrying grain or other seasonally harvested products from the field where such grain or products are harvested to storage, market, or stockpile in the field or from stockpile or farm storage to market or factory when failure to move such grain or products in abundant quantities would cause an economic loss to the person or persons whose grain or products are being transported or when failure to move such grain or products in as large quantities as possible would not be in the best interests of the national defense or general welfare. The distance limitation may be waived for vehicles when carrying dry beans or dry peas and lentils from the field where harvested to storage or market when dry beans or dry peas and lentils are not normally stored, purchased, or used within the permittee's local area and must be transported more than one hundred twenty miles to an available marketing or storage destination. No permit shall authorize a weight greater than twenty thousand pounds on any single axle;

(iii) To transport an implement of husbandry which does not exceed twelve and one-half feet in width during daylight hours, except that the permit shall not allow transport on holidays;

(iv) To operate one or more recreational vehicles, as defined in section 71-4603, exceeding the maximum width specified by law if movement of the recreational vehicles is prior to retail sale and the recreational vehicles comply with subdivision (2)(k) of section 60-6,288;

(v) To operate an emergency vehicle for purposes of sale, demonstration, exhibit, or delivery, if the applicant or his or her designee is a manufacturer or sales agent of the emergency vehicle. No permit shall be issued for an emergency vehicle which weighs over sixty thousand pounds on the tandem axle; or

(vi) To transport during daylight hours divisible loads of livestock forage in bale form which do not exceed twelve feet in width, except that the permit shall not allow transport on holidays.

(b) No permit shall be issued under subdivision (a)(i) of this subsection for a vehicle carrying a load unless such vehicle is loaded with an object which exceeds the size or weight limitations, which cannot be dismantled or reduced in size or weight without great difficulty, and which of necessity must be moved over the highways to reach its intended destination. No permit shall be required for the temporary movement on highways other than dustless-surfaced state highways and for necessary access to points on such highways during daylight hours of cost-saving equipment to be used in highway or other public construction or in agricultural land treatment when such temporary movement is necessary and for a reasonable distance.

(2) The application for any such permit shall specifically describe the vehicle, the load to be operated or moved, whenever possible the particular highways for which permit to operate is requested, and whether such permit is requested for a single trip or for continuous or continuing operation. The permit shall include a signed affirmation under oath that, for any load sixteen feet high or higher, the applicant has contacted any and all electric utilities that have high voltage conductors and infrastructure that cross over the roadway affected by the move and made arrangements with such electric utilities for the safe movement of the load under any high voltage conductors owned by such electric utilities.

(3) The department or local authority is authorized to issue or withhold such permit at its discretion or, if such permit is issued, to limit the number of days during which the permit is valid, to limit the number of trips, to establish seasonal or other time limitations within which the vehicles described may be operated on the highways indicated, or to issue a continuous or continuing permit for use on all highways, including the National System of Interstate and Defense Highways. The permits are subject to reasonable conditions as to periodic renewal of such permit and as to operation or movement of such vehicles. The department or local authority may otherwise limit or prescribe conditions of operation of such vehicle or vehicles, when necessary to assure against undue damage to the road foundations, surfaces, or structures or undue danger to the public safety. The department or local authority may require such undertaking or other security as may be deemed necessary to compensate for any injury to any roadway or road structure.

(4) Every such permit shall be carried in the vehicle to which it refers and shall be open to inspection by any peace officer, carrier enforcement officer, or authorized agent of any authority granting such permit. Each such permit shall state the maximum weight permissible on a single axle or combination of axles and the total gross weight allowed. No person shall violate any of the terms or

conditions of such special permit. In case of any violation, the permit shall be deemed automatically revoked and the penalty of the original limitations shall be applied unless:

(a) The violation consists solely of exceeding the size or weight specified by the permit, in which case only the penalty of the original size or weight limitation exceeded shall be applied; or

(b) The total gross load is within the maximum authorized by the permit, no axle is more than ten percent in excess of the maximum load for such axle or group of axles authorized by the permit, and such load can be shifted to meet the weight limitations of wheel and axle loads authorized by such permit. Such shift may be made without penalty if it is made at the state or commercial scale designated in the permit. The vehicle may travel from its point of origin to such designated scale without penalty, and a scale ticket from such scale, showing the vehicle to be properly loaded and within the gross and axle weights authorized by the permit, shall be reasonable evidence of compliance with the terms of the permit.

(5) The department or local authority issuing a permit as provided in this section may adopt and promulgate rules and regulations with respect to the issuance of permits provided for in this section.

(6) The department shall make available applications for permits authorized pursuant to subdivisions (1)(a)(ii) and (1)(a)(iii) of this section in the office of each county treasurer. The department may make available applications for all other permits authorized by this section to the office of the county treasurer and may make available applications for all permits authorized by this section to any other location chosen by the department.

(7) The department or local authority issuing a permit may require a permit fee of not to exceed twenty-five dollars, except that:

(a) The fee for a continuous or continuing permit may not exceed twenty-five dollars for a ninety-day period, fifty dollars for a one-hundred-eighty-day period, or one hundred dollars for a one-year period; and

(b) The fee for permits issued pursuant to subdivision (1)(a)(ii) of this section shall be twenty-five dollars. Permits issued pursuant to such subdivision shall be valid for thirty days and shall be renewable four times for a total number of days not to exceed one hundred fifty days per calendar year.

A vehicle or combination of vehicles for which an application for a permit is requested pursuant to this section shall be registered under section 60-3,147 or 60-3,198 for the maximum gross vehicle weight that is permitted pursuant to section 60-6,294 before a permit shall be issued.

Source: Laws 1957, c. 156, § 4, p. 565; Laws 1961, c. 183, § 1, p. 546; Laws 1963, c. 220, § 3, p. 695; Laws 1963, c. 226, § 1, p. 708; Laws 1965, c. 214, § 1, p. 627; Laws 1967, c. 235, § 1, p. 627; Laws 1972, LB 1337, § 1; Laws 1973, LB 152, § 1; R.S.Supp.,1973, § 39-722.01; Laws 1975, LB 306, § 2; Laws 1979, LB 287, § 1; Laws 1980, LB 842, § 1; Laws 1981, LB 285, § 3; Laws 1986, LB 122, § 1; Laws 1986, LB 833, § 1; R.S.1943, (1988), § 39-6,181; Laws 1993, LB 176, § 1; Laws 1993, LB 370, § 394; Laws 1994, LB 1061, § 4; Laws 1995, LB 467, § 15; Laws 1996, LB 1306, § 2; Laws 1997, LB 122, § 1; Laws 1997, LB 261, § 1; Laws 2000, LB 1361, § 9; Laws 2001, LB 376, § 5; Laws

2003, LB 563, § 33; Laws 2005, LB 82, § 5; Laws 2005, LB 274, § 246; Laws 2010, LB820, § 2; Laws 2011, LB35, § 2; Laws 2012, LB841, § 1; Laws 2012, LB997, § 4; Laws 2013, LB117, § 1; Laws 2017, LB339, § 224; Laws 2018, LB909, § 107; Laws 2020, LB803, § 23; Laws 2020, LB931, § 1.

Effective date November 14, 2020.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB803, section 23, with LB931, section 1, to reflect all amendments.

Cross References

Rules and regulations of Department of Transportation, adoption, penalty, see sections 39-102 and 39-103.

60-6,299 Permit to move building; limitations; application; Department of Transportation; rules and regulations; violation; penalty.

(1) The Department of Transportation may issue permits for vehicles moving a building or objects requiring specialized moving dollies. Such permits shall allow the vehicles transporting buildings or objects requiring specialized dollies to operate on highways under the jurisdiction of the department, excluding any portion of the National System of Interstate and Defense Highways. Such permit shall specify the maximum allowable width, length, height, and weight of the building to be transported, the route to be used, and the hours during which such building or object may be transported. Such permit shall clearly state that the applicant is not authorized to manipulate overhead high voltage lines or conductors or other such components, including electric utility poles, and that the applicant shall be guilty of a Class II misdemeanor for any violation of this section or of the notification requirements of section 60-6,288.01. Any vehicle moving a building or object requiring specialized moving dollies shall be escorted by another vehicle or vehicles in the manner determined by the department. Such vehicles shall travel at a speed which is not in excess of five miles per hour when carrying loads which are in excess of the maximum gross weight specified by law by more than twenty-five percent. The permit shall not be issued for travel on a state highway containing a bridge or structure which is structurally inadequate to carry such building or object as determined by the department. The department may prescribe conditions of operation of such vehicle when necessary to assure against damage to the road foundations, surfaces, or structures and require such security as may be deemed necessary to compensate for any injury to any roadway or road structure.

(2) The application for any such permit shall (a) specifically describe the vehicle, (b) specifically describe the load to be moved, (c) include a signed affirmation under oath that, for any load sixteen feet high or higher, the applicant has contacted any and all electric utilities that have high voltage conductors and infrastructure that cross over the roadway affected by the move and made arrangements with such electric utilities for the safe movement of the load under any high voltage conductors owned by such electric utilities, and (d) whenever possible, describe the particular highways for which the permit is requested. The company or individual shall maintain a copy of the permit in each vehicle moving a building or object requiring specialized moving dollies which shall be open to inspection by any peace officer, carrier enforcement officer, or authorized agent of any authority granting such permit. The fee for such permit shall be ten dollars.

(3) The department shall adopt and promulgate rules and regulations governing the issuance of the permits. Such rules and regulations shall include, but not be limited to, driver qualifications, equipment selection, hours of operation, weather conditions, road conditions, determination of any damage caused to highways or bridges, cutting or trimming of trees, removal or relocation of signs or other property of the state, raising or lowering of electric supply and communication lines, and such other safety considerations as the department deems necessary.

(4) Any person who violates the terms of a permit issued pursuant to this section or otherwise violates this section shall be guilty of a Class II misdemeanor.

Source: Laws 1985, LB 553, § 1; R.S.1943, (1988), § 39-6,181.01; Laws 1993, LB 370, § 395; Laws 2012, LB997, § 5; Laws 2016, LB973, § 5; Laws 2017, LB339, § 225.

60-6,300 Vehicles; excess load prohibited; exception; violation; penalty.

(1) It shall be unlawful to operate upon the public highways of this state any truck, truck-tractor, or trailer that weighs in excess of the gross weight for which the registration fee on such vehicle has been paid plus one thousand pounds, but this section shall not apply to any truck, truck-tractor, or trailer being operated under a special permit issued pursuant to section 60-6,298 if the vehicle is properly registered pursuant to such section.

(2)(a) Any person operating any truck, truck-tractor, or trailer in violation of this section shall be guilty of a traffic infraction and shall, upon conviction, be fined twenty-five dollars for each one thousand pounds or fraction thereof in excess of the weight allowed to be carried under this section with tolerance.

(b) In lieu of issuing a citation to an operator under subdivision (2)(a) of this section, the Superintendent of Law Enforcement and Public Safety may assess the owner of the vehicle a civil penalty for each violation of this section in an amount equal to twenty-five dollars for each one thousand pounds or fraction thereof in excess of the gross weight for which the registration fee on such vehicle has been paid plus one thousand pounds. The superintendent shall issue an order imposing a penalty under this subdivision in the same manner as an order issued under section 75-369.04 and any rules and regulations adopted and promulgated under section 75-368 and any applicable federal rules and regulations.

Source: Laws 1933, c. 105, § 5, p. 426; Laws 1939, c. 47, § 1, p. 208; Laws 1941, c. 125, § 2, p. 481; C.S.Supp.,1941, § 39-1193; R.S. 1943, § 39-723; Laws 1947, c. 147, § 2(4), p. 406; Laws 1953, c. 134, § 2, p. 418; Laws 1969, c. 318, § 2, p. 1155; C.S.Supp.,1972, § 39-723.03; Laws 1979, LB 287, § 2; Laws 1984, LB 726, § 3; Laws 1986, LB 783, § 1; R.S.1943, (1988), § 39-6,182; Laws 1993, LB 370, § 396; Laws 2013, LB398, § 1.

60-6,301 Vehicles; overload; reduce or shift load; exceptions; permit fee; warning citation; when.

When any motor vehicle, semitrailer, or trailer is operated upon the highways of this state carrying a load in excess of the maximum weight permitted by section 60-6,294, the load shall be reduced or shifted to within such maximum

tolerance before being permitted to operate on any public highway of this state, except that:

(1) If any motor vehicle, semitrailer, or trailer exceeds the maximum load on only one axle, only one tandem axle, or only one group of axles when (a) the distance between the first and last axle of such group of axles is twelve feet or less, (b) the excess axle load is no more than five percent in excess of the maximum load for such axle, tandem axle, or group of axles permitted by such section, while the vehicle or combination of vehicles is within the maximum gross load, and (c) the load on such vehicle is such that it can be shifted or the configuration of the vehicle can be changed so that all axles, tandem axle, or groups of axles are within the maximum permissible limit for such axle, tandem axle, or group of axles, such shift or change of configuration may be made without penalty;

(2) Any motor vehicle, semitrailer, or trailer carrying only a load of livestock may exceed the maximum load as permitted by such section on only one axle, only one tandem axle, or only one group of axles when the distance between the first and last axle of the group of axles is six feet or less if the excess load on the axle, tandem axle, or group of axles is caused by a shifting of the weight of the livestock by the livestock and if the vehicle or combination of vehicles is within the maximum gross load as permitted by such section;

(3) With a permit issued by the Department of Transportation or the Nebraska State Patrol, a truck with an enclosed body and a compacting mechanism, designed and used exclusively for the collection and transportation of garbage or refuse, may exceed the maximum load as permitted by such section by no more than twenty percent on only one axle, only one tandem axle, or only one group of axles when the vehicle is laden with garbage or refuse if the vehicle is within the maximum gross load as permitted by such section. There shall be a permit fee of ten dollars per month or one hundred dollars per year. The permit may be issued for one or more months up to one year, and the term of applicability shall be stated on the permit;

(4) Any motor vehicle, semitrailer, or trailer carrying any kind of a load, including livestock, which exceeds the legal maximum gross load by five percent or less may proceed on its itinerary and unload the cargo carried thereon to the maximum legal gross weight at the first unloading facility on the itinerary where the cargo can be properly protected. All material so unloaded shall be cared for by the owner or operator of such vehicle at the risk of such owner or operator; and

(5) Any motor vehicle, semitrailer, or trailer carrying grain or other seasonally harvested products may operate from the field where such grain or products are harvested to storage, market, or stockpile in the field or from stockpile or farm storage to market or factory up to seventy miles with a load that exceeds the maximum load permitted by section 60-6,294 by fifteen percent on any tandem axle, group of axles, and gross weight. Any truck with no more than a single rear axle carrying grain or other seasonally harvested products may operate from the field where such grain or products are harvested to storage, market, or stockpile in the field or from stockpile or farm storage to market or factory up to seventy miles with a load that exceeds the maximum load permitted by section 60-6,294 by fifteen percent on any single axle and gross weight. The owner or a representative of the owner of the agricultural product

shall furnish the driver of the loaded vehicle a signed statement of origin and destination.

Nothing in this section shall be construed to permit to be operated on the National System of Interstate and Defense Highways any vehicle or combination of vehicles which exceeds any of the weight limitations applicable to such system as contained in section 60-6,294.

If the maximum legal gross weight or axle weight of any vehicle is exceeded by five percent or less and the arresting peace officer or carrier enforcement officer has reason to believe that such excessive weight is caused by snow, ice, or rain, the officer may issue a warning citation to the operator.

Source: Laws 1953, c. 134, § 5, p. 420; Laws 1955, c. 150, § 1, p. 446; Laws 1963, c. 226, § 3, p. 710; Laws 1969, c. 318, § 4, p. 1156; Laws 1973, LB 491, § 5; R.S.Supp.,1973, § 39-723.07; Laws 1974, LB 920, § 5; Laws 1976, LB 823, § 1; Laws 1977, LB 427, § 3; Laws 1980, LB 785, § 4; Laws 1984, LB 726, § 6; Laws 1986, LB 833, § 2; R.S.1943, (1988), § 39-6,185; Laws 1993, LB 370, § 397; Laws 2000, LB 1361, § 10; Laws 2007, LB148, § 1; Laws 2017, LB339, § 226; Laws 2020, LB931, § 2.
Effective date November 14, 2020.

60-6,304 Load; contents; requirements; vehicle that contained livestock; spill prohibited; violation; penalty.

(1)(a) Except as provided in subsection (2) of this section for a vehicle that contained livestock, but still contains the manure or urine of such livestock, no vehicle shall be driven or moved on any highway unless the vehicle is so constructed or loaded as to prevent its contents from dropping, sifting, leaking, or otherwise escaping from the vehicle.

(b) Except as provided in subsection (2) of this section for a vehicle that contained livestock, but still contains the manure or urine of such livestock, no person shall transport any sand, gravel, rock less than two inches in diameter, or refuse in any vehicle on any hard-surfaced state highway if such material protrudes above the sides of that part of the vehicle in which it is being transported unless such material is enclosed or completely covered with canvas or similar covering.

(c) Except as provided in subsection (3) of this section for commercial motor vehicles and commercial trailers, no person shall drive or move a motor vehicle, trailer, or semitrailer upon any highway unless the cargo or contents carried by the motor vehicle, trailer, or semitrailer are properly distributed and adequately secured to prevent the falling of cargo or contents from the vehicle. The tailgate, doors, tarpaulins, and any other equipment used in the operation of the motor vehicle, trailer, or semitrailer or in the distributing or securing of the cargo or contents carried by the motor vehicle, trailer, or semitrailer shall be secured to prevent cargo or contents falling from the vehicle. The means of securement to the motor vehicle, trailer, or semitrailer must be either tiedowns and tiedown assemblies of adequate strength or sides, sideboards, or stakes and a rear endgate, endboard, or stakes strong enough and high enough to assure that cargo or contents will not fall from the vehicle.

(d) Any person who violates any provision of this subsection is guilty of a Class IV misdemeanor.

(2)(a) No person operating any vehicle that contained livestock, but still contains the manure or urine of livestock, on any highway located within the corporate limits of a city of the metropolitan class, shall spill manure or urine from the vehicle.

(b) Any person who violates this subsection is guilty of a Class IV misdemeanor and shall be assessed a minimum fine of at least two hundred fifty dollars.

(3)(a) No person shall drive or move a commercial motor vehicle or commercial trailer upon any highway unless the cargo or contents carried by the commercial motor vehicle or commercial trailer are properly distributed and adequately secured to prevent the falling of cargo or contents from the vehicle. The tailgate, doors, tarpaulins, and any other equipment used in the operation of the commercial motor vehicle or commercial trailer or in the distributing or securing of the cargo or contents carried by the commercial motor vehicle or commercial trailer shall be secured to prevent cargo or contents falling from the vehicle. The structures, systems, parts, and components used to secure the cargo or contents shall be in proper working order with no damaged or weakened components that affect performance so as to cause the cargo or contents to fall from the commercial motor vehicle or commercial trailer. The means of securement to the commercial motor vehicle or commercial trailer shall be either tiedowns and tiedown assemblies of adequate strength or sides, sideboards, or stakes and a rear endgate, endboard, or stakes strong enough and high enough to ensure that cargo or contents will not fall from the commercial motor vehicle or commercial trailer.

(b)(i) Violation of this subsection is an infraction, and the person driving or moving a commercial motor vehicle or commercial trailer in violation of this subsection shall be fined two hundred dollars for the first offense and five hundred dollars for a second or subsequent offense.

(ii) In addition to the issuance of a citation to an operator under subdivision (b)(i) of this subsection, the Superintendent of Law Enforcement and Public Safety may assess the owner of the vehicle a civil penalty for each violation of this subsection of one thousand dollars. The superintendent shall issue an order imposing a penalty under this subdivision in the same manner as an order issued under section 75-369.04 and any rules and regulations adopted and promulgated under section 75-368 and any applicable federal rules and regulations.

(c) For purposes of this subsection:

(i) Commercial motor vehicle has the same meaning as in section 60-316; and

(ii) Commercial trailer has the same meaning as in section 60-317.

Source: Laws 1969, c. 304, § 1, p. 1095; C.S.Supp.,1972, § 39-735.02; Laws 1974, LB 593, § 7; Laws 1977, LB 41, § 21; R.S.1943, (1988), § 39-6,129; Laws 1993, LB 370, § 400; Laws 1993, LB 575, § 28; Laws 2002, LB 1105, § 463; Laws 2007, LB147, § 1; Laws 2014, LB174, § 2; Laws 2019, LB698, § 1.

(aa) SPECIAL RULES FOR MOTORCYCLES

60-6,306 Nebraska Rules of the Road; applicability to persons operating motorcycles.

(1) Any person who operates a motorcycle shall have all of the rights and shall be subject to all of the duties applicable to the driver of any other vehicle

under the Nebraska Rules of the Road except for special motorcycle regulations in the rules and except for those provisions of the rules which by their nature can have no application.

(2) For purposes of this section, motorcycle does not include an auticycle.

Source: Laws 1973, LB 45, § 92; R.S.1943, (1988), § 39-692; Laws 1993, LB 370, § 402; Laws 2018, LB909, § 108.

Cross References

Helmet requirements, see sections 60-6,278 to 60-6,282.

60-6,307 Restrictions on operating motorcycles.

(1) Any person who operates a motorcycle shall ride only upon a permanent and regular seat attached to the motorcycle. A person operating a motorcycle shall not carry any other person nor shall any other person ride on a motorcycle unless such motorcycle is designed to carry more than one person, in which event a passenger may ride upon the permanent and regular seat, if designed for two persons, or upon another seat firmly attached to the motorcycle to the rear or side of the operator.

(2) A person shall ride upon a motorcycle only while sitting astride the seat, facing forward.

(3) No person shall operate a motorcycle while carrying any package, bundle, or other article which prevents him or her from keeping both hands on the handlebars.

(4) No operator shall carry any person, nor shall any person ride, in a position that interferes with the operation or control of the motorcycle or the view of the operator.

(5) Any motorcycle which carries a passenger, other than in a sidecar or enclosed cab, shall be equipped with footrests for such passenger.

(6) No person shall operate any motorcycle with handlebars more than fifteen inches above the mounting point of the handlebars.

(7) For purposes of this section, motorcycle does not include an auticycle.

Source: Laws 1973, LB 45, § 93; R.S.1943, (1988), § 39-693; Laws 1993, LB 370, § 403; Laws 2018, LB909, § 109.

60-6,308 Operating motorcycles on roadways laned for traffic; prohibited acts.

(1) A motorcycle shall be entitled to full use of a traffic lane of any highway, and no vehicle shall be driven in such a manner as to deprive any motorcycle of the full use of such lane, except that motorcycles may be operated two abreast in a single lane.

(2) The operator of a motorcycle shall not overtake and pass in the same lane occupied by a vehicle being overtaken.

(3) No person shall operate a motorcycle between lanes of traffic or between adjacent lines or rows of vehicles.

(4) Motorcycles shall not be operated more than two abreast in a single lane.

(5) Subsections (2) and (3) of this section shall not apply to peace officers in the performance of their official duties.

(6) No person who rides upon a motorcycle shall attach himself, herself, or the motorcycle to any other vehicle on a roadway.

(7) For purposes of this section, motorcycle does not include an auticycle.

Source: Laws 1973, LB 45, § 94; R.S.1943, (1988), § 39-694; Laws 1993, LB 370, § 404; Laws 2018, LB909, § 110.

(bb) SPECIAL RULES FOR MOPEDS

60-6,311 Moped; operator; Nebraska Rules of the Road; applicable.

(1) Any person who rides a moped upon a roadway shall have all of the rights and shall be subject to all of the duties applicable to the driver of a motor vehicle under the Nebraska Rules of the Road except for special moped regulations in the rules and except for those provisions of the rules which by their nature can have no application.

(2) Regulations applicable to mopeds shall apply whenever a moped is operated upon any highway or upon any path set aside by the Department of Transportation or a local authority for the use of mopeds.

Source: Laws 1979, LB 23, § 5; R.S.1943, (1988), § 39-6,198; Laws 1993, LB 370, § 407; Laws 2017, LB339, § 227.

60-6,313 Operating mopeds on roadways laned for traffic; prohibited acts.

(1) A moped shall be entitled to full use of a traffic lane of any highway with an authorized speed limit of forty-five miles per hour or less, and no vehicle shall be operated in such a manner as to deprive any moped of the full use of such lane, except that mopeds and motorcycles may be operated two abreast in a single lane.

(2) No person shall operate a moped between lanes of traffic or between adjacent lines or rows of vehicles.

(3) Mopeds shall not be operated more than two abreast in a single lane.

(4) Any person who operates a moped on a roadway with an authorized speed limit of more than forty-five miles per hour shall ride as near to the right side of the roadway as practicable and shall not ride more than single file.

(5) No person who rides upon a moped shall attach himself, herself, or the moped to any other vehicle on a roadway.

(6) Mopeds shall not be operated on the National System of Interstate and Defense Highways or on sidewalks.

(7) Notwithstanding the maximum speed limits in excess of twenty-five miles per hour established in section 60-6,186, no person shall operate any moped at a speed in excess of thirty miles per hour.

(8) For purposes of this section, motorcycle does not include an auticycle.

Source: Laws 1979, LB 23, § 7; R.S.1943, (1988), § 39-6,200; Laws 1993, LB 370, § 409; Laws 2018, LB909, § 111.

Cross References

Operator's license, assessment of points for speeding, see section 60-4,182.

(cc) SPECIAL RULES FOR BICYCLES

60-6,314 Nebraska Rules of the Road; applicability to persons operating bicycles.

(1) Any person who operates a bicycle upon a highway shall have all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle under the Nebraska Rules of the Road except for special bicycle regulations in the rules, except for those provisions of the rules which by their nature can have no application, and except as provided in section 60-6,142.

(2) Regulations applicable to bicycles shall apply whenever a bicycle is operated upon any highway or upon any path set aside by the Department of Transportation or a local authority for the exclusive use of bicycles.

Source: Laws 1973, LB 45, § 86; R.S.1943, (1988), § 39-686; Laws 1993, LB 370, § 410; Laws 1993, LB 575, § 19; Laws 2017, LB339, § 228.

Cross References

Hand and arm signals, see sections 60-6,162 and 60-6,163.

60-6,317 Bicycles on roadways and bicycle paths; general rules; regulation by local authority.

(1)(a) Any person who operates a bicycle upon a roadway at less than the normal speed of traffic at the time and place and under conditions then existing shall ride as near to the right-hand curb or right-hand edge of the roadway as practicable except when:

(i) Overtaking and passing another bicycle or vehicle proceeding in the same direction;

(ii) Preparing for a left turn onto a private road or driveway or at an intersection;

(iii) Reasonably necessary to avoid conditions that make it unsafe to continue along the right-hand curb or right-hand edge of the roadway, including fixed or moving objects, stopped or moving vehicles, bicycles, pedestrians, animals, or surface hazards;

(iv) Riding upon a lane of substandard width which is too narrow for a bicycle and a vehicle to travel safely side by side within the lane; or

(v) Lawfully operating a bicycle on the paved shoulders of a highway included in the state highway system as provided in section 60-6,142.

(b) Any person who operates a bicycle upon a roadway with a posted speed limit of thirty-five miles per hour or less on which traffic is restricted to one direction of movement and which has two or more marked traffic lanes may ride as near to the left-hand curb or left-hand edge of the roadway as practicable.

(c) Whenever a person operating a bicycle leaves the roadway to ride on the paved shoulder or leaves the paved shoulder to enter the roadway, the person shall clearly signal his or her intention and yield the right-of-way to all other vehicles.

(2) No bicyclist shall suddenly leave a curb or other place of safety and walk or ride into the path of a vehicle which is so close that it is impossible for the driver to stop.

(3) Any person who operates a bicycle upon a highway shall not ride more than single file except on paths or parts of highways set aside for the exclusive use of bicycles.

(4) A bicyclist riding a bicycle on a sidewalk or across a roadway or shoulder in a crosswalk shall have all the rights and duties applicable to a pedestrian under the same circumstances but shall yield the right-of-way to pedestrians. Nothing in this subsection relieves the bicyclist or the driver of a vehicle from the duty to exercise care.

(5) A local authority may by ordinance further regulate the operation of bicycles and may provide for the registration and inspection of bicycles.

Source: Laws 1973, LB 45, § 90; R.S.1943, (1988), § 39-690; Laws 1993, LB 370, § 413; Laws 1993, LB 575, § 20; Laws 2016, LB716, § 3.

(dd) SPECIAL RULES FOR SNOWMOBILES

60-6,335 Snowmobile operation; regulation; equipment; permission of landowner.

(1) No person shall operate a snowmobile upon any highway except as provided in sections 60-6,320 to 60-6,346. Subject to regulation by the Department of Transportation and by local authorities, in their respective jurisdictions, a snowmobile may be operated on the roadway of any highway, on the right-hand side of such roadway and in the same direction as the highway traffic, except that no snowmobile shall be operated at any time within the right-of-way of any controlled-access highway within this state.

(2) A snowmobile may make a direct crossing of a highway at any hour of the day if:

(a) The crossing is made at an angle of approximately ninety degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing;

(b) The snowmobile is brought to a complete stop before crossing the shoulder or roadway of the highway;

(c) The driver yields the right-of-way to all oncoming traffic which constitutes an immediate hazard;

(d) In crossing a divided highway, the crossing is made only at an intersection of such highway with another highway; and

(e) When the crossing is made between sunset and sunrise or in conditions of reduced visibility, both the headlights and taillights are on.

(3) No snowmobile shall be operated upon a highway unless equipped with at least one headlight and one taillight, with reflector material of a minimum area of sixteen square inches mounted on each side forward of the handlebars, and with brakes.

(4) A snowmobile may be operated upon a highway other than as provided by subsection (2) of this section in an emergency during the period of time when and at locations where snow upon the roadway renders travel by automobile impractical.

(5) Unless otherwise provided in sections 60-6,320 to 60-6,346, all other provisions of Chapter 60 shall apply to the operation of snowmobiles upon highways except for those relating to required equipment and those which by their nature have no application.

(6) No person shall operate a snowmobile upon any private lands without first having obtained permission of the owner, lessee, or operator of such lands.

Source: Laws 1971, LB 330, § 13; Laws 1972, LB 1149, § 2; Laws 1977, LB 230, § 11; R.S.1943, (1988), § 60-2013; Laws 1993, LB 370, § 431; Laws 1993, LB 575, § 49; Laws 1995, LB 459, § 4; Laws 2017, LB339, § 229.

Cross References

Operation of snowmobile during public emergency or in parades, see section 60-6,348.

(ee) SPECIAL RULES FOR MINIBIKES AND
OTHER OFF-ROAD VEHICLES

60-6,348 Minibikes and off-road designed vehicles; use; emergencies; parades.

Minibikes and all off-road designed vehicles not authorized by law for use on a highway, including, but not limited to, go-carts, riding lawnmowers, garden tractors, and snowmobiles, shall be exempt from the provisions of sections 60-678, 60-6,351 to 60-6,353, 60-6,380, and 60-6,381 during any public emergency or while being used in parades by regularly organized units of any recognized charitable, social, educational, or community service organization.

Source: Laws 1971, LB 644, § 7; Laws 1972, LB 1196, § 6; Laws 1987, LB 80, § 12; R.S.1943, (1988), § 60-2102; Laws 1993, LB 370, § 444; Laws 2011, LB289, § 33; Laws 2012, LB1155, § 21.

60-6,349 Minibikes and similar vehicles; sale; notice.

All minibikes and similar two-wheeled, three-wheeled, and four-wheeled miniature vehicles offered for sale in this state shall bear the following notice to the customer and user: This vehicle as manufactured or sold is for off-road use only. This section shall not apply to a golf car vehicle or a low-speed vehicle, as applicable to its design, or to an electric personal assistive mobility device.

Source: Laws 1971, LB 644, § 8; Laws 1972, LB 1196, § 7; R.S.1943, (1988), § 60-2103; Laws 1993, LB 370, § 445; Laws 2002, LB 1105, § 464; Laws 2011, LB289, § 34; Laws 2012, LB1155, § 22.

(ff) SPECIAL RULES FOR ALL-TERRAIN VEHICLES

60-6,355 All-terrain vehicle, defined; utility-type vehicle, defined.

(1) For purposes of sections 60-6,355 to 60-6,362:

(a) All-terrain vehicle means any motorized off-highway vehicle which (i) is fifty inches or less in width, (ii) has a dry weight of twelve hundred pounds or less, (iii) travels on three or more nonhighway tires, and (iv) is designed for operator use only with no passengers or is specifically designed by the original manufacturer for the operator and one passenger.

(b)(i) Utility-type vehicle means any motorized off-highway vehicle which (A) is seventy-four inches in width or less, (B) is not more than one hundred eighty inches, including the bumper, in length, (C) has a dry weight of two thousand pounds or less, (D) travels on four or more nonhighway tires.

(ii) Utility-type vehicle does not include all-terrain vehicles, golf car vehicles, or low-speed vehicles.

(2) All-terrain vehicles and utility-type vehicles which have been modified or retrofitted with after-market parts to include additional equipment not required by sections 60-6,357 and 60-6,358 shall not be registered under the Motor Vehicle Registration Act, nor shall such modified or retrofitted vehicles be eligible for registration in any other category of vehicle defined in the act.

Source: Laws 1987, LB 80, § 1; R.S.1943, (1988), § 60-2801; Laws 1993, LB 370, § 451; Laws 2003, LB 333, § 33; Laws 2005, LB 274, § 250; Laws 2010, LB650, § 39; Laws 2012, LB1155, § 24; Laws 2013, LB223, § 3; Laws 2014, LB814, § 7.

Cross References

Motor Vehicle Registration Act, see section 60-301.

60-6,356 All-terrain vehicle; utility-type vehicle; operation; restrictions; city or village ordinance; county board resolution.

(1) An all-terrain vehicle or a utility-type vehicle shall not be operated on any controlled-access highway with more than two marked traffic lanes. The crossing of any controlled-access highway with more than two marked traffic lanes shall not be permitted except as provided in subsections (9) and (10) of this section. Subsections (2), (3), and (5) through (8) of this section authorize and apply to operation of an all-terrain vehicle or a utility-type vehicle only on a highway other than a controlled-access highway with more than two marked traffic lanes.

(2) An all-terrain vehicle or a utility-type vehicle may be operated in accordance with the operating requirements of subsection (3) of this section:

(a) Outside the corporate limits of a city, village, or unincorporated village if incidental to the vehicle's use for agricultural purposes;

(b) Within the corporate limits of a city or village if authorized by the city or village by ordinance adopted in accordance with this section; or

(c) Within an unincorporated village if authorized by the county board of the county in which the unincorporated village is located by resolution in accordance with this section.

(3) An all-terrain vehicle or a utility-type vehicle may be operated as authorized in subsection (2) of this section when such operation occurs only between the hours of sunrise and sunset. Any person operating an all-terrain vehicle or a utility-type vehicle as authorized in subsection (2) of this section shall have a valid Class O operator's license or a farm permit as provided in section 60-4,126, shall have liability insurance coverage for the all-terrain vehicle or a utility-type vehicle while operating the all-terrain vehicle or a utility-type vehicle on a highway, and shall not operate such vehicle at a speed in excess of thirty miles per hour. The person operating the all-terrain vehicle or a utility-type vehicle shall provide proof of such insurance coverage to any peace officer requesting such proof within five days of such a request. When operating an all-terrain vehicle or a utility-type vehicle as authorized in subsection (2) of this section, the headlight and taillight of the vehicle shall be on and the vehicle shall be equipped with a bicycle safety flag which extends not less than five feet above ground attached to the rear of such vehicle. The bicycle safety flag shall be triangular in shape with an area of not less than thirty square inches and shall be day-glow in color.

(4) All-terrain vehicles and utility-type vehicles may be operated without complying with subsection (3) of this section on highways in parades which have been authorized by the State of Nebraska or any department, board, commission, or political subdivision of the state.

(5) The crossing of a highway other than a controlled-access highway with more than two marked traffic lanes shall be permitted by an all-terrain vehicle or a utility-type vehicle without complying with subsection (3) of this section only if:

(a) The crossing is made at an angle of approximately ninety degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing;

(b) The vehicle is brought to a complete stop before crossing the shoulder or roadway of the highway;

(c) The operator yields the right-of-way to all oncoming traffic that constitutes an immediate potential hazard;

(d) In crossing a divided highway, the crossing is made only at an intersection of such highway with another highway; and

(e) Both the headlight and taillight of the vehicle are on when the crossing is made.

(6) All-terrain vehicles and utility-type vehicles may be operated outside the corporate limits of any municipality by electric utility personnel within the course of their employment in accordance with the operation requirements of subsection (3) of this section, except that the operation of the vehicle pursuant to this subsection need not be limited to the hours between sunrise and sunset.

(7) A city or village may adopt an ordinance authorizing the operation of all-terrain vehicles and utility-type vehicles within the corporate limits of the city or village if the operation is in accordance with subsection (3) of this section. The city or village may place other restrictions on the operation of all-terrain vehicles and utility-type vehicles within its corporate limits.

(8) A county board may adopt a resolution authorizing the operation of all-terrain vehicles and utility-type vehicles within any unincorporated village within the county if the operation is in accordance with subsection (3) of this section. The county may place other restrictions on the operation of all-terrain vehicles and utility-type vehicles within the unincorporated village.

(9) Except as provided in subsection (10) of this section, the crossing of a controlled-access highway with more than two marked traffic lanes shall be permitted by a utility-type vehicle if the operation is in accordance with the operation requirements of subsection (3) of this section and if the following requirements are met:

(a) The crossing is made at an intersection that:

(i) Is controlled by a traffic control signal; or

(ii) For any intersection located outside the corporate limits of a city or village, is controlled by stop signs;

(b) The crossing at such intersection is made in compliance with the traffic control signal or stop signs; and

(c) The crossing at such intersection is specifically authorized as follows:

(i) If such intersection is located within the corporate limits of a city or village, by ordinance of such city or village;

(ii) If such intersection is located within an unincorporated village, by resolution of the county board of the county in which such unincorporated village is located; or

(iii) If such intersection is located outside the corporate limits of a city or village and outside any unincorporated village, by resolution of the county board of the county in which such intersection is located.

(10) When the use of the all-terrain vehicle or utility-type vehicle is for an agricultural purpose, the crossing of a controlled-access highway with more than two marked traffic lanes shall be permitted if such vehicle is operated in accordance with subsection (3) of this section.

Source: Laws 1987, LB 80, § 2; Laws 1989, LB 114, § 1; Laws 1989, LB 285, § 138; R.S.Supp.,1992, § 60-2802; Laws 1993, LB 370, § 452; Laws 2007, LB307, § 1; Laws 2010, LB650, § 40; Laws 2015, LB122, § 1; Laws 2020, LB944, § 72.
Operative date November 14, 2020.

(gg) SMOKE EMISSIONS AND NOISE

60-6,363 Terms, defined.

For purposes of sections 60-6,363 to 60-6,374:

(1) Diesel-powered motor vehicle shall mean a self-propelled vehicle which is designed primarily for transporting persons or property on a highway and which is powered by an internal combustion engine of the compression ignition type;

(2) Motor vehicle shall mean a self-propelled vehicle with a gross unloaded vehicle weight of ten thousand pounds or more or any combination of vehicles of a type subject to registration which is towed by such a vehicle;

(3) Smoke shall mean the solid or liquid matter, except water, discharged from a motor vehicle engine which obscures the transmission of light;

(4) Smokemeter shall mean a full-flow, light-extinction smokemeter of a type approved by the Department of Environment and Energy and operating on the principles described in the federal standards;

(5) Opacity shall mean the degree to which a smoke plume emitted from a diesel-powered motor vehicle engine will block the passage of a beam of light expressed as a percentage; and

(6) Smoke control system shall mean a system consisting of one or more devices and adjustments designed to control the discharge of smoke from diesel-powered motor vehicles.

Source: Laws 1972, LB 1360, § 1; Laws 1976, LB 823, § 3; R.S.1943, (1988), § 60-2201; Laws 1993, LB 370, § 459; Laws 1993, LB 3, § 35; Laws 2019, LB302, § 65.

60-6,364 Applicability of sections.

Sections 60-6,363 to 60-6,374 shall apply to all diesel-powered motor vehicles operated within this state with the exception of the following:

(1) Emergency vehicles operated by federal, state, and local governmental authorities;

(2) Vehicles which are not required to be registered in accordance with the Motor Vehicle Registration Act;

(3) Vehicles used for research and development which have been approved by the Director of Environment and Energy;

(4) Vehicles being operated while undergoing maintenance;

(5) Vehicles operated under emergency conditions;

(6) Vehicles being operated in the course of training programs which have been approved by the director; and

(7) Other vehicles expressly exempted by the director.

Source: Laws 1972, LB 1360, § 2; R.S.1943, (1988), § 60-2202; Laws 1993, LB 370, § 460; Laws 2005, LB 274, § 251; Laws 2019, LB302, § 66.

Cross References

Motor Vehicle Registration Act, see section 60-301.

60-6,367 Enforcement of sections; citations; use of smokemeter; results; admissible as evidence.

(1) Officials of the Department of Environment and Energy and local enforcement officials shall have the authority to issue citations to suspected violators of sections 60-6,363 to 60-6,374 on the basis of their visual evaluation of the smoke emitted from a diesel-powered motor vehicle. A citation shall give the suspected violator a reasonable time to furnish evidence to the department that such alleged violation has been corrected or else such suspected violator shall be subject to the penalties set out in section 60-6,373. A suspected violator may demand that the suspected vehicle be tested by an approved smokemeter prior to a trial on the alleged violation.

(2) Smokemeter tests shall be conducted (a) by or under the supervision of a person or testing facility authorized by the Director of Environment and Energy to conduct such tests and (b) by installing an approved smokemeter on the exhaust pipe and operating the suspected vehicle at engine revolutions per minute equivalent to the engine revolutions per minute at the time of the alleged violation.

(3) The results of smokemeter tests run in accordance with this section and after the alleged violation shall be admissible as evidence in legal proceedings.

Source: Laws 1972, LB 1360, § 5; Laws 1976, LB 823, § 6; R.S.1943, (1988), § 60-2205; Laws 1993, LB 370, § 463; Laws 1993, LB 3, § 36; Laws 2019, LB302, § 67.

60-6,368 Director of Environment and Energy; powers; rules and regulations; control of noise or emissions.

(1) The Director of Environment and Energy shall have the power, after public hearings on due notice, to adopt and promulgate, consistent with and in furtherance of the provisions of sections 60-6,363 to 60-6,374, rules and regulations in accordance with which he or she will carry out his or her responsibilities and obligations under such sections.

(2) Any rules or regulations promulgated by the director shall be consistent with the provisions of the federal standards, if any, relating to control of emissions from the diesel-powered motor vehicles affected by such rules and

regulations. The director shall not require, as a condition for the sale of any diesel-powered motor vehicle covered by sections 60-6,363 to 60-6,374, the inspection, certification, or other approval of any feature or equipment designed for the control of noise or emissions from such diesel-powered motor vehicles if such feature or equipment has been certified, approved, or otherwise authorized pursuant to laws or regulations of any federal governmental body as sufficient to make lawful the sale of any diesel-powered motor vehicle covered by such sections.

Source: Laws 1972, LB 1360, § 6; Laws 1976, LB 823, § 7; R.S.1943, (1988), § 60-2206; Laws 1993, LB 370, § 464; Laws 2019, LB302, § 68.

(hh) SPECIAL RULES FOR ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICES

60-6,376 Electric personal assistive mobility device; operation; violation; penalty.

(1) Any person who operates an electric personal assistive mobility device on a highway shall have all of the rights and shall be subject to all of the duties applicable to the operator of a vehicle under the Nebraska Rules of the Road except (a) as provided in special electric personal assistive mobility device regulations adopted pursuant to the Nebraska Rules of the Road, (b) any provisions of the Nebraska Rules of the Road which by their nature can have no application, and (c) as provided in section 60-6,142 with respect to operating an electric personal assistive mobility device on a shoulder of a highway.

(2) An electric personal assistive mobility device may be operated on any highway, alley, sidewalk, bike trail, path, or any other area where persons travel, except as provided by the Department of Transportation or local authority. Regulations applicable to an electric personal assistive mobility device shall apply whenever an electric personal assistive mobility device is so operated.

(3) An operator of an electric personal assistive mobility device shall yield to pedestrian traffic and any human-powered or animal-powered vehicle at all times. An operator of an electric personal assistive mobility device shall give an audible signal before overtaking and passing any pedestrian or human-powered or animal-powered vehicle. A person violating this subsection shall be fined ten dollars for the first offense. A person violating this subsection shall have his or her electric personal assistive mobility device impounded for up to thirty days for each subsequent offense.

Source: Laws 2002, LB 1105, § 460; Laws 2017, LB339, § 230.

(ii) EMERGENCY VEHICLE OR ROAD ASSISTANCE VEHICLE

60-6,378 Stopped authorized emergency vehicle or road assistance vehicle; driver; duties; violation; penalty.

(1)(a) A driver in a vehicle on a controlled-access highway approaching or passing a stopped authorized emergency vehicle or road assistance vehicle which makes use of proper audible or visual signals shall proceed with due care and caution as described in subdivision (b) of this subsection.

(b) On a controlled-access highway with at least two adjacent lanes of travel in the same direction on the same side of the highway where a stopped

authorized emergency vehicle or road assistance vehicle is using proper audible or visual signals, the driver of the vehicle shall proceed with due care and caution and yield the right-of-way by moving into a lane at least one moving lane apart from the stopped authorized emergency vehicle or road assistance vehicle unless directed otherwise by a peace officer or other authorized emergency personnel. If moving into another lane is not possible because of weather conditions, road conditions, or the immediate presence of vehicular or pedestrian traffic or because the controlled-access highway does not have two available adjacent lanes of travel in the same direction on the same side of the highway where such a stopped authorized emergency vehicle or road assistance vehicle is located, the driver of the approaching or passing vehicle shall reduce his or her speed, maintain a safe speed with regard to the location of the stopped authorized emergency vehicle or road assistance vehicle, the weather conditions, the road conditions, and vehicular or pedestrian traffic, and proceed with due care and caution or proceed as directed by a peace officer or other authorized emergency personnel or road assistance personnel.

(c) Any person who violates this subsection is guilty of a traffic infraction for a first offense and Class IIIA misdemeanor for a second or subsequent offense.

(2) The Department of Transportation shall erect and maintain or cause to be erected and maintained signs giving notice of subsection (1) of this section along controlled-access highways.

(3) Enforcement of subsection (1) of this section shall not be accomplished using simulated situations involving an authorized emergency vehicle or a road assistance vehicle.

(4) This section does not relieve the driver of an authorized emergency vehicle or a road assistance vehicle from the duty to drive with due regard for the safety of all persons using the highway.

(5) For purposes of this section, road assistance vehicle includes a vehicle operated by the Nebraska Department of Transportation, a Nebraska State Patrol motorist assistance vehicle, a United States Department of Transportation registered towing or roadside assistance vehicle, and a utility service vehicle operated by a utility company. A road assistance vehicle shall emit a warning signal utilizing properly displayed emergency indicators such as strobe, rotating, or oscillating lights when stopped along a highway.

Source: Laws 2009, LB92, § 2; Laws 2013, LB154, § 1; Laws 2017, LB339, § 231.

60-6,378.01 Duties of drivers approaching stopped vehicle or towing, maintenance, solid waste collection, or other vehicles.

A driver in a vehicle on any roadway other than a controlled-access highway who is approaching (1) a stopped authorized emergency vehicle using flashing or rotating lights as provided in section 60-6,231 or (2) a vehicle operated by a towing or vehicle recovery service, a Nebraska State Patrol motorist assistance vehicle, a publicly or privately owned utility maintenance vehicle, a highway maintenance vehicle, or a vehicle operated by a solid waste or recycling collection service, which is stopped and displaying strobe or flashing red, yellow, or amber lights, shall, unless otherwise directed by a law enforcement officer, proceed with due care and caution and:

(a) Reduce speed to a reasonable speed below the posted speed limit, move into another lane that is at least one moving lane apart from the stopped vehicle if possible under existing traffic and safety conditions, and be prepared to stop; or

(b) If such a lane change is impossible, unsafe, or prohibited by law, reduce speed to a reasonable speed below the posted speed limit and be prepared to stop.

Source: Laws 2018, LB909, § 98.

(jj) SPECIAL RULES FOR MINITRUCKS

60-6,379 Minitrucks; former military vehicles; restrictions on use.

(1) A minitruck or a former military vehicle shall not be operated on the National System of Interstate and Defense Highways, on expressways, or on freeways.

(2) A minitruck or a former military vehicle shall be operated with its headlights and taillights on.

Source: Laws 2010, LB650, § 38; Laws 2019, LB156, § 19.

(kk) SPECIAL RULES FOR LOW-SPEED VEHICLES

60-6,380 Low-speed vehicle; restrictions on use.

A low-speed vehicle may be operated on any highway on which the speed limit is not more than thirty-five miles per hour. A low-speed vehicle may cross a highway on which the speed limit is more than thirty-five miles per hour. Nothing in this section shall prevent a county, city, or village from adopting more stringent ordinances governing low-speed vehicle operation if the governing body of the county, city, or village determines that such ordinances are necessary in the interest of public safety. Any person operating a low-speed vehicle as authorized under this section shall have a valid Class O operator's license and shall have liability insurance coverage for the low-speed vehicle. The Department of Transportation may prohibit the operation of low-speed vehicles on any highway under its jurisdiction if it determines that the prohibition is necessary in the interest of public safety.

Source: Laws 2011, LB289, § 32; Laws 2017, LB339, § 232.

(ll) SPECIAL RULES FOR GOLF CAR VEHICLES

60-6,381 Golf car vehicles; city, village, or county; operation authorized; restrictions; liability insurance.

(1)(a) A city or village may adopt an ordinance authorizing the operation of golf car vehicles within the corporate limits of the city or village if the operation is on streets adjacent and contiguous to a golf course.

(b) A county board may adopt an ordinance pursuant to section 23-187 authorizing the operation of golf car vehicles within the county if the operation is on roads adjacent and contiguous to a golf course.

(c) Any person operating a golf car vehicle as authorized under this subsection shall have a valid Class O operator's license, and the owner of the golf car vehicle shall have liability insurance coverage for the golf car vehicle. The

person operating the golf car vehicle shall provide proof of such insurance coverage to any peace officer requesting such proof within five days after such a request.

(d) The restrictions of subsection (2) of this section do not apply to ordinances adopted under this subsection.

(2)(a) A city or village may adopt an ordinance authorizing the operation of golf car vehicles on streets within the corporate limits of the city or village if the operation is (i) between sunrise and sunset and (ii) on streets with a posted speed limit of thirty-five miles per hour or less. When operating a golf car vehicle as authorized under this subsection, the operator shall not operate such vehicle at a speed in excess of twenty miles per hour. A golf car vehicle shall not be operated at any time on any state or federal highway but may be operated upon such a highway in order to cross a portion of the highway system which intersects a street as directed in subsection (3) of this section. A city or village may, as part of such ordinance, implement standards for operation of golf car vehicles that are more stringent than the restrictions of this subsection for the safety of the operator and the public.

(b) A county board may adopt an ordinance pursuant to section 23-187 authorizing the operation of golf car vehicles on roads within the county if the operation is (i) between sunrise and sunset and (ii) on roads with a posted speed limit of thirty-five miles per hour or less. When operating a golf car vehicle as authorized under this subsection, the operator shall not operate such vehicle at a speed in excess of twenty miles per hour. A golf car vehicle shall not be operated at any time on any state or federal highway but may be operated upon such highway in order to cross a portion of the highway system which intersects a road as directed in subsection (3) of this section. A county may, as part of such ordinance, implement standards for operation of golf car vehicles that are more stringent than the restrictions of this subsection for the safety of the operator and the public.

(c) Any person operating a golf car vehicle as authorized under this subsection shall have a valid Class O operator's license, and the owner of the golf car vehicle shall have liability insurance coverage for the golf car vehicle. The person operating the golf car vehicle shall provide proof of such insurance coverage to any peace officer requesting such proof within five days after such a request. The liability insurance coverage shall be subject to limits, exclusive of interest and costs, as follows: Twenty-five thousand dollars because of bodily injury to or death of one person in any one accident and, subject to such limit for one person, fifty thousand dollars because of bodily injury to or death of two or more persons in any one accident, and twenty-five thousand dollars because of injury to or destruction of property of others in any one accident.

(3) The crossing of a highway shall be permitted by a golf car vehicle only if:

(a) The crossing is made at an angle of approximately ninety degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing;

(b) The golf car vehicle is brought to a complete stop before crossing the shoulder or roadway of the highway;

(c) The operator yields the right-of-way to all oncoming traffic that constitutes an immediate potential hazard; and

(d) In crossing a divided highway, the crossing is made only at an intersection of such highway with a street or road, as applicable.

(4) For purposes of this section:

(a) Road means a public way for the purposes of vehicular travel, including the entire area within the right-of-way; and

(b) Street means a public way for the purposes of vehicular travel in a city or village and includes the entire area within the right-of-way.

Source: Laws 2012, LB1155, § 23; Laws 2015, LB570, § 1.

(mm) FARM EQUIPMENT DEALERS

60-6,382 Farm equipment dealers; farm equipment haulers act as representative; conditions; signed statement; contents.

Farm equipment dealers may allow farm equipment haulers to act as their representative when hauling farm equipment to or from the dealer's place of business. Farm equipment haulers shall carry in the motor vehicle hauling the farm equipment a signed statement from the farm equipment dealer stating that they are acting as a representative of the farm equipment dealer. The statement shall be dated and valid for ninety days and shall be subject to inspection by any peace officer. The statement shall indicate the name of the farm equipment dealer, the name of the hauler, and that the dealer authorizes the hauler to act as its representative for purposes of complying with width, height, and length limitations. Nothing in this section shall require farm equipment dealers to provide insurance coverage for farm equipment haulers.

Source: Laws 2014, LB1039, § 2.

60-6,383 Implement of husbandry; weight and load limitations; operation restrictions.

(1) An implement of husbandry being operated on any highway of this state, except the National System of Interstate and Defense Highways, shall be exempt from the weight and load limitations of subsections (2), (3), and (4) of section 60-6,294 but shall be subject to any ordinances or resolutions enacted by local authorities pursuant to section 60-681.

(2) An implement of husbandry being operated on any highway of this state shall not cross any culvert with a span of more than sixty inches or any bridge if the vehicle axle, axle groupings, or gross weight exceeds the limits established in subsections (2), (3), and (4) of section 60-6,294 or weight limits established by bridge postings.

(3) For purposes of this section, an implement of husbandry includes (a) a farm tractor with or without a towed farm implement, (b) a self-propelled farm implement, (c) self-propelled equipment designed and used exclusively to carry and apply fertilizer, chemicals, or related products to agricultural soil or crops, (d) an agricultural floater-spreader implement as defined in section 60-303, (e) a fertilizer spreader, nurse tank, or truck permanently mounted with a spreader used for spreading or injecting water, dust, or liquid fertilizers or agricultural chemicals, (f) a truck mounted with a spreader used or manufactured to spread or inject animal manure, and (g) a mixer-feed truck owned and used by a livestock-raising operation designed for and used for the feeding of livestock.

Source: Laws 2016, LB977, § 22; Laws 2018, LB310, § 3.

ARTICLE 13

WEIGHING STATIONS

Section

- 60-1301. Weighing stations; portable scales; purpose; location; effect as evidence of weight determination; reweighing, when required; pickup trucks; exception; Nebraska State Patrol; rules and regulations.
- 60-1302. Eminent domain; procedure.
- 60-1303. Weighing stations; portable scales; operation; carrier enforcement division; rules and regulations.

60-1301 Weighing stations; portable scales; purpose; location; effect as evidence of weight determination; reweighing, when required; pickup trucks; exception; Nebraska State Patrol; rules and regulations.

In order to promote public safety, to preserve and protect the state highways and bridges and prevent immoderate and destructive use of the same, and to enforce the motor vehicle registration laws, the Department of Transportation shall have the responsibility to construct, maintain, provide, and contract with the Nebraska State Patrol for the operation of weighing stations and provide the funding for the same. The Nebraska State Patrol shall operate the weighing stations, including portable scales, for the weighing and inspection of buses, motor trucks, truck-tractors, semitrailers, trailers, and towed vehicles. Each of the weighing stations shall be located near, on, or adjacent to a state highway upon real estate owned by the State of Nebraska or upon real estate acquired for that purpose. Weights determined on such weighing stations and portable scales shall be presumed to be accurate and shall be accepted in court as prima facie evidence of a violation of the laws relating to the size, weight, load, and registration of buses, motor trucks, truck-tractors, semitrailers, trailers, and towed vehicles. The owner or driver of a vehicle found to be in violation of such laws by the use of portable scales shall be advised by the officer operating the portable scale that he or she has the right to demand an immediate reweighing at his or her expense at the nearest permanent state-approved scale capable of weighing the vehicle, and if a variance exists between the weights of the permanent and portable scales, then the weights determined on the permanent scale shall prevail. Sections 60-1301 to 60-1309 shall not apply to pickup trucks with a factory-rated capacity of one ton or less, except as may be provided by rules and regulations of the Nebraska State Patrol, or to recreational vehicles as defined in section 71-4603. The Nebraska State Patrol may adopt and promulgate rules and regulations concerning the weighing of pickup trucks with a factory-rated capacity of one ton or less which tow vehicles. Such rules and regulations shall require trucks towing vehicles to comply with sections 60-1301 to 60-1309 when it is necessary to promote the public safety and preserve and protect the state highways and bridges.

Source: Laws 1949, c. 109, § 1, p. 300; Laws 1951, c. 116, § 1, p. 525; R.R.S.1943, § 39-603.03; Laws 1955, c. 145, § 1, p. 406; Laws 1961, c. 323, § 1, p. 1027; Laws 1963, c. 373, § 5, p. 1197; Laws 1976, LB 823, § 2; Laws 1985, LB 395, § 4; Laws 2002, LB 470, § 1; Laws 2008, LB797, § 2; Laws 2017, LB339, § 233.

60-1302 Eminent domain; procedure.

The Department of Transportation is hereby authorized to take, hold, and acquire by eminent domain so much real estate as may be necessary and

convenient to carry out the provisions of section 60-1301. The procedure to condemn property shall be exercised in the manner set forth in sections 76-704 to 76-724.

Source: Laws 1949, c. 109, § 2, p. 300; Laws 1951, c. 101, § 88, p. 485; R.R.S.1943, § 39-603.04; Laws 1955, c. 145, § 2, p. 406; Laws 2017, LB339, § 234.

60-1303 Weighing stations; portable scales; operation; carrier enforcement division; rules and regulations.

(1) The Nebraska State Patrol is hereby designated as the agency to operate the weighing stations and portable scales and to perform carrier enforcement duties.

(2)(a) On and after July 20, 2002, officers of the Nebraska State Patrol appointed to operate the weighing stations and portable scales and to perform carrier enforcement duties shall be known as the carrier enforcement division. The Superintendent of Law Enforcement and Public Safety shall appoint officers of the Nebraska State Patrol to the carrier enforcement division, including officers as prescribed in sections 81-2001 to 81-2009, and carrier enforcement officers as prescribed in sections 60-1301 to 60-1309.

(b) The employees within the Nebraska State Patrol designated to operate the weighing stations and portable scales and to perform carrier enforcement duties before July 20, 2002, and not authorized to act under subdivisions (1) through (8) of section 81-2005 shall be known as carrier enforcement officers.

(3) All carrier enforcement officers shall be bonded or insured as required by section 11-201. Premiums shall be paid from the money appropriated for the construction, maintenance, and operation of the state weighing stations.

(4) All employees of the Nebraska State Patrol who are carrier enforcement officers and who are not officers of the Nebraska State Patrol with the powers and duties prescribed in sections 81-2001 to 81-2009 shall be members of the State Employees Retirement System of the State of Nebraska. Officers of the Nebraska State Patrol who are carrier enforcement officers on July 20, 2002, who subsequently become officers of the Nebraska State Patrol with the powers and duties prescribed in sections 81-2001 to 81-2009, and who elect to remain members of the State Employees Retirement System of the State of Nebraska shall continue to participate in the State Employees Retirement System of the State of Nebraska. Carrier enforcement officers shall not receive any expense allowance as provided for by section 81-2002.

(5) The Nebraska State Patrol and the Department of Transportation shall have the duty, power, and authority to contract with one another for the staffing and operation of weighing stations and portable scales and the performance of carrier enforcement duties to ensure that there is adequate personnel in the carrier enforcement division to carry out the duties specified in sections 60-1301 to 60-1309. Through June 30, 2005, the number of full-time equivalent positions funded pursuant to such contract shall be limited to eighty-eight officers, including carrier enforcement officers as prescribed in sections 60-1301 to 60-1309 and officers of the Nebraska State Patrol as prescribed in sections 81-2001 to 81-2009 assigned to the carrier enforcement division. Pursuant to such contract, command of the personnel involved in such carrier enforcement operations shall be with the Nebraska State Patrol. The Department of Transportation may use any funds at its disposal for its financing of

such carrier enforcement activity in accordance with such contract as long as such funds are used only to finance those activities directly involved with the duties specified in sections 60-1301 to 60-1309. The Nebraska State Patrol shall account for all appropriations and expenditures related to the staffing and operation of weighing stations and portable scales and the performance of carrier enforcement duties in a budget program that is distinct and separate from budget programs used for non-carrier-enforcement-division-related activities.

(6) The Nebraska State Patrol may adopt, promulgate, and enforce rules and regulations consistent with statutory provisions related to carrier enforcement necessary for (a) the collection of fees, as outlined in sections 60-3,177 and 60-3,179 to 60-3,182 and the International Fuel Tax Agreement Act, (b) the inspection of licenses and permits required under the motor fuel laws, and (c) weighing and inspection of buses, motor trucks, truck-tractors, semitrailers, trailers, and towed vehicles.

Source: Laws 1955, c. 145, § 3, p. 406; Laws 1978, LB 653, § 21; Laws 1985, LB 395, § 5; Laws 1991, LB 627, § 7; Laws 1994, LB 1066, § 47; Laws 1996, LB 1218, § 15; Laws 2002, LB 470, § 2; Laws 2003, LB 408, § 2; Laws 2004, LB 884, § 32; Laws 2004, LB 983, § 2; Laws 2005, LB 274, § 253; Laws 2007, LB322, § 10; Laws 2017, LB339, § 235.

Cross References

International Fuel Tax Agreement Act, see section 66-1401.

ARTICLE 14

MOTOR VEHICLE INDUSTRY LICENSING

Section

- 60-1401. Act, how cited; applicability of amendments.
- 60-1401.02. Definitions, where found.
- 60-1401.28. Motorcycle, defined.
- 60-1401.42. Autocycle, defined.
- 60-1401.43. Stop-sale order, defined.
- 60-1403. Board; investigators; powers and duties; seal; records; authentication; review of action; when.
- 60-1403.01. License required; restriction on issuance; exception.
- 60-1406. Licenses; classes.
- 60-1407. Application for license; contents.
- 60-1409. Nebraska Motor Vehicle Industry Licensing Fund; created; collections; disbursements; investment; audited.
- 60-1410. License; form; display; pocket card.
- 60-1411. Notice of changes; return of pocket card; required when.
- 60-1411.01. Administration and enforcement expenses; how paid; fees; licenses; expiration.
- 60-1411.02. Investigation; denial of application; revocation or suspension of license; probation; administrative fine; grounds.
- 60-1413. Disciplinary actions; procedure.
- 60-1416. Acting without license; penalty.
- 60-1417.02. Auction; registration of seller; exception.
- 60-1420. Franchise; termination; noncontinuance; change community; hearing; when required.
- 60-1424. Franchise; termination; noncontinuance; change community; additional dealership of same line-make; application.
- 60-1425. Franchise; termination; noncontinuance; change community; additional dealership of same line-make; application; hearing; notice.

Section	
60-1427.	Franchise; termination; noncontinuance; change community; additional dealership; application; hearing; burden of proof.
60-1429.	Franchise; termination; noncontinuation; change community; additional dealership; acts not constituting good cause.
60-1436.	Manufacturer or distributor; prohibited acts with respect to new motor vehicle dealers.
60-1437.	Manufacturer or distributor; prohibited acts with respect to new motor vehicles.
60-1438.	Manufacturer or distributor; warranty obligation; prohibited acts.
60-1438.01.	Manufacturer or distributor; restrictions with respect to franchises and consumer care or service facilities.
60-1439.01.	Motor vehicle provided by motor vehicle dealer; motor vehicle insurance policies; primary coverage; secondary coverage.
60-1441.	New motor vehicle dealers; recall repairs; compensation; stop-sale or do-not-drive order; compensation; applicability of section; prohibited acts.

60-1401 Act, how cited; applicability of amendments.

Sections 60-1401 to 60-1441 shall be known and may be cited as the Motor Vehicle Industry Regulation Act.

Any amendments to the act shall apply to franchises subject to the act which are entered into, amended, altered, modified, renewed, or extended after the date of the amendments to the act except as otherwise specifically provided in the act.

All amendments to the act shall apply upon the issuance or renewal of a dealer's or manufacturer's license.

Source: Laws 2010, LB816, § 12; Laws 2011, LB477, § 1; Laws 2013, LB133, § 1; Laws 2015, LB231, § 39; Laws 2018, LB909, § 112.

60-1401.02 Definitions, where found.

For purposes of the Motor Vehicle Industry Regulation Act, the definitions found in sections 60-1401.03 to 60-1401.40, 60-1401.42, and 60-1401.43 apply.

Source: Laws 1971, LB 768, § 2; Laws 1972, LB 1335, § 1; Laws 1974, LB 754, § 1; Laws 1978, LB 248, § 3; Laws 1983, LB 234, § 18; Laws 1984, LB 825, § 12; Laws 1989, LB 280, § 1; Laws 1993, LB 121, § 388; Laws 1993, LB 200, § 1; Laws 1995, LB 564, § 2; Laws 1996, LB 1035, § 1; Laws 1998, LB 903, § 3; Laws 2000, LB 1018, § 1; Laws 2003, LB 498, § 1; Laws 2003, LB 563, § 34; Laws 2005, LB 274, § 256; Laws 2008, LB797, § 3; Laws 2009, LB50, § 1; Laws 2010, LB816, § 14; Laws 2015, LB231, § 40; Laws 2018, LB909, § 113.

60-1401.28 Motorcycle, defined.

Motorcycle means every motor vehicle, except a tractor, having a seat or saddle for use of the rider and designed to travel on not more than three wheels in contact with the ground and for which evidence of title is required as a condition precedent to registration under the laws of this state. Motorcycle includes an autocycle.

Source: Laws 2010, LB816, § 40; Laws 2015, LB231, § 42; Laws 2018, LB909, § 116.

60-1401.42 Autocycle, defined.

Autocycle means any motor vehicle (1) having a seat that does not require the operator to straddle or sit astride it, (2) designed to travel on three wheels in contact with the ground, (3) having antilock brakes, (4) designed to be controlled with a steering wheel and pedals, and (5) in which the operator and passenger ride either side by side or in tandem in a seating area that is equipped with a manufacturer-installed three-point safety belt system for each occupant and that has a seating area that either (a) is completely enclosed and is equipped with manufacturer-installed airbags and a manufacturer-installed roll cage or (b) is not completely enclosed and is equipped with a manufacturer-installed rollover protection system.

Source: Laws 2015, LB231, § 41; Laws 2018, LB909, § 117.

60-1401.43 Stop-sale order, defined.

Stop-sale order means a notification issued by a manufacturer, distributor, factory branch, or distributor branch to its franchised new motor vehicle dealers stating that certain used motor vehicles in inventory shall not be sold or leased, at either retail or wholesale, due to a federal safety recall for a defect or a noncompliance or due to a federal emissions recall.

Source: Laws 2018, LB909, § 114.

60-1403 Board; investigators; powers and duties; seal; records; authentication; review of action; when.

(1) The board may:

(a) Regulate the issuance and revocation of licenses in accordance with and subject to the Motor Vehicle Industry Regulation Act;

(b) Perform all acts and duties provided for in the act necessary to the administration and enforcement of the act; and

(c) Make and enforce rules and regulations relating to the administration of but not inconsistent with the act.

(2) The board shall adopt a seal, which may be either an engraved or ink stamp seal, with the words Nebraska Motor Vehicle Industry Licensing Board and such other devices as the board may desire included on the seal by which it shall authenticate the acts of its office. Copies of all records and papers in the office of the board under the hand and seal of its office shall be received in evidence in all cases equally and with like effect as the original.

(3) Investigators employed by the board may enter upon and inspect the facilities, the required records, and any vehicles, trailers, or motorcycles found in any licensed motor vehicle, motorcycle, or trailer dealer's established place or places of business.

(4) With respect to any action taken by the board, if a controlling number of the members of the board are active participants in the vehicle market in which the action is taken, the chairperson shall review the action taken and, upon completion of such review, modify, alter, approve, or reject the board's action.

Source: Laws 1957, c. 280, § 3, p. 1015; Laws 1967, c. 394, § 3, p. 1229; Laws 1971, LB 768, § 4; Laws 1994, LB 850, § 1; Laws 1995, LB 564, § 3; Laws 2010, LB816, § 55; Laws 2016, LB977, § 26.

60-1403.01 License required; restriction on issuance; exception.

(1) No person shall engage in the business as, serve in the capacity of, or act as a motor vehicle, trailer, or motorcycle dealer, wrecker or salvage dealer, auction dealer, dealer's agent, manufacturer, factory branch, factory representative, distributor, distributor branch, or distributor representative in this state without being licensed by the board under the Motor Vehicle Industry Regulation Act. No dealer's license shall be issued to any minor. No wrecker or salvage dealer's license shall be issued or renewed unless the applicant has a permanent place of business at which the activity requiring licensing is performed and which conforms to all local laws.

(2) A license issued under the act shall authorize the holder thereof to engage in the business or activities permitted by the license subject to the act and the rules and regulations adopted and promulgated by the board under the act.

(3) This section shall not apply to a licensed real estate salesperson or broker who negotiates for sale or sells a trailer for any individual who is the owner of not more than two trailers.

(4) This section shall not restrict a licensed motor vehicle dealer from conducting an auction as provided in subsection (5) of section 60-1417.02.

Source: Laws 1971, LB 768, § 5; Laws 1972, LB 1335, § 2; Laws 1974, LB 754, § 3; Laws 1983, LB 234, § 20; Laws 2000, LB 1018, § 2; Laws 2003, LB 498, § 2; Laws 2010, LB816, § 56; Laws 2013, LB164, § 1; Laws 2017, LB346, § 3.

60-1406 Licenses; classes.

Licenses issued by the board under the Motor Vehicle Industry Regulation Act shall be of the classes set out in this section and shall permit the business activities described in this section:

(1) Motor vehicle dealer's license. This license permits the licensee to engage in the business of selling or exchanging new, used, or new and used motor vehicles, trailers, and manufactured homes at the established place of business designated in the license and another place or places of business located within three hundred feet of the designated place of business and within the city or county described in the original license. This license permits the sale of a trade-in or consignment mobile home greater than forty feet in length and eight feet in width and located at a place other than the dealer's established place of business. This license permits one person, either the licensee, if he or she is the individual owner of the licensed business, or a stockholder, officer, partner, or member of the licensee, to act as a motor vehicle, trailer, and manufactured home salesperson and the name of the authorized person shall appear on the license;

(2) Manufacturer license. This license permits the licensee to engage in the activities of a motor vehicle, motorcycle, or trailer manufacturer or manufacturer's factory branch;

(3) Distributor license. This license permits the licensee to engage in the activities of a motor vehicle, motorcycle, or trailer distributor;

(4) Factory representative license. This license permits the licensee to engage in the activities of a factory branch representative;

(5) Factory branch license. This license permits the licensee to maintain a branch office in this state;

(6) Distributor representative license. This license permits the licensee to engage in the activities of a distributor representative;

(7) Finance company license. This license permits the licensee to engage in the activities of repossession of motor vehicles or trailers and the sale of such motor vehicles or trailers so repossessed;

(8) Wrecker or salvage dealer license. This license permits the licensee to engage in the business of acquiring motor vehicles or trailers for the purpose of dismantling the motor vehicles or trailers and selling or otherwise disposing of the parts and accessories of motor vehicles or trailers;

(9) Supplemental motor vehicle, motorcycle, or trailer dealer's license. This license permits the licensee to engage in the business of selling or exchanging motor vehicles, motorcycles, or trailers of the type designated in his or her dealer's license at a specified place of business which is located more than three hundred feet from any part of the place of business designated in the original motor vehicle, motorcycle, or trailer dealer's license but which is located within the city or county described in such original license;

(10) Motorcycle dealer's license. This license permits the licensee to engage in the business of selling or exchanging new, used, or new and used motorcycles at the established place of business designated in the license and another place or places of business located within three hundred feet of the designated place of business and within the city or county described in the original license. This form of license permits one person named on the license, either the licensee, if he or she is the individual owner of the licensed business, or a stockholder, officer, partner, or member of the licensee, to act as a motorcycle salesperson and the name of the authorized person shall appear on the license;

(11) Motor vehicle auction dealer's license. This license permits the licensee to engage in the business of selling motor vehicles and trailers. This form of license permits one person named on the license, either the licensee, if he or she is the individual owner of the licensed business, or a stockholder, officer, partner, or member of the licensee, to act as a motor vehicle auction dealer's salesperson and the name of the authorized person shall appear on the license;

(12) Trailer dealer's license. This license permits the licensee to engage in the business of selling or exchanging new, used, or new and used trailers and manufactured homes at the established place of business designated in the license and another place or places of business located within three hundred feet of the designated place of business and within the city or county described in the original license. This form of license permits one person named on the license, either the licensee, if he or she is the individual owner of the licensed business, or a stockholder, officer, partner, or member of the licensee, to act as a trailer and manufactured home salesperson and the name of the authorized person shall appear on the license; and

(13) Dealer's agent license. This license permits the licensee to act as the buying agent for one or more licensed motor vehicle dealers, motorcycle dealers, or trailer dealers. The agent shall act in accordance with a written contract and file a copy of the contract with the board. The dealer shall be bound by and liable for the actions of the agent. The dealer's agent shall disclose in writing to each dealer with which the agent contracts as an agent the names of all other dealers contracting with the agent. The agent shall make each purchase on behalf of and in the name of only one dealer and may purchase for dealers only at auctions and only from licensed dealers. The agent

shall not act as a licensed dealer and is not authorized to sell any vehicle pursuant to this license.

Source: Laws 1957, c. 280, § 6, p. 1016; Laws 1961, c. 307, § 8, p. 977; Laws 1963, c. 365, § 4, p. 1170; Laws 1967, c. 394, § 4, p. 1229; Laws 1971, LB 768, § 6; Laws 1972, LB 1335, § 3; Laws 1974, LB 754, § 5; Laws 1978, LB 248, § 5; Laws 1984, LB 825, § 14; Laws 1993, LB 121, § 389; Laws 1995, LB 564, § 4; Laws 1999, LB 632, § 1; Laws 2000, LB 1018, § 4; Laws 2003, LB 498, § 3; Laws 2010, LB816, § 59; Laws 2017, LB346, § 4.

60-1407 Application for license; contents.

Any person desiring to apply for one or more of the types of licenses described in the Motor Vehicle Industry Regulation Act shall submit to the board, in writing, the following required information:

(1) The name and address of the applicant, if the applicant is an individual, his or her social security number, and the name under which he or she intends to conduct business. If the applicant is a partnership or limited liability company, it shall set forth the name and address of each partner or member thereof and the name under which the business is to be conducted. If the applicant is a corporation, it shall set forth the name of the corporation and the name and address of each of its principal officers;

(2) The place or places, including the city or village and the street and street number, if any, where the business is to be conducted;

(3) If the application is for a motor vehicle dealer's license, trailer dealer's license, or motorcycle dealer's license (a) the name or names of the new motor vehicle or vehicles, new trailer or trailers, or new motorcycle or motorcycles which the applicant has been enfranchised to sell or exchange, (b) the name or names and address or addresses of the manufacturer or distributor who has enfranchised the applicant, (c) a current copy of each existing franchise, and (d) a description of the community;

(4) If the application is for any of the above-named classes of dealer's licenses, the name and address of the person who is to act as a motor vehicle, trailer, or motorcycle salesperson under such license if issued;

(5) If the application is for a dealer's agent, the dealers for which the agent will be buying;

(6) A description of the proposed place or places of business proposed to be operated in the event a license is granted together with (a) a statement whether the applicant owns or leases the proposed established place of business and, if the proposed established place of business is leased, the applicant shall file a true and correct copy of the lease agreement, and (b) a description of the facilities for the display of motor vehicles, trailers, and motorcycles;

(7) If the application is for a manufacturer's license, a statement regarding the manufacturer's compliance with the Motor Vehicle Industry Regulation Act; and

(8) A statement that the licensee will comply with and be subject to the act, the rules and regulations adopted and promulgated by the board, and any amendments to the act and the rules and regulations existing on the date of application.

Subdivision (3)(d) of this section shall not be construed to require any licensee who has a franchise on August 31, 2003, to show good cause to be in the same community as any other licensee who has a franchise of the same line-make in the same community on August 31, 2003.

Source: Laws 1957, c. 280, § 7, p. 1017; Laws 1959, c. 286, § 9, p. 1087; Laws 1963, c. 365, § 5, p. 1172; Laws 1967, c. 394, § 5, p. 1231; Laws 1971, LB 768, § 7; Laws 1972, LB 1335, § 4; Laws 1993, LB 121, § 390; Laws 1997, LB 752, § 146; Laws 2003, LB 182, § 1; Laws 2003, LB 498, § 4; Laws 2010, LB816, § 60; Laws 2017, LB346, § 5.

60-1409 Nebraska Motor Vehicle Industry Licensing Fund; created; collections; disbursements; investment; audited.

The Nebraska Motor Vehicle Industry Licensing Fund is created. All fees collected under the Motor Vehicle Industry Regulation Act shall be remitted by the board, as collected, to the State Treasurer for credit to the fund. Such fund shall be appropriated by the Legislature for the operations of the Nebraska Motor Vehicle Industry Licensing Board and shall be paid out from time to time by warrants of the Director of Administrative Services on the State Treasurer for authorized expenditures upon duly itemized vouchers executed as provided by law and approved by the chairperson of the board or the executive secretary, except that transfers from the fund to the General Fund may be made at the direction of the Legislature through June 30, 2018. The expenses of conducting the office must always be kept within the income collected and reported to the State Treasurer by such board. Such office and expense thereof shall not be supported or paid from the General Fund, and all money deposited in the Nebraska Motor Vehicle Industry Licensing Fund shall be expended only for such office and expense thereof and, unless determined by the board, it shall not be required to expend any funds to any person or any other governmental agency.

Any money in the Nebraska Motor Vehicle Industry Licensing 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. The fund shall be audited by the Auditor of Public Accounts at such time as he or she determines necessary.

The State Treasurer shall transfer five hundred thousand dollars from the Nebraska Motor Vehicle Industry Licensing Fund to the General Fund on or before June 30, 2018, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

Source: Laws 1957, c. 280, § 9, p. 1019; Laws 1969, c. 584, § 60, p. 2382; Laws 1972, LB 1335, § 5; Laws 1974, LB 754, § 8; Laws 1978, LB 248, § 6; Laws 1995, LB 7, § 63; Laws 2002, LB 1310, § 6; Laws 2009, First Spec. Sess., LB3, § 36; Laws 2010, LB816, § 65; Laws 2011, LB337, § 3; Laws 2017, LB331, § 29.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

60-1410 License; form; display; pocket card.

The board shall prescribe the form of the license and each license shall have printed thereon the seal of its office. All licenses shall be mailed to each licensee. It shall be the duty of each dealer to conspicuously display his or her own license or licenses in his or her place or places of business.

The board shall prepare and deliver a pocket card for dealer's agents, factory representatives, and distributor representatives. Such card shall certify that the person whose name appears thereon is a licensed dealer's agent, factory representative, or distributor representative, as the case may be.

Source: Laws 1957, c. 280, § 10, p. 1019; Laws 1963, c. 365, § 7, p. 1173; Laws 1971, LB 768, § 9; Laws 1972, LB 1335, § 6; Laws 2003, LB 498, § 5; Laws 2017, LB346, § 6.

60-1411 Notice of changes; return of pocket card; required when.

If a motor vehicle dealer, motorcycle dealer, or trailer dealer changes the address of his or her place of business, changes franchise, adds another franchise, or loses a franchise for sale of new motor vehicles, motorcycles, or trailers, the dealer shall notify the board of such change within ten days prior to such change. Thereupon the license shall be corrected for the unexpired portion of the term at no additional fee except as provided in section 60-1411.01.

If a dealer's agent changes his or her agent's status with any dealer, the agent shall notify the board. If the agent is no longer contracting with any dealer, the dealer's agent license shall lapse and the license and pocket card shall be returned to the board.

Source: Laws 1957, c. 280, § 11, p. 1020; Laws 1963, c. 365, § 8, p. 1174; Laws 1971, LB 768, § 10; Laws 1972, LB 1335, § 7; Laws 2003, LB 498, § 6; Laws 2017, LB346, § 7.

60-1411.01 Administration and enforcement expenses; how paid; fees; licenses; expiration.

(1) To pay the expenses of the administration, operation, maintenance, and enforcement of the Motor Vehicle Industry Regulation Act, the board shall collect with each application for each class of license fees not exceeding the following amounts:

- (a) Motor vehicle dealer's license, four hundred dollars;
- (b) Supplemental motor vehicle dealer's license, twenty dollars;
- (c) Dealer's agent license, one hundred dollars;
- (d) Motor vehicle, motorcycle, or trailer manufacturer's license, six hundred dollars;
- (e) Distributor's license, six hundred dollars;
- (f) Factory representative's license, twenty dollars;
- (g) Distributor representative's license, twenty dollars;
- (h) Finance company's license, four hundred dollars;
- (i) Wrecker or salvage dealer's license, two hundred dollars;
- (j) Factory branch license, two hundred dollars;
- (k) Motorcycle dealer's license, four hundred dollars;
- (l) Motor vehicle auction dealer's license, four hundred dollars; and

(m) Trailer dealer's license, four hundred dollars.

(2) The fees shall be fixed by the board and shall not exceed the amount actually necessary to sustain the administration, operation, maintenance, and enforcement of the act.

(3) Such licenses, if issued, shall expire on December 31 next following the date of the issuance thereof. Any motor vehicle, motorcycle, or trailer dealer changing its location shall not be required to obtain a new license if the new location is within the same city limits or county, all requirements of law are complied with, and a fee of twenty-five dollars is paid, but any change of ownership of any licensee shall require a new application for a license and a new license. Change of name of licensee without change of ownership shall require the licensee to obtain a new license and pay a fee of five dollars. Applications shall be made each year for a new or renewal license. If the applicant is an individual, the application shall include the applicant's social security number.

Source: Laws 1971, LB 768, § 11; Laws 1972, LB 1335, § 8; Laws 1974, LB 754, § 9; Laws 1978, LB 248, § 7; Laws 1984, LB 825, § 16; Laws 1997, LB 752, § 147; Laws 1998, LB 903, § 4; Laws 1999, LB 632, § 3; Laws 2003, LB 498, § 7; Laws 2007, LB681, § 1; Laws 2010, LB816, § 66; Laws 2017, LB346, § 8.

60-1411.02 Investigation; denial of application; revocation or suspension of license; probation; administrative fine; grounds.

The board may, upon its own motion, and shall, upon a sworn complaint in writing of any person, investigate the actions of any person acting, registered, or licensed under the Motor Vehicle Industry Regulation Act as a motor vehicle dealer, trailer dealer, dealer's agent, manufacturer, factory branch, distributor, factory representative, distributor representative, supplemental motor vehicle dealer, wrecker or salvage dealer, finance company, motorcycle dealer, or motor vehicle auction dealer or operating without a registration or license when such registration or license is required. The board may deny any application for a license, may revoke or suspend a license, may place the licensee or registrant on probation, may assess an administrative fine in an amount not to exceed five thousand dollars per violation, or may take any combination of such actions if the violator, applicant, registrant, or licensee including any officer, stockholder, partner, or limited liability company member or any person having any financial interest in the violator, applicant, registrant, or licensee:

(1) Has had any license issued under the act revoked or suspended and, if the license has been suspended, has not complied with the terms of suspension;

(2) Has knowingly purchased, sold, or done business in stolen motor vehicles, motorcycles, or trailers or parts therefor;

(3) Has failed to provide and maintain an established place of business;

(4) Has been found guilty of any felony which has not been pardoned, has been found guilty of any misdemeanor concerning fraud or conversion, or has suffered any judgment in any civil action involving fraud, misrepresentation, or conversion. In the event felony charges are pending against an applicant, the board may refuse to issue a license to the applicant until there has been a final determination of the charges;

(5) Has made a false material statement in his or her application or any data attached to the application or to any investigator or employee of the board;

(6) Has willfully failed to perform any written agreement with any consumer or retail buyer;

(7) Has made a fraudulent sale, transaction, or repossession, or created a fraudulent security interest as defined in the Uniform Commercial Code, in a motor vehicle, trailer, or motorcycle;

(8) Has failed to notify the board of a change in the location of his or her established place or places of business;

(9) Has willfully failed to deliver to a purchaser a proper certificate of ownership for a motor vehicle, trailer, or motorcycle sold by the licensee or to refund the full purchase price if the purchaser cannot legally obtain proper certification of ownership within thirty days;

(10) Has forged the signature of the registered or legal owner on a certificate of title;

(11) Has failed to comply with the act and any orders, rules, or regulations of the board adopted and promulgated under the act;

(12) Has failed to comply with the advertising and selling standards established in section 60-1411.03;

(13) Has failed to comply with any provisions of the Motor Vehicle Certificate of Title Act, the Motor Vehicle Industry Regulation Act, the Motor Vehicle Registration Act, or the rules or regulations adopted and promulgated by the board pursuant to the Motor Vehicle Industry Regulation Act;

(14) Has failed to comply with any provision of Chapter 71, article 46, or with any code, standard, rule, or regulation adopted or made under the authority of or pursuant to Chapter 71, article 46;

(15) Has willfully defrauded any retail buyer or other person in the conduct of the licensee's business;

(16) Has failed to comply with sections 60-190 to 60-196;

(17) Has engaged in any unfair methods of competition or unfair or deceptive acts or practices prohibited under the Uniform Deceptive Trade Practices Act;

(18) Has conspired, as defined in section 28-202, with other persons to process certificates of title in violation of the Motor Vehicle Certificate of Title Act; or

(19) Has violated the Guaranteed Asset Protection Waiver Act.

If the violator, applicant, registrant, or licensee is a publicly held corporation, the board's authority shall extend only to the corporation and its managing officers and directors.

Source: Laws 1971, LB 768, § 12; Laws 1972, LB 1335, § 9; Laws 1974, LB 754, § 10; Laws 1978, LB 248, § 8; Laws 1980, LB 820, § 2; Laws 1984, LB 825, § 17; Laws 1991, LB 47, § 6; Laws 1993, LB 106, § 1; Laws 1993, LB 121, § 391; Laws 1993, LB 370, § 472; Laws 1994, LB 884, § 82; Laws 1995, LB 564, § 5; Laws 1999, LB 632, § 4; Laws 2003, LB 498, § 8; Laws 2005, LB 274, § 257; Laws 2005, LB 276, § 106; Laws 2010, LB571, § 12; Laws 2010, LB816, § 67; Laws 2017, LB346, § 9.

Cross References

Guaranteed Asset Protection Waiver Act, see section 45-1101.

Motor Vehicle Certificate of Title Act, see section 60-101.

Motor Vehicle Registration Act, see section 60-301.

Uniform Deceptive Trade Practices Act, see section 87-306.

60-1413 Disciplinary actions; procedure.

(1) Before the board denies any license or any registration as described in section 60-1417.02, revokes or suspends any such license or registration, places a licensee or registrant on probation, or assesses an administrative fine under section 60-1411.02, the board shall give the applicant, licensee, registrant, or violator a hearing on the matter unless the hearing is waived upon agreement between the applicant, licensee, registrant, or violator and the executive director, with the approval of the board. As a condition of the waiver, the applicant, licensee, registrant, or violator shall accept the fine or other administrative action. If the hearing is not waived, the board shall, at least thirty days prior to the date set for the hearing, notify the party in writing. Such notice in writing shall contain an exact statement of the charges against the party and the date and place of hearing. The party shall have full authority to be heard in person or by counsel before the board in reference to the charges. The written notice may be served by delivery personally to the party or by mailing the notice by registered or certified mail to the last-known business address of the party. If the applicant is a dealer's agent, the board shall also notify the dealer employing or contracting with him or her or whose employ he or she seeks to enter by mailing the notice to the dealer's last-known business address. A stenographic record of all testimony presented at the hearings shall be made and preserved pending final disposition of the complaint.

(2) When the licensee fails to maintain a bond as provided in section 60-1419, an established place of business, or liability insurance as prescribed by subsection (3) of section 60-1407.01, the license shall immediately expire. The executive director shall notify the licensee personally or by mailing the notice by registered or certified mail to the last-known address of the licensee that his or her license is revoked until a bond as required by section 60-1419 or liability insurance as prescribed by subsection (3) of section 60-1407.01 is furnished and approved in which event the license may be reinstated.

(3) Upon notice of the revocation or suspension of the license, the licensee shall immediately surrender the expired license to the executive director or his or her representative. If the license is suspended, the executive director or his or her representative shall return the license to the licensee at the time of the conclusion of the period of suspension. Failure to surrender the license as required in this section shall subject the licensee to the penalties provided in section 60-1416.

Source: Laws 1957, c. 280, § 13, p. 1022; Laws 1963, c. 365, § 10, p. 1177; Laws 1967, c. 394, § 8, p. 1235; Laws 1971, LB 768, § 15; Laws 1978, LB 248, § 9; Laws 1984, LB 825, § 23; Laws 1993, LB 106, § 2; Laws 1995, LB 564, § 7; Laws 1999, LB 632, § 5; Laws 2003, LB 498, § 9; Laws 2017, LB346, § 10.

60-1416 Acting without license; penalty.

Any person acting as a motor vehicle dealer, trailer dealer, wrecker or salvage dealer, motorcycle dealer, auction dealer, dealer's agent, manufacturer, factory representative, distributor, or distributor representative without having

first obtained the license provided in section 60-1406 is guilty of a Class IV felony and is subject to the civil penalty provisions of section 60-1411.02.

Source: Laws 1957, c. 280, § 16, p. 1023; Laws 1963, c. 365, § 12, p. 1178; Laws 1971, LB 768, § 19; Laws 1974, LB 754, § 13; Laws 1977, LB 39, § 95; Laws 1984, LB 825, § 26; Laws 1989, LB 47, § 1; Laws 1995, LB 564, § 8; Laws 2003, LB 498, § 10; Laws 2017, LB346, § 11.

60-1417.02 Auction; registration of seller; exception.

(1) Except as otherwise provided in subsection (5) of this section, any person who engages in or attempts to engage in the selling of motor vehicles or trailers at an auction licensed pursuant to the Motor Vehicle Industry Regulation Act shall register to do so. Registration shall be made on a form provided by the auction dealer and approved by the board. A copy of the registration shall serve as proof of registration for the calendar year. The registration information shall be made available and accessible to the board by the auction dealer within seventy-two hours after the registrant has met the registration requirements and such registration is issued. Such registration information shall be maintained and made accessible to the board by the auction dealer for two years. It shall be the duty of the auction dealer to ensure that no seller participates in any sales activities until and unless registration has been received by the auction dealer or unless such seller is otherwise licensed under the act.

(2) The information required on the registration form shall include, but not be limited to, the following: (a) The legal name of the registrant; (b) the registrant's current mailing address and telephone number; (c) the business name and address of the person with whom the registrant is associated; and (d) whether or not the registrant is bonded.

(3) The registration form shall be signed by the registrant and an authorized representative of the auction and shall be notarized by a notary public.

(4) Any person who is convicted of any violation of the act pursuant to section 60-1411.02 may be denied the right to be registered at all licensed auctions of this state following a hearing before the board as prescribed in section 60-1413.

(5) A licensed motor vehicle dealer may conduct an auction of excess inventory of used vehicles without being licensed as an auction dealer or registered under this section if the auction conforms to the requirements of this subsection. The licensed motor vehicle dealer shall conduct the auction upon the licensed premises of the dealer, shall sell only used motor vehicles, trailers, or manufactured homes, shall sell only to motor vehicle dealers licensed in Nebraska, shall not sell any vehicles on consignment, and shall not sell any vehicles directly to the public.

Source: Laws 1984, LB 825, § 29; Laws 1999, LB 340, § 2; Laws 2010, LB816, § 71; Laws 2013, LB164, § 2.

60-1420 Franchise; termination; noncontinuance; change community; hearing; when required.

(1) Except as provided in subsection (2) or (3) of this section, no franchisor shall terminate or refuse to continue any franchise or change a franchisee's community unless the franchisor has first established, in a hearing held pursuant to section 60-1425, that:

(a) The franchisor has good cause for termination, noncontinuance, or change;

(b) Upon termination or noncontinuance, another franchise in the same line-make will become effective in the same community, without diminution of the franchisee's service formerly provided, or that the community cannot be reasonably expected to support such a dealership; and

(c) Upon termination or noncontinuance, the franchisor is willing and able to comply with section 60-1430.02.

(2) Upon providing good and sufficient evidence to the board, a franchisor may terminate a franchise without such hearing (a) for a particular line-make if the franchisor discontinues that line-make, (b) if the franchisee's license as a motor vehicle, combination motor vehicle and trailer, motorcycle, or trailer dealer is revoked pursuant to the Motor Vehicle Industry Regulation Act, or (c) upon a mutual written agreement of the franchisor and franchisee.

(3) A franchisor may change a franchisee's community without a hearing if the franchisor notifies the franchisee of the proposed change at least thirty days before the change, provides the franchisee an opportunity to object, and enters into an agreement with the franchisee regarding the change of the franchisee's community. If no agreement is reached, the franchisor shall comply with sections 60-1420 to 60-1435 prior to changing the franchisee's community.

Source: Laws 1971, LB 768, § 20; Laws 1987, LB 327, § 1; Laws 1989, LB 280, § 5; Laws 2010, LB816, § 72; Laws 2011, LB477, § 2.

60-1424 Franchise; termination; noncontinuance; change community; additional dealership of same line-make; application.

If a franchisor seeks to terminate or not continue any franchise or change a franchisee's community, or seeks to enter into a franchise establishing an additional motor vehicle, combination motor vehicle and trailer, motorcycle or trailer dealership of the same line-make, the franchisor shall file an application with the board for permission to terminate or not continue the franchise, to change a franchisee's community, or to enter into a franchise for additional representation of the same line-make in that community, except that no application needs to be filed to change a franchisee's community if an agreement has been entered into as provided in subsection (3) of section 60-1420.

Source: Laws 1971, LB 768, § 24; Laws 2011, LB477, § 3.

60-1425 Franchise; termination; noncontinuance; change community; additional dealership of same line-make; application; hearing; notice.

Upon receiving an application under section 60-1424, the board shall enter an order fixing a time, which shall be within ninety days of the date of such order, and place of hearing, and shall send by certified or registered mail, with return receipt requested, a copy of the order to the franchisee whose franchise the franchisor seeks to terminate, not continue, or change. If the application requests permission to change a franchisee's community or establish an additional motor vehicle, combination motor vehicle and trailer, motorcycle, or trailer dealership, a copy of the order shall be sent to all franchisees in the community who are then engaged in the business of offering to sell or selling the same line-make. Copies of orders shall be addressed to the franchisee at the place where the business is conducted. The board may also give notice of

franchisor's application to any other parties whom the board may deem interested persons, such notice to be in the form and substance and given in the manner the board deems appropriate. Any person who can show an interest in the application may become a party to the hearing, whether or not he or she receives notice, but a party not receiving notice shall be limited to participation at the hearing on the question of the public interest in the termination or continuation of the franchise, the change in community, or the establishment of an additional motor vehicle dealership.

Source: Laws 1971, LB 768, § 25; Laws 2011, LB477, § 4.

60-1427 Franchise; termination; noncontinuance; change community; additional dealership; application; hearing; burden of proof.

Upon hearing, the franchisor shall have the burden of proof to establish that under the Motor Vehicle Industry Regulation Act the franchisor should be granted permission to terminate or not continue the franchise, to change the franchisee's community, or to enter into a franchise establishing an additional motor vehicle, combination motor vehicle and trailer, motorcycle, or trailer dealership.

Nothing contained in the act shall be construed to require or authorize any investigation by the board of any matter before the board under the provisions of sections 60-1420 to 60-1435. Upon hearing, the board shall hear the evidence introduced by the parties and shall make its decision solely upon the record so made.

Source: Laws 1971, LB 768, § 27; Laws 1972, LB 1335, § 14; Laws 2010, LB816, § 75; Laws 2011, LB477, § 5.

60-1429 Franchise; termination; noncontinuation; change community; additional dealership; acts not constituting good cause.

Notwithstanding the terms, provisions, or conditions of any agreement or franchise, the following shall not constitute good cause, as used in sections 60-1420 and 60-1422, for the termination or noncontinuation of a franchise, for changing the franchisee's community, or for entering into a franchise for the establishment of an additional dealership in a community for the same line-make:

- (1) The sole fact that the franchisor desires further penetration of the market;
- (2) The change of ownership of the franchisee's dealership or the change of executive management of the franchisee's dealership unless the franchisor, having the burden of proof, proves that such change of ownership or executive management will be substantially detrimental to the distribution of the franchisor's motor vehicles, combination motor vehicles and trailers, motorcycles, or trailer products or to competition in the community. Substantially detrimental may include, but is not limited to, the failure of any proposed transferee or individual to meet the current criteria generally applied by the franchisor in qualifying new motor vehicle dealers; or
- (3) The fact that the franchisee refused to purchase or accept delivery of any motor vehicle, combination motor vehicle and trailer, motorcycle, trailer,

vehicle parts or accessories, or other commodity or service not ordered by the franchisee.

Source: Laws 1971, LB 768, § 29; Laws 1984, LB 825, § 32; Laws 1989, LB 280, § 6; Laws 2011, LB477, § 6.

60-1436 Manufacturer or distributor; prohibited acts with respect to new motor vehicle dealers.

A manufacturer or distributor shall not require or coerce any new motor vehicle dealer in this state to do any of the following:

(1) Order or accept delivery of any new motor vehicle, part or accessory, equipment, or other commodity not required by law which was not voluntarily ordered by the new motor vehicle dealer or retain any part or accessory that the dealer has not sold within twelve months if the part or accessory was not obtained through a specific order initiated by the dealer but was specified for, sold to, and shipped to the dealer pursuant to an automatic ordering system, if the part or accessory is in the condition required for return, and if the part or accessory is returned within thirty days after such twelve-month period. For purposes of this subdivision, automatic ordering system means a computerized system required by the franchisor, manufacturer, or distributor that automatically specifies parts and accessories for sale and shipment to the dealer without specific order thereof initiated by the dealer. The manufacturer, factory branch, distributor, or distributor branch shall not charge a restocking or handling fee for any part or accessory returned under this subdivision. In determining whether parts or accessories in the dealer's inventory were specified and sold under an automated ordering system, the parts and accessories in the dealer's inventory are presumed to be the most recent parts and accessories that were sold to the dealer. This section shall not be construed to prevent the manufacturer or distributor from requiring that new motor vehicle dealers carry a reasonable inventory of models offered for sale by the manufacturer or distributor;

(2) Offer or accept delivery of any new motor vehicle with special features, accessories, or equipment not included in the list price of the new motor vehicle as publicly advertised by the manufacturer or distributor;

(3) Participate monetarily in any advertising campaign or contest or purchase any promotional materials, display devices, or display decorations or materials at the expense of the new motor vehicle dealer;

(4) Join, contribute to, or affiliate with an advertising association;

(5) Enter into any agreement with the manufacturer or distributor or do any other act prejudicial to the new motor vehicle dealer by threatening to terminate a dealer agreement or any contractual agreement or understanding existing between the dealer and the manufacturer or distributor. Notice in good faith to any dealer of the dealer's violation of any terms or provisions of the dealer agreement shall not constitute a violation of the Motor Vehicle Industry Regulation Act;

(6) Change the capital structure of the new motor vehicle dealership or the means by or through which the dealer finances the operation of the dealership, if the dealership at all times meets any reasonable capital standards determined by the manufacturer in accordance with uniformly applied criteria;

(7) Refrain from participation in the management of, investment in, or the acquisition of any other line of new motor vehicle or related products as long as the dealer maintains a reasonable line of credit for each make or line of vehicle, remains in compliance with reasonable facilities requirements, and makes no change in the principal management of the dealer;

(8) Prospectively assent to a release, assignment, novation, waiver, or estoppel which would relieve any person from liability imposed by the act or require any controversy between the new motor vehicle dealer and a manufacturer or distributor to be referred to a person other than the duly constituted courts of the state or the United States, if the referral would be binding upon the new motor vehicle dealer;

(9) Change the location of the new motor vehicle dealership or make any substantial alterations to the dealership premises, if such changes or alterations would be unreasonable, including unreasonably requiring a franchisee to establish, maintain, or continue exclusive sales facilities, sales display space, personnel, service, parts, or administrative facilities for a line-make, unless such exclusivity is reasonable and otherwise justified by reasonable business considerations. In making that determination, the franchisor shall take into consideration the franchisee's compliance with facility requirements as required by the franchise agreement. The franchisor shall have the burden of proving that business considerations justify exclusivity;

(10) Release, convey, or otherwise provide customer information if to do so is unlawful or if the customer objects in writing to doing so, unless the information is necessary for the manufacturer, factory branch, or distributor to meet its obligations to consumers or the new motor vehicle dealer including vehicle recalls or other requirements imposed by state or federal law;

(11) Release to any unaffiliated third party any customer information which has been provided by the new motor vehicle dealer to the manufacturer except as provided in subdivision (10) of this section. A manufacturer, importer, or distributor may not share, sell, or transfer customer information, obtained from a dealer and not otherwise publicly available, to other dealers franchised by the manufacturer while the originating dealer is still a franchised dealer of the manufacturer unless otherwise agreed to by the originating dealer. A manufacturer, importer, or distributor may not use any nonpublic personal information, as that term is used in 16 C.F.R. part 313, which is obtained from a dealer unless such use falls within one or more of the exceptions to opt out requirements under 16 C.F.R. 313.14 or 313.15;

(12) Establish in connection with the sale of a motor vehicle prices at which the dealer must sell products or services not manufactured or distributed by the manufacturer or distributor, whether by agreement, program, incentive provision, or otherwise;

(13) Underutilize the dealer's facilities by requiring or coercing a dealer to exclude or remove from the dealer's facilities operations for selling or servicing a line-make of motor vehicles for which the dealer has a franchise agreement to utilize the facilities, except that this subdivision does not prohibit a manufacturer from requiring an exclusive sales area within the facilities that are in compliance with reasonable requirements for the facilities if the dealer complies with subdivision (9) of this section; or

(14)(a) Enter into any agreement with a manufacturer, factory branch, distributor, distributor branch, or one of its affiliates which gives site control of

the premises of the dealer that does not terminate upon the occurrence of any of the following events:

(i) The right of the franchisor to manufacture or distribute the line-make of vehicles covered by the dealer's franchise is sold, assigned, or otherwise transferred by the manufacturer, factory branch, distributor, or distributor branch to another; or

(ii) The final termination of the dealer's franchise for any reason unless an agreement for site control is voluntarily negotiated separately and apart from the franchise agreement and consideration has been offered by the manufacturer and accepted by the dealer. If a dealer voluntarily terminates and has entered into a separately negotiated site control agreement, the agreement may survive the termination if the agreement clearly states that fact.

(b) For purposes of this subdivision, site control means the contractual right to control in any way the commercial use and development of the premises upon which a dealer's business operations are located, including the right to approve of additional or different uses for the property beyond those of its franchise, the right to lease or sublease the dealer's property, or the right or option to purchase the dealer's property.

Any action prohibited for a manufacturer or distributor under the Motor Vehicle Industry Regulation Act is also prohibited for a subsidiary which is wholly owned or controlled by contract by a manufacturer or distributor or in which a manufacturer or distributor has more than a ten percent ownership interest, including a financing division.

Source: Laws 1984, LB 825, § 19; Laws 1999, LB 632, § 7; Laws 2010, LB816, § 81; Laws 2011, LB477, § 7.

60-1437 Manufacturer or distributor; prohibited acts with respect to new motor vehicles.

In addition to the restrictions imposed by section 60-1436, a manufacturer or distributor shall not:

(1) Fail to deliver new motor vehicles or new motor vehicle parts or accessories within a reasonable time and in reasonable quantities relative to the new motor vehicle dealer's market area and facilities, unless the failure is caused by acts or occurrences beyond the control of the manufacturer or distributor or unless the failure results from an order by the new motor vehicle dealer in excess of quantities reasonably and fairly allocated by the manufacturer or distributor;

(2) Refuse to disclose to a new motor vehicle dealer the method and manner of distribution of new motor vehicles by the manufacturer or distributor or, if a line-make is allocated among new motor vehicle dealers, refuse to disclose to any new motor vehicle dealer that handles the same line-make the system of allocation, including, but not limited to, a complete breakdown by model, and a concise listing of dealerships with an explanation of the derivation of the allocation system, including its mathematical formula in a clear and comprehensible form;

(3) Refuse to disclose to a new motor vehicle dealer the total number of new motor vehicles of a given model which the manufacturer or distributor has sold during the current model year within the dealer's marketing district, zone, or region, whichever geographical area is the smallest;

(4) Increase the price of any new motor vehicle which the new motor vehicle dealer had ordered and delivered to the same retail consumer for whom the vehicle was ordered, if the order was made prior to the dealer's receipt of the written official price increase notification. A sales contract signed by a private retail consumer and binding on the dealer shall constitute evidence of such order. In the event of manufacturer or distributor price reduction or cash rebate, the amount of any reduction or rebate received by a dealer shall be passed on to the private retail consumer by the dealer. Any price reduction in excess of five dollars shall apply to all vehicles in the dealer's inventory which were subject to the price reduction. A price difference applicable to a new model or series of motor vehicles at the time of the introduction of the new model or series shall not be considered a price increase or price decrease. This subdivision shall not apply to price changes caused by the following:

(a) The addition to a motor vehicle of required or optional equipment pursuant to state or federal law;

(b) In the case of foreign-made vehicles or components, revaluation of the United States dollar; or

(c) Any increase in transportation charges due to an increase in rates charged by a common carrier or other transporter;

(5) Fail or refuse to sell or offer to sell to all franchised new motor vehicle dealers in a line-make every new motor vehicle sold or offered for sale to any franchised new motor vehicle dealer of the same line-make. However, the failure to deliver any such new motor vehicle shall not be considered a violation of this section if the failure is due to a lack of manufacturing capacity or to a strike or labor difficulty, a shortage of materials, a freight embargo, or any other cause over which the franchisor has no control. A manufacturer or distributor shall not require that any of its new motor vehicle dealers located in this state pay any extra fee, purchase unreasonable or unnecessary quantities of advertising displays or other materials, or remodel, renovate, or recondition the new motor vehicle dealer's existing facilities in order to receive any particular model or series of vehicles manufactured or distributed by the manufacturer for which the dealers have a valid franchise. Notwithstanding the provisions of this subdivision, nothing contained in this section shall be deemed to prohibit or prevent a manufacturer from requiring that its franchised dealers located in this state purchase special tools or equipment, stock reasonable quantities of certain parts, or participate in training programs which are reasonably necessary for those dealers to sell or service any model or series of new motor vehicles. This subdivision shall not apply to manufacturers of recreational vehicles;

(6) Fail to offer dealers of a specific line-make a new franchise agreement containing substantially similar terms and conditions for sales of the line-make if the ownership of the manufacturer or distributor changes or there is a change in the plan or system of distribution;

(7) Take an adverse action against a dealer because the dealer sells or leases a motor vehicle that is later exported to a location outside the United States. A franchise provision that allows a manufacturer or distributor to take adverse action against a dealer because the dealer sells or leases a motor vehicle that is later exported to a location outside the United States is enforceable only if, at the time of the original sale or lease, the dealer knew or reasonably should have known that the motor vehicle would be exported to a location outside the

United States. A dealer is presumed to have no knowledge that a motor vehicle the dealer sells or leases will be exported to a location outside the United States if, under the laws of a state of the United States (a) the motor vehicle is titled, (b) the motor vehicle is registered, and (c) applicable state and local taxes are paid for the motor vehicle. Such presumption may be rebutted by direct, clear, and convincing evidence that the dealer knew or reasonably should have known at the time of the original sale or lease that the motor vehicle would be exported to a location outside the United States. Except as otherwise permitted by subdivision (7) of this section, a franchise provision that allows a manufacturer or distributor to take adverse action against a dealer because the dealer sells or leases a motor vehicle that is later exported to a location outside the United States is void and unenforceable;

(8) Discriminate against a dealer holding a franchise for a line-make of the manufacturer or distributor in favor of other dealers of the same line-make in this state by:

(a) Selling or offering to sell a new motor vehicle to a dealer at a lower actual price, including the price for vehicle transportation, than the actual price at which the same model similarly equipped is offered to or is available to another dealer in this state during a similar time period; or

(b) Using a promotional program or device or an incentive, payment, or other benefit, whether paid at the time of the sale of the new motor vehicle to the dealer or later, that results in the sale or offer to sell a new motor vehicle to a dealer at a lower price, including the price for vehicle transportation, than the price at which the same model similarly equipped is offered or is available to another dealer in this state during a similar time period. This subdivision shall not prohibit a promotional or incentive program that is functionally available to competing dealers of the same line-make in this state on substantially comparable terms;

(9) Refuse to pay a new motor vehicle dealer for sales incentives, service incentives, rebates, or other forms of incentive compensation within thirty days after their approval by the manufacturer or distributor. The manufacturer or distributor shall either approve or disapprove each claim by the dealer within thirty days after receipt of the claim in a proper form generally used by the manufacturer or distributor. Any claims not specifically disapproved in writing within thirty days after receipt shall be considered to be approved;

(10) Perform an audit to confirm payment of a sales incentive, service incentive, rebate, or other form of incentive compensation more than twelve months after the date of payment of the claim or twelve months after the end of the incentive program by the new motor vehicle dealer unless the claim is fraudulent;

(11) Reduce the amount to be paid to a new motor vehicle dealer for a sales incentive, service incentive, rebate, or other form of incentive compensation or charge back a new motor vehicle dealer subsequent to the payment of the claim for a sales incentive, service incentive, rebate, or other form of incentive compensation unless the manufacturer or distributor shows that the claim lacks required documentation or is alleged to be false, fraudulent, or based on a misrepresentation.

A manufacturer or distributor may not deny a claim based solely on a new motor vehicle dealer's incidental failure to comply with a specific claim processing requirement, such as a clerical error, that does not put into question

the legitimacy of the claim. No reduction in the amount to be paid to the new motor vehicle dealer and no charge back subsequent to the payment of a claim may be made until the new motor vehicle dealer has had notice and an opportunity to correct any deficiency and resubmit the claim and to participate in all franchisor internal appeal processes as well as all available legal processes. If a charge back is the subject of adjudication, internal appeal, mediation, or arbitration, no charge back shall be made until, in the case of an adjudication or legal action, a final order has been issued.

A claim for reimbursement by the manufacturer or distributor of sums due following an audit must be presented to the dealer within ninety days after completion of the audit of the item subject to the claim. A manufacturer or distributor may not setoff or otherwise take control over funds owned or under the control of the new motor vehicle dealer or which are in an account designated for the new motor vehicle dealer when such action is based upon the findings of an audit or other claim with respect thereto until a final decision is issued with respect to any challenge or appeal by either party of any such audit or claim.

Any ambiguity or inconsistency in submission guidelines shall be construed against the manufacturer or distributor;

(12) Make any express or implied statement or representation directly or indirectly that the dealer is under any obligation whatsoever to offer to sell or sell any extended service contract, extended maintenance plan, gap policy, gap waiver, or other aftermarket product or service offered, sold, backed by, or sponsored by the manufacturer or distributor or to sell, assign, or transfer any of the dealer's retail sales contracts or leases in this state on motor vehicles manufactured or sold by the manufacturer or distributor to a finance company or class of finance companies, leasing company or class of leasing companies, or other specified person, because of any relationship or affiliation between the manufacturer or distributor and the finance company or companies, leasing company or leasing companies, or the specified person or persons; or

(13) Prohibit a franchisee from acquiring a line-make of new motor vehicles solely because the franchisee owns or operates a franchise of the same line-make in a contiguous market.

Any such statements, threats, promises, acts, contracts, or offers of contracts, when their effect may be to lessen or eliminate competition or tend to create a monopoly, are declared unfair trade practices and unfair methods of competition and are prohibited.

Source: Laws 1984, LB 825, § 20; Laws 1999, LB 632, § 8; Laws 2010, LB816, § 82; Laws 2011, LB477, § 8; Laws 2012, LB896, § 1.

60-1438 Manufacturer or distributor; warranty obligation; prohibited acts.

(1) Each new motor vehicle manufacturer or distributor shall specify in writing to each of its new motor vehicle dealers licensed in this state the dealer's obligations for preparation, delivery, and warranty service on its products. The manufacturer or distributor shall compensate the new motor vehicle dealer for warranty service which such manufacturer or distributor requires the dealer to provide, including warranty and recall obligations related to repairing and servicing motor vehicles and all parts and components included in or manufactured for installation in the motor vehicles of the manufacturer or distributor. The manufacturer or distributor shall provide the

new motor vehicle dealer with the schedule of compensation to be paid to the dealer for parts, work, and service and the time allowance for the performance of the work and service.

(2)(a) The schedule of compensation shall include reasonable compensation for diagnostic work, as well as repair service, parts, and labor. Time allowances for the diagnosis and performance of warranty work and service shall be reasonable and adequate for the work to be performed. In the determination of what constitutes reasonable compensation under this section, the principal factors to be given consideration shall be the prevailing wage rates being paid by dealers in the community in which the dealer is doing business, and in no event shall the compensation of the dealer for warranty parts and labor be less than the rates charged by the dealer for like parts and service to retail or fleet customers, as long as such rates are reasonable. In determining prevailing wage rates, the rate of compensation for labor for that portion of repair orders for routine maintenance, such as tire repair or replacement and oil and fluid changes, shall not be used.

(b) For purposes of this section, compensation for parts may be determined by calculating the price paid by the dealer for parts, including all shipping and other charges, multiplied by the sum of one and the dealer's average percentage markup over the price paid by the dealer for parts purchased by the dealer from the manufacturer and sold at retail. The dealer may establish average percentage markup by submitting to the manufacturer one hundred sequential customer-paid service repair orders or ninety days of customer-paid service repair orders, whichever is less, covering repairs made no more than one hundred eighty days before the submission and declaring what the average percentage markup is. Within thirty days after receipt of the repair orders, the manufacturer may audit the submitted repair orders and approve or deny approval of the average percentage markup based on the audit. The average percentage markup shall go into effect forty-five days after the approval based on that audit. If the manufacturer denies approval of the average percentage markup declared by the dealer, the dealer may file a complaint with the board. The manufacturer shall have the burden to establish that the denial was reasonable. If the board determines that the denial was not reasonable, the denial shall be deemed a violation of the Motor Vehicle Industry Regulation Act subject to the enforcement procedures of the act. Only retail sales not involving warranty repairs or parts supplied for routine vehicle maintenance shall be considered in calculating average percentage markup. No manufacturer shall require a dealer to establish average percentage markup by a methodology, or by requiring information, that is unduly burdensome or time consuming to provide, including, but not limited to, part-by-part or transaction-by-transaction calculations. A dealer shall not request a change in the average percentage markup more than twice in one calendar year.

(3) A manufacturer or distributor shall not do any of the following:

- (a) Fail to perform any warranty obligation;
- (b) Fail to include in written notices of factory recalls to new motor vehicle owners and dealers the expected date by which necessary parts and equipment will be available to dealers for the correction of the defects; or
- (c) Fail to compensate any of the new motor vehicle dealers licensed in this state for repairs effected by the recall.

(4) A dealer's claim for warranty compensation may be denied only if:

- (a) The dealer's claim is based on a nonwarranty repair;
 - (b) The dealer lacks documentation for the claim;
 - (c) The dealer fails to comply with specific substantive terms and conditions of the franchisor's warranty compensation program; or
 - (d) The manufacturer has a bona fide belief based on competent evidence that the dealer's claim is intentionally false, fraudulent, or misrepresented.
- (5) All claims made by a new motor vehicle dealer pursuant to this section for labor and parts shall be made within six months after completing the work and shall be paid within thirty days after their approval. All claims shall be either approved or disapproved by the manufacturer or distributor within thirty days after their receipt on a proper form generally used by the manufacturer or distributor and containing the usually required information therein. Any claim not specifically disapproved in writing within thirty days after the receipt of the form shall be considered to be approved and payment shall be made within thirty days. The manufacturer has the right to audit the claims for one year after payment, except that if the manufacturer has reasonable cause to believe that a claim submitted by a dealer is intentionally false or fraudulent, the manufacturer has the right to audit the claims for four years after payment. For purposes of this subsection, reasonable cause means a bona fide belief based upon evidence that the issues of fact are such that a person of ordinary caution, prudence, and judgment could believe that a claim was intentionally false or fraudulent. As a result of an audit authorized under this subsection, the manufacturer has the right to charge back to the new motor vehicle dealer the amount of any previously paid claim after the new motor vehicle dealer has had notice and an opportunity to participate in all franchisor internal appeal processes as well as all available legal processes. The requirement to approve and pay the claim within thirty days after receipt of the claim does not preclude chargebacks for any fraudulent claim previously paid. A manufacturer may not deny a claim based solely on a dealer's incidental failure to comply with a specific claim processing requirement, such as a clerical error that does not put into question the legitimacy of the claim. If a claim is rejected for a clerical error, the dealer may resubmit a corrected claim in a timely manner.
- (6) The warranty obligations set forth in this section shall also apply to any manufacturer of a new motor vehicle transmission, engine, or rear axle that separately warrants its components to customers.
 - (7) This section does not apply to recreational vehicles.

Source: Laws 1984, LB 825, § 21; Laws 1991, LB 393, § 1; Laws 2003, LB 371, § 1; Laws 2010, LB816, § 83; Laws 2011, LB477, § 9; Laws 2013, LB165, § 1.

60-1438.01 Manufacturer or distributor; restrictions with respect to franchises and consumer care or service facilities.

(1) For purposes of this section, manufacturer or distributor includes (a) a factory representative or a distributor representative or (b) a person who is affiliated with a manufacturer or distributor or who, directly or indirectly through an intermediary, is controlled by, or is under common control with, the manufacturer or distributor. A person is controlled by a manufacturer or distributor if the manufacturer or distributor has the authority directly or indirectly, by law or by agreement of the parties, to direct or influence the

management and policies of the person. A franchise agreement with a Nebraska-licensed dealer which conforms to and is subject to the Motor Vehicle Industry Regulation Act is not control for purposes of this section.

(2) Except as provided in this section, a manufacturer or distributor shall not directly or indirectly:

(a) Own an interest in a franchise, franchisee, or consumer care or service facility, except that a manufacturer or distributor may hold stock in a publicly held franchise, franchisee, or consumer care or service facility so long as the manufacturer or distributor does not by virtue of holding such stock operate or control the franchise, franchisee, or consumer care or service facility;

(b) Operate or control a franchise, franchisee, or consumer care or service facility; or

(c) Act in the capacity of a franchisee or motor vehicle dealer.

(3) A manufacturer or distributor may own an interest in a franchisee or otherwise control a franchise for a period not to exceed twelve months after the date the manufacturer or distributor acquires the franchise if:

(a) The person from whom the manufacturer or distributor acquired the franchise was a franchisee; and

(b) The franchise is for sale by the manufacturer or distributor.

(4) For purposes of broadening the diversity of its franchisees and enhancing opportunities for qualified persons who lack the resources to purchase a franchise outright, but for no other purpose, a manufacturer or distributor may temporarily own an interest in a franchise if the manufacturer's or distributor's participation in the franchise is in a bona fide relationship with a franchisee and the franchisee:

(a) Has made a significant investment in the franchise, which investment is subject to loss;

(b) Has an ownership interest in the franchise; and

(c) Operates the franchise under a plan to acquire full ownership of the franchise within a reasonable time and under reasonable terms and conditions.

(5) On a showing of good cause by a manufacturer or distributor, the board may extend the time limit set forth in subsection (3) of this section. An extension may not exceed twelve months. An application for an extension after the first extension is granted is subject to protest by a franchisee of the same line-make whose franchise is located in the same community as the franchise owned or controlled by the manufacturer or distributor.

(6) The prohibition in subdivision (2)(b) of this section shall not apply to any manufacturer of manufactured housing, recreational vehicles, or trailers.

(7) The prohibitions set forth in subsection (2) of this section shall not apply to a manufacturer that:

(a) Does not own or operate more than two such dealers or dealership locations in this state;

(b) Owned, operated, or controlled a warranty repair or service facility in this state as of January 1, 2016;

(c) Manufactures engines for installation in a motor-driven vehicle with a gross vehicle weight rating of more than sixteen thousand pounds for which motor-driven vehicle evidence of title is required as a condition precedent to

registration under the laws of this state, if the manufacturer is not otherwise a manufacturer of motor vehicles; and

(d) Provides to dealers on substantially equal terms access to all support for completing repairs, including, but not limited to, parts and assemblies, training and technical service bulletins, and other information concerning repairs that the manufacturer provides to facilities owned, operated, or controlled by the manufacturer.

Source: Laws 2000, LB 1018, § 3; Laws 2010, LB816, § 84; Laws 2011, LB477, § 10; Laws 2016, LB977, § 27.

60-1439.01 Motor vehicle provided by motor vehicle dealer; motor vehicle insurance policies; primary coverage; secondary coverage.

During the time when an insured person is operating a motor vehicle provided by a motor vehicle dealer for use while the insured person's motor vehicle is being serviced, repaired, or inspected by the motor vehicle dealer, when both the insured person's and motor vehicle dealer's motor vehicle insurance policies have a mutually repugnant clause regarding primary coverage, the insured person's motor vehicle insurance policy shall provide primary coverage for the motor vehicle and the motor vehicle insurance policy of the motor vehicle dealer shall provide secondary coverage until the motor vehicle is returned to the motor vehicle dealer. This section only applies to the loan of a motor vehicle by a motor vehicle dealer which occurs without financial remuneration in the form of a fee or lease charge paid directly by the insured person operating the motor vehicle. Payments made by any third party to a motor vehicle dealer, or similar reimbursements, shall not be considered payments directly from the insured person operating the motor vehicle.

Source: Laws 2013, LB133, § 2.

60-1441 New motor vehicle dealers; recall repairs; compensation; stop-sale or do-not-drive order; compensation; applicability of section; prohibited acts.

(1) A manufacturer, distributor, factory branch, or distributor branch shall compensate its new motor vehicle dealers for all labor and parts required by the manufacturer, distributor, factory branch, or distributor branch to perform recall repairs on used motor vehicles. Compensation for recall repairs shall be reasonable. If parts or a remedy are not reasonably available to perform a recall service or repair on a used motor vehicle held for sale by a new motor vehicle dealer authorized to sell and service new motor vehicles of the same line-make within thirty days after the initial notice of recall, and a stop-sale or do-not-drive order has been issued on the motor vehicle, the manufacturer, distributor, factory branch, or distributor branch shall compensate the new motor vehicle dealer at a prorated rate of at least one percent of the value of the used motor vehicle per month beginning on the date that is thirty days after the date on which the stop-sale or do-not-drive order was provided to the new motor vehicle dealer until the earlier of either of the following:

- (a) The date the recall or remedy parts are made available; or
- (b) The date the new motor vehicle dealer sells, trades, or otherwise disposes of the affected used motor vehicle.

(2) The value of a used motor vehicle shall be the average trade-in value for used motor vehicles as indicated in an independent third-party guide for the year, make, and model of the recalled used motor vehicle.

(3) This section applies only to used motor vehicles subject to safety or emissions recalls pursuant to and recalled in accordance with federal law and regulations adopted thereunder and if a stop-sale or do-not-drive order has been issued and repair parts or remedy remain unavailable for thirty days or longer.

(4) This section applies only to new motor vehicle dealers holding an affected used motor vehicle for sale:

(a)(i) In inventory at the time a stop-sale or do-not-drive order was issued; or

(ii) Which was taken in the used motor vehicle inventory of the new motor vehicle dealer as a consumer trade-in incident to the purchase of a new motor vehicle from the new motor vehicle dealer after the stop-sale or do-not-drive order was issued; and

(b) That is of a line-make which the new motor vehicle dealer is franchised to sell or on which the new motor vehicle dealer is authorized to perform recall repairs.

(5) Subject to the audit provisions of subsection (5) of section 60-1438, it shall be a violation of this section for a manufacturer, distributor, factory branch, or distributor branch to reduce the amount of compensation otherwise owed to an individual new motor vehicle dealer, whether through a chargeback, removal of the individual new motor vehicle dealer from an incentive program, or reduction in amount owed under an incentive program solely because the new motor vehicle dealer has submitted a claim for reimbursement under this section. This subsection does not apply to an action by a manufacturer, distributor, factory branch, or distributor branch that is applied uniformly among all new motor vehicle dealers of the same line-make in the state.

(6) Any reimbursement claim made by a new motor vehicle dealer pursuant to this section for recall remedies or repairs, or for compensation where no part or repair is reasonably available and the used motor vehicle is subject to a stop-sale or do-not-drive order, shall be subject to the same limitations and requirements as a warranty reimbursement claim made under section 60-1438. In the alternative, a manufacturer, distributor, factory branch, or distributor branch may compensate its franchised new motor vehicle dealers under a national recall compensation program if the compensation under the program is equal to or greater than that provided under subsection (1) of this section; or the new motor vehicle dealer and the manufacturer, distributor, factory branch, or distributor branch otherwise agree.

(7) A manufacturer, distributor, factory branch, or distributor branch may direct the manner and method in which a new motor vehicle dealer demonstrates the inventory status of an affected used motor vehicle in order to determine eligibility for compensation under this section so long as the manner and method are not unduly burdensome and do not require information that is unduly burdensome to provide.

(8) Nothing in this section shall require a manufacturer, distributor, factory branch, or distributor branch to provide total compensation to a new motor vehicle dealer which would exceed the total average trade-in value of the

affected used motor vehicle as originally determined under subsection (2) of this section.

(9) Any remedy provided to a new motor vehicle dealer under this section is exclusive and shall not be combined with any other state or federal recall compensation remedy.

Source: Laws 2018, LB909, § 115.

ARTICLE 15

DEPARTMENT OF MOTOR VEHICLES

Section

- 60-1505. Vehicle Title and Registration System Replacement and Maintenance Cash Fund; created; use; investment.
- 60-1506. Registration and titling; records; copy or extract provided; electronic access; fee.
- 60-1507. Electronic dealer services system; licensed dealer; participation; service fee; powers of director.
- 60-1508. Vehicle Title and Registration System; legislative intent; collection, storage, and transfer of data on vehicle titles and registrations; department; duties; implementation dates.
- 60-1513. Department of Motor Vehicles Cash Fund; created; use; investment.
- 60-1515. Department of Motor Vehicles Cash Fund; use; legislative intent.

60-1505 Vehicle Title and Registration System Replacement and Maintenance Cash Fund; created; use; investment.

The Vehicle Title and Registration System Replacement and Maintenance Cash Fund is hereby created. The fund shall be administered by the Department of Motor Vehicles. Revenue credited to the fund shall include fees collected by the department from participation in any multistate electronic data security program, except as otherwise specifically provided by law, and funds transferred as provided in section 60-3,186. The fund shall be used by the department to pay for costs associated with the acquisition, implementation, maintenance, support, upgrades, and replacement of the Vehicle Title and Registration System. 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.

Source: Laws 2014, LB906, § 2; Laws 2016, LB977, § 28; Laws 2017, LB263, § 75.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

60-1506 Registration and titling; records; copy or extract provided; electronic access; fee.

(1) The Department of Motor Vehicles shall keep a record of each motor vehicle, trailer, motorboat, all-terrain vehicle, utility-type vehicle, snowmobile, and minibike registered or titled in this state, alphabetically by name of the owner, with cross reference in each instance to the registration number assigned to such motor vehicle, trailer, motorboat, all-terrain vehicle, utility-type vehicle, snowmobile, and minibike. The record may be destroyed by any public officer having custody of it after three years from the date of its issuance.

(2) The department shall issue a copy of the record of a registered or titled motor vehicle, trailer, motorboat, all-terrain vehicle, utility-type vehicle, snowmobile, or minibike to any person after receiving from the person the name on the registration or certificate of title, the license plate number, the vehicle identification or other type of identification number, or the title number of a motor vehicle, trailer, motorboat, all-terrain vehicle, utility-type vehicle, snowmobile, or minibike, if the person provides to the department verification of identity and purpose pursuant to section 60-2906 or 60-2907. A fee of one dollar shall be charged for the copy. An extract of the entire file of motor vehicles, trailers, motorboats, all-terrain vehicles, utility-type vehicles, snowmobiles, and minibikes registered or titled in the state or updates to the entire file may be provided to a person upon payment of a fee of eighteen dollars per thousand records. Any fee received by the department pursuant to this subsection shall be deposited into the Department of Motor Vehicles Cash Fund.

(3) The record of each motor vehicle, trailer, motorboat, all-terrain vehicle, utility-type vehicle, snowmobile, or minibike registration or title maintained by the department pursuant to this section may be made available electronically through the portal established under section 84-1204 so long as the Uniform Motor Vehicle Records Disclosure Act is not violated. There shall be a fee of one dollar per record for individual records and for data-to-data requests for multiple motor vehicle, trailer, motorboat, all-terrain vehicle, utility-type vehicle, snowmobile, or minibike title and registration records. For bulk record requests of multiple motor vehicle, trailer, motorboat, all-terrain vehicle, utility-type vehicle, snowmobile, or minibike titles and registrations selected on the basis of criteria of the individual making the request, there shall be a fee of fifty dollars for every request under two thousand records, and a fee of eighteen dollars per one thousand records for any number of records over two thousand, plus a reasonable programming fee not to exceed five hundred twenty dollars. All fees collected pursuant to this subsection for electronic access to records through the portal shall be deposited in the Records Management Cash Fund and shall be distributed as provided in any agreements between the State Records Board and the department.

Source: Laws 2005, LB 274, § 161; Laws 2008, LB756, § 13; Laws 2012, LB719, § 4; R.S.Supp.,2016, § 60-3,161; Laws 2017, LB263, § 76.

Cross References

Uniform Motor Vehicle Records Disclosure Act, see section 60-2901.

60-1507 Electronic dealer services system; licensed dealer; participation; service fee; powers of director.

(1) The Department of Motor Vehicles shall develop an electronic dealer services system for implementation as provided in subsection (7) of this section. The Director of Motor Vehicles shall approve a licensed dealer as defined in sections 60-119.02 and 60-335.01 for participation in the system. A licensed dealer may voluntarily participate in the system and provide titling and registration services. A licensed dealer who chooses to participate may collect from a purchaser of a vehicle as defined in section 60-136, who also chooses to participate, all appropriate certificate of title fees, notation of lien fees, registration fees, motor vehicle taxes and fees, and sales taxes. All such fees and taxes collected shall be remitted to the appropriate county treasurer or the depart-

ment as provided in the Motor Vehicle Certificate of Title Act, the Motor Vehicle Registration Act, and the Nebraska Revenue Act of 1967.

(2) In addition to the fees and taxes described in subsection (1) of this section, a participating licensed dealer may charge and collect a service fee not to exceed fifty dollars from a purchaser electing to use the electronic dealer services system.

(3) The department shall provide an approved participating licensed dealer with access to the electronic dealer services system by a method determined by the director. An approved licensed dealer who chooses to participate shall use the system to electronically submit title, registration, and lien information to the Vehicle Title and Registration System maintained by the department. License plates, registration certificates, and certificates of title shall be delivered as provided under the Motor Vehicle Certificate of Title Act and the Motor Vehicle Registration Act.

(4) The director may remove a licensed dealer's authority to participate in the electronic dealer services system for any violation of the Motor Vehicle Certificate of Title Act, the Motor Vehicle Industry Regulation Act, the Motor Vehicle Registration Act, or the Nebraska Revenue Act of 1967, for failure to timely remit fees and taxes collected under this section, or for any other conduct the director deems to have or will have an adverse effect on the public or any governmental entity.

(5) An approved licensed dealer participating in the electronic dealer services system shall not release, disclose, use, or share personal or sensitive information contained in the records accessible through the electronic dealer services system as prohibited under the Uniform Motor Vehicle Records Disclosure Act, except that a licensed dealer may release, disclose, use, or share such personal or sensitive information when necessary to fulfill the requirements of the electronic dealer services system as approved by the department. An approved licensed dealer participating in the electronic dealer services system shall be responsible for ensuring that such licensed dealer's employees and agents comply with the Uniform Motor Vehicle Records Disclosure Act.

(6) The department may adopt and promulgate rules and regulations governing the eligibility for approval and removal of licensed dealers to participate in the electronic dealer services system, the procedures and requirements necessary to implement and maintain such system, and the procedures and requirements for approved licensed dealers participating in such system.

(7) The department shall implement the electronic dealer services system on a date to be determined by the director but not later than January 1, 2021.

Source: Laws 2017, LB263, § 77; Laws 2018, LB909, § 119.

Cross References

Motor Vehicle Certificate of Title Act, see section 60-101.

Motor Vehicle Industry Regulation Act, see section 60-1401.

Motor Vehicle Registration Act, see section 60-301.

Nebraska Revenue Act of 1967, see section 77-2701.

Uniform Motor Vehicle Records Disclosure Act, see section 60-2901.

60-1508 Vehicle Title and Registration System; legislative intent; collection, storage, and transfer of data on vehicle titles and registrations; department; duties; implementation dates.

(1) It is the intent of the Legislature that the Department of Motor Vehicles maintain and further improve the Vehicle Title and Registration System which is the statewide system for the collection, storage, and transfer of data on vehicle titles and registrations as described in section 60-1505.

(2) The department shall provide for technological updates to electronic certificates of title. The Director of Motor Vehicles shall designate an implementation date for the updates which date is on or before January 1, 2021.

(3) The department shall provide for an electronic reporting system for salvage and junked motorboats and vehicles. The director shall designate an implementation date for the system which date is on or before January 1, 2021.

(4) The department shall provide for the use of identification numbers for trailers which do not have a certificate of title. The director shall designate an implementation date for such use which date is on or before January 1, 2021.

Source: Laws 2018, LB909, § 118.

60-1513 Department of Motor Vehicles Cash Fund; created; use; investment.

The Department of Motor Vehicles Cash Fund is hereby created. The fund shall be administered by the Director of Motor Vehicles. The fund shall be used by the Department of Motor Vehicles to carry out its duties as deemed necessary by the Director of Motor Vehicles, except that transfers from the fund to the General Fund or the Vehicle Title and Registration System Replacement and Maintenance Cash Fund may be made at the direction of the Legislature. Any money in the Department of Motor Vehicles Cash 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.

The State Treasurer shall transfer five million three hundred twenty-five thousand dollars from the Department of Motor Vehicles Cash Fund to the Vehicle Title and Registration System Replacement and Maintenance Cash Fund on or before June 30, 2017, as directed by the budget administrator of the budget division of the Department of Administrative Services.

Source: Laws 1993, LB 491, § 17; Laws 1994, LB 1066, § 48; Laws 1995, LB 467, § 16; Laws 1996, LB 1191, § 1; Laws 2003, LB 209, § 16; Laws 2006, LB 1061, § 9; Laws 2007, LB322, § 11; Laws 2016, LB957, § 3.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

60-1515 Department of Motor Vehicles Cash Fund; use; legislative intent.

(1) The Legislature hereby finds and declares that a statewide system for the collection, storage, and transfer of data on vehicle titles and registration and the cooperation of state and local government in implementing such a system is essential to the efficient operation of state and local government in vehicle titling and registration. The Legislature hereby finds and declares that the electronic issuance of operators' licenses and state identification cards using a digital system as described in section 60-484.01 and the cooperation of state and local government in implementing such a system is essential to the efficient operation of state and local government in issuing operators' licenses and state identification cards.

(2) It is therefore the intent of the Legislature that the Department of Motor Vehicles shall use a portion of the fees appropriated by the Legislature to the Department of Motor Vehicles Cash Fund as follows:

(a) To pay for the cost of issuing motor vehicle titles and registrations on a system designated by the department. The costs shall include, but not be limited to, software and software maintenance, programming, processing charges, and equipment including such terminals, printers, or other devices as deemed necessary by the department after consultation with the county to support the issuance of motor vehicle titles and registrations. The costs shall not include the cost of county personnel or physical facilities provided by the counties;

(b) To fund the centralization of renewal notices for motor vehicle registration and to furnish to the counties the certificate of registration forms specified in section 60-390. The certificate of registration form shall be prescribed by the department;

(c) To pay for the costs of an operator's license system as specified in sections 60-484.01 and 60-4,119 and designated by the department. The costs shall be limited to such terminals, printers, software, programming, and other equipment or devices as deemed necessary by the department to support the issuance of such licenses and state identification cards in the counties and by the department; and

(d) To pay for the motor vehicle insurance data base created under section 60-3,136.

Source: Laws 1993, LB 491, § 19; Laws 1995, LB 467, § 17; Laws 2001, LB 574, § 31; Laws 2002, LB 488, § 6; Laws 2005, LB 274, § 258; Laws 2013, LB207, § 6.

ARTICLE 18 CAMPER UNITS

Section

60-1803. Permit; application; contents; fee.

60-1807. Permit; renewal; issuance; receipt required.

60-1803 Permit; application; contents; fee.

Every owner of a camper unit shall make application for a permit to the county treasurer of the county in which such owner resides or is domiciled or conducts a bona fide business, or if such owner is not a resident of this state, such application shall be made to the county treasurer of the county in which such owner actually lives or conducts a bona fide business, except as otherwise expressly provided. Any person, firm, association, or corporation who is neither a resident of this state nor domiciled in this state, but who desires to obtain a permit for a camper unit owned by such person, firm, association, or corporation, may register the same in any county of this state. The application shall contain a statement of the name, post office address, and place of residence of the applicant, a description of the camper unit, including the name of the maker, the number, if any, affixed or assigned thereto by the manufacturer, the weight, width, and length of the vehicle, the year, the model, and the trade name or other designation given thereto by the manufacturer, if any. Camper unit permits required by sections 60-1801 to 60-1808 shall be issued by the county treasurer in the same manner as registration certificates as provided in the Motor Vehicle Registration Act except as otherwise provided in sections

60-1801 to 60-1808. Every applicant for a permit, at the time of making such application, shall exhibit to the county treasurer evidence of ownership of such camper unit. Contemporaneously with such application, the applicant shall pay a permit fee in the amount of two dollars which shall be distributed in the same manner as all other motor vehicle license fees. Upon proper application being made and the payment of the permit fee, the applicant shall be issued a permit.

Source: Laws 1969, c. 627, § 3, p. 2526; Laws 1993, LB 112, § 40; Laws 1995, LB 37, § 11; Laws 1997, LB 271, § 34; Laws 2005, LB 274, § 260; Laws 2012, LB801, § 95.

Cross References

Motor Vehicle Registration Act, see section 60-301.

60-1807 Permit; renewal; issuance; receipt required.

In issuing permits or renewals under sections 60-1801 to 60-1808, the county treasurer shall neither receive nor accept such application nor permit fee nor issue any permit for any such camper unit unless the applicant first exhibits proof by receipt or otherwise (1) that he or she has paid all applicable taxes and fees upon such camper unit based on the computation thereof made in the year preceding the year for which such application for permit is made, (2) that he or she was the owner of another camper unit or other motor vehicles on which he or she paid the taxes and fees during such year, or (3) that he or she owned no camper unit or other motor vehicle upon which taxes and fees might have been imposed during such year.

Source: Laws 1969, c. 627, § 7, p. 2528; Laws 1997, LB 271, § 35; Laws 2005, LB 274, § 262; Laws 2012, LB801, § 96.

ARTICLE 19

ABANDONED MOTOR VEHICLES

Section

- 60-1901. Abandoned vehicle, defined.
- 60-1903.02. Law enforcement agency; authority to remove abandoned or trespassing vehicle; private towing service; notice; contents.
- 60-1906. Liability for removal.
- 60-1910. Rules and regulations.
- 60-1911. Violations; penalty.

60-1901 Abandoned vehicle, defined.

(1) A motor vehicle is an abandoned vehicle:

(a) If left unattended, with no license plates or valid In Transit stickers issued pursuant to the Motor Vehicle Registration Act affixed thereto, for more than six hours on any public property;

(b) If left unattended for more than twenty-four hours on any public property, except a portion thereof on which parking is legally permitted;

(c) If left unattended for more than forty-eight hours, after the parking of such vehicle has become illegal, if left on a portion of any public property on which parking is legally permitted;

(d) If left unattended for more than seven days on private property if left initially without permission of the owner, or after permission of the owner is terminated;

(e) If left for more than thirty days in the custody of a law enforcement agency after the agency has sent a letter to the last-registered owner under section 60-1903.01; or

(f) If removed from private property by a municipality pursuant to a municipal ordinance.

(2) An all-terrain vehicle, a utility-type vehicle, or a minibike is an abandoned vehicle:

(a) If left unattended for more than twenty-four hours on any public property, except a portion thereof on which parking is legally permitted;

(b) If left unattended for more than forty-eight hours, after the parking of such vehicle has become illegal, if left on a portion of any public property on which parking is legally permitted;

(c) If left unattended for more than seven days on private property if left initially without permission of the owner, or after permission of the owner is terminated;

(d) If left for more than thirty days in the custody of a law enforcement agency after the agency has sent a letter to the last-registered owner under section 60-1903.01; or

(e) If removed from private property by a municipality pursuant to a municipal ordinance.

(3) A mobile home is an abandoned vehicle if left in place on private property for more than thirty days after a local governmental unit, pursuant to an ordinance or resolution, has sent a certified letter to each of the last-registered owners and posted a notice on the mobile home, stating that the mobile home is subject to sale or auction or vesting of title as set forth in section 60-1903.

(4) For purposes of this section:

(a) Mobile home means a movable or portable dwelling constructed to be towed on its own chassis, connected to utilities, and designed with or without a permanent foundation for year-round living. It may consist of one or more units that can be telescoped when towed and expanded later for additional capacity, or of two or more units, separately towable but designed to be joined into one integral unit, and shall include a manufactured home as defined in section 71-4603. Mobile home does not include a mobile home or manufactured home for which an affidavit of affixture has been recorded pursuant to section 60-169;

(b) Public property means any public right-of-way, street, highway, alley, or park or other state, county, or municipally owned property; and

(c) Private property means any privately owned property which is not included within the definition of public property.

(5) No motor vehicle subject to forfeiture under section 28-431 shall be an abandoned vehicle under this section.

Source: Laws 1971, LB 295, § 1; Laws 1999, LB 90, § 1; Laws 2004, LB 560, § 41; Laws 2005, LB 274, § 263; Laws 2009, LB60, § 1; Laws 2010, LB650, § 46; Laws 2014, LB1044, § 1.

Cross References

Motor Vehicle Registration Act, see section 60-301.

60-1903.02 Law enforcement agency; authority to remove abandoned or trespassing vehicle; private towing service; notice; contents.

(1) A law enforcement agency is authorized to remove an abandoned or trespassing vehicle from private property upon the request of the private property owner on whose property the vehicle is located and upon information indicating that the vehicle is an abandoned or trespassing vehicle. After removal, the law enforcement agency with custody of the vehicle shall follow the procedures in sections 60-1902 and 60-1903.

(2) A law enforcement agency is authorized to contact a private towing service in order to remove an abandoned or trespassing vehicle from private property upon the request of the private property owner on whose property the vehicle is located and upon information indicating that the vehicle is an abandoned or trespassing vehicle. A vehicle towed away under this subsection is subject to sections 52-601.01 to 52-605 and 60-2410 by the private towing service which towed the vehicle.

(3) A private property owner is authorized to remove or cause the removal of an abandoned or trespassing vehicle from such property and may contact a private towing service for such removal. A private towing service that tows the vehicle shall notify, within twenty-four hours, the designated law enforcement agency in the jurisdiction from which the vehicle is removed and provide the registration plate number, the vehicle identification number, if available, the make, model, and color of the vehicle, and the name of the private towing service and the location, if applicable, where the private towing service is storing the vehicle. A vehicle towed away under this subsection is subject to sections 52-601.01 to 52-605 and 60-2410 by the private towing service that towed the vehicle.

(4) For purposes of this section, a trespassing vehicle is a vehicle that is parked without permission on private property that is not typically made available for public parking.

Source: Laws 2018, LB275, § 3.

60-1906 Liability for removal.

Neither the owner, owner's agent, owner's employee, lessee, nor occupant of the premises from which any abandoned vehicle is removed, nor the state, city, village, or county, shall be liable for any loss or damage to such vehicle which occurs during its removal or while in the possession of the state, city, village, or county or its contractual agent, while in the possession of a private towing service, or as a result of any subsequent disposition.

Source: Laws 1971, LB 295, § 6; Laws 1999, LB 90, § 7; Laws 2018, LB275, § 4.

60-1910 Rules and regulations.

The Director of Motor Vehicles shall adopt and promulgate rules and regulations providing for such forms and procedures as are necessary or desirable to effectuate the provisions of sections 60-1901 to 60-1911. Such rules and regulations may include procedures for the removal and disposition of vehicle

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identification numbers of abandoned vehicles, forms for local records for abandoned vehicles, and inquiries relating to ownership of such vehicles.

Source: Laws 1971, LB 295, § 10; Laws 1999, LB 90, § 11; Laws 2018, LB275, § 5.

60-1911 Violations; penalty.

Except as provided in section 60-1908, any person violating the provisions of sections 60-1901 to 60-1911 shall be guilty of a Class II misdemeanor.

Source: Laws 1971, LB 295, § 11; Laws 1977, LB 39, § 101; Laws 1999, LB 90, § 12; Laws 2018, LB275, § 6.

ARTICLE 21

MINIBIKES OR MOTORCYCLES

(b) MOTORCYCLE SAFETY EDUCATION

Section	
60-2120.	Act, how cited.
60-2121.	Terms, defined.
60-2125.	Motorcycle safety courses; requirements.
60-2126.	Motorcycle safety course; approval by director; application; contents; certified motorcycle safety instructor required; fee; course audits.
60-2127.	Motorcycle safety instructors; certificate; requirements; renewal; person certified by another state; how treated.
60-2128.	Motorcycle safety instructor preparation course; department; duties.
60-2129.	Motorcycle trainers; requirements; certificates; person certified by another state; how treated.
60-2130.	Motorcycle safety instructor or motorcycle trainer; certificate; term; renewal.
60-2131.	Certification of motorcycle safety course, motorcycle safety instructor's certificate, or motorcycle trainer's certificate; denial, suspension, or revocation; procedure.
60-2132.	Repealed. Laws 2011, LB 170, § 17.
60-2132.01.	Motorcycle Safety Education Fund; transfers.
60-2133.	Repealed. Laws 2011, LB 170, § 17.
60-2134.	Repealed. Laws 2011, LB 170, § 17.
60-2135.	Repealed. Laws 2011, LB 170, § 17.
60-2136.	Repealed. Laws 2011, LB 170, § 17.
60-2137.	Repealed. Laws 2011, LB 170, § 17.
60-2138.	Repealed. Laws 2011, LB 170, § 17.
60-2139.	Rules and regulations.

(b) MOTORCYCLE SAFETY EDUCATION

60-2120 Act, how cited.

Sections 60-2120 to 60-2139 shall be known and may be cited as the Motorcycle Safety Education Act.

Source: Laws 1986, LB 1004, § 2; Laws 1989, LB 25, § 2; Laws 2011, LB170, § 4.

60-2121 Terms, defined.

For purposes of the Motorcycle Safety Education Act, unless the context otherwise requires:

- (1) Department means the Department of Motor Vehicles;
- (2) Director means the Director of Motor Vehicles;

(3) Driving course means a driving pattern used to aid students in learning the skills needed to safely operate a motorcycle as part of a motorcycle safety course;

(4) Motorcycle safety course means a curriculum of study which has been approved by the department designed to teach drivers the skills and knowledge to safely operate a motorcycle;

(5) Motorcycle safety instructor means any person who has successfully passed a motorcycle safety instructor's course curriculum and is certified by the department to teach a motorcycle safety course; and

(6) Motorcycle trainer means a person who is qualified and certified by the department to teach another person to become a certified motorcycle safety instructor in this state.

Source: Laws 1981, LB 22, § 1; Laws 1984, LB 1089, § 3; R.S.1943, (1984), § 60-2109; Laws 1986, LB 1004, § 3; Laws 2002, LB 93, § 5; Laws 2011, LB170, § 5.

60-2125 Motorcycle safety courses; requirements.

(1) The department may adopt and promulgate rules and regulations establishing minimum requirements for both basic and advanced motorcycle safety courses. The courses shall be designed to develop, instill, and improve the knowledge and skills necessary for safe operation of a motorcycle.

(2) The motorcycle safety courses shall be designed to teach either a novice motorcycle rider knowledge and basic riding skills or to refresh the knowledge and riding skills of motorcycle riders necessary for the safe and legal operation of a motorcycle on the highways of this state. Every motorcycle safety course shall be conducted at a site with room for a driving course designed to allow motorcycle riders to practice the knowledge and skills necessary for safe motorcycle operation.

Source: Laws 1981, LB 22, § 2; R.S.1943, (1984), § 60-2110; Laws 1986, LB 1004, § 7; Laws 2011, LB170, § 6.

60-2126 Motorcycle safety course; approval by director; application; contents; certified motorcycle safety instructor required; fee; course audits.

(1) A school, business, or organization may apply to the department to provide a motorcycle safety course or courses in this state. Prospective providers of such course or courses shall submit an application for approval of such course or courses to the director. The application shall include a list of instructors of the course or courses. Such instructors shall be or shall become motorcycle safety instructors certified by the department prior to teaching any motorcycle safety course in this state. Applications for certification of motorcycle safety instructors may be included along with an application for approval of a motorcycle safety course or courses. The director shall approve such course if it meets the requirements set forth by the department by rule and regulation and will be taught by a certified motorcycle safety instructor or instructors.

(2) The application for certification or renewal of a certification of each motorcycle safety course shall be accompanied by a fee of one hundred dollars. The fee shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund. Motorcycle safety course certification shall expire two years from the date of the director's certification.

(3) Motorcycle safety courses shall be subject to audits by the department to assure compliance with the Motorcycle Safety Education Act and rules and regulations of the department.

Source: Laws 1981, LB 22, § 3; R.S.1943, (1984), § 60-2111; Laws 1986, LB 1004, § 8; Laws 2011, LB170, § 7.

60-2127 Motorcycle safety instructors; certificate; requirements; renewal; person certified by another state; how treated.

(1) The director may adopt and promulgate rules and regulations establishing minimum standards, skills' qualifications, and education requirements for motorcycle safety instructors. The director shall issue or renew a certificate in the manner and form prescribed by the director to motorcycle safety instructor applicants who meet such requirements. A motorcycle safety instructor certificate shall expire two years after the date of issuance. To renew a certificate, a person shall submit an application demonstrating compliance with rules and regulations of the department.

(2) If the certification requirements are comparable to the requirements in this state, a person currently certified as a motorcycle safety instructor by another state or recognized accrediting organization may be issued a motorcycle safety instructor's certificate by the department without having to take the course established in section 60-2128.

(3) A person who holds a valid, unexpired permit issued by the department to be a motorcycle safety instructor before January 1, 2012, shall be recognized as a certified motorcycle safety instructor until January 1, 2014, or until the expiration date of such permit, whichever is earlier. At that time the permit holder may apply for and become a certified motorcycle safety instructor to teach a motorcycle safety class in this state as provided in rules and regulations of the department.

Source: Laws 1981, LB 22, § 4; R.S.1943, (1984), § 60-2112; Laws 1986, LB 1004, § 9; Laws 2011, LB170, § 8.

60-2128 Motorcycle safety instructor preparation course; department; duties.

The department may adopt and promulgate rules and regulations developing a motorcycle safety instructor preparation course which shall be taught by motorcycle trainers. Such course shall insure that the motorcycle safety instructor who successfully passes the course is familiar with the material included in the particular motorcycle safety course which such motorcycle safety instructor will be teaching.

Source: Laws 1981, LB 22, § 5; Laws 1984, LB 1089, § 4; R.S.1943, (1984), § 60-2113; Laws 1986, LB 1004, § 10; Laws 2011, LB170, § 9.

60-2129 Motorcycle trainers; requirements; certificates; person certified by another state; how treated.

(1) The director may adopt and promulgate rules and regulations establishing minimum education requirements for motorcycle trainers. The director shall issue certificates in the manner and form prescribed by the director to no more than two motorcycle trainers who meet the minimum education, skill, and experience requirements. The department may reimburse documented expenses

incurred by a person in connection with taking and successfully passing an educational course to become a motorcycle trainer, as provided in sections 81-1174 to 81-1177, when there are less than two motorcycle trainers working in this state. In return for the reimbursement of such documented expenses, motorcycle trainers shall teach the motorcycle safety instructor preparation course as assigned by the director.

(2) If the certification requirements are comparable to the requirements in this state, a person currently certified as a motorcycle trainer by another state or recognized accrediting organization may be issued a motorcycle trainer's certificate by the department without having to receive the training required by this section.

(3) A person who holds a valid, unexpired permit issued by the department to be a chief instructor for motorcycle safety before January 1, 2012, shall be recognized as a motorcycle trainer until January 1, 2014, or until the expiration date of such permit, whichever is earlier. At that time the permit holder may apply for and be recertified as a motorcycle trainer to teach a motorcycle safety instructor preparation class in this state as provided in rules and regulations of the department.

Source: Laws 1986, LB 1004, § 11; Laws 2011, LB170, § 10.

60-2130 Motorcycle safety instructor or motorcycle trainer; certificate; term; renewal.

All certificates issued under sections 60-2127 and 60-2129 shall be valid for two years and may be renewed upon application to the director as provided in rules and regulations of the department.

Source: Laws 1981, LB 22, § 6; R.S.1943, (1984), § 60-2114; Laws 1986, LB 1004, § 12; Laws 1997, LB 752, § 148; Laws 2011, LB170, § 11.

60-2131 Certification of motorcycle safety course, motorcycle safety instructor's certificate, or motorcycle trainer's certificate; denial, suspension, or revocation; procedure.

(1) The director may cancel, suspend, revoke, or refuse to issue or renew certification of a motorcycle safety course, a motorcycle safety instructor's certificate, or a motorcycle trainer's certificate in any case when the director finds the certificate holder or applicant has not complied with or has violated the Motorcycle Safety Education Act or any rule or regulation adopted and promulgated by the director.

(2) No person or provider whose certificate has been canceled, suspended, revoked, or refused shall be certified until the person or provider meets the requirements of rules and regulations of the department and shows that the event or occurrence that caused the director to take action has been corrected and will not affect future performance. Persons or providers who are suspended may be summarily reinstated upon the director's acceptance of a demonstration of compliance and satisfactory correction of any noncompliance. All other persons or providers shall reapply for certification. A person or provider may contest action taken by the director to cancel, suspend, revoke, or refuse to

issue or renew a certificate by filing a written petition with the department within thirty days after the date of the director's action.

Source: Laws 1981, LB 22, § 7; R.S.1943, (1984), § 60-2115; Laws 1986, LB 1004, § 13; Laws 1989, LB 285, § 136; Laws 1999, LB 704, § 48; Laws 2011, LB170, § 12.

60-2132 Repealed. Laws 2011, LB 170, § 17.

60-2132.01 Motorcycle Safety Education Fund; transfers.

Within sixty days after January 1, 2012, twenty-five percent of the money remaining in the Motorcycle Safety Education Fund shall be transferred to the Department of Motor Vehicles Cash Fund and seventy-five percent of the money remaining in the Motorcycle Safety Education Fund shall be transferred to the Highway Trust Fund. The Motorcycle Safety Education Fund shall be eliminated on such date after the transfers are made.

Source: Laws 2011, LB170, § 13.

60-2133 Repealed. Laws 2011, LB 170, § 17.

60-2134 Repealed. Laws 2011, LB 170, § 17.

60-2135 Repealed. Laws 2011, LB 170, § 17.

60-2136 Repealed. Laws 2011, LB 170, § 17.

60-2137 Repealed. Laws 2011, LB 170, § 17.

60-2138 Repealed. Laws 2011, LB 170, § 17.

60-2139 Rules and regulations.

The director may adopt and promulgate such rules and regulations for the administration and enforcement of the Motorcycle Safety Education Act as are necessary. In adopting such rules and regulations, the director shall comply with the Administrative Procedure Act.

Source: Laws 1981, LB 22, § 14; R.S.1943, (1984), § 60-2119; Laws 1986, LB 1004, § 21; Laws 2011, LB170, § 14.

Cross References

Administrative Procedure Act, see section 84-920.

ARTICLE 27

MANUFACTURER'S WARRANTY DUTIES

Section

60-2705. Dispute settlement procedure; effect; director; duties.

60-2705 Dispute settlement procedure; effect; director; duties.

The Director of Motor Vehicles shall adopt standards for an informal dispute settlement procedure which substantially comply with the provisions of 16 C.F.R. part 703, as such part existed on January 1, 2020.

If a manufacturer has established or participates in a dispute settlement procedure certified by the Director of Motor Vehicles within the guidelines of

such standards, the provisions of section 60-2703 concerning refunds or replacement shall not apply to any consumer who has not first resorted to such a procedure.

Source: Laws 1983, LB 155, § 5; Laws 2019, LB79, § 20; Laws 2020, LB944, § 73.
Operative date November 14, 2020.

ARTICLE 29

UNIFORM MOTOR VEHICLE RECORDS DISCLOSURE ACT

Section

- 60-2904. Terms, defined.
- 60-2905. Disclosure of personal information prohibited.
- 60-2907. Motor vehicle record; disclosure; authorized purposes.
- 60-2909.01. Disclosure; purposes authorized.

60-2904 Terms, defined.

For purposes of the Uniform Motor Vehicle Records Disclosure Act:

(1) Department means the Department of Motor Vehicles or the duly authorized agents or contractors of the department responsible to compile and maintain motor vehicle records;

(2) Disclose means to engage in any practice or conduct to make available and make known personal information contained in a motor vehicle record about a person to any other person, organization, or entity by any means of communication;

(3) Individual record means a motor vehicle record containing personal information about a designated person who is the subject of the record as identified in a request;

(4) Motor vehicle record means any record that pertains to a motor vehicle operator’s or driver’s license or permit, motor vehicle, trailer, motorboat, all-terrain vehicle, utility-type vehicle, snowmobile, or minibike registration or certificate of title, or state identification card issued by the department or any other state or local agency authorized to issue any of such forms of credentials;

(5) Person means an individual, organization, or entity;

(6) Personal information means information that identifies a person, including an individual’s driver identification number, name, address excluding zip code, and telephone number, but does not include information on collisions, driving, operating, or equipment-related violations, or operator’s license or registration status; and

(7) Sensitive personal information means an individual’s operator’s license digital image, social security number, and medical or disability information.

Source: Laws 1997, LB 635, § 4; Laws 2000, LB 1317, § 11; Laws 2001, LB 574, § 32; Laws 2014, LB777, § 12; Laws 2017, LB263, § 78.

60-2905 Disclosure of personal information prohibited.

(1) Notwithstanding any other provision of state law to the contrary, except as provided in sections 60-2906 and 60-2907, the department and any officer, employee, agent, or contractor of the department shall not disclose personal information about any person obtained by the department in connection with a motor vehicle record.

(2) Notwithstanding any other provision of state law to the contrary, except as provided in sections 60-483, 60-484, 60-4,144, and 60-2909.01, the department and any officer, employee, agent, or contractor of the department shall not disclose sensitive personal information about any person obtained by the department in connection with a motor vehicle record without the express written consent of the person to whom such information pertains.

Source: Laws 1997, LB 635, § 5; Laws 2000, LB 1317, § 12; Laws 2014, LB983, § 57.

60-2907 Motor vehicle record; disclosure; authorized purposes.

The department and any officer, employee, agent, or contractor of the department having custody of a motor vehicle record shall, upon the verification of identity and purpose of a requester, disclose and make available the requested motor vehicle record, including the personal information in the record, for the following purposes:

(1) For use by any federal, state, or local governmental agency, including any court or law enforcement agency, in carrying out the agency's functions or by a private person or entity acting on behalf of a governmental agency in carrying out the agency's functions;

(2) For use in connection with matters of motor vehicle or driver safety and theft; motor vehicle emissions; motor vehicle product alterations, recalls, or advisories; performance monitoring of motor vehicles, motor vehicle parts, and dealers; motor vehicle market research activities, including survey research; and removal of nonowner records from the original owner records of motor vehicle manufacturers;

(3) For use in the normal course of business by a legitimate business or its agents, employees, or contractors but only:

(a) To verify the accuracy of personal information submitted by the individual to the business or its agents, employees, or contractors; and

(b) If such information as so submitted is not correct or is no longer correct, to obtain the correct information, but only for the purposes of preventing fraud by, pursuing legal remedies against, or recovering on a debt or security interest against, the individual;

(4) For use in connection with any civil, criminal, administrative, or arbitral proceeding in any federal, state, or local court or governmental agency or before any self-regulatory body, including service of process, investigation in anticipation of litigation, and execution or enforcement of judgments and orders, or pursuant to an order of a federal, state, or local court, an administrative agency, or a self-regulatory body;

(5) For use in research activities, and for use in producing statistical reports, so long as the personal information is not published, redisclosed, or used to contact individuals;

(6) For use by any insurer or insurance support organization, or by a self-insured entity, or its agents, employees, or contractors, in connection with claims investigation activities, anti-fraud activities, rating, or underwriting;

(7) For use in providing notice to the owners of abandoned, towed, or impounded vehicles;

(8) For use only for a purpose permitted under this section either by a private detective, plain clothes investigator, or private investigative agency licensed under sections 71-3201 to 71-3213;

(9) For use by an employer or the employer's agent or insurer to obtain or verify information relating to a holder of a commercial driver's license or CLP-commercial learner's permit that is required under the Commercial Motor Vehicle Safety Act of 1986, 49 U.S.C. 31301 et seq., or pursuant to sections 60-4,132 and 60-4,141;

(10) For use in connection with the operation of private toll transportation facilities;

(11) For bulk distribution for surveys of, marketing to, or solicitations of persons who have expressly consented to such disclosure if the requester has obtained the notarized written consent of the individual who is the subject of the personal information being requested and has provided proof of receipt of such written consent to the department or an officer, employee, agent, or contractor of the department on a form prescribed by the department;

(12) For any use if the requester has obtained the notarized written consent of the individual who is the subject of the personal information being requested and has provided proof of receipt of such written consent to the department or an officer, employee, agent, or contractor of the department;

(13) For use, including redisclosure through news publication, of a member of a medium of communication as defined in section 20-145 who requests such information in connection with preparing, researching, gathering, or confirming news information involving motor vehicle or driver safety or motor vehicle theft;

(14) For use by the federally designated organ procurement organization for Nebraska to establish and maintain the Donor Registry of Nebraska as provided in section 71-4822;

(15) For use to fulfill the requirements of the electronic dealer services system pursuant to section 60-1507; and

(16) For any other use specifically authorized by law that is related to the operation of a motor vehicle or public safety.

Source: Laws 1997, LB 635, § 7; Laws 2000, LB 1317, § 13; Laws 2004, LB 559, § 6; Laws 2010, LB1036, § 34; Laws 2014, LB983, § 58; Laws 2017, LB263, § 79.

60-2909.01 Disclosure; purposes authorized.

The department and any officer, employee, agent, or contractor of the department having custody of a motor vehicle record shall, upon the verification of identity and purpose of a requester, disclose and make available the requested motor vehicle record, including the sensitive personal information in the record, other than the social security number, for the following purposes:

(1) For use by any federal, state, or local governmental agency, including any court or law enforcement agency, in carrying out the agency's functions or by a private person or entity acting on behalf of a governmental agency in carrying out the agency's functions;

(2) For use in connection with any civil, criminal, administrative, or arbitral proceeding in any federal, state, or local court or governmental agency or

before any self-regulatory body, including service of process, investigation in anticipation of litigation, and execution or enforcement of judgments and orders, or pursuant to an order of a federal, state, or local court, an administrative agency, or a self-regulatory body;

(3) For use by any insurer or insurance support organization, or by a self-insured entity, or its agents, employees, or contractors, in connection with claims investigation activities, anti-fraud activities, rating, or underwriting;

(4) For use by an employer or the employer's agent or insurer to obtain or verify information relating to a holder of a commercial driver's license or CLP-commercial learner's permit that is required under the Commercial Motor Vehicle Safety Act of 1986, 49 U.S.C. 31301 et seq., as such act existed on January 1, 2020, or pursuant to sections 60-4,132 and 60-4,141; and

(5) For use by employers of a holder of a commercial driver's license or CLP-commercial learner's permit and by the Commercial Driver License Information System as provided in section 60-4,144.02 and 49 C.F.R. 383.73, as such regulation existed on January 1, 2020.

Source: Laws 2000, LB 1317, § 14; Laws 2011, LB178, § 20; Laws 2014, LB983, § 59; Laws 2019, LB79, § 21; Laws 2020, LB944, § 74.
Operative date November 14, 2020.

ARTICLE 31

STATE FLEET CARD PROGRAM

Section

60-3101. State fleet card programs; Department of Transportation; University of Nebraska; State Treasurer; duties; political subdivisions; utilization authorized; unauthorized use prohibited.

60-3102. State Fleet Card Fund; created; rebates credited to fund; use.

60-3101 State fleet card programs; Department of Transportation; University of Nebraska; State Treasurer; duties; political subdivisions; utilization authorized; unauthorized use prohibited.

(1) State fleet card programs shall be created and shall be administered separately by the Department of Transportation and the University of Nebraska. The Department of Transportation shall administer a fleet card program on behalf of state government and political subdivisions other than the University of Nebraska under a contract through the State Treasurer. The State Treasurer shall determine the type of fleet card or cards utilized in the state fleet card program. The State Treasurer shall contract with one or more financial institutions, card-issuing banks, credit card companies, charge card companies, debit card companies, or third-party merchant banks capable of operating a fleet card program on behalf of the state, including the University of Nebraska, and political subdivisions that participate in the state contract for such services. Rules and regulations may be adopted and promulgated as needed by the Department of Transportation or the University of Nebraska for the operation of the state fleet card programs. The rules and regulations shall provide authorization instructions for all transactions. Expenses associated with the state fleet card programs shall be considered as an administrative or operational expense.

(2) For purposes of this section, fleet card means a payment card used for gasoline, diesel, and other fuels. Fleet cards may also be used to pay for vehicle

and equipment maintenance and expenses at the discretion of the program administrator. The Department of Transportation and the University of Nebraska shall each designate a program administrator.

(3) Any state official, agency, board, or commission may utilize a state fleet card for the purchase of goods and services described in subsection (2) of this section for and on behalf of the State of Nebraska. Any political subdivision may utilize a fleet card for the purchase of goods and services described in subsection (2) of this section for lawful government purposes of the political subdivision. No disbursements or cash back on fleet card transactions shall be allowed.

(4) Vendors accepting a state fleet card shall obtain authorization for all transactions in accordance with instructions from the program administrator. Transaction authorization shall be from the financial institution, card-issuing bank, credit card company, charge card company, debit card company, or third-party merchant bank contracted to provide such service to the State of Nebraska. Each transaction shall be authorized in accordance with the instructions provided by the program administrator for each state official, agency, board, or commission or each political subdivision.

(5) Detailed transaction information for the purposes of tracking expenditures shall include fleet card identification, merchant name and address, transaction number, date, time, product, quantity, cost, and equipment meter reading if applicable. A state fleet card program may require an itemized receipt for purposes of tracking expenditures of a state fleet card purchase from a commercial vendor as acceptable detailed transaction information. If detailed transaction information is not provided, the program administrator shall have the authority to temporarily or permanently suspend state fleet card purchases in accordance with rules and regulations.

(6) No officer or employee of the state or of a political subdivision shall use a state fleet card for any unauthorized use.

Source: Laws 2013, LB137, § 1; Laws 2017, LB339, § 236.

60-3102 State Fleet Card Fund; created; rebates credited to fund; use.

The State Fleet Card Fund is hereby created. All rebates received by the state from the fleet card program entered into by the State of Nebraska pursuant to section 60-3101 shall be credited to the fund. The fund may consist of fleet card rebates received on behalf of state officers, agencies, boards, and commissions and political subdivisions and shall be administered by the State Treasurer. Fleet card rebates received on behalf of state officers, agencies, boards, and commissions shall be transferred by the State Treasurer from the fund to the General Fund. Fleet card rebates received on behalf of political subdivisions shall be disbursed to political subdivisions consistent with the volume spent and contract terms.

Source: Laws 2013, LB137, § 2.

ARTICLE 32

AUTOMATIC LICENSE PLATE READER PRIVACY ACT

Section

60-3201. Act, how cited.

60-3202. Terms, defined.

Section

- 60-3203. Prohibited acts; exceptions.
60-3204. Retention of captured plate data; limitation; updates; use; limitations.
60-3205. Operator; preserve data; written sworn statement; court order for disclosure; disclosures authorized.
60-3206. Governmental entity; duties; report; contents.
60-3207. Use of captured plate data and related evidence; prohibited.
60-3208. Violation of act; liability for damages.
60-3209. Data not considered public record; protection orders; effect.

60-3201 Act, how cited.

Sections 60-3201 to 60-3209 shall be known and may be cited as the Automatic License Plate Reader Privacy Act.

Source: Laws 2018, LB93, § 1.

60-3202 Terms, defined.

For purposes of the Automatic License Plate Reader Privacy Act:

(1) Alert means data held by the Department of Motor Vehicles, each criminal justice information system maintained in this state, the Federal Bureau of Investigation National Crime Information Center, the Federal Bureau of Investigation Kidnappings and Missing Persons list, the Missing Persons Information Clearinghouse established under section 29-214.01, and license plate numbers that have been manually entered into the automatic license plate reader system upon a law enforcement officer's determination that the vehicles or individuals associated with the license plate numbers are relevant and material to an ongoing criminal or missing persons investigation;

(2) Automatic license plate reader system means one or more mobile or fixed automated high-speed cameras used in combination with computer algorithms to convert images of license plates into computer-readable data;

(3) Captured plate data means global positioning system coordinates, date and time information, photographs, license plate numbers, and any other data captured by or derived from any automatic license plate reader system;

(4) Governmental entity means a department or agency of this state, the federal government, another state, or a political subdivision or an individual acting for or as an agent of any of such entities; and

(5) Secured area means a place, enclosed by clear boundaries, to which access is limited and not open to the public and into which entry is only obtainable through specific access-control points.

Source: Laws 2018, LB93, § 2.

60-3203 Prohibited acts; exceptions.

(1) Except as otherwise provided in this section or in section 60-3204, the use of an automatic license plate reader system by a governmental entity is prohibited.

(2) An automatic license plate reader system may be used when such use is:

(a) By a law enforcement agency of a governmental entity for the purpose of identifying:

(i) Outstanding parking or traffic violations;

(ii) An unregistered or uninsured vehicle;

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(iii) A vehicle in violation of the vehicle equipment requirements set forth under the Nebraska Rules of the Road;

(iv) A vehicle in violation of any other vehicle registration requirement;

(v) A vehicle registered to an individual for whom there is an outstanding warrant;

(vi) A vehicle associated with a missing person;

(vii) A vehicle that has been reported as stolen; or

(viii) A vehicle that is relevant and material to an ongoing criminal investigation;

(b) By a parking enforcement entity for regulating the use of a parking facility;

(c) For the purpose of controlling access to a secured area;

(d) For the purpose of electronic toll collection; or

(e) To assist weighing stations in performing their duties under section 60-1301.

Source: Laws 2018, LB93, § 3.

Cross References

Nebraska Rules of the Road, see section 60-601.

60-3204 Retention of captured plate data; limitation; updates; use; limitations.

(1) A governmental entity shall not retain captured plate data obtained under subsection (2) of section 60-3203 for more than one hundred eighty days unless the captured plate data is:

(a) Evidence related to a purpose listed in subsection (2) of section 60-3203;

(b) Subject to a preservation request under subsection (1) of section 60-3205; or

(c) The subject of a warrant, subpoena, or court order.

(2) Any governmental entity that uses automatic license plate reader systems pursuant to subsection (2) of section 60-3203 must update such systems from the data bases used by the governmental entities enumerated in such subsection at the beginning of each law enforcement agency shift if such updates are available.

(3) Any governmental entity that uses automatic license plate reader systems pursuant to subsection (2) of section 60-3203 may manually query captured plate data only when a law enforcement officer determines that the vehicle or individuals associated with the license plate number are relevant and material to an ongoing criminal or missing persons investigation subject to the following limitations:

(a) Any manual entry must document the reason for the entry; and

(b) Manual entries must be automatically purged at the end of each law enforcement agency shift, unless the criminal investigation or missing persons investigation remains ongoing.

Source: Laws 2018, LB93, § 4.

60-3205 Operator; preserve data; written sworn statement; court order for disclosure; disclosures authorized.

(1)(a) An operator of an automatic license plate reader system shall, upon the request of a governmental entity or a defendant in a criminal case, take all necessary steps to preserve captured plate data in its possession pending the issuance of a warrant, subpoena, or order of a court.

(b) A requesting governmental entity or defendant in a criminal case must specify in a written sworn statement:

(i) The particular camera or cameras for which captured plate data must be preserved or the particular license plate for which captured plate data must be preserved; and

(ii) The date or dates and timeframes for which captured plate data must be preserved.

(2) A governmental entity or defendant in a criminal case may apply for a court order for disclosure of captured plate data, which shall be issued by the court if the governmental entity or defendant in a criminal case offers specific and articulable facts showing there are reasonable grounds to believe the captured plate data is relevant and material to the criminal or civil action. Nothing in this subsection shall prevent the governmental entity from disclosing any captured plate data: (a) To the parties to a criminal or civil action; (b) for administrative purposes; (c) to alert the public of an emergency situation; or (d) relating to a missing person.

Source: Laws 2018, LB93, § 5.

60-3206 Governmental entity; duties; report; contents.

Except as otherwise provided in subdivision (3)(b) of this section, any governmental entity that uses an automatic license plate reader system shall:

(1) Adopt a policy governing use of the system and conspicuously post the policy on the governmental entity's Internet web site or, if no web site is available, in its main office;

(2) Adopt a privacy policy to ensure that captured plate data is not shared in violation of the Automatic License Plate Reader Privacy Act or any other law and conspicuously post the privacy policy on its Internet web site or, if no web site is available, in its main governmental office; and

(3)(a) Report annually to the Nebraska Commission on Law Enforcement and Criminal Justice on its automatic license plate reader practices and usage. The report shall also be conspicuously posted on the governmental entity's Internet web site or, if no web site is available, in its main office. The report shall include the following information, if captured by the automatic license plate reader system:

(i) The names of each list against which captured plate data was checked, the number of confirmed matches, and the number of matches that upon further investigation did not correlate to an alert; and

(ii) The number of manually-entered license plate numbers under subsection (3) of section 60-3204, the number of confirmed matches, and the number of matches that upon further investigation did not correlate to an alert.

(b) The reporting requirements of this subsection shall not apply to governmental entities using an automatic license plate reader system pursuant to subdivisions (2)(b) through (e) of section 60-3203.

Source: Laws 2018, LB93, § 6.

60-3207 Use of captured plate data and related evidence; prohibited.

No captured plate data and no evidence derived therefrom may be received in evidence in any trial, hearing, or other proceeding before any court, grand jury, department, officer, agency, regulatory body, legislative committee, or other authority of this state, or a political subdivision thereof, if the disclosure of that information would be in violation of the Automatic License Plate Reader Privacy Act.

Source: Laws 2018, LB93, § 7.

60-3208 Violation of act; liability for damages.

Any person who violates the Automatic License Plate Reader Privacy Act shall be liable for damages that proximately cause injury to the business, person, or reputation of another individual or entity.

Source: Laws 2018, LB93, § 8.

60-3209 Data not considered public record; protection orders; effect.

(1) Captured plate data held by a governmental entity is not considered a public record for purposes of sections 84-712 to 84-712.09 and shall only be disclosed to the person to whom the vehicle is registered or with the prior written consent of the person to whom the vehicle is registered or pursuant to a disclosure order under subsection (2) of section 60-3205 or as the result of a match pursuant to subsection (2) of section 60-3203.

(2) Upon the presentation to a governmental entity of a valid, outstanding protection order pursuant to the Protection from Domestic Abuse Act, the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act, or section 28-311.09 or 28-311.10 protecting the driver of a vehicle jointly registered with or registered solely in the name of the individual against whom the order was issued, captured plate data may not be disclosed except pursuant to a disclosure order under subsection (2) of section 60-3205 or as the result of a match pursuant to subsection (2) of section 60-3203.

Source: Laws 2018, LB93, § 9.

Cross References

Protection from Domestic Abuse Act, see section 42-901.

Uniform Interstate Enforcement of Domestic Violence Protection Orders Act, see section 42-932.

ARTICLE 33

AUTOMATED-DRIVING-SYSTEM-EQUIPPED VEHICLES

Section

60-3301. Terms, defined.

60-3302. Driverless-capable vehicle; operation; conditions.

60-3303. Automated-driving-system-equipped vehicle; operation; authorized; provisions applicable; department; duties.

60-3304. Proof of financial responsibility.

60-3305. On-demand driverless-capable vehicle network; authorized.

Section

- 60-3306. Nebraska Rules of the Road; how construed.
60-3307. Crash or collision; duties.
60-3308. Provisions of law governing vehicles and systems; limit on state and political subdivisions.
60-3309. Sections, how construed with respect to highways.
60-3310. Sections, how construed with respect to liability.
60-3311. Title and registration provisions; department; powers.

60-3301 Terms, defined.

For purposes of sections 60-3301 to 60-3311, the following definitions apply:

(1) Automated driving system means the hardware and software that are collectively capable of performing the entire dynamic driving task on a sustained basis regardless of whether it is limited to a specific operational design domain, if any;

(2) Automated-driving-system-equipped vehicle means a motor vehicle equipped with an automated driving system;

(3) Conventional human driver means a human person who manually exercises in-vehicle braking, accelerating, steering, and transmission gear selection input devices in order to operate a motor vehicle;

(4) Department means the Department of Motor Vehicles;

(5) Driverless-capable vehicle means a motor vehicle equipped with an automated driving system capable of performing all aspects of the dynamic driving task within its operational design domain, if any, including achieving a minimal risk condition, without any intervention or supervision by a conventional human driver;

(6) Dynamic driving task means all of the real-time operational and tactical functions required to operate a motor vehicle within its specific operational design domain, if any, excluding the strategic functions such as trip scheduling and selection of destinations and waypoints;

(7) Minimal risk condition means a reasonably safe state to which an automated driving system brings an automated-driving-system-equipped vehicle upon experiencing a performance-related failure of the vehicle's automated driving system that renders the vehicle unable to perform the entire dynamic driving task, such as bringing the vehicle to a complete stop and activating the hazard lamps;

(8) On-demand driverless-capable vehicle network means a transportation service network that uses a software application or other digital means to dispatch driverless-capable vehicles for purposes of transporting persons or goods, including for-hire transportation, transportation for compensation, and public transportation; and

(9) Operational design domain means a description of the specific operating domain in which an automated driving system is designed to properly operate, including, but not limited to, roadway types, speed range, environmental conditions such as weather and time of day, and other domain constraints.

Source: Laws 2018, LB989, § 1.

60-3302 Driverless-capable vehicle; operation; conditions.

A driverless-capable vehicle may operate on the public roads of this state without a conventional human driver physically present in the vehicle, as long as the vehicle meets the following conditions:

(1) The vehicle is capable of achieving a minimal risk condition if a malfunction of the automated driving system occurs that renders the system unable to perform the entire dynamic driving task within its intended operational design domain, if any; and

(2) While in driverless operation, the vehicle is capable of operating in compliance with the applicable traffic and motor vehicle safety laws and regulations of this state that govern the performance of the dynamic driving task, including, but not limited to, safely negotiating railroad crossings, unless an exemption has been granted by the department. The department shall consult with the railroad companies operating in this state when considering an exemption that affects vehicle operations at railroad crossings.

Source: Laws 2018, LB989, § 2.

60-3303 Automated-driving-system-equipped vehicle; operation; authorized; provisions applicable; department; duties.

(1) Notwithstanding any other provision of law, the operation on the public roads of this state of an automated-driving-system-equipped vehicle capable of performing the entire dynamic driving task within its operational design domain while a conventional human driver is present is lawful. Such operation shall be subject to the Nebraska Rules of the Road, as applicable. In addition, the conventional human driver shall be licensed as required under the Motor Vehicle Operator's License Act, shall remain subject to the Nebraska Rules of the Road, shall operate the automated-driving-system-equipped vehicle according to the manufacturer's requirements and specifications, and shall regain manual control of the vehicle upon the request of the automated driving system.

(2) The automated driving system feature, while engaged, shall be designed to operate within its operational design domain in compliance with the Nebraska Rules of the Road, including, but not limited to, safely negotiating railroad crossings, unless an exemption has been granted by the department. The department shall consult with the railroad companies operating in this state when considering an exemption that affects vehicle operations at railroad crossings.

Source: Laws 2018, LB989, § 3.

Cross References

Motor Vehicle Operator's License Act, see section 60-462.
Nebraska Rules of the Road, see section 60-601.

60-3304 Proof of financial responsibility.

Before an automated-driving-system-equipped vehicle may operate on the public roads of this state, a person shall submit proof of financial responsibility satisfactory to the department that the automated-driving-system-equipped vehicle is covered by insurance or proof of self-insurance that satisfies the requirements of the Motor Vehicle Safety Responsibility Act.

Source: Laws 2018, LB989, § 4.

Cross References

Motor Vehicle Safety Responsibility Act, see section 60-569.

60-3305 On-demand driverless-capable vehicle network; authorized.

(1) Notwithstanding any other provision of law, a person may operate an on-demand driverless-capable vehicle network. Such a network may provide transportation of persons or goods, including:

- (a) For-hire transportation, including transportation for multiple passengers who agree to share the ride in whole or in part; and
- (b) Public transportation.

(2) An on-demand driverless-capable vehicle network may connect passengers to driverless-capable vehicles either (a) exclusively or (b) as part of a digital network that also connects passengers to human drivers who provide transportation services, consistent with applicable law, in vehicles that are not driverless-capable vehicles.

Source: Laws 2018, LB989, § 5.

60-3306 Nebraska Rules of the Road; how construed.

Subject to section 60-3302, the Nebraska Rules of the Road shall not be construed as requiring a conventional human driver to operate a driverless-capable vehicle that is being operated by an automated driving system, and the automated driving system of such vehicle, when engaged, shall be deemed to fulfill any physical acts required of a conventional human driver to perform the dynamic driving task.

Source: Laws 2018, LB989, § 6.

Cross References

Nebraska Rules of the Road, see section 60-601.

60-3307 Crash or collision; duties.

In the event of a crash or collision:

- (1) The automated-driving-system-equipped vehicle shall remain on the scene of the crash or collision and otherwise comply with sections 60-696 to 60-698; and
- (2) The owner of the automated-driving-system-equipped vehicle, if capable, or a person on behalf of the automated-driving-system-equipped vehicle owner, shall report any crash or collision as required by section 60-698.

Source: Laws 2018, LB989, § 7.

60-3308 Provisions of law governing vehicles and systems; limit on state and political subdivisions.

(1) Automated-driving-system-equipped vehicles and automated driving systems are governed exclusively by sections 60-3301 to 60-3311. The department is the sole and exclusive state agency that may implement sections 60-3301 to 60-3311.

(2) The state or any political subdivision shall not impose requirements, including performance standards, specific to the operation of automated-driving-system-equipped vehicles, automated driving systems, or on-demand driverless-capable vehicle networks in addition to the requirements of sections 60-3301 to 60-3311.

(3) The state or any political subdivision thereof shall not impose a tax or other requirements on an automated-driving-system-equipped vehicle, an automated driving system, or an on-demand driverless-capable vehicle network, where such tax or other requirements relate specifically to the operation of automated-driving-system-equipped vehicles.

Source: Laws 2018, LB989, § 8.

60-3309 Sections, how construed with respect to highways.

Nothing in sections 60-3301 to 60-3311 shall be construed to require the State of Nebraska or any political subdivision thereof to plan, design, construct, maintain, or modify any highway, as defined in section 60-624, for the accommodation of an automated-driving-system-equipped vehicle or a driverless-capable vehicle.

Source: Laws 2018, LB989, § 9.

60-3310 Sections, how construed with respect to liability.

Nothing in sections 60-3301 to 60-3311 shall be construed to provide greater liability than is already allowed under the Political Subdivisions Tort Claims Act or the State Tort Claims Act.

Source: Laws 2018, LB989, § 10.

Cross References

Political Subdivisions Tort Claims Act, see section 13-901.

State Tort Claims Act, see section 81-8,235.

60-3311 Title and registration provisions; department; powers.

The department is authorized to title and register, pursuant to the Motor Vehicle Certificate of Title Act and the Motor Vehicle Registration Act, automated-driving-system-equipped vehicles and driverless-capable vehicles that do not meet applicable federal motor vehicle safety standards but which have been granted an exemption by the National Highway Traffic Safety Administration.

Source: Laws 2018, LB989, § 11.

Cross References

Motor Vehicle Certificate of Title Act, see section 60-101.

Motor Vehicle Registration Act, see section 60-301.

CHAPTER 61

NATURAL RESOURCES

Article.

2. Department of Natural Resources. 61-206 to 61-229.

ARTICLE 2

DEPARTMENT OF NATURAL RESOURCES

Section

- 61-206. Department of Natural Resources; jurisdiction; rules and regulations; hearings; orders; powers and duties.
- 61-218. Water Resources Cash Fund; created; use; investment; eligibility for funding; annual report; contents; Nebraska Environmental Trust Fund; grant application; use of funds; legislative intent; department; establish subaccount.
- 61-222. Water Sustainability Fund; created; use; investment.
- 61-224. Critical Infrastructure Facilities Cash Fund; created; use; investment; transfers.
- 61-225. State flood mitigation plan; legislative findings.
- 61-226. State flood mitigation plan; scope.
- 61-227. State flood mitigation plan; plan development group; engage federal, state, and local agencies and other sources.
- 61-228. State flood mitigation plan; department; duties.
- 61-229. State flood mitigation plan; report.

61-206 Department of Natural Resources; jurisdiction; rules and regulations; hearings; orders; powers and duties.

(1) The Department of Natural Resources is given jurisdiction over all matters pertaining to water rights for irrigation, power, or other useful purposes except as such jurisdiction is specifically limited by statute. The department may adopt and promulgate rules and regulations governing matters coming before it. It may refuse to allow any water to be used by claimants until their rights have been determined and made of record. It may request information relative to irrigation and water power works from any county, irrigation, or power officers and from any other persons. It may have hearings on complaints, petitions, or applications in connection with any of such matters. Such hearings shall be had at the time and place designated by the department. The department shall have power to certify official acts, compel attendance of witnesses, take testimony by deposition as in suits at law, and examine books, papers, documents, and records of any county, party, or parties interested in any of the matters mentioned in this section or have such examinations made by its qualified representative and shall make and preserve a true and complete transcript of its proceedings and hearings. If a final decision is made without a hearing, a hearing shall be held at the request of any party to the proceeding if the request is made within thirty days after the decision is rendered. If a hearing is held at the request of one or more parties, the department may require each such requesting party and each person who requests to be made a party to such hearing to pay the proportional share of the cost of such transcript. Upon any hearing, the department shall receive any evidence relevant to the matter under investigation and the burden of proof shall be upon

the person making the complaint, petition, and application. After such hearing and investigation, the department shall render a decision in the premises in writing and shall issue such order or orders duly certified as it may deem necessary.

(2) The department shall serve as the official agency of the state in connection with water resources development, soil and water conservation, flood prevention, watershed protection, and flood control.

(3) The department shall:

(a) Offer assistance as appropriate to the supervisors or directors of any subdivision of government with responsibilities in the area of natural resources conservation, development, and use in the carrying out of any of their powers and programs;

(b) Keep the supervisors or directors of each such subdivision informed of the activities and experience of all other such subdivisions and facilitate cooperation and an interchange of advice and experience between such subdivisions;

(c) Coordinate the programs of such subdivisions so far as this may be done by advice and consultation;

(d) Secure the cooperation and assistance of the United States, any of its agencies, and agencies of this state in the work of such subdivisions;

(e) Disseminate information throughout the state concerning the activities and programs of such subdivisions;

(f) Plan, develop, and promote the implementation of a comprehensive program of resource development, conservation, and utilization for the soil and water resources of this state in cooperation with other local, state, and federal agencies and organizations;

(g) When necessary for the proper administration of the functions of the department, rent or lease space outside the State Capitol; and

(h) Assist such local governmental organizations as villages, cities, counties, and natural resources districts in securing, planning, and developing information on flood plains to be used in developing regulations and ordinances on proper use of these flood plains.

Source: Laws 1919, c. 190, tit. VII, art. V, div. 2, § 14, p. 839; C.S.1922, § 8433; C.S.1929, § 81-6314; R.S.1943, § 46-209; Laws 1957, c. 197, § 1, p. 695; Laws 1959, c. 219, § 1, p. 766; Laws 1981, LB 109, § 1; Laws 1984, LB 897, § 2; Laws 1984, LB 1106, § 36; Laws 1991, LB 772, § 4; Laws 1995, LB 350, § 1; R.S.1943, (1998), § 46-209; Laws 2000, LB 900, § 6; Laws 2004, LB 962, § 102; Laws 2008, LB727, § 1; Laws 2019, LB319, § 3.

61-218 Water Resources Cash Fund; created; use; investment; eligibility for funding; annual report; contents; Nebraska Environmental Trust Fund; grant application; use of funds; legislative intent; department; establish subaccount.

(1) The Water Resources Cash Fund is created. The fund shall be administered by the Department of Natural Resources. 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.

(2) The State Treasurer shall credit to the fund such money as is (a) transferred to the fund by the Legislature, (b) paid to the state as fees, deposits,

payments, and repayments relating to the fund, both principal and interest, (c) donated as gifts, bequests, or other contributions to such fund from public or private entities, (d) made available by any department or agency of the United States if so directed by such department or agency, (e) allocated pursuant to section 81-15,175, and (f) received by the state for settlement of claims regarding Colorado's past use of water under the Republican River Compact.

(3) The fund shall be expended by the department (a) to aid management actions taken to reduce consumptive uses of water or to enhance streamflows or ground water recharge in river basins, subbasins, or reaches which are deemed by the department overappropriated pursuant to section 46-713 or fully appropriated pursuant to section 46-714 or are bound by an interstate compact or decree or a formal state contract or agreement, (b) for purposes of projects or proposals described in the grant application as set forth in subdivision (2)(h) of section 81-15,175, and (c) to the extent funds are not expended pursuant to subdivisions (a) and (b) of this subsection, the department may conduct a statewide assessment of short-term and long-term water management activities and funding needs to meet statutory requirements in sections 46-713 to 46-718 and 46-739 and any requirements of an interstate compact or decree or formal state contract or agreement. The fund shall not be used to pay for administrative expenses or any salaries for the department or any political subdivision.

(4) It is the intent of the Legislature that three million three hundred thousand dollars be transferred each fiscal year from the General Fund to the Water Resources Cash Fund for FY2011-12 through FY2022-23, except that for FY2012-13 it is the intent of the Legislature that four million seven hundred thousand dollars be transferred from the General Fund to the Water Resources Cash Fund. It is the intent of the Legislature that the State Treasurer credit any money received from any Republican River Compact settlement to the Water Resources Cash Fund in the fiscal year in which it is received.

(5)(a) Expenditures from the Water Resources Cash Fund may be made to natural resources districts eligible under subsection (3) of this section for activities to either achieve a sustainable balance of consumptive water uses or assure compliance with an interstate compact or decree or a formal state contract or agreement and shall require a match of local funding in an amount equal to or greater than forty percent of the total cost of carrying out the eligible activity. The department shall, no later than August 1 of each year, beginning in 2007, determine the amount of funding that will be made available to natural resources districts from the Water Resources Cash Fund and notify natural resources districts of this determination. The department shall adopt and promulgate rules and regulations governing application for and use of the Water Resources Cash Fund by natural resources districts. Such rules and regulations shall, at a minimum, include the following components:

(i) Require an explanation of how the planned activity will achieve a sustainable balance of consumptive water uses or will assure compliance with an interstate compact or decree or a formal state contract or agreement as required by section 46-715 and the controls, rules, and regulations designed to carry out the activity; and

(ii) A schedule of implementation of the activity or its components, including the local match as set forth in subdivision (5)(a) of this section.

(b) Any natural resources district that fails to implement and enforce its controls, rules, and regulations as required by section 46-715 shall not be

eligible for funding from the Water Resources Cash Fund until it is determined by the department that compliance with the provisions required by section 46-715 has been established.

(6) The Department of Natural Resources shall submit electronically an annual report to the Legislature no later than October 1 of each year, beginning in the year 2007, that shall detail the use of the Water Resources Cash Fund in the previous year. The report shall provide:

(a) Details regarding the use and cost of activities carried out by the department; and

(b) Details regarding the use and cost of activities carried out by each natural resources district that received funds from the Water Resources Cash Fund.

(7)(a) Prior to the application deadline for fiscal year 2011-12, the Department of Natural Resources shall apply for a grant of nine million nine hundred thousand dollars from the Nebraska Environmental Trust Fund, to be paid out in three annual installments of three million three hundred thousand dollars. The purposes listed in the grant application shall be consistent with the uses of the Water Resources Cash Fund provided in this section and shall be used to aid management actions taken to reduce consumptive uses of water, to enhance streamflows, to recharge ground water, or to support wildlife habitat in any river basin determined to be fully appropriated pursuant to section 46-714 or designated as overappropriated pursuant to section 46-713.

(b) If the application is granted, funds received from such grant shall be remitted to the State Treasurer for credit to the Water Resources Cash Fund for the purpose of supporting the projects set forth in the grant application. The department shall include in its grant application documentation that the Legislature has authorized a transfer of three million three hundred thousand dollars from the General Fund into the Water Resources Cash Fund for each of fiscal years 2011-12 and 2012-13 and has stated its intent to transfer three million three hundred thousand dollars to the Water Resources Cash Fund for fiscal year 2013-14.

(c) It is the intent of the Legislature that the department apply for an additional three-year grant that would begin in fiscal year 2014-15, an additional three-year grant from the Nebraska Environmental Trust Fund that would begin in fiscal year 2017-18, and an additional three-year grant from the Nebraska Environmental Trust Fund that would begin in fiscal year 2020-21 if the criteria established in subsection (4) of section 81-15,175 are achieved.

(8) The department shall establish a subaccount within the Water Resources Cash Fund for the accounting of all money received as a grant from the Nebraska Environmental Trust Fund as the result of an application made pursuant to subsection (7) of this section. At the end of each calendar month, the department shall calculate the amount of interest earnings accruing to the subaccount and shall notify the State Treasurer who shall then transfer a like amount from the Water Resources Cash Fund to the Nebraska Environmental Trust Fund.

Source: Laws 2007, LB701, § 25; Laws 2009, First Spec. Sess., LB3, § 39; Laws 2010, LB689, § 1; Laws 2010, LB993, § 1; Laws 2011, LB229, § 1; Laws 2012, LB782, § 87; Laws 2012, LB950, § 1; Laws 2017, LB331, § 30; Laws 2018, LB945, § 15; Laws 2019, LB298, § 15.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

61-222 Water Sustainability Fund; created; use; investment.

The Water Sustainability Fund is created in the Department of Natural Resources. The fund shall be used in accordance with the provisions established in Laws 2014, LB1098, and for costs directly related to the administration of the fund, except that transfers may be made from the fund as provided in this section.

The fund shall consist of money transferred to the fund by the Legislature, other funds as appropriated by the Legislature, and money donated as gifts, bequests, or other contributions from public or private entities. Funds made available by any department or agency of the United States may also be credited to the fund if so directed by such department or agency. 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. Investment earnings from investment of money in the fund shall be credited to the fund.

It is the intent of the Legislature that twenty-one million dollars be transferred from the General Fund to the Water Sustainability Fund in fiscal year 2014-15 and that eleven million dollars be transferred from the General Fund to the Water Sustainability Fund each fiscal year beginning in fiscal year 2015-16. It is the intent of the Legislature that three million dollars be transferred annually from the Water Sustainability Fund to the Nebraska Resources Development Fund in FY2015-16 and in FY2016-17.

The State Treasurer shall transfer one hundred seventy-five thousand dollars from the Water Sustainability Fund to the Department of Natural Resources Cash Fund on or before June 30, 2021, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

The State Treasurer shall transfer four hundred twenty-five thousand dollars from the Water Sustainability Fund to the Department of Natural Resources Cash Fund on or before June 30, 2021, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

The State Treasurer shall transfer five hundred thousand dollars from the Water Sustainability Fund to the General Fund on or before June 30, 2021, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

Source: Laws 2014, LB906, § 7; Laws 2015, LB661, § 31; Laws 2020, LB1009, § 4.
Effective date August 7, 2020.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

61-224 Critical Infrastructure Facilities Cash Fund; created; use; investment; transfers.

There is hereby created the Critical Infrastructure Facilities Cash Fund in the Department of Natural Resources. The fund shall consist of funds appropriated or transferred by the Legislature. The fund shall be used by the Department of Natural Resources (1) to provide a grant to a natural resources district to offset costs related to soil and water improvements intended to protect critical infrastructure facilities within the district which includes military installations, transportation routes, and wastewater treatment facilities and (2) to provide a grant to an irrigation district for reimbursement of costs related to temporary repairs to the main canal and tunnels of an interstate irrigation system which experienced a failure. Any funds remaining after all such project costs have been completely funded shall be transferred to the General Fund. Transfers may be made from the Critical Infrastructure Facilities Cash Fund to the General Fund at the direction of the Legislature. The State Treasurer shall transfer three hundred eighty-four thousand two hundred twenty-two dollars plus any accrued interest through April 5, 2018, from the Critical Infrastructure Facilities Cash Fund to the General Fund on or before June 30, 2019, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services. Any money in the Critical Infrastructure Facilities Cash 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, and any interest earned by the fund shall be credited to the General Fund.

Source: Laws 2016, LB957, § 21; Laws 2018, LB945, § 16; Laws 2020, LB1009, § 5.
Effective date August 7, 2020.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

61-225 State flood mitigation plan; legislative findings.

The Legislature finds and declares that the State of Nebraska experienced a historic flood event in 2019. This flood event significantly impacted numerous communities and individual Nebraskans. Coordination and communication between state and local entities implementing flood mitigation strategies is essential to maximize federal funds for flood mitigation efforts.

Source: Laws 2020, LB632, § 9.
Effective date November 14, 2020.

61-226 State flood mitigation plan; scope.

The Department of Natural Resources shall develop a state flood mitigation plan as a stand-alone document to be annexed into the state hazard mitigation plan maintained by the Nebraska Emergency Management Agency. Such plan shall be structured in accordance with Federal Emergency Management Agency guidelines, and shall be comprehensive, collaborative, and statewide in scope with opportunities for input from diverse stakeholders.

Source: Laws 2020, LB632, § 10.
Effective date November 14, 2020.

61-227 State flood mitigation plan; plan development group; engage federal, state, and local agencies and other sources.

The Department of Natural Resources shall convene a plan development group which shall be housed and staffed for administrative purposes within such department. The Department of Natural Resources shall engage with federal, state, and local agency and community stakeholders in the development of the state flood mitigation plan, including, but not limited to, the Department of Transportation, the Department of Environment and Energy, the Department of Economic Development, the Department of Agriculture, the Nebraska Emergency Management Agency, natural resources districts, the United States Department of Agriculture, the United States Army Corps of Engineers, the United States Geological Survey, the Federal Emergency Management Agency, the University of Nebraska, representatives of counties, municipalities, and other political subdivisions, and the Natural Resources Committee of the Legislature. The Department of Natural Resources may engage other sources to provide technical expertise as needed.

Source: Laws 2020, LB632, § 11.
Effective date November 14, 2020.

61-228 State flood mitigation plan; department; duties.

The Department of Natural Resources shall:

- (1) Evaluate the flood issues that occurred in 2019, and identify cost-effective flood mitigation strategies that should be adopted to reduce the disruption of lives and livelihoods and prioritize making Nebraska communities more resilient;
- (2) Identify opportunities to implement flood hazard mitigation strategies with the intent to reduce the impact of flood events;
- (3) Work to improve knowledge and understanding of available recovery resources while identifying potential gaps in current disaster program delivery;
- (4) Identify potential available funding sources that can be accessed to improve the resilience of the state through flood mitigation and post-flood disaster recovery. The funding sources shall include, but not be limited to, assistance from (a) the Federal Emergency Management Agency's Flood Mitigation Assistance Grant Program, Building Resilient Infrastructure and Communities Grant Program, Hazard Mitigation Grant Program, Public Assistance Program, and Individual Assistance Program, (b) the United States Department of Housing and Urban Development's Community Development Block Grant Program and Community Development Block Grant Disaster Recovery Program, and (c) programs of the United States Department of Agriculture's Natural Resources Conservation Service. Identification of such funding sources shall be in addition to grants and cost-sharing programs available through other agencies that support flood hazard mitigation planning in communities;
- (5) Compile a centralized list of critical infrastructure and state-owned facilities and identify those with the highest risk of flooding. In compiling such list, the Department of Natural Resources shall consult and collaborate with other state and local agencies that have information that identifies vulnerable facilities;
- (6) Evaluate state laws, rules, regulations, policies, and programs related to flood hazard mitigation and development in flood hazard-prone areas to support the state's administration of the Federal Emergency Management Agency's

National Flood Insurance Program, Community Rating System, and Risk Mapping, Assessment, and Planning Program;

(7) Examine existing law and, if necessary, recommend statutory or administrative changes to help ensure collaboration and coordination between state and local entities in statewide flood mitigation planning; and

(8) Hold two public hearings, one prior to the first state flood mitigation plan development meeting and one prior to the completion of such plan. Notice of each hearing shall be published at least thirty days prior to the hearing date.

Source: Laws 2020, LB632, § 12.

Effective date November 14, 2020.

61-229 State flood mitigation plan; report.

The state flood mitigation plan shall be completed and reported to the Governor and electronically to the Legislature on or before July 1, 2022.

Source: Laws 2020, LB632, § 13.

Effective date November 14, 2020.

CHAPTER 62

NEGOTIABLE INSTRUMENTS

Article.

3. Miscellaneous Provisions. 62-301.

ARTICLE 3

MISCELLANEOUS PROVISIONS

Section

62-301. Holidays, enumerated; federal holiday schedule observed; exceptions; bank holidays.

62-301 Holidays, enumerated; federal holiday schedule observed; exceptions; bank holidays.

(1) For the purposes of the Uniform Commercial Code and section 62-301.01, the following days shall be holidays: New Year's Day, January 1; Birthday of Martin Luther King, Jr., the third Monday in January; President's Day, the third Monday in February; Arbor Day, the last Friday in April; Memorial Day, the last Monday in May; Independence Day, July 4; Labor Day, the first Monday in September; Indigenous Peoples' Day and Columbus Day, the second Monday in October; Veterans Day, November 11, and the federally recognized holiday therefor, or either of them; Thanksgiving Day, the fourth Thursday in November; the day after Thanksgiving; and Christmas Day, December 25. If any such holiday falls on Sunday, the following Monday shall be a holiday. If the date designated by the state for observance of any legal holiday enumerated in this section, except Veterans Day, is different from the date of observance of such holiday pursuant to a federal holiday schedule, the federal holiday schedule shall be observed.

(2) Any bank doing business in this state may, by a brief written notice at, on, or near its front door, fully dispense with or restrict, to such extent as it may determine, the hours within which it will be open for business.

(3) Any bank may close on Saturday if it states such fact by a brief written notice at, on, or near its front door. When such bank will, in observance of such a notice, not be open for general business, such day shall, with respect to the particular bank, be the equivalent of a holiday as fully as if such day were listed in subsection (1) of this section, and any act authorized, required, or permitted to be performed at, by, or with respect to such bank which will, in observance of such notice, not be open for general business, acting in its own behalf or in any capacity whatever, may be performed on the next succeeding business day and no liability or loss of rights on the part of any person shall result from such delay.

(4) Any bank which, by the notice provided for by subsection (3) of this section, has created the holiday for such bank may, without destroying the legal effect of the holiday for it and solely for the convenience of its customers, remain open all or part of such day in a limited fashion by treating every transaction with its customers on such day as though the transaction had taken

place immediately upon the opening of such bank on the first following business day.

(5) Whenever the word bank is used in this section it includes building and loan association, savings and loan association, credit union, savings bank, trust company, investment company, and any other type of financial institution.

Source: Laws 1905, c. 83, art. 18, § 195, p. 434; Laws 1911, c. 69, § 1, p. 306; R.S.1913, § 5512; Laws 1915, c. 98, § 1, p. 241; Laws 1921, c. 186, § 1, p. 698; C.S.1922, § 4805; C.S.1929, § 62-1706; Laws 1941, c. 187, § 1, p. 755; C.S.Supp.,1941, § 62-1706; R.S.1943, § 62-301; Laws 1945, c. 252, § 1, p. 789; Laws 1951, c. 204, § 1, p. 761; Laws 1953, c. 224, § 1, p. 790; Laws 1967, c. 395, § 1, p. 1239; Laws 1969, c. 844, § 2, p. 3180; Laws 1973, LB 34, § 2; Laws 1974, LB 729, § 1; Laws 1975, LB 218, § 2; Laws 1978, LB 855, § 2; Laws 1986, LB 825, § 1; Laws 1988, LB 909, § 2; Laws 2002, LB 1094, § 14; Laws 2003, LB 131, § 32; Laws 2020, LB848, § 9.

Operative date November 14, 2020.

Cross References

Banks, days considered legal holidays, see section 8-1,129.

Thanksgiving, proclamation by Governor, see section 84-104.

CHAPTER 64

NOTARIES PUBLIC

Article.

1. General Provisions.
 - (a) Appointment and Powers. 64-105, 64-113.
2. Recognition of Acknowledgments. 64-203, 64-205.
3. Electronic Notary Public Act. 64-306, 64-313.
4. Online Notary Public Act. 64-401 to 64-418.

ARTICLE 1

GENERAL PROVISIONS

(a) APPOINTMENT AND POWERS

Section

- 64-105. Notarial acts prohibited; when.
64-113. Removal; grounds; procedure; penalty.

(a) APPOINTMENT AND POWERS

64-105 Notarial acts prohibited; when.

(1) A notary public shall not perform any notarial act as authorized by Chapter 64, articles 1, 2, and 3 if the principal:

(a) Is not in the presence of the notary public at the time of the notarial act; and

(b) Is not personally known to the notary public or identified by the notary public through satisfactory evidence.

(2) For purposes of this section:

(a) Identified by the notary public through satisfactory evidence means identification of an individual based on:

(i) At least one document issued by a government agency that is current and that bears the photographic image of the individual's face and signature and a physical description of the individual, except that a properly stamped passport without a physical description is satisfactory evidence; or

(ii) The oath or affirmation of one credible witness unaffected by the document or transaction to be notarized who is personally known to the notary public and who personally knows the individual, or the oaths or affirmations of two credible witnesses unaffected by the document or transaction to be notarized who each personally knows the individual and shows to the notary public documentary identification as described in subdivision (a)(i) of this subsection; and

(b) Personal knowledge of identity or personally known means familiarity with an individual resulting from interactions with that individual over a period of time sufficient to dispel any reasonable uncertainty that the individual has the identity claimed.

(3) This section does not apply to online notarial acts under the Online Notary Public Act.

Source: Laws 2004, LB 315, § 6; Laws 2019, LB186, § 20.

Cross References

Online Notary Public Act, see section 64-401.

64-113 Removal; grounds; procedure; penalty.

(1) Whenever charges of malfeasance in office are preferred to the Secretary of State against any notary public in this state, or whenever the Secretary of State has reasonable cause to believe any notary public in this state is guilty of acts of malfeasance in office, the Secretary of State may appoint any disinterested person, not related by consanguinity to either the notary public or person preferring the charges, and authorized by law to take testimony of witnesses by deposition, to notify such notary public to appear before him or her on a day and at an hour certain, after at least ten days from the day of service of such notice. At such appearance, the notary public may show cause as to why his or her commission should not be canceled or temporarily revoked. The appointee may issue subpoenas to require the attendance and testimony of witnesses and the production of any pertinent records, papers, or documents, may administer oaths, and may accept any evidence he or she deems pertinent to a proper determination of the charge. The notary public may appear, at such time and place, and cross-examine witnesses and produce witnesses in his or her behalf. Upon the receipt of such examination, duly certified in the manner prescribed for taking depositions to be used in suits in the district courts of this state, the Secretary of State shall examine the same, and if therefrom he or she finds that the notary public is guilty of acts of malfeasance in office, he or she may remove the person charged from the office of notary public or temporarily revoke such person's commission. Within fifteen days after such removal or revocation and notice thereof, such notary public shall deposit, with the Secretary of State, the commission as notary public and notarial seal. The commission shall be canceled or temporarily revoked by the Secretary of State. A person so removed from office shall be forever disqualified from holding the office of notary public. A person whose commission is temporarily revoked shall be returned his or her commission and seal upon completion of the revocation period and passing the examination described in section 64-101.01. The fees for taking such testimony shall be paid by the state at the same rate as fees for taking depositions by notaries public. The failure of the notary public to deposit his or her commission and seal with the Secretary of State as required by this section shall subject him or her to a penalty of one thousand dollars, to be recovered in the name of the state.

(2) For purposes of this section, malfeasance in office means, while serving as a notary public, (a) failure to follow the requirements and procedures for notarial acts provided for in Chapter 64, (b) violating the confidentiality provisions of section 71-6911, or (c) being convicted of a felony or other crime involving fraud or dishonesty.

Source: Laws 1869, § 14, p. 25; G.S.1873, p. 497; R.S.1913, § 5529; C.S.1922, § 4825; C.S.1929, § 64-113; R.S.1943, § 64-113; Laws 1945, c. 145, § 10, p. 493; Laws 1967, c. 396, § 8, p. 1244; Laws 2004, LB 315, § 11; Laws 2011, LB690, § 2; Laws 2012, LB398, § 6; Laws 2019, LB186, § 21.

ARTICLE 2
RECOGNITION OF ACKNOWLEDGMENTS

Section

64-203. Certificate; contents.

64-205. Acknowledgment, defined.

64-203 Certificate; contents.

(1) The person taking an acknowledgment shall certify that:

(a) The person acknowledging appeared before him or her and acknowledged he or she executed the instrument; and

(b) The person acknowledging was known to the person taking the acknowledgment or that the person taking the acknowledgment had satisfactory evidence that the person acknowledging was the person described in and who executed the instrument.

(2) For purposes of this section, appearance before the person taking an acknowledgment includes an appearance outside the presence of a notary public if such acknowledgment was completed in accordance with the Online Notary Public Act.

Source: Laws 1969, c. 523, § 3, p. 2141; Laws 2019, LB186, § 22.

Cross References

Online Notary Public Act, see section 64-401.

64-205 Acknowledgment, defined.

(1) The words acknowledged before me means:

(a) That the person acknowledging appeared before the person taking the acknowledgment;

(b) That he or she acknowledged he or she executed the instrument;

(c) That, in the case of:

(i) A natural person, he or she executed the instrument for the purposes therein stated;

(ii) A corporation, the officer or agent acknowledged he or she held the position or title set forth in the instrument and certificate, he or she signed the instrument on behalf of the corporation by proper authority and the instrument was the act of the corporation for the purpose therein stated;

(iii) A partnership, the partner or agent acknowledged he or she signed the instrument on behalf of the partnership by proper authority and he or she executed the instrument as the act of the partnership for the purposes therein stated;

(iv) A limited liability company, the member or agent acknowledged he or she signed the instrument on behalf of the limited liability company by proper authority and he or she executed the instrument as the act of the limited liability company for the purposes therein stated;

(v) A person acknowledging as principal by an attorney in fact, he or she executed the instrument by proper authority as the act of the principal for the purposes therein stated; or

(vi) A person acknowledging as a public officer, trustee, administrator, guardian, or other representative, he or she signed the instrument by proper

authority and he or she executed the instrument in the capacity and for the purposes therein stated; and

(d) That the person taking the acknowledgment either knew or had satisfactory evidence that the person acknowledging was the person named in the instrument or certificate.

(2) For purposes of this section, appearance before the person taking an acknowledgment includes an appearance outside the presence of a notary public if such acknowledgment was completed in accordance with the Online Notary Public Act.

Source: Laws 1969, c. 523, § 5, p. 2141; Laws 1993, LB 121, § 393; Laws 2019, LB186, § 23.

Cross References

Online Notary Public Act, see section 64-401.

**ARTICLE 3
ELECTRONIC NOTARY PUBLIC ACT**

Section

64-306. Fee.

64-313. Electronic certificate of authority; contents; fee.

64-306 Fee.

The fee for registering or reregistering as an electronic notary shall be in addition to the fee required in section 33-102. The Secretary of State shall establish the fee by rule and regulation in an amount sufficient to cover the costs of administering the Electronic Notary Public Act, but the fee shall not exceed one hundred dollars. The Secretary of State shall remit fees received under this section to the State Treasurer for credit to the Secretary of State Cash Fund for use in administering the Electronic Notary Public Act.

Source: Laws 2016, LB465, § 6; Laws 2020, LB910, § 23.
Operative date July 1, 2021.

64-313 Electronic certificate of authority; contents; fee.

(1) An electronic certificate of authority evidencing the authenticity of the notary public’s electronic signature and electronic notary seal of an electronic notary public of this state shall contain substantially the following words:

Certificate of Authority for an Electronic Notarial Act

I(name, title, jurisdiction of commissioning official) certify that (name of electronic notary public), the person named as an electronic notary public in the attached or associated document, was indeed registered as an electronic notary public for the State of Nebraska and authorized to act as such at the time of the document’s electronic notarization. To verify this Certificate of Authority for an Electronic Notarial Act, I have included herewith my electronic signature this day of, 20.....

(Electronic signature (and seal) of commissioning official)

(2) The Secretary of State may charge a fee of twenty dollars for issuing an electronic certificate of authority. The Secretary of State shall remit the fees to the State Treasurer for credit to the Secretary of State Cash Fund.

Source: Laws 2016, LB465, § 13; Laws 2020, LB910, § 24.
Operative date July 1, 2021.

ARTICLE 4
ONLINE NOTARY PUBLIC ACT

Section

- 64-401. Act, how cited.
- 64-402. Terms, defined.
- 64-403. Eligibility to register as online notary public; qualifications.
- 64-404. Course of instruction; examination.
- 64-405. Fee.
- 64-406. Registration with Secretary of State; contents; renewal.
- 64-407. Rules and regulations.
- 64-408. Types of online notarial acts.
- 64-409. Electronic record; contents; online notary public; duties; retention period.
- 64-410. Electronic signature and online notary seal; use; registered device; report of theft or vandalism.
- 64-411. Physical location of principal; verification of identity; manner; security of communication technology; online notarial certificate; notation required.
- 64-412. Fee.
- 64-413. Expiration of registration; resignation, cancellation, or revocation; death of online notary public; required actions.
- 64-414. Prohibited acts; penalty.
- 64-415. Electronic certificate of authority; form; fee.
- 64-416. Violation of act; removal of registration.
- 64-417. Effect of act on notary public that does not perform online notarial acts.
- 64-418. Provisions governing online notary public; online notarial act; not available for certain requirements.

64-401 Act, how cited.

Sections 64-401 to 64-418 shall be known as the Online Notary Public Act.

Source: Laws 2019, LB186, § 1.

64-402 Terms, defined.

For purposes of the Online Notary Public Act:

- (1) Communication technology means an electronic device or process that allows an online notary public and an individual who is not in the physical presence of the online notary public to communicate with each other simultaneously by sight and sound;
- (2) Credential analysis means a process or service operating according to criteria approved by the Secretary of State through which a third person affirms the validity of a government-issued identification credential through review of public and proprietary data sources;
- (3) Electronic means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities;
- (4) Electronic document means information that is created, generated, sent, communicated, received, or stored by electronic means;
- (5) Electronic signature means an electronic sound, symbol, or process attached to or logically associated with an electronic document and executed or adopted by a person with the intent to sign the electronic document;
- (6) Identity proofing means a process or service operating according to criteria approved by the Secretary of State through which a third person affirms the identity of an individual through review of personal information from public or proprietary data sources;

(7) Online notarial act means the performance by an online notary public of a function authorized under section 64-408 that is performed by means of communication technology that meets the standards developed under section 64-407;

(8) Online notarial certificate means the portion of a notarized electronic document that is completed by an online notary public and that contains the following:

(a) The online notary public's electronic signature, online notary seal, title, and commission expiration date;

(b) Other required information concerning the date and place of the online notarial act; and

(c) The completed wording of one of the following notarial certificates: (i) Acknowledgment, (ii) jurat, (iii) verification of proof, or (iv) oath or affirmation;

(9) Online notary public means a notary public registered with the Secretary of State who has the authority to perform online notarial acts under the Online Notary Public Act;

(10) Online notary seal means information within a notarized electronic document that confirms the online notary public's name, jurisdiction, identifying number, and commission expiration date and generally corresponds to the data in notary seals used on paper documents;

(11) Online notary solution provider means a provider of any credential analysis, identity proofing, online notary seals, electronic signatures, or communication technology;

(12) Personal knowledge or personally known means familiarity with an individual resulting from interactions with that individual over a period of time sufficient to dispel any reasonable uncertainty that the individual has the identity claimed;

(13) Principal means an individual:

(a) Whose electronic signature is notarized in an online notarial act; or

(b) Taking an oath or affirmation from the online notary public other than in the capacity of a witness for the online notarial act; and

(14) Remote presentation means transmission to the online notary public through communication technology of an image of a government-issued identification credential that is of sufficient quality to enable the online notary public to:

(a) Identify the individual seeking the online notary public's services; and

(b) Perform credential analysis.

Source: Laws 2019, LB186, § 2.

64-403 Eligibility to register as online notary public; qualifications.

(1) To be eligible to register as an online notary public, a person shall:

(a) Hold a valid commission as a notary public in the State of Nebraska;

(b) Satisfy the education requirement of section 64-404; and

(c) Pay the fee required under section 64-405.

(2) The Secretary of State shall not accept the registration if the requirements of subsection (1) of this section are not met.

Source: Laws 2019, LB186, § 3.

64-404 Course of instruction; examination.

(1) Before registering as an online notary public, a notary public shall take a course of instruction and pass an examination approved by the Secretary of State. The course of instruction and examination shall be approved by the Secretary of State by July 31, 2020.

(2) The content of the course and the basis for the examination shall include notarial laws, procedures, technology, and the ethics of performing online notarial acts.

Source: Laws 2019, LB186, § 4.

64-405 Fee.

The fee for registering or renewing a registration as an online notary public shall be in addition to the fee required in section 33-102. The Secretary of State shall establish the fee by rule and regulation in an amount sufficient to cover the costs of administering the Online Notary Public Act, but the fee shall not exceed one hundred dollars. The Secretary of State shall remit fees received under this section to the State Treasurer for credit to the Secretary of State Cash Fund for use in administering the Online Notary Public Act.

Source: Laws 2019, LB186, § 5; Laws 2020, LB910, § 25.

Operative date July 1, 2021.

64-406 Registration with Secretary of State; contents; renewal.

(1) Before performing an online notarial act, a notary public shall register with the Secretary of State in a manner prescribed by the Secretary of State.

(2) In addition to any additional information prescribed by the Secretary of State, the registration shall include:

(a) The technology the notary public intends to use to perform an online notarial act. Such technology shall be provided by an online notary solution provider approved by the Secretary of State;

(b) A certification by the notary that he or she will comply with the standards developed under section 64-407; and

(c) An email address for the notary.

(3) The term of registration as an online notary public shall coincide with the term of the commission of the notary public.

(4) An application to renew registration as an online notary public shall specify any change in the technology the online notary public intends to use to perform online notarial acts. Such technology shall be provided by an online notary solution provider approved by the Secretary of State.

(5) A person registered as an online notary public may renew his or her online notary public registration at the same time he or she renews his or her notary public commission.

Source: Laws 2019, LB186, § 6.

64-407 Rules and regulations.

(1) The Secretary of State shall adopt and promulgate rules and regulations:

(a) Creating standards for online notarial acts in accordance with the Online Notary Public Act, including standards for credential analysis, identity proofing, and communication technology used for online notarial acts; and

(b) To ensure the integrity, security, and authenticity of online notarial acts in accordance with the Online Notary Public Act. Such rules and regulations shall include procedures for the approval of online notary solution providers by the Secretary of State.

(2) The Secretary of State may adopt and promulgate rules and regulations to facilitate the utilization of online notarial acts.

Source: Laws 2019, LB186, § 7.

64-408 Types of online notarial acts.

The following types of online notarial acts may be performed by an online notary public:

- (1) Acknowledgments;
- (2) Jurats;
- (3) Verifications or proofs; and
- (4) Oaths or affirmations.

Source: Laws 2019, LB186, § 8.

64-409 Electronic record; contents; online notary public; duties; retention period.

(1) An online notary public shall keep a secure electronic record of electronic documents notarized by the online notary public. For each online notarial act, the electronic record shall contain:

- (a) The date and time of the online notarial act;
- (b) The type of online notarial act;
- (c) The type, title, or description of the electronic document or proceeding;
- (d) The printed name and address of each principal involved in the transaction or proceeding;
- (e) Evidence of identity of each principal involved in the transaction or proceeding in the form of:
 - (i) A statement that the principal is personally known to the online notary public;
 - (ii) A notation of the type of identification document provided to the online notary public;
 - (iii) A record of the identity verification made under section 64-411; or
 - (iv) The following:
 - (A) The printed name and address of each credible witness swearing to or affirming the principal's identity; and
 - (B) For each credible witness not personally known to the online notary public, a description of the type of identification documents provided to the online notary public;

(f) A recording of any video and audio conference of the performance of the online notarial act, which shall not contain images of the documents that were notarized; and

(g) The fee, if any, charged for the online notarial act.

(2) The online notary public shall take reasonable steps to:

(a) Ensure the integrity, security, and authenticity of online notarial acts;

(b) Maintain a backup for the secure electronic record required by this section; and

(c) Protect the secure electronic record and backup record from unauthorized use.

(3) The electronic record and backup record required by this section shall be maintained for at least ten years after the date of the transaction or proceeding. The online notary public shall not surrender or destroy the record except as required by a court order or as allowed under rules and regulations adopted and promulgated by the Secretary of State.

Source: Laws 2019, LB186, § 9.

64-410 Electronic signature and online notary seal; use; registered device; report of theft or vandalism.

(1) An online notary public's electronic signature in combination with the online notary seal shall be used only for the purpose of performing online notarial acts.

(2) An online notary public shall take reasonable steps to ensure that any registered device used to create an electronic signature is current and has not been revoked or terminated by the device's issuing or registering authority.

(3) An online notary public shall keep secure and under his or her exclusive control: The online notary public's electronic signature, online notary seal, and the electronic record and backup record required under section 64-409. The online notary public shall not allow another person to use the online notary public's electronic signature, online notary seal, or electronic record or backup record.

(4) An online notary public shall immediately notify an appropriate law enforcement agency and the Secretary of State of the theft or vandalism of the online notary public's electronic signature, online notary seal, or the electronic record or backup record required under section 64-409. An online notary public shall immediately notify the Secretary of State of the loss or use by another person of the online notary public's electronic signature, online notary seal, or the electronic record or backup record required under section 64-409.

Source: Laws 2019, LB186, § 10.

64-411 Physical location of principal; verification of identity; manner; security of communication technology; online notarial certificate; notation required.

(1) An online notary public may perform an online notarial act authorized under section 64-408 that meets the requirements of the Online Notary Public Act and the rules and regulations adopted and promulgated thereunder regardless of whether the principal is physically located in this state at the time of the online notarial act.

(2) In performing an online notarial act, an online notary public shall verify the identity of an individual creating an electronic signature. Identity shall be verified by:

(a) The online notary public's personal knowledge of the individual creating the electronic signature;

(b) All of the following:

(i) Remote presentation by the individual creating the electronic signature of a government-issued identification credential that is current and that bears the photographic image of the individual's face and signature and a physical description of the individual, except that a properly stamped passport without a physical description is satisfactory evidence;

(ii) Credential analysis of such credential; and

(iii) Identity proofing of the individual creating the electronic signature; or

(c) Oath or affirmation of a credible witness who is in the physical presence of either the online notary public or the individual and who has personal knowledge of the individual if:

(i) The credible witness is personally known to the online notary public; or

(ii) The online notary public has verified the identity of the credible witness under subdivision (2)(b) of this section.

(3) The online notary public shall take reasonable steps to ensure that the communication technology used in an online notarial act is secure from unauthorized interception.

(4) An online notary public shall attach the online notary public's electronic signature and online notary seal to the online notarial certificate of an electronic document in a manner that is capable of independent verification and that renders evident any subsequent change or modification to the electronic document.

(5) The online notarial certificate for an online notarial act must include a notation that the notarial act is an online notarial act.

Source: Laws 2019, LB186, § 11.

64-412 Fee.

In addition to any fee authorized under section 33-133, an online notary public or his or her employer may charge a fee in an amount not to exceed twenty-five dollars for each online notarial act.

Source: Laws 2019, LB186, § 12.

64-413 Expiration of registration; resignation, cancellation, or revocation; death of online notary public; required actions.

(1) Except as provided in subsection (2) of this section, when the registration of an online notary public expires or is resigned, canceled, or revoked or when an online notary public dies, he or she or his or her duly authorized representative shall erase, delete, or destroy the coding, disk, certificate, card, software, file, password, or program that enables the electronic affixation of the online notary public's official electronic signature and online notary seal. The online notary public or his or her duly authorized representative shall certify compliance with this subsection to the Secretary of State.

(2) A former online notary public whose previous registration was not revoked, canceled, or denied by the Secretary of State need not comply with subsection (1) of this section if he or she is reregistered as an online notary public using the same electronic signature within three months after the former registration expired.

Source: Laws 2019, LB186, § 13.

64-414 Prohibited acts; penalty.

A person who, without authorization, knowingly obtains, conceals, damages, or destroys the coding, disk, certificate, card, software, file, password, program, or hardware enabling an online notary public to affix an official electronic signature or online notary seal shall be guilty of a Class I misdemeanor.

Source: Laws 2019, LB186, § 14.

64-415 Electronic certificate of authority; form; fee.

(1) Electronic evidence of the authenticity of the electronic signature and online notary seal of an online notary public of this state, if required, shall be attached to, or logically associated with, a document with an online notary public’s electronic signature transmitted to another state or nation and shall be in the form of an electronic certificate of authority signed by the Secretary of State in conformance with any current and pertinent international treaties, agreements, and conventions subscribed to by the United States Government.

(2) An electronic certificate of authority evidencing the authenticity of the electronic signature and online notary seal of an online notary public of this state shall contain substantially the following words:

Certificate of Authority for an Online Notarial Act

I (name, title, jurisdiction of commissioning official) certify that (name of online notary public), the person named as an online notary public in the attached or associated document, was indeed registered as an online notary public for the State of Nebraska and authorized to act as such at the time of the document’s electronic notarization. To verify this Certificate of Authority for an Online Notarial Act, I have included herewith my electronic signature this day of, 20.....

(Electronic signature (and seal) of commissioning official)

(3) The Secretary of State may charge a fee of twenty dollars for issuing an electronic certificate of authority. The Secretary of State shall remit the fees to the State Treasurer for credit to the Secretary of State Cash Fund for use in administering the Online Notary Public Act.

Source: Laws 2019, LB186, § 15; Laws 2020, LB910, § 26.
Operative date July 1, 2021.

64-416 Violation of act; removal of registration.

A person violating the Online Notary Public Act is subject to having his or her registration removed under the removal procedures provided in section 64-113.

Source: Laws 2019, LB186, § 16.

64-417 Effect of act on notary public that does not perform online notarial acts.

Nothing in the Online Notary Public Act requires a notary public to register as an online notary public if he or she does not perform online notarial acts.

Source: Laws 2019, LB186, § 17.

64-418 Provisions governing online notary public; online notarial act; not available for certain requirements.

(1) Sections 64-101 to 64-119 and 64-211 to 64-215 and the Uniform Recognition of Acknowledgments Act govern an online notary public unless the provisions of such sections and act are in conflict with the Online Notary Public Act, in which case the Online Notary Public Act controls.

(2) An online notarial act performed under the Online Notary Public Act satisfies any requirement of law of this state that a principal appear before, appear personally before, or be in the physical presence of a notary public at the time of the online notarial act except for requirements under:

(a) A law governing the creation and execution of wills, codicils, or testamentary trusts; or

(b) The Uniform Commercial Code other than article 2 and article 2A.

(3) The Electronic Notary Public Act does not apply to online notarial acts or online public notaries acting under the Online Notary Public Act.

Source: Laws 2019, LB186, § 18.

Cross References

Electronic Notary Public Act, see section 64-301.

Uniform Recognition of Acknowledgments Act, see section 64-209.

CHAPTER 66

OILS, FUELS, AND ENERGY

Article.

2. Nebraska Clean-burning Motor Fuel Development Act. 66-203, 66-204.
3. Carbon Dioxide Emissions. 66-301 to 66-304.
4. Motor Vehicle Fuel Tax. 66-482 to 66-4,143.
6. Diesel, Alternative, and Compressed Fuel Taxes.
(d) Compressed Fuel Tax. 66-6,101.
7. Motor Fuel Tax Enforcement and Collection. 66-712 to 66-739.
10. Energy Conservation.
(a) Utility Loans. 66-1004, 66-1009.
11. Geothermal Resources. 66-1105.
13. Ethanol. 66-1334 to 66-1344.
14. International Fuel Tax Agreement Act. 66-1406.02, 66-1424.
15. Petroleum Release Remedial Action. 66-1504 to 66-1529.02.
20. Natural Gas Fuel Board. 66-2001.
22. Renewable Fuel Infrastructure Program. 66-2201 to 66-2207.

ARTICLE 2

NEBRASKA CLEAN-BURNING MOTOR FUEL DEVELOPMENT ACT

Section

- 66-203. Rebate for qualified clean-burning motor vehicle fuel property.
66-204. Clean-burning Motor Fuel Development Fund; created; use; investment.

66-203 Rebate for qualified clean-burning motor vehicle fuel property.

(1) The Department of Environment and Energy shall offer a rebate for qualified clean-burning motor vehicle fuel property.

(2)(a) The rebate for qualified clean-burning motor vehicle fuel property as defined in subdivisions (4)(a) and (b) of section 66-202 is the lesser of fifty percent of the cost of the qualified clean-burning motor vehicle fuel property or four thousand five hundred dollars for each motor vehicle.

(b) A qualified clean-burning motor vehicle fuel property is not eligible for a rebate under this section if the person or entity applying for the rebate has claimed another rebate or grant for the same motor vehicle under any other state rebate or grant program.

(3) The rebate for qualified clean-burning motor vehicle fuel property as defined in subdivision (4)(c) of section 66-202 is the lesser of fifty percent of the cost of the qualified clean-burning motor vehicle fuel property or two thousand five hundred dollars for each qualified clean-burning motor vehicle fuel property.

(4) No qualified clean-burning motor vehicle fuel property shall qualify for more than one rebate under this section.

Source: Laws 2015, LB581, § 3; Laws 2016, LB902, § 2; Laws 2019, LB302, § 69.

66-204 Clean-burning Motor Fuel Development Fund; created; use; investment.

(1) The Clean-burning Motor Fuel Development Fund is created. The fund shall consist of grants, private contributions, and all other sources.

(2) The fund shall be used by the Department of Environment and Energy to provide rebates under the Nebraska Clean-burning Motor Fuel Development Act up to the amount transferred under subsection (3) of this section. No more than thirty-five percent of the money in the fund annually shall be used as rebates for flex-fuel dispensers. The department may use the fund for necessary costs in the administration of the act up to an amount not exceeding ten percent of the fund annually.

(3) Within five days after August 30, 2015, the State Treasurer shall transfer five hundred thousand dollars from the General Fund to the Clean-burning Motor Fuel Development Fund to carry out the Nebraska Clean-burning Motor Fuel Development Act.

(4) 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.

(5) The State Treasurer shall transfer two hundred thousand dollars from the Clean-burning Motor Fuel Development Fund to the General Fund on or before June 30, 2018, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

Source: Laws 2015, LB581, § 4; Laws 2016, LB902, § 3; Laws 2016, LB957, § 4; Laws 2017, LB331, § 31; Laws 2019, LB302, § 70.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

ARTICLE 3

CARBON DIOXIDE EMISSIONS

Section

66-301. Terms, defined.

66-302. Department of Environment and Energy; state plan for regulating carbon dioxide emissions; duties.

66-303. Department of Environment and Energy; duties; report; contents; legislative vote.

66-304. State plan; submit to Legislature.

66-301 Terms, defined.

For purposes of sections 66-301 to 66-304:

(1) Covered electric generating unit means a fossil fuel-fired electric generating unit existing within the state prior to August 30, 2015, that is subject to regulation under the federal emission guidelines;

(2) Federal emission guidelines means any final rules, regulations, guidelines, or other requirements that the United States Environmental Protection Agency may adopt for regulating carbon dioxide emissions from covered electric generating units under section 111(d) of the federal Clean Air Act, 42 U.S.C. 7411(d);

(3) State means the State of Nebraska; and

(4) State plan means any plan to establish and enforce carbon dioxide emission control measures that the Department of Environment and Energy may adopt to implement the obligations of the state under the federal emission guidelines.

Source: Laws 2015, LB469, § 1; Laws 2019, LB302, § 71.

66-302 Department of Environment and Energy; state plan for regulating carbon dioxide emissions; duties.

The Department of Environment and Energy shall not submit a state plan for regulating carbon dioxide emissions from covered electric generating units to the United States Environmental Protection Agency until the department has prepared a report as required in section 66-303. Nothing in this section shall prevent the department from complying with federally prescribed deadlines.

Source: Laws 2015, LB469, § 2; Laws 2019, LB302, § 72.

66-303 Department of Environment and Energy; duties; report; contents; legislative vote.

(1) The Department of Environment and Energy shall also prepare a report that assesses the effects of the state plan for regulating carbon dioxide emissions from covered electric generating units on:

(a) The electric power sector, including:

(i) The type and amount of electric generating capacity within the state that is likely to retire or switch to another fuel;

(ii) The stranded investment in electric generating capacity and other infrastructure;

(iii) The amount of investment necessary to offset retirements of electric generating capacity and maintain generation reserve margins;

(iv) Potential risks to electric reliability, including resource adequacy risks and transmission constraints; and

(v) The amount by which retail electricity prices within the state are forecast to increase or decrease; and

(b) Employment within the state, including direct and indirect employment effects within affected sectors of the state's economy.

(2) The department shall complete the report required under this section at least thirty days prior to submitting the state plan prepared pursuant to section 66-302 and shall electronically submit to the Legislature a copy of such report.

(3) If the Legislature is in session when it receives the report, the Legislature may vote on a nonbinding legislative resolution endorsing or disapproving the state plan based on the findings of the report.

Source: Laws 2015, LB469, § 3; Laws 2019, LB302, § 73.

66-304 State plan; submit to Legislature.

Upon submitting a state plan to the United States Environmental Protection Agency, the Department of Environment and Energy shall electronically submit to the Legislature a copy of the state plan.

Source: Laws 2015, LB469, § 4; Laws 2019, LB302, § 74.

ARTICLE 4

MOTOR VEHICLE FUEL TAX

Section

- 66-482. Terms, defined.
- 66-489.02. Producer, supplier, distributor, wholesaler, or importer; tax on average wholesale price of gasoline; credit to Highway Trust Fund; use; allocation.
- 66-4,143. Materiel administrator; submit report; contents.

66-482 Terms, defined.

For purposes of sections 66-482 to 66-4,149:

- (1) Motor vehicle shall have the same definition as in section 60-339;
- (2) Motor vehicle fuel shall include all products and fuel commonly or commercially known as gasoline, including casing head or natural gasoline, and shall include any other liquid and such other volatile and inflammable liquids as may be produced, compounded, or used for the purpose of operating or propelling motor vehicles, motorboats, or aircraft or as an ingredient in the manufacture of such fuel. Agricultural ethyl alcohol produced for use as a motor vehicle fuel shall be considered a motor vehicle fuel. Motor vehicle fuel shall not include the products commonly known as methanol, kerosene oil, kerosene distillate, crude petroleum, naphtha, and benzine with a boiling point over two hundred degrees Fahrenheit, residuum gas oil, smudge oil, leaded automotive racing fuel with an American Society of Testing Materials research method octane number in excess of one hundred five, and any petroleum product with an initial boiling point under two hundred degrees Fahrenheit, a ninety-five percent distillation (recovery) temperature in excess of four hundred sixty-four degrees Fahrenheit, an American Society of Testing Materials research method octane number less than seventy, and an end or dry point of distillation of five hundred seventy degrees Fahrenheit maximum;
- (3) Agricultural ethyl alcohol shall mean ethyl alcohol produced from cereal grains or agricultural commodities grown within the continental United States and which is a finished product that is a nominally anhydrous ethyl alcohol meeting American Society for Testing and Materials D4806 standards. For the purpose of sections 66-482 to 66-4,149, the purity of the ethyl alcohol shall be determined excluding denaturant and the volume of alcohol blended with gasoline for motor vehicle fuel shall include the volume of any denaturant required pursuant to law;
- (4) Alcohol blend shall mean a blend of agricultural ethyl alcohol in gasoline or other motor vehicle fuel, such blend to contain not less than five percent by volume of alcohol;
- (5) Supplier shall mean any person who owns motor fuels imported by barge, barge line, or pipeline and stored at a barge, barge line, or pipeline terminal in this state;
- (6) Distributor shall mean any person who acquires ownership of motor fuels directly from a producer or supplier at or from a barge, barge line, pipeline terminal, or ethanol or biodiesel facility in this state;
- (7) Wholesaler shall mean any person, other than a producer, supplier, distributor, or importer, who acquires motor fuels for resale;

(8) Retailer shall mean any person who acquires motor fuels from a producer, supplier, distributor, wholesaler, or importer for resale to consumers of such fuel;

(9) Importer shall mean any person who owns motor fuels at the time such fuels enter the State of Nebraska by any means other than barge, barge line, or pipeline. Importer shall not include a person who imports motor fuels in a tank directly connected to the engine of a motor vehicle, train, watercraft, or airplane for purposes of providing fuel to the engine to which the tank is connected;

(10) Exporter shall mean any person who acquires ownership of motor fuels from any licensed producer, supplier, distributor, wholesaler, or importer exclusively for use or resale in another state;

(11) Gross gallons shall mean measured gallons without adjustment or correction for temperature or barometric pressure;

(12) Diesel fuel shall mean all combustible liquids and biodiesel which are suitable for the generation of power for diesel-powered vehicles, except that diesel fuel shall not include kerosene;

(13) Compressed fuel shall mean any fuel defined as compressed fuel in section 66-6,100;

(14) Person shall mean any individual, firm, partnership, limited liability company, company, agency, association, corporation, state, county, municipality, or other political subdivision. Whenever a fine or imprisonment is prescribed or imposed in sections 66-482 to 66-4,149, the word person as applied to a partnership, a limited liability company, or an association shall mean the partners or members thereof;

(15) Department shall mean the Department of Revenue;

(16) Semiannual period shall mean either the period which begins on January 1 and ends on June 30 of each year or the period which begins on July 1 and ends on December 31 of each year;

(17) Producer shall mean any person who manufactures agricultural ethyl alcohol or biodiesel at an ethanol or biodiesel facility in this state;

(18) Highway shall mean every way or place generally open to the use of the public for the purpose of vehicular travel, even though such way or place may be temporarily closed or travel thereon restricted for the purpose of construction, maintenance, repair, or reconstruction;

(19) Kerosene shall mean kerosene meeting the specifications as found in the American Society for Testing and Materials publication D3699 entitled Standard Specifications for Kerosene;

(20) Biodiesel shall mean mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats which conform to American Society for Testing and Materials D6751 specifications for use in diesel engines. Biodiesel refers to the pure fuel before blending with diesel fuel;

(21) Motor fuels shall mean motor vehicle fuel, diesel fuel, aircraft fuel, or compressed fuel;

(22) Ethanol facility shall mean a plant which produces agricultural ethyl alcohol; and

(23) Biodiesel facility shall mean a plant which produces biodiesel.

Source: Laws 1925, c. 172, § 1, p. 448; Laws 1929, c. 150, § 1, p. 525; C.S.1929, § 66-401; Laws 1935, c. 3, § 15, p. 63; Laws 1935, Spec. Sess., c. 13, § 1, p. 86; Laws 1939, c. 86, § 1, p. 366; C.S.Supp.,1941, § 66-401; R.S.1943, § 66-401; Laws 1955, c. 246, § 1, p. 777; Laws 1963, c. 377, § 1, p. 1214; Laws 1963, c. 375, § 2, p. 1206; Laws 1981, LB 360, § 1; Laws 1987, LB 523, § 5; Laws 1988, LB 1039, § 1; R.S.1943, (1990), § 66-401; Laws 1991, LB 627, § 9; Laws 1993, LB 121, § 395; Laws 1994, LB 1160, § 55; Laws 1995, LB 182, § 28; Laws 1996, LB 1121, § 1; Laws 1998, LB 1161, § 14; Laws 2004, LB 479, § 1; Laws 2004, LB 983, § 5; Laws 2005, LB 274, § 267; Laws 2008, LB846, § 2; Laws 2014, LB851, § 6; Laws 2019, LB512, § 3.

Cross References

For additional definitions, see section 66-712.

66-489.02 Producer, supplier, distributor, wholesaler, or importer; tax on average wholesale price of gasoline; credit to Highway Trust Fund; use; allocation.

(1) For tax periods beginning on and after July 1, 2009, at the time of filing the return required by section 66-488, the producer, supplier, distributor, wholesaler, or importer shall, in addition to the other taxes provided for by law, pay a tax at the rate of five percent of the average wholesale price of gasoline for the gallons of the motor fuels as shown by the return, except that there shall be no tax on the motor fuels reported if they are otherwise exempted by sections 66-482 to 66-4,149.

(2) The department shall calculate the average wholesale price of gasoline on April 1, 2009, and on each April 1 and October 1 thereafter. The average wholesale price on April 1 shall apply to returns for the tax periods beginning on and after July 1, and the average wholesale price on October 1 shall apply to returns for the tax periods beginning on and after January 1. The average wholesale price shall be determined using data available from the Department of Environment and Energy and shall be an average wholesale price per gallon of gasoline sold in the state over the previous six-month period, excluding any state or federal excise tax or environmental fees. The change in the average wholesale price between two six-month periods shall be adjusted so that the increase or decrease in the tax provided for in this section or section 66-6,109.02 does not exceed one cent per gallon.

(3) All sums of money received under this section shall be credited to the Highway Trust Fund. Credits and refunds of such tax allowed to producers, suppliers, distributors, wholesalers, or importers shall be paid from the Highway Trust Fund. The balance of the amount credited, after credits and refunds, shall be allocated as follows:

(a) Sixty-six percent to the Highway Cash Fund for the Department of Transportation;

(b) Seventeen percent to the Highway Allocation Fund for allocation to the various counties for road purposes; and

(c) Seventeen percent to the Highway Allocation Fund for allocation to the various municipalities for street purposes.

Source: Laws 2008, LB846, § 11; Laws 2012, LB727, § 18; Laws 2017, LB339, § 237; Laws 2019, LB302, § 75.

66-4,143 Materiel administrator; submit report; contents.

(1) The materiel administrator of the Department of Administrative Services shall on or before the tenth day of the fifth calendar month following the end of a semiannual period submit to the Department of Revenue a report providing the total cost and number of gallons of motor fuels purchased by the State of Nebraska during the preceding month. In providing such information, the materiel administrator shall total only those purchases which were fifty or more gallons and shall separately identify the amount of any state or federal tax which was included in the price paid.

(2) The Department of Revenue shall provide any assistance the materiel administrator may need in performing his or her duties under this section.

Source: Laws 1980, LB 722, § 10; Laws 1981, LB 172, § 4; R.S.1943, (1990), § 66-475; Laws 1991, LB 627, § 57; Laws 1994, LB 1160, § 76; Laws 1995, LB 182, § 35; Laws 1998, LB 1161, § 17; Laws 2004, LB 983, § 26; Laws 2019, LB512, § 4.

ARTICLE 6

DIESEL, ALTERNATIVE, AND COMPRESSED FUEL TAXES

(d) COMPRESSED FUEL TAX

Section
66-6,101. Department, defined.

(d) COMPRESSED FUEL TAX

66-6,101 Department, defined.

Department means the Department of Revenue.

Source: Laws 1995, LB 182, § 5; Laws 2019, LB512, § 5.

ARTICLE 7

MOTOR FUEL TAX ENFORCEMENT AND COLLECTION

Section
66-712. Terms, defined.
66-718. Report, return, or other statement; department; powers; electronic filing.
66-738. Repealed. Laws 2019, LB512, § 34.
66-739. Motor Fuel Tax Enforcement and Collection Cash Fund; created; use; investment.

66-712 Terms, defined.

For purposes of the Compressed Fuel Tax Act and sections 66-482 to 66-4,149, 66-501 to 66-531, and 66-712 to 66-736:

(1) Department means the Department of Revenue;

(2) Motor fuel means any fuel defined as motor vehicle fuel in section 66-482, any fuel defined as diesel fuel in section 66-482, and any fuel defined as compressed fuel in section 66-6,100;

(3) Motor fuel laws means the Compressed Fuel Tax Act and sections 66-482 to 66-4,149, 66-501 to 66-531, and 66-712 to 66-736; and

(4) Person means any individual, firm, partnership, limited liability company, company, agency, association, corporation, state, county, municipality, or other political subdivision. Whenever a fine, imprisonment, or both are prescribed or imposed in sections 66-712 to 66-736, the word person as applied to a partnership, a limited liability company, or an association means the partners or members thereof.

Source: Laws 1991, LB 627, § 107; Laws 1993, LB 121, § 398; Laws 1994, LB 1160, § 95; Laws 1995, LB 182, § 52; Laws 1996, LB 1218, § 19; Laws 2004, LB 983, § 45; Laws 2011, LB289, § 35; Laws 2012, LB727, § 22; Laws 2018, LB177, § 3; Laws 2019, LB512, § 6.

Cross References

Compressed Fuel Tax Act, see section 66-697.

66-718 Report, return, or other statement; department; powers; electronic filing.

(1) The department may require such other information as it deems necessary on any report, return, or other statement under the motor fuel laws.

(2) The Tax Commissioner may require any of the reports, returns, or other filings due from any motor fuels licensees to be filed electronically.

(3) The department shall prescribe the formats or procedures for electronic filing. To the extent not inconsistent with requirements of the motor fuel laws, the department shall adopt formats and procedures that are consistent with other states requiring electronic reporting of motor fuel information.

(4) Any person who does not file electronically when required or who fails to use the prescribed formats and procedures shall be considered to have not filed the return, report, or other filing.

(5) For purposes of the electronic funds transfer requirements contained in section 77-1784, motor vehicle fuel tax, diesel fuel tax, compressed fuel tax, and all other fuel-related tax programs administered by the department shall be considered as comprising one tax program.

Source: Laws 1991, LB 627, § 112; Laws 1997, LB 720, § 19; Laws 1998, LB 1161, § 24; Laws 2000, LB 1067, § 26; Laws 2004, LB 983, § 48; Laws 2019, LB512, § 7.

66-738 Repealed. Laws 2019, LB512, § 34.

66-739 Motor Fuel Tax Enforcement and Collection Cash Fund; created; use; investment.

There is hereby created the Motor Fuel Tax Enforcement and Collection Cash Fund. Such fund shall consist of appropriations to the fund and money transferred to it pursuant to section 39-2215. The fund shall be used exclusively for the costs of the Department of Revenue in carrying out its duties under the Compressed Fuel Tax Act, the Petroleum Release Remedial Action Act, the State Aeronautics Act, and sections 66-482 to 66-4,149, 66-501 to 66-531, and 66-712 to 66-736 and other related costs for the Department of Agriculture and the Nebraska State Patrol, except that transfers may be made from the fund to

the General Fund at the direction of the Legislature. Any money in the Motor Fuel Tax Enforcement and Collection Cash 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.

Source: Laws 1991, LB 627, § 142; Laws 1994, LB 1066, § 53; Laws 1994, LB 1160, § 110; Laws 2009, First Spec. Sess., LB3, § 40; Laws 2019, LB512, § 8.

Cross References

Compressed Fuel Tax Act, see section 66-697.

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

Petroleum Release Remedial Action Act, see section 66-1501.

State Aeronautics Act, see section 3-154.

ARTICLE 10

ENERGY CONSERVATION

(a) UTILITY LOANS

Section

66-1004. Energy conservation measure, defined.

66-1009. Loan; repayment plan; default; use; lien; limitation; Director of Environment and Energy; duties.

(a) UTILITY LOANS

66-1004 Energy conservation measure, defined.

Energy conservation measure shall mean installing or using any:

- (1) Caulking or weatherstripping of doors or windows;
- (2) Furnace efficiency modifications involving electric service;
- (3) Clock thermostats;
- (4) Water heater insulation or modification;
- (5) Ceiling, attic, wall, or floor insulation;
- (6) Storm windows or doors, multiglazed windows or doors, or heat absorbing or reflective glazed window and door material;
- (7) Devices which control demand of appliances and aid load management;
- (8) Devices to utilize solar energy, biomass, or wind power for any energy conservation purpose, including heating of water and space heating or cooling, which have been identified by the Department of Environment and Energy as an energy conservation measure for the purposes of sections 66-1001 to 66-1011;
- (9) High-efficiency lighting and motors;
- (10) Devices which are designed to increase energy efficiency, the utilization of renewable resources, or both; and
- (11) Such other conservation measures as the department shall identify.

Source: Laws 1980, LB 954, § 17; Laws 1982, LB 799, § 2; Laws 1994, LB 941, § 1; Laws 2019, LB302, § 76.

66-1009 Loan; repayment plan; default; use; lien; limitation; Director of Environment and Energy; duties.

(1) A customer borrowing from a utility under a plan adopted pursuant to sections 66-1001 to 66-1011 shall be allowed to contract with the utility for a repayment plan and shall be offered a repayment period of not less than three years and not more than twenty years.

(2) Upon default on a loan by a customer, after expending reasonable efforts to collect, a utility may treat the entire unpaid contract amount as due, but services to a residential, agricultural, or commercial customer may not be terminated as a result of such default. Default occurs when any amount due a utility under a plan adopted pursuant to sections 66-1001 to 66-1011, 70-625, 70-704, 81-161, 81-1606 to 81-1626, and 84-162 to 84-167 is not paid within sixty days of the due date.

(3) Any customer obtaining a loan pursuant to section 66-1007 shall only use the funds to accomplish the purposes agreed upon at the time of the loan. If the borrower of any funds obtained pursuant to sections 66-1001 to 66-1011 uses such funds in a manner or for a purpose not authorized by this section, the total amount of the loan shall immediately become due and payable.

(4) Any amount due a utility on a loan pursuant to sections 66-1001 to 66-1011 which is not paid in full within sixty days of the due date shall become a lien as provided in this section on the real property concerned as to the full unpaid balance. No lien under this section shall be valid unless (a) the loan was signed by the party or parties shown on the indexes of the register of deeds to be the owners of record of such real property on the date of the loan and (b) the lien is filed not more than four months after the date of default, in the same office and in the same manner as mortgages in the county in which the real property is located. Such lien shall take effect and be in force from and after the time of delivering the same to the register of deeds for recording, and not before, as to all creditors and subsequent purchasers in good faith without notice, and such lien shall be adjudged void as to all such creditors and subsequent purchasers without notice whose deeds, mortgages, or other instruments shall be first recorded, except that such lien shall be valid between the parties. A publicly owned utility shall not maintain possession of any property which it may acquire pursuant to a lien authorized by this section for a period of time longer than is reasonably necessary to dispose of such property.

(5) Any loan made under a plan adopted pursuant to sections 66-1001 to 66-1011 shall not exceed fifteen thousand dollars, subject to any existing limitations under federal law. Any loan to be made by a utility which exceeds ten thousand dollars shall only be made in participation with a bank pursuant to a contract. The utility and the participating bank shall determine the terms and conditions of the contract.

(6) The Director of Environment and Energy may adopt and promulgate rules and regulations to carry out sections 66-1001 to 66-1011.

Source: Laws 1980, LB 954, § 22; Laws 1982, LB 799, § 4; Laws 1983, LB 626, § 77; Laws 1993, LB 479, § 1; Laws 1994, LB 941, § 3; Laws 2019, LB302, § 77.

ARTICLE 11

GEOTHERMAL RESOURCES

Section

66-1105. Geothermal resource development; conditions; permit; Department of Natural Resources; adopt rules and regulations.

66-1105 Geothermal resource development; conditions; permit; Department of Natural Resources; adopt rules and regulations.

Any person who desires to withdraw ground water within the State of Nebraska for geothermal resource development shall, prior to commencing construction of any wells, obtain from the Director of Natural Resources a permit to authorize the withdrawal, transfer, and further use or reinjection of such ground water. The Department of Natural Resources shall adopt and promulgate rules and regulations governing the issuance of such permits, consistent with sections 66-1101 to 66-1106 and with Chapter 46, article 6. Such rules and regulations shall provide for consultation with the Department of Environment and Energy pursuant to the issuance of such permits and shall be compatible with rules and regulations adopted and promulgated by the Department of Environment and Energy under the Environmental Protection Act. Any geothermal fluids produced incident to the development and production of geothermal resources shall be reinjected into the same geologic formation from which they were extracted in substantially the same volume and substantially the same or higher quality as when extracted unless the permit issued in accordance with this section authorizes further uses or processing other than those incident to reinjection.

Source: Laws 1982, LB 708, § 5; Laws 1993, LB 3, § 37; Laws 2000, LB 900, § 245; Laws 2019, LB302, § 78.

Cross References

Environmental Protection Act, see section 81-1532.

**ARTICLE 13
ETHANOL**

Section

- 66-1334. Agricultural Alcohol Fuel Tax Fund; created; use; investment.
66-1335. Nebraska Ethanol Board; established; terms; vacancy; meetings; expenses.
66-1344. Ethanol tax credits; conditions; limitations; Department of Revenue; powers and duties.

66-1334 Agricultural Alcohol Fuel Tax Fund; created; use; investment.

(1) The Agricultural Alcohol Fuel Tax Fund is hereby created. The fund shall be administered by the board. The fund shall contain (a) transfers made pursuant to section 66-726, (b) all sums of money received from fees resulting from any conference or event held by the board, (c) gifts, grants, and contributions made by public or private entities, and (d) transfers as authorized by the Legislature. 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.

(2) The fund shall be used for the following purposes:

- (a) Establishment, with cooperation of private industry, of procedures and processes necessary to the manufacture and marketing of fuel containing agricultural ethyl alcohol;
- (b) Establishment of procedures for entering blended fuel into the marketplace by private enterprise;

(c) Analysis of the marketing process and testing of marketing procedures to assure acceptance in the private marketplace of blended fuel and byproducts resulting from the manufacturing process;

(d) Cooperation with private industry to establish privately owned agricultural ethyl alcohol manufacturing plants in Nebraska to supply demand for blended fuel;

(e) Sponsoring research and development of industrial and commercial uses for agricultural ethyl alcohol and for byproducts resulting from the manufacturing process;

(f) Promotion of state and national air quality improvement programs and influencing federal legislation that requires or encourages the use of fuels oxygenated by the inclusion of agricultural ethyl alcohol or its derivatives;

(g) Promotion of the use of renewable agricultural ethyl alcohol as a partial replacement for imported oil and for the energy and economic security of the nation;

(h) Participation in development and passage of national legislation dealing with research, development, and promotion of United States production of fuels oxygenated by the inclusion of agricultural ethyl alcohol or its derivatives, access to potential markets, tax incentives, imports of foreign-produced fuel, and related concerns that may develop in the future; and

(i) As the board may otherwise direct to fulfill the goals set forth under the Ethanol Development Act, including monitoring contracts for ethanol program commitments and solicitation of federal funds.

Source: Laws 1993, LB 364, § 5; Laws 1994, LB 1066, § 54; Laws 2004, LB 983, § 58; Laws 2009, LB316, § 16; Laws 2019, LB298, § 16.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

66-1335 Nebraska Ethanol Board; established; terms; vacancy; meetings; expenses.

(1) The Nebraska Ethanol Board is hereby established. The board shall consist of seven members to be appointed by the Governor with the approval of a majority of the Legislature. The Governor shall make the initial appointments within thirty days after September 1, 1993. Four members shall be actually engaged in farming in this state, one in general farming and one each in the production of corn, wheat, and sorghum. One member shall be actively engaged in business in this state. One member shall represent labor interests in this state. One member shall represent Nebraska petroleum marketers in this state.

(2) Members shall be appointed for terms of four years, except that of the initial appointees the terms of the member representing labor interests and the member engaged in general farming shall expire on August 31, 1994, the terms of the member engaged in sorghum production and the member engaged in wheat production shall expire on August 31, 1995, the term of the member representing petroleum marketers shall expire on August 31, 1996, and the terms of the member engaged in business and the member engaged in corn production shall expire on August 31, 1997. A member shall serve until a

successor is appointed and qualified. Not more than four members shall be members of the same political party.

(3) A vacancy on the board shall exist in the event of death, disability, resignation, or removal for cause of a member. Any vacancy on the board arising other than from the expiration of a term shall be filled by appointment for the unexpired portion of the term. An appointment to fill a vacancy shall be made by the Governor with the approval of a majority of the Legislature, and any person so appointed shall have the same qualifications as the person whom he or she succeeds.

(4) The board shall meet at least once annually.

(5) The members shall be reimbursed for expenses as provided in sections 81-1174 to 81-1177. The members shall receive twenty-five dollars for each day while engaged in the performance of board duties.

Source: Laws 1993, LB 364, § 6; Laws 2020, LB381, § 53.

Operative date January 1, 2021.

66-1344 Ethanol tax credits; conditions; limitations; Department of Revenue; powers and duties.

(1) Beginning June 1, 2000, during such period as funds remain in the Ethanol Production Incentive Cash Fund, any ethanol facility shall receive a credit of seven and one-half cents per gallon of ethanol, before denaturing, for new production for a period not to exceed thirty-six consecutive months. For purposes of this subsection, new production means production which results from the expansion of an existing facility's capacity by at least two million gallons first placed into service after June 1, 1999, as certified by the facility's design engineer to the Department of Revenue. For expansion of an existing facility's capacity, new production means production in excess of the average of the highest three months of ethanol production at an ethanol facility during the twenty-four-month period immediately preceding certification of the facility by the design engineer. No credits shall be allowed under this subsection for expansion of an existing facility's capacity until production is in excess of twelve times the three-month average amount determined under this subsection during any twelve-consecutive-month period beginning no sooner than June 1, 2000. New production shall be approved by the Department of Revenue based on such ethanol production records as may be necessary to reasonably determine new production. This credit must be earned on or before December 31, 2003.

(2)(a) Beginning January 1, 2002, any new ethanol facility which is in production at the minimum rate of one hundred thousand gallons annually for the production of ethanol, before denaturing, and which has provided to the Department of Revenue written evidence substantiating that the ethanol facility has received the requisite authority from the Department of Environment and Energy and from the United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, on or before June 30, 2004, shall receive a credit of eighteen cents per gallon of ethanol produced for ninety-six consecutive months beginning with the first calendar month for which it is eligible to receive such credit and ending not later than June 30, 2012, if the facility is defined by subdivision (b)(i) of this subsection, and for forty-eight consecutive months beginning with the first calendar month for which it is eligible to receive such credit and ending not later than June 30, 2008, if the facility is

defined by subdivision (b)(ii) of this subsection. The new ethanol facility shall provide an analysis to the Department of Revenue of samples of the product collected according to procedures specified by the department no later than July 30, 2004, and at least annually thereafter. The analysis shall be prepared by an independent laboratory meeting the International Organization for Standardization standard ISO/IEC 17025:1999. Prior to collecting the samples, the new ethanol facility shall notify the department which may observe the sampling procedures utilized by the new ethanol facility to obtain the samples to be submitted for independent analysis. The minimum rate shall be established for a period of at least thirty days. In this regard, the new ethanol facility must produce at least eight thousand two hundred nineteen gallons of ethanol within a thirty-day period. The ethanol must be finished product which is ready for sale to customers.

(b) For purposes of this subsection, new ethanol facility means a facility for the conversion of grain or other raw feedstock into ethanol and other byproducts of ethanol production which (i) is not in production on or before September 1, 2001, or (ii) has not received credits prior to June 1, 1999. A new ethanol facility does not mean an expansion of an existing ethanol plant that does not result in the physical construction of an entire ethanol processing facility or which shares or uses in a significant manner any existing plant's systems or processes and does not include the expansion of production capacity constructed after June 30, 2004, of a plant qualifying for credits under this subsection. This definition applies to contracts entered into after April 16, 2004.

(c) Not more than fifteen million six hundred twenty-five thousand gallons of ethanol produced annually at an ethanol facility shall be eligible for credits under this subsection. Not more than one hundred twenty-five million gallons of ethanol produced at an ethanol facility by the end of the ninety-six-consecutive-month period or forty-eight-consecutive-month period set forth in this subsection shall be eligible for credits under this subsection.

(3) The credits described in this section shall be given only for ethanol produced at a plant in Nebraska at which all fermentation, distillation, and dehydration takes place. No credit shall be given on ethanol produced for or sold for use in the production of beverage alcohol. Not more than ten million gallons of ethanol produced during any twelve-consecutive-month period at an ethanol facility shall be eligible for the credit described in subsection (1) of this section. The credits described in this section shall be in the form of a non-refundable, transferable motor vehicle fuel tax credit certificate. No transfer of credits will be allowed between the ethanol producer and motor vehicle fuel licensees who are related parties.

(4) Ethanol production eligible for credits under this section shall be measured by a device approved by the Division of Weights and Measures of the Department of Agriculture. Confirmation of approval by the division shall be provided by the ethanol facility at the time the initial claim for credits provided under this section is submitted to the Department of Revenue and annually thereafter. Claims submitted by the ethanol producer shall be based on the total number of gallons of ethanol produced, before denaturing, during the reporting period measured in gross gallons.

(5) The Department of Revenue shall prescribe an application form and procedures for claiming credits under this section. In order for a claim for credits to be accepted, it must be filed by the ethanol producer within three

years of the date the ethanol was produced or by September 30, 2012, whichever occurs first.

(6) Every producer of ethanol shall maintain records similar to those required by section 66-487. The ethanol producer must maintain invoices, meter readings, load-out sheets or documents, inventory records, including work-in-progress, finished goods, and denaturant, and other memoranda requested by the Department of Revenue relevant to the production of ethanol. On an annual basis, the ethanol producer shall also be required to furnish the department with copies of the reports filed with the United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives. The maintenance of all of this information in a provable computer format or on microfilm is acceptable in lieu of retention of the original documents. The records must be retained for a period of not less than three years after the claim for ethanol credits is filed.

(7) For purposes of ascertaining the correctness of any application for claiming a credit provided in this section, the Tax Commissioner (a) may examine or cause to have examined, by any agent or representative designated by him or her for that purpose, any books, papers, records, or memoranda bearing upon such matters, (b) may by summons require the attendance of the person responsible for rendering the application or other document or any officer or employee of such person or the attendance of any other person having knowledge in the premises, and (c) may take testimony and require proof material for his or her information, with power to administer oaths or affirmations to such person or persons. The time and place of examination pursuant to this subsection shall be such time and place as may be fixed by the Tax Commissioner and as are reasonable under the circumstances. In the case of a summons, the date fixed for appearance before the Tax Commissioner shall not be less than twenty days from the time of service of the summons. No taxpayer shall be subjected to unreasonable or unnecessary examinations or investigations. All records obtained pursuant to this subsection shall be subject to the confidentiality requirements and exceptions thereto as provided in section 77-27,119.

(8) To qualify for credits under this section, an ethanol producer shall provide public notice for bids before entering into any contract for the construction of a new ethanol facility. Preference shall be given to a bidder residing in Nebraska when awarding any contract for construction of a new ethanol facility if comparable bids are submitted. For purposes of this subsection, bidder residing in Nebraska means any person, partnership, foreign or domestic limited liability company, association, or corporation authorized to engage in business in the state with employees permanently located in Nebraska. If an ethanol producer enters into a contract for the construction of a new ethanol facility with a bidder who is not a bidder residing in Nebraska, such producer shall demonstrate to the satisfaction of the Department of Revenue in its application for credits that no comparable bid was submitted by a responsible bidder residing in Nebraska. The department shall deny an application for credits if it is determined that the contract was denied to a responsible bidder residing in Nebraska without cause.

(9) The pertinent provisions of Chapter 66, article 7, relating to the administration and imposition of motor fuel taxes shall apply to the administration and imposition of assessments made by the Department of Revenue relating to excess credits claimed by ethanol producers under the Ethanol Development Act. These provisions include, but are not limited to, issuance of a deficiency

following an examination of records, an assessment becoming final after sixty days absent a written protest, presumptions regarding the burden of proof, issuance of deficiency within three years of original filing, issuance of notice by registered or certified mail, issuance of penalties and waiver thereof, issuance of interest and waiver thereof, and issuance of corporate officer or employee or limited liability company manager or member assessments. For purposes of determining interest and penalties, the due date will be considered to be the date on which the credits were used by the licensees to whom the credits were transferred.

(10) If a written protest is filed by the ethanol producer with the department within the sixty-day period in subsection (9) of this section, the protest shall: (a) Identify the ethanol producer; (b) identify the proposed assessment which is being protested; (c) set forth each ground under which a redetermination of the department's position is requested together with facts sufficient to acquaint the department with the exact basis thereof; (d) demand the relief to which the ethanol producer considers itself entitled; and (e) request that an evidentiary hearing be held to determine any issues raised by the protest if the ethanol producer desires such a hearing.

(11) For applications received after April 16, 2004, an ethanol facility receiving benefits under the Ethanol Development Act shall not be eligible for benefits under the Employment and Investment Growth Act, the Invest Nebraska Act, the Nebraska Advantage Act, or the ImagiNE Nebraska Act.

Source: Laws 1990, LB 1124, § 1; Laws 1992, LB 754, § 8; R.S.Supp.,1992, § 66-1326; Laws 1993, LB 364, § 15; Laws 1994, LB 961, § 1; Laws 1995, LB 377, § 7; Laws 1996, LB 1121, § 13; Laws 1999, LB 605, § 1; Laws 2001, LB 536, § 2; Laws 2004, LB 479, § 5; Laws 2004, LB 1065, § 5; Laws 2005, LB 312, § 2; Laws 2008, LB914, § 5; Laws 2019, LB302, § 79; Laws 2020, LB1107, § 120.
Operative date January 1, 2021.

Cross References

Employment and Investment Growth Act, see section 77-4101.

ImagiNE Nebraska Act, see section 77-6801.

Invest Nebraska Act, see section 77-5501.

Nebraska Advantage Act, see section 77-5701.

ARTICLE 14

INTERNATIONAL FUEL TAX AGREEMENT ACT

Section

66-1406.02. License; director; powers.

66-1424. Department; examine return; deficiency; final assessment; challenge; extension.

66-1406.02 License; director; powers.

(1) The director may suspend, revoke, cancel, or refuse to issue or renew a license under the International Fuel Tax Agreement Act:

(a) If the applicant's or licensee's registration certificate issued pursuant to the International Registration Plan Act has been suspended, revoked, or canceled or the director refused to issue or renew such certificate;

(b) If the applicant or licensee is in violation of sections 75-392 to 75-3,100;
(c) If the applicant's or licensee's security has been canceled;
(d) If the applicant or licensee failed to provide additional security as required;

(e) If the applicant or licensee failed to file any report or return required by the motor fuel laws, filed an incomplete report or return required by the motor fuel laws, did not file any report or return required by the motor fuel laws electronically, or did not file a report or return required by the motor fuel laws on time;

(f) If the applicant or licensee failed to pay taxes required by the motor fuel laws due within the time provided;

(g) If the applicant or licensee filed any false report, return, statement, or affidavit, required by the motor fuel laws, knowing it to be false;

(h) If the applicant or licensee would no longer be eligible to obtain a license;
or

(i) If the applicant or licensee committed any other violation of the International Fuel Tax Agreement Act or the rules and regulations adopted and promulgated under the act.

(2) Prior to taking any action pursuant to subsection (1) of this section, the director shall notify and advise the applicant or licensee of the proposed action and the reasons for such action in writing, by regular United States mail, to his or her last-known business address as shown on the application or license. The notice shall also include an advisement of the procedures in subsection (3) of this section.

(3) The applicant or licensee may, within thirty days after the mailing of the notice, petition the director in writing for a hearing to contest the proposed action. The hearing shall be commenced in accordance with the rules and regulations adopted and promulgated by the Department of Motor Vehicles. If a petition is filed, the director shall, within twenty days after receipt of the petition, set a hearing date at which the applicant or licensee may show cause why the proposed action should not be taken. The director shall give the applicant or licensee reasonable notice of the time and place of the hearing. If the director's decision is adverse to the applicant or licensee, the applicant or licensee may appeal the decision in accordance with the Administrative Procedure Act.

(4) Except as provided in subsection (2) of section 60-3,205 and subsection (8) of this section, the filing of the petition shall stay any action by the director until a hearing is held and a final decision and order is issued.

(5) Except as provided in subsection (2) of section 60-3,205 and subsection (8) of this section, if no petition is filed at the expiration of thirty days after the date on which the notification was mailed, the director may take the proposed action described in the notice.

(6) Except as provided in subsection (2) of section 60-3,205 and subsection (8) of this section, if, in the judgment of the director, the applicant or licensee has complied with or is no longer in violation of the provisions for which the director took action under this section, the director may reinstate the license without delay. An applicant for reinstatement, issuance, or renewal of a license within three years after the date of suspension, revocation, cancellation, or refusal to issue or renew shall submit a fee of one hundred dollars to the

director. The director shall remit the fee to the State Treasurer for credit to the Highway Cash Fund.

(7) Suspension of, revocation of, cancellation of, or refusal to issue or renew a license by the director shall not relieve any person from making or filing the reports or returns required by the motor fuel laws in the manner or within the time required.

(8) Any person who receives notice from the director of action taken pursuant to subsection (1) of this section shall, within three business days, return such registration certificate and license plates issued pursuant to section 60-3,198 to the department. If any person fails to return the registration certificate and license plates to the department, the department shall notify the Nebraska State Patrol that any such person is in violation of this section.

Source: Laws 1998, LB 1056, § 5; Laws 2003, LB 563, § 38; Laws 2006, LB 853, § 22; Laws 2007, LB358, § 11; Laws 2009, LB331, § 13; Laws 2012, LB751, § 47; Laws 2020, LB944, § 75.
Operative date November 14, 2020.

Cross References

Administrative Procedure Act, see section 84-920.

International Registration Plan Act, see section 60-3,192.

66-1424 Department; examine return; deficiency; final assessment; challenge; extension.

(1) As soon as practical after a return is filed, the department shall examine it to determine the correct amount of tax. If the department finds that the amount of tax shown on the return is less than the correct amount, it shall notify the taxpayer of the amount of the deficiency determined.

(2) If any person fails to file a return or has improperly purchased motor fuel without the payment of tax, the department may estimate the person's liability from any available information and notify the person of the amount of the deficiency determined.

(3) The amount of the deficiency determined shall constitute a final assessment together with interest and penalties thirty days after the date on which notice was mailed to the taxpayer at his or her last-known address unless a written protest is filed with the department within such thirty-day period.

(4) The final assessment provisions of this section shall constitute a final decision of the agency for purposes of the Administrative Procedure Act.

(5) An assessment made by the department shall be presumed to be correct. In any case when the validity of the assessment is questioned, the burden shall be on the person who challenges the assessment to establish by a preponderance of the evidence that the assessment is erroneous or excessive.

(6)(a) Except in the case of a fraudulent return or of neglect or refusal to make a return, the notice of a proposed deficiency determination shall be mailed within three years after the last day of the month following the end of the period for which the amount proposed is to be determined or within three years after the return is filed, whichever period expires later.

(b) The taxpayer and the department may agree, prior to the expiration of the period in subdivision (a) of this subsection, to extend the period during which the notice of a deficiency determination can be mailed. The extension of the

period for the mailing of a deficiency determination shall also extend the period during which a refund can be claimed.

Source: Laws 2018, LB177, § 10; Laws 2020, LB944, § 76.
Operative date November 14, 2020.

Cross References

Administrative Procedure Act, see section 84-920.

ARTICLE 15

PETROLEUM RELEASE REMEDIAL ACTION

Section

- 66-1504. Department, defined.
- 66-1509. Owner, defined.
- 66-1518. Rules and regulations; schedule of rates; use.
- 66-1519. Petroleum Release Remedial Action Cash Fund; created; use; investment.
- 66-1521. Petroleum release remedial action fee; amount; license required; filing; violation; penalty; Department of Revenue; powers and duties; Petroleum Release Remedial Action Collection Fund; created; use; investment.
- 66-1523. Reimbursement; amount; limitations; Prompt Payment Act applicable.
- 66-1525. Reimbursement; application; procedure; State Fire Marshal; duties; reduction of reimbursement; notification required.
- 66-1529.02. Remedial actions by department; third-party claims; recovery of expenses.

66-1504 Department, defined.

Department shall mean the Department of Environment and Energy.

Source: Laws 1989, LB 289, § 4; Laws 1993, LB 3, § 38; Laws 2019, LB302, § 80.

66-1509 Owner, defined.

(1) Owner shall mean:

(a) In the case of a tank in use on or after November 8, 1984, or brought into use after such date, any person who owns a tank used for the storage, use, or dispensing of petroleum; and

(b) In the case of a tank in use before November 8, 1984, but no longer in use on such date, any person who owned such tank immediately before the discontinuation of its use.

(2) Owner shall not include a person who, without participating in the management of a tank and otherwise not engaged in petroleum production, refining, and marketing:

(a) Holds indicia of ownership primarily to protect his or her security interest in a tank or a lienhold interest in the property on or within which a tank is or was located; or

(b) Acquires ownership of a tank or the property on or within which a tank is or was located:

(i) Pursuant to a foreclosure of a security interest in the tank or of a lienhold interest in the property; or

(ii) If the tank or the property was security for an extension of credit previously contracted, pursuant to a sale under judgment or decree, pursuant to

a conveyance under a power of sale contained within a trust deed or from a trustee, or pursuant to an assignment or deed in lieu of foreclosure.

(3) Ownership of a tank or the property on or within which a tank is or was located shall not be acquired by a voidable transfer, as provided in the Uniform Voidable Transactions Act.

Source: Laws 1989, LB 289, § 9; Laws 1991, LB 409, § 4; Laws 1996, LB 1226, § 3; Laws 2019, LB70, § 16.

Cross References

Uniform Voidable Transactions Act, see section 36-801.

66-1518 Rules and regulations; schedule of rates; use.

(1) The Environmental Quality Council shall adopt and promulgate rules and regulations governing reimbursements authorized under the Petroleum Release Remedial Action Act. Such rules and regulations shall include:

(a) Procedures regarding the form and procedure for application for payment or reimbursement from the fund, including the requirement for timely filing of applications;

(b) Procedures for the requirement of submitting cost estimates for phases or stages of remedial actions, procurement requirements to be followed by responsible persons, and requirements for reuse of fixtures and tangible personal property by responsible persons during a remedial action;

(c) Procedures for investigation of claims for payment or reimbursement;

(d) Procedures for determining the amount and type of costs that are eligible for payment or reimbursement from the fund;

(e) Procedures for auditing persons who have received payments from the fund;

(f) Procedures for reducing reimbursements made for a remedial action for failure by the responsible person to comply with applicable statutory or regulatory requirements. Reimbursement may be reduced as much as one hundred percent; and

(g) Other procedures necessary to carry out the act.

(2) The Director of Environment and Energy shall (a) estimate the cost to complete remedial action at each petroleum contaminated site where the responsible party has been ordered by the department to begin remedial action, and, based on such estimates, determine the total cost that would be incurred in completing all remedial actions ordered; (b) determine the total estimated cost of all approved remedial actions; (c) determine the total dollar amount of all pending claims for payment or reimbursement; (d) determine the total of all funds available for reimbursement of pending claims; and (e) include the determinations made pursuant to this subsection in the department's annual report to the Legislature.

(3) The Department of Environment and Energy shall make available to the public a current schedule of reasonable rates for equipment, services, material, and personnel commonly used for remedial action. The department shall consider the schedule of reasonable rates in reviewing all costs for the remedial action which are submitted in a plan. The rates shall be used to determine the amount of reimbursement for the eligible and reasonable costs of the remedial action, except that (a) the reimbursement for the costs of the remedial action

shall not exceed the actual eligible and reasonable costs incurred by the responsible person or his or her designated representative and (b) reimbursement may be made for costs which exceed or are not included on the schedule of reasonable rates if the application for such reimbursement is accompanied by sufficient evidence for the department to determine and the department does determine that such costs are reasonable.

Source: Laws 1989, LB 289, § 18; Laws 1991, LB 409, § 11; Laws 1993, LB 3, § 39; Laws 1994, LB 1349, § 9; Laws 1996, LB 1226, § 6; Laws 1997, LB 517, § 2; Laws 1998, LB 1161, § 27; Laws 1999, LB 270, § 1; Laws 2001, LB 461, § 2; Laws 2009, LB154, § 14; Laws 2019, LB302, § 81.

66-1519 Petroleum Release Remedial Action Cash Fund; created; use; investment.

(1) There is hereby created the Petroleum Release Remedial Action Cash Fund to be administered by the department. Revenue from the following sources shall be remitted to the State Treasurer for credit to the fund:

- (a) The fees imposed by sections 66-1520 and 66-1521;
- (b) Money paid under an agreement, stipulation, cost-recovery award under section 66-1529.02, or settlement; and
- (c) Money received by the department in the form of gifts, grants, reimbursements, property liquidations, or appropriations from any source intended to be used for the purposes of the fund.

(2) Money in the fund may be spent for: (a) Reimbursement for the costs of remedial action by a responsible person or his or her designated representative and costs of remedial action undertaken by the department in response to a release first reported after July 17, 1983, and on or before June 30, 2024, including reimbursement for damages caused by the department or a person acting at the department's direction while investigating or inspecting or during remedial action on property other than property on which a release or suspected release has occurred; (b) payment of any amount due from a third-party claim; (c) fee collection expenses incurred by the State Fire Marshal; (d) direct expenses incurred by the department in carrying out the Petroleum Release Remedial Action Act; (e) other costs related to fixtures and tangible personal property as provided in section 66-1529.01; (f) interest payments as allowed by section 66-1524; (g) claims approved by the State Claims Board authorized under section 66-1531; (h) the direct and indirect costs incurred by the department in responding to spills and other environmental emergencies related to petroleum or petroleum products; and (i) up to one million five hundred thousand dollars each fiscal year of the department's cost-share obligations and operation and maintenance obligations under the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9601 et seq.

(3) Transfers may be made from the Petroleum Release Remedial Action Cash Fund to the General Fund at the direction of the Legislature.

(4) Transfers may be made from the Petroleum Release Remedial Action Cash Fund to the Superfund Cost Share Cash Fund at the direction of the Legislature.

(5) Any money in the Petroleum Release Remedial Action Cash 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.

Source: Laws 1989, LB 289, § 19; Laws 1991, LB 409, § 12; Laws 1993, LB 237, § 1; Laws 1994, LB 1066, § 57; Laws 1996, LB 1226, § 7; Laws 1998, LB 1161, § 28; Laws 1999, LB 270, § 2; Laws 2001, LB 461, § 3; Laws 2002, LB 1003, § 41; Laws 2002, LB 1310, § 7; Laws 2003, LB 367, § 2; Laws 2004, LB 962, § 105; Laws 2004, LB 1065, § 9; Laws 2005, LB 40, § 4; Laws 2008, LB1145, § 1; Laws 2009, LB154, § 15; Laws 2011, LB2, § 6; Laws 2011, LB29, § 2; Laws 2012, LB873, § 1; Laws 2016, LB887, § 1; Laws 2017, LB331, § 34; Laws 2020, LB858, § 14.
Operative date June 30, 2020.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

66-1521 Petroleum release remedial action fee; amount; license required; filing; violation; penalty; Department of Revenue; powers and duties; Petroleum Release Remedial Action Collection Fund; created; use; investment.

(1) A petroleum release remedial action fee is hereby imposed upon the producer, refiner, importer, distributor, wholesaler, or supplier who engages in the sale, distribution, delivery, and use of petroleum within this state, except that the fee shall not be imposed on petroleum that is exported. The fee shall also be imposed on diesel fuel which is indelibly dyed. The amount of the fee shall be nine-tenths of one cent per gallon on motor vehicle fuel as defined in section 66-482 and three-tenths of one cent per gallon on diesel fuel as defined in section 66-482. The amount of the fee shall be used first for payment of claims approved by the State Claims Board pursuant to section 66-1531; second, up to three million dollars of the fee per year shall be used for reimbursement of owners and operators under the Petroleum Release Remedial Action Act for investigations of releases ordered pursuant to section 81-15,124; and third, the remainder of the fee shall be used for any other purpose authorized by section 66-1519. The fee shall be paid by all producers, refiners, importers, distributors, wholesalers, and suppliers subject to the fee by filing a monthly return on or before the twentieth day of the calendar month following the monthly period to which it relates. The pertinent provisions, specifically including penalty provisions, of the motor fuel laws as defined in section 66-712 shall apply to the administration and collection of the fee except for the treatment given refunds. There shall be a refund allowed on any fee paid on petroleum which was taxed and then exported, destroyed, or purchased for use by the United States Government or its agencies. The department may also adjust for all errors in the payment of the fee. In each calendar year, no claim for refund related to the fee can be for an amount less than ten dollars.

(2) No producer, refiner, importer, distributor, wholesaler, or supplier shall engage in the sale, distribution, delivery, or use of petroleum in this state without having first obtained a petroleum release remedial action license. Application for a license shall be made to the Department of Revenue upon a form prepared and furnished by the Department of Revenue. If the applicant is an individual, the application shall include the applicant's social security

number. Failure to obtain a license prior to engaging in the sale, distribution, delivery, or use of petroleum shall be a Class IV misdemeanor. The Department of Revenue may suspend or cancel the license of any producer, refiner, importer, distributor, wholesaler, or supplier who fails to pay the fee imposed by subsection (1) of this section in the same manner as licenses are suspended or canceled pursuant to section 66-720.

(3) The Department of Revenue may adopt and promulgate rules and regulations necessary to carry out this section.

(4) The Department of Revenue shall deduct and withhold from the petroleum release remedial action fee collected pursuant to this section an amount sufficient to reimburse the direct costs of collecting and administering the petroleum release remedial action fee. Such costs shall not exceed one hundred fifty thousand dollars for each fiscal year. The one hundred fifty thousand dollars shall be prorated, based on the number of months the fee is collected, whenever the fee is collected for only a portion of a year. The amount deducted and withheld for costs shall be deposited in the Petroleum Release Remedial Action Collection Fund which is hereby created. The Petroleum Release Remedial Action Collection Fund shall be appropriated to the Department of Revenue, except that transfers may be made from the fund to the General Fund at the direction of the Legislature. Any money in the Petroleum Release Remedial Action Collection 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.

(5) The Department of Revenue shall collect the fee imposed by subsection (1) of this section.

Source: Laws 1989, LB 289, § 21; Laws 1991, LB 409, § 14; Laws 1991, LB 627, § 139; Laws 1994, LB 1066, § 58; Laws 1994, LB 1160, § 120; Laws 1997, LB 752, § 153; Laws 1998, LB 1161, § 31; Laws 2000, LB 1067, § 31; Laws 2004, LB 983, § 66; Laws 2009, LB165, § 1; Laws 2009, First Spec. Sess., LB3, § 41; Laws 2012, LB727, § 26; Laws 2019, LB512, § 9.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

66-1523 Reimbursement; amount; limitations; Prompt Payment Act applicable.

(1) Except as provided in subsection (2) of this section, the department shall provide reimbursement from the fund in accordance with section 66-1525 to eligible responsible persons for the cost of remedial action for releases reported after July 17, 1983, and on or before June 30, 2024, and for the cost of paying third-party claims. The reimbursement for the cost of remedial action shall not exceed nine hundred seventy-five thousand dollars per occurrence. The total of the claims paid under section 66-1531 and the reimbursement for third-party claims shall not exceed one million dollars per occurrence. The responsible person shall pay the first ten thousand dollars of the cost of the remedial action or third-party claim, twenty-five percent of the remaining cost of the remedial action or third-party claim not to exceed fifteen thousand dollars, and the amount of any reduction authorized under subsection (5) of section 66-1525. If the department determines that a responsible person was ordered to take

remedial action for a release which was later found to be from a tank not owned or operated by such person, (a) such person shall be fully reimbursed and shall not be required to pay the first cost or percent of the remaining cost as provided in this subsection and (b) the first cost and percent of the remaining cost not required to be paid by the person ordered to take remedial action shall be paid to the fund as a cost of remedial action by the owner or operator of the tank found to be the cause of the release. In no event shall reimbursements or payments from the fund exceed the annual aggregate of one million nine hundred seventy-five thousand dollars per responsible person. Reimbursement of a cost incurred as a result of a suspension ordered by the department shall not be limited by this subsection if the suspension was caused by insufficiency in the fund to provide reimbursement.

(2) Upon the determination by the department that the responsible person sold no less than two thousand gallons of petroleum and no more than two hundred fifty thousand gallons of petroleum during the calendar year immediately preceding the first report of the release or stored less than ten thousand gallons of petroleum in the calendar year immediately preceding the first report of the release, the department shall provide reimbursement from the fund in accordance with section 66-1525 to such an eligible person for the cost of remedial action for releases reported after July 17, 1983, and on or before June 30, 2024, and for the cost of paying third-party claims. The reimbursement for the cost of remedial action shall not exceed nine hundred eighty-five thousand dollars per occurrence. The total of the claims paid under section 66-1531 and the reimbursement for third-party claims shall not exceed one million dollars per occurrence. The responsible person shall pay the first five thousand dollars of the cost of the remedial action or third-party claim, twenty-five percent of the remaining cost of the remedial action or third-party claim not to exceed ten thousand dollars, and the amount of any reduction authorized under subsection (5) of section 66-1525. If the department determines that a responsible person was ordered to take remedial action for a release which was later found to be from a tank not owned or operated by such person, (a) such person shall be fully reimbursed and shall not be required to pay the first cost or percent of the remaining cost as provided in this subsection and (b) the first cost and percent of the remaining cost not required to be paid by the person ordered to take remedial action shall be paid to the fund as a cost of remedial action by the owner or operator of the tank found to be the cause of the release. In no event shall reimbursements or payments from the fund exceed the annual aggregate of one million nine hundred eighty-five thousand dollars per responsible person. Reimbursement of a cost incurred as a result of a suspension ordered by the department shall not be limited by this subsection if the suspension was caused by insufficiency in the fund to provide reimbursement.

(3) The department may make partial reimbursement during the time that remedial action is being taken if the department is satisfied that the remedial action being taken is as required by the department.

(4) If the fund is insufficient for any reason to reimburse the amount set forth in this section, the maximum amount that the fund shall be required to reimburse is the amount in the fund. If reimbursements approved by the department exceed the amount in the fund, reimbursements with interest shall be made when the fund is sufficiently replenished in the order in which the applications for them were received by the department, except that an application pending before the department on January 1, 1996, submitted by a local

government as defined in section 13-2202 shall, after July 1, 1996, be reimbursed first when funds are available. This exception applies only to local government applications pending on and not submitted after January 1, 1996.

(5) Applications for reimbursement properly made before, on, or after April 16, 1996, shall be considered bills for goods or services provided for third parties for purposes of the Prompt Payment Act.

(6) There shall be no reimbursement from the fund for the cost of remedial action or for the cost of paying third-party claims for any releases reported on or after July 1, 2024.

(7) For purposes of this section, occurrence shall mean an accident, including continuous or repeated exposure to conditions, which results in a release from a tank.

Source: Laws 1989, LB 289, § 23; Laws 1991, LB 409, § 16; Laws 1993, LB 237, § 2; Laws 1996, LB 1226, § 9; Laws 1998, LB 1161, § 32; Laws 1999, LB 270, § 3; Laws 2001, LB 461, § 4; Laws 2004, LB 962, § 106; Laws 2008, LB1145, § 2; Laws 2012, LB873, § 2; Laws 2016, LB887, § 2; Laws 2020, LB858, § 15.
Operative date June 30, 2020.

Cross References

Prompt Payment Act, see section 81-2401.

66-1525 Reimbursement; application; procedure; State Fire Marshal; duties; reduction of reimbursement; notification required.

(1) Any responsible person or his or her designated representative who has taken remedial action in response to a release first reported after July 17, 1983, and on or before June 30, 2024, or against whom there is a third-party claim may apply to the department under the rules and regulations adopted and promulgated pursuant to section 66-1518 for reimbursement for the costs of the remedial action or third-party claim. Partial payment of such reimbursement to the responsible person may be authorized by the department at the approved stages prior to the completion of remedial action when a remedial action plan has been approved. If any stage is projected to take more than ninety days to complete partial payments may be requested every sixty days. Such partial payment may include the eligible and reasonable costs of such plan or pilot projects conducted during the remedial action.

(2) No reimbursement may be made unless the department makes the following eligibility determinations:

(a) The tank was in substantial compliance with any rules and regulations of the United States Environmental Protection Agency, the State Fire Marshal, and the department which were applicable to the tank. Substantial compliance shall be determined by the department taking into consideration the purposes of the Petroleum Release Remedial Action Act and the adverse effect that any violation of the rules and regulations may have had on the tank thereby causing or contributing to the release and the extent of the remedial action thereby required;

(b) Either the State Fire Marshal or the department was given notice of the release in substantial compliance with the rules and regulations adopted and promulgated pursuant to the Environmental Protection Act and the Petroleum Products and Hazardous Substances Storage and Handling Act. Substantial

compliance shall be determined by the department taking into consideration the purposes of the Petroleum Release Remedial Action Act and the adverse effect that any violation of the notice provisions of the rules and regulations may have had on the remedial action being taken in a prompt, effective, and efficient manner;

(c) The responsible person reasonably cooperated with the department and the State Fire Marshal in responding to the release;

(d) The department has approved the plan submitted by the responsible person for the remedial action in accordance with rules and regulations adopted and promulgated by the department pursuant to the Environmental Protection Act or the Petroleum Products and Hazardous Substances Storage and Handling Act or that portion of the plan for which payment or reimbursement is requested. However, responsible persons may undertake remedial action prior to approval of a plan by the department or during the time that remedial action at a site was suspended at any time after April 1995 because the fund was insufficient to pay reimbursements and be eligible for reimbursement at a later time if the responsible person complies with procedures provided to the responsible party by the department or set out in rules and regulations adopted and promulgated by the Environmental Quality Council;

(e) The costs for the remedial action were actually incurred by the responsible person or his or her designated representative after May 27, 1989, and were eligible and reasonable;

(f) If reimbursement for a third-party claim is involved, the cause of action for the third-party claim accrued after April 26, 1991, and the Attorney General was notified by any person of the service of summons for the action within ten days of such service; and

(g) The responsible person or his or her designated representative has paid the amount specified in subsection (1) or (2) of section 66-1523.

(3) The State Fire Marshal shall review each application prior to consideration by the department and provide to the department any information the State Fire Marshal deems relevant to subdivisions (2)(a) through (g) of this section. The State Fire Marshal shall issue a determination with respect to an applicant's compliance with rules and regulations adopted and promulgated by the State Fire Marshal. The State Fire Marshal shall issue a compliance determination to the department within thirty days after receiving an application from the department.

(4) The department may withhold taking action on an application during the pendency of an enforcement action by the state or federal government related to the tank or a release from the tank.

(5) Reimbursements made for a remedial action may be reduced as much as one hundred percent for failure by the responsible person to comply with applicable statutory or regulatory requirements. In determining the amount of the reimbursement reduction, the department shall consider:

(a) The extent of and reasons for noncompliance;

(b) The likely environmental impact of the noncompliance; and

(c) Whether noncompliance was negligent, knowing, or willful.

(6) Except as provided in subsection (4) of this section, the department shall notify the responsible person of its approval or denial of the remedial action plan within one hundred twenty days after receipt of a remedial action plan

which contains all the required information. If after one hundred twenty days the department fails to either deny, approve, or amend the remedial action plan submitted, the proposed plan shall be deemed approved. If the remedial action plan is denied, the department shall provide the reasons for such denial.

Source: Laws 1989, LB 289, § 25; Laws 1991, LB 409, § 17; Laws 1993, LB 237, § 3; Laws 1994, LB 1349, § 10; Laws 1996, LB 1226, § 11; Laws 1998, LB 1161, § 33; Laws 1999, LB 270, § 4; Laws 2001, LB 461, § 5; Laws 2004, LB 962, § 107; Laws 2008, LB1145, § 3; Laws 2012, LB873, § 3; Laws 2016, LB887, § 3; Laws 2020, LB858, § 16.

Operative date June 30, 2020.

Cross References

Environmental Protection Act, see section 81-1532.

Petroleum Products and Hazardous Substances Storage and Handling Act, see section 81-15,117.

66-1529.02 Remedial actions by department; third-party claims; recovery of expenses.

(1) The department may undertake remedial actions in response to a release first reported after July 17, 1983, and on or before June 30, 2024, with money available in the fund if:

- (a) The responsible person cannot be identified or located;
- (b) An identified responsible person cannot or will not comply with the remedial action requirements; or
- (c) Immediate remedial action is necessary, as determined by the Director of Environment and Energy, to protect human health or the environment.

(2) The department may pay the costs of a third-party claim meeting the requirements of subdivision (2)(f) of section 66-1525 with money available in the fund if the responsible person cannot or will not pay the third-party claim.

(3) Reimbursement for any damages caused by the department or a person acting at the department's direction while investigating or inspecting or during remedial action on property other than property on which a release or suspected release has occurred shall be considered as part of the cost of remedial action involving the site where the release or suspected release occurred. The costs shall be reimbursed from money available in the fund. If such reimbursement is deemed inadequate by the party claiming the damages, the party's claim for damages caused by the department shall be filed as provided in section 76-705.

(4) All expenses paid from the fund under this section, court costs, and attorney's fees may be recovered in a civil action in the district court of Lancaster County. The action may be brought by the county attorney or Attorney General at the request of the director against the responsible person. All recovered expenses shall be deposited into the fund.

Source: Laws 1991, LB 409, § 19; Laws 1993, LB 3, § 41; Laws 1993, LB 237, § 4; Laws 1998, LB 1161, § 35; Laws 1999, LB 270, § 5; Laws 2001, LB 461, § 6; Laws 2004, LB 962, § 108; Laws 2008, LB1145, § 4; Laws 2012, LB873, § 4; Laws 2016, LB887, § 4; Laws 2019, LB302, § 82; Laws 2020, LB858, § 17.

Operative date June 30, 2020.

ARTICLE 20

NATURAL GAS FUEL BOARD

Section

66-2001. Natural Gas Fuel Board; established; members; terms; vacancy; meetings; duties; Department of Environment and Energy; administrative support.

66-2001 Natural Gas Fuel Board; established; members; terms; vacancy; meetings; duties; Department of Environment and Energy; administrative support.

(1) The Natural Gas Fuel Board is hereby established to advise the Department of Environment and Energy regarding the promotion of natural gas as a motor vehicle fuel in Nebraska. The board shall provide recommendations relating to:

(a) Distribution, infrastructure, and workforce development for natural gas to be used as a motor vehicle fuel;

(b) Loans, grants, and tax incentives to encourage the use of natural gas as a motor vehicle fuel for individuals and public and private fleets; and

(c) Such other matters as it deems appropriate.

(2) The board shall consist of eight members appointed by the Governor. The Governor shall make the initial appointments by October 1, 2012. The board shall include:

(a) One member representing a jurisdictional utility as defined in section 66-1802;

(b) One member representing a metropolitan utilities district;

(c) One member representing the interests of the transportation industry in the state;

(d) One member representing the interests of the business community in the state, specifically fueling station owners or operators;

(e) One member representing natural gas marketers or pipelines in the state;

(f) One member representing automobile dealerships or repair businesses in the state;

(g) One member representing labor interests in the state; and

(h) One member representing environmental interests in the state, specifically air quality.

(3) All appointments shall be subject to the approval of a majority of the members of the Legislature if the Legislature is in session, and if the Legislature is not in session, any appointment to fill a vacancy shall be temporary until the next session of the Legislature, at which time a majority of the members of the Legislature may approve or disapprove such appointment.

(4) Members shall be appointed for terms of four years, except that of the initial appointees the terms of the members representing a jurisdictional utility and a metropolitan utilities district shall expire on September 30, 2015, the terms of the members representing the transportation industry, the business community, natural gas marketers or pipelines, and automobile dealerships or repair businesses shall expire on September 30, 2014, and the terms of the members representing labor and environmental interests shall expire on Sep-

tember 30, 2013. Members may be reappointed. A member shall serve until a successor is appointed and qualified.

(5) A vacancy on the board shall exist in the event of death, disability, resignation, or removal for cause of a member. Any vacancy on the board arising other than from the expiration of a term shall be filled by appointment for the unexpired portion of the term. An appointment to fill a vacancy shall be made by the Governor with the approval of a majority of the Legislature, and any person so appointed shall have the same qualifications as the person whom he or she succeeds.

(6) The board shall meet at least once annually.

(7) The members shall not be reimbursed for expenses associated with carrying out their duties as members.

(8) The department shall provide administrative support to the board as necessary so that the board may carry out its duties.

Source: Laws 2012, LB1087, § 1; Laws 2019, LB302, § 83.

ARTICLE 22

RENEWABLE FUEL INFRASTRUCTURE PROGRAM

Section

66-2201. Terms, defined.

66-2202. Renewable Fuel Infrastructure Program; created.

66-2203. Grant; application; ethanol infrastructure project; eligibility for grant.

66-2204. Application; contents.

66-2205. Department; determine amount of grants; cost-share agreement; award; limitation.

66-2206. Retail motor fuel site; requirements.

66-2207. Renewable Fuel Infrastructure Fund; created; use; investment.

66-2201 Terms, defined.

For purposes of sections 66-2201 to 66-2207:

(1) Department means the Department of Environment and Energy;

(2) E-15 means a blend of ethanol and gasoline in which ethanol comprises fifteen percent of the blend by volume;

(3) E-85 means a blend of ethanol and gasoline in which ethanol comprises seventy percent or more of the blend by volume;

(4) Motor fuel pump means a meter or similar commercial weighing and measuring device used to measure and dispense motor fuel originating from a motor fuel storage tank;

(5) Program means the Renewable Fuel Infrastructure Program created in section 66-2202;

(6) Retail dealer means a person engaged in the business of storing and dispensing motor fuel from a motor fuel pump for sale on a retail basis; and

(7) Retail motor fuel site means a geographic location in this state where a retail dealer sells and dispenses motor fuel from a motor fuel pump on a retail basis.

Source: Laws 2019, LB585, § 1.

66-2202 Renewable Fuel Infrastructure Program; created.

The Renewable Fuel Infrastructure Program is created. The purpose of the program is to improve retail motor fuel sites by installing, replacing, or converting ethanol infrastructure to be used to store, blend, or dispense renewable fuel. The program shall function as a grant program administered by the department. Grant applications shall be made on a form prescribed by the department. Grant funds shall be distributed to eligible persons for eligible ethanol infrastructure projects under the requirements in section 66-2203.

Source: Laws 2019, LB585, § 2.

66-2203 Grant; application; ethanol infrastructure project; eligibility for grant.

(1) A person shall be eligible to apply for a grant under the program if the person is an owner or operator of a retail motor fuel site.

(2) An ethanol infrastructure project shall be eligible for a grant under the program if such project is:

(a) Designed and used exclusively to store and dispense E-15 gasoline or E-85 gasoline or a blend of ethanol and gasoline from a motor fuel pump designed to blend such motor fuels together in blends higher than E-15. Such E-15 gasoline shall be a registered fuel recognized by the United States Environmental Protection Agency;

(b) On the premises of a retail motor fuel site; and

(c) Subject to a cost-share agreement as described in section 66-2205.

(3) An ethanol infrastructure project shall not be eligible for a grant under the program if such infrastructure includes a tank vehicle.

Source: Laws 2019, LB585, § 3.

66-2204 Application; contents.

Any eligible person applying for a grant under the program shall include the following information in the application:

(1) The name of the person and the address of the retail motor fuel site to be improved;

(2) A detailed description of the infrastructure to be installed, replaced, or converted, including, but not limited to, the model number of each motor fuel storage tank to be installed, replaced, or converted, if available;

(3) A statement describing how the retail motor fuel site is to be improved, the estimated cost of the planned improvement, and the date when the infrastructure will be first used; and

(4) A statement certifying the infrastructure project complies with section 66-2203 and will comply with a cost-share agreement entered into with the department pursuant to section 66-2205 unless granted a waiver by the department.

Source: Laws 2019, LB585, § 4.

66-2205 Department; determine amount of grants; cost-share agreement; award; limitation.

(1) The department shall determine the amount of the grants to be awarded under the program. The department shall award grants to the maximum

number of qualified applicants and may approve up to one million dollars in grants in any calendar year.

(2) The department shall approve and execute a cost-share agreement according to terms and conditions set by the department with an eligible person whose application is approved by the department for such grant. Such cost-share agreement shall state the total costs related to improving a retail motor fuel site, the amount of the grant, and whether the agreement is for a three-year or five-year period.

(3) In awarding grants under the program, an award shall not exceed (a) fifty percent of the estimated cost of the improvement or thirty thousand dollars, whichever is less, for a three-year cost-share agreement, or (b) seventy percent of the estimated costs of making the improvement or fifty thousand dollars, whichever is less, for a five-year cost-share agreement. The department may approve multiple improvements to the same retail motor fuel site so long as the total amount of the grants does not exceed the limitations in this subsection.

Source: Laws 2019, LB585, § 5.

66-2206 Retail motor fuel site; requirements.

A retail motor fuel site that is improved using grants under the program shall comply with federal and state standards governing new or upgraded motor fuel storage tanks used to store and dispense renewable fuels. A retail motor fuel site that is improved using grants under the program shall not use such infrastructure to store and dispense motor fuel other than the type of renewable fuel approved by the department in the cost-share agreement, unless granted a waiver by the department.

Source: Laws 2019, LB585, § 6.

66-2207 Renewable Fuel Infrastructure Fund; created; use; investment.

The Renewable Fuel Infrastructure Fund is created. The fund shall consist of appropriations made by the Legislature, transfers authorized by the Legislature, grants, and any contributions designated for the purpose of the fund. 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. The fund shall be administered by the department and used to award grants under the program. No more than ten percent of the fund shall be used for administration of the program.

Source: Laws 2019, LB585, § 7.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.



CHAPTER 67 PARTNERSHIPS

Article.

2. Nebraska Uniform Limited Partnership Act.
Part XI— Miscellaneous. 67-293.
4. Uniform Partnership Act of 1998.
Part XII— Miscellaneous Provisions. 67-462.

ARTICLE 2

NEBRASKA UNIFORM LIMITED PARTNERSHIP ACT

Part XI. MISCELLANEOUS

Section

67-293. Filing fees; disposition.

Part XI

MISCELLANEOUS

67-293 Filing fees; disposition.

The filing fee for all filings pursuant to the Nebraska Uniform Limited Partnership Act, including amendments and name reservation, shall be thirty dollars if the filing is submitted in writing and twenty-five dollars if the filing is submitted electronically pursuant to section 84-511, except that the filing fee for filing a certificate of limited partnership pursuant to section 67-240 and for filing an application for registration as a foreign limited partnership pursuant to section 67-281 shall be one hundred ten dollars if the filing is submitted in writing and one hundred dollars if the filing is submitted electronically pursuant to section 84-511. A fee of one dollar per page shall be paid for a certified copy of any document on file pursuant to the act. The fees for filings pursuant to the act shall be paid to the Secretary of State and by him or her remitted to the State Treasurer. The State Treasurer shall credit sixty percent of such fees to the General Fund and forty percent of such fees to the Secretary of State Cash Fund.

Source: Laws 1981, LB 272, § 61; Laws 1983, LB 617, § 12; Laws 1989, LB 482, § 60; Laws 1990, LB 1228, § 8; Laws 1994, LB 1004, § 6; Laws 1994, LB 1066, § 59; Laws 2003, LB 357, § 10; Laws 2020, LB910, § 27.

Operative date July 1, 2021.

ARTICLE 4

UNIFORM PARTNERSHIP ACT OF 1998

Part XII. MISCELLANEOUS PROVISIONS

Section

67-462. Fees.

Part XII

MISCELLANEOUS PROVISIONS

67-462 Fees.

The filing fee for filing a statement of partnership authority pursuant to section 67-415, a statement of qualification pursuant to section 67-454, or a statement of foreign qualification pursuant to section 67-458 is one hundred ten dollars if the filing is submitted in writing and one hundred dollars if the filing is submitted electronically pursuant to section 84-511. The filing fee for all other filings by partnerships or limited liability partnerships pursuant to the Uniform Partnership Act of 1998 is thirty dollars if the filing is submitted in writing and twenty-five dollars if the filing is submitted electronically pursuant to section 84-511. A fee of one dollar per page shall be paid for a certified copy of any document on file pursuant to the act and ten dollars for the certificate. The filing fees pursuant to the act shall be paid to the Secretary of State and remitted to the State Treasurer. The State Treasurer shall credit sixty percent of the fees to the General Fund and forty percent of the fees to the Secretary of State Cash Fund.

Source: Laws 1997, LB 523, § 62; Laws 2020, LB910, § 28.
Operative date July 1, 2021.

CHAPTER 68

PUBLIC ASSISTANCE

Article.

- 9. Medical Assistance Act. 68-901 to 68-9,100.
- 11. Aging.
 - (a) Advisory Committee on Aging. 68-1105.
- 12. Social Services. 68-1206, 68-1212.
- 17. Welfare Reform.
 - (a) Welfare Reform Act. 68-1724.

ARTICLE 9

MEDICAL ASSISTANCE ACT

Section

- 68-901. Medical Assistance Act; act, how cited.
- 68-914. Application for medical assistance; form; department; decision; notice; requirements; appeal.
- 68-915. Eligibility.
- 68-919. Medical assistance recipient; liability; when; claim; procedure; department; powers; recovery of medical assistance reimbursement; procedure.
- 68-953. Preferred drug list; department; establish and maintain; pharmaceutical and therapeutics committee; members; expenses.
- 68-955. Prescription of drug not on preferred drug list; conditions; antidepressant, antipsychotic, or anticonvulsant prescription drug; prior authorization; not required, when.
- 68-973. Medical assistance programs; improper payments; postpayment reimbursement; legislative findings; integrity procedures and guidelines; legislative intent.
- 68-974. Program integrity contractors; contracts; contents; audit procedures; powers; health insurance premium assistance payment program; contract; department; powers and duties; form of records authorized; appeal; report.
- 68-989. Disclosure by applicant; income and assets; action for recovery of medical assistance authorized.
- 68-990. Medical assistance; transfers; security for recovery of indebtedness to department; lien; notice; filing; department; duties; section null and void.
- 68-992. Eligibility for medical assistance; expanded population; Department of Health and Human Services; duties.
- 68-993. Medical parole; protocol.
- 68-994. Long-term care services and supports; department; limitation on addition to medicaid managed care program.
- 68-995. Contracts and agreements; department; duties.
- 68-996. Medicaid Managed Care Excess Profit Fund; created; use; investment.
- 68-997. Job-skills programs; voluntary; departments; powers and duties.
- 68-998. Managed care organization; provider contract; material change; notice.
- 68-999. Direct care staff; psychiatric facilities caring for juveniles; standards.
- 68-9,100. Hospital and nursing facility services; reimbursement; rate methodology; rules and regulations.

68-901 Medical Assistance Act; act, how cited.

Sections 68-901 to 68-9,100 shall be known and may be cited as the Medical Assistance Act.

Source: Laws 2006, LB 1248, § 1; Laws 2008, LB830, § 1; Laws 2009, LB27, § 1; Laws 2009, LB288, § 18; Laws 2009, LB342, § 1;

Laws 2009, LB396, § 1; Laws 2010, LB1106, § 1; Laws 2011, LB525, § 1; Laws 2012, LB541, § 1; Laws 2012, LB599, § 2; Laws 2015, LB500, § 1; Laws 2016, LB698, § 15; Laws 2017, LB268, § 10; Laws 2017, LB578, § 1; Initiative Law 2018, No. 427, § 1; Laws 2019, LB468, § 1; Laws 2019, LB726, § 1; Laws 2020, LB956, § 1; Laws 2020, LB1002, § 43; Laws 2020, LB1053, § 1; Laws 2020, LB1158, § 1.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB956, section 1, with LB1002, section 43, LB1053, section 1, and LB1158, section 1, to reflect all amendments.

Note: Changes made by LB1158 became effective August 11, 2020. Changes made by LB956 became effective November 14, 2020. Changes made by LB1002 and LB1053 became operative November 14, 2020.

68-914 Application for medical assistance; form; department; decision; notice; requirements; appeal.

(1) An applicant for medical assistance shall file an application with the department in a manner and form prescribed by the department. The department shall process each application to determine whether the applicant is eligible for medical assistance. The department shall provide a determination of eligibility for medical assistance in a timely manner in compliance with 42 C.F.R. 435.911, including, but not limited to, a timely determination of eligibility for coverage of an emergency medical condition, such as labor and delivery.

(2) The department shall notify an applicant for or recipient of medical assistance of any decision of the department to deny or discontinue eligibility or to deny or modify medical assistance. Except in the case of an emergency, the notice shall be mailed on the same day as or the day after the decision is made. In addition to mailing the notice, the department may also deliver the notice by any form of electronic communication if the department has the agreement of the recipient to receive such notice by means of such form of electronic communication. Decisions of the department, including the failure of the department to act with reasonable promptness, may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

(3) Notice of a decision to discontinue eligibility or to modify medical assistance shall include an explanation of the proposed action, the reason for the proposed action, the information used to make the decision including specific regulations or laws requiring such action, contact information for personnel of the department to address questions regarding the action, information on the right to appeal, and an explanation of the availability of continued benefits pending such appeal.

Source: Laws 2006, LB 1248, § 14; Laws 2011, LB494, § 1; Laws 2020, LB956, § 3.

Effective date November 14, 2020.

Cross References

Administrative Procedure Act, see section 84-920.

68-915 Eligibility.

The following persons shall be eligible for medical assistance:

- (1) Dependent children as defined in section 43-504;
- (2) Aged, blind, and disabled persons as defined in sections 68-1002 to 68-1005;

(3) Children under nineteen years of age who are eligible under section 1905(a)(i) of the federal Social Security Act;

(4) Persons who are presumptively eligible as allowed under sections 1920 and 1920B of the federal Social Security Act;

(5) Children under nineteen years of age with a family income equal to or less than two hundred percent of the Office of Management and Budget income poverty guideline, as allowed under Title XIX and Title XXI of the federal Social Security Act, without regard to resources, and pregnant women with a family income equal to or less than one hundred eighty-five percent of the Office of Management and Budget income poverty guideline, as allowed under Title XIX and Title XXI of the federal Social Security Act, without regard to resources. Children described in this subdivision and subdivision (6) of this section shall remain eligible for six consecutive months from the date of initial eligibility prior to redetermination of eligibility. The department may review eligibility monthly thereafter pursuant to rules and regulations adopted and promulgated by the department. The department may determine upon such review that a child is ineligible for medical assistance if such child no longer meets eligibility standards established by the department;

(6) For purposes of Title XIX of the federal Social Security Act as provided in subdivision (5) of this section, children with a family income as follows:

(a) Equal to or less than one hundred fifty percent of the Office of Management and Budget income poverty guideline with eligible children one year of age or younger;

(b) Equal to or less than one hundred thirty-three percent of the Office of Management and Budget income poverty guideline with eligible children over one year of age and under six years of age; or

(c) Equal to or less than one hundred percent of the Office of Management and Budget income poverty guideline with eligible children six years of age or older and less than nineteen years of age;

(7) Persons who are medically needy caretaker relatives as allowed under 42 U.S.C. 1396d(a)(ii);

(8) As allowed under 42 U.S.C. 1396a(a)(10)(A)(ii)(XV) and (XVI), disabled persons who have a family income of less than two hundred fifty percent of the Office of Management and Budget income poverty guideline. Such persons shall be subject to payment of premiums as a percentage of family income beginning at not less than two hundred percent of the Office of Management and Budget income poverty guideline. Such premiums shall be graduated based on family income and shall not exceed seven and one-half percent of family income;

(9) As allowed under 42 U.S.C. 1396a(a)(10)(A)(ii), persons who:

(a) Have been screened for breast and cervical cancer under the Centers for Disease Control and Prevention breast and cervical cancer early detection program established under Title XV of the federal Public Health Service Act, 42 U.S.C. 300k et seq., in accordance with the requirements of section 1504 of such act, 42 U.S.C. 300n, and who need treatment for breast or cervical cancer, including precancerous and cancerous conditions of the breast or cervix;

(b) Are not otherwise covered under creditable coverage as defined in section 2701(c) of the federal Public Health Service Act, 42 U.S.C. 300gg-3(c);

(c) Have not attained sixty-five years of age; and

(d) Are not eligible for medical assistance under any mandatory categorically needy eligibility group;

(10) Persons eligible for services described in subsection (3) of section 68-972; and

(11) Persons eligible pursuant to section 68-992.

Except as provided in subdivision (8) of this section and section 68-972, eligibility shall be determined under this section using an income budgetary methodology that determines children's eligibility at no greater than two hundred percent of the Office of Management and Budget income poverty guideline and adult eligibility using adult income standards no greater than the applicable categorical eligibility standards established pursuant to state or federal law. Except as otherwise provided in subdivision (8) of this section, the department shall determine eligibility under this section pursuant to such income budgetary methodology and subdivision (1)(q) of section 68-1713.

Source: Laws 1965, c. 397, § 5, p. 1278; Laws 1984, LB 1127, § 4; Laws 1988, LB 229, § 1; Laws 1995, LB 455, § 6; Laws 1996, LB 1044, § 323; Laws 1998, LB 1063, § 6; Laws 1999, LB 594, § 34; Laws 2001, LB 677, § 1; Laws 2002, Second Spec. Sess., LB 8, § 2; Laws 2003, LB 411, § 2; Laws 2005, LB 301, § 3; R.S.Supp., 2005, § 68-1020; Laws 2006, LB 1248, § 15; Laws 2007, LB296, § 249; Laws 2007, LB351, § 3; Laws 2009, LB603, § 2; Laws 2012, LB599, § 3; Initiative Law 2018, No. 427, § 3; Laws 2020, LB323, § 1.

Operative date October 1, 2021.

68-919 Medical assistance recipient; liability; when; claim; procedure; department; powers; recovery of medical assistance reimbursement; procedure.

(1) The recipient of medical assistance under the medical assistance program shall be indebted to the department for the total amount paid for medical assistance on behalf of the recipient if:

(a) The recipient was fifty-five years of age or older at the time the medical assistance was provided; or

(b) The recipient resided in a medical institution and, at the time of institutionalization or application for medical assistance, whichever is later, the department determines that the recipient could not have reasonably been expected to be discharged and resume living at home. For purposes of this section, medical institution means a nursing facility, an intermediate care facility for persons with developmental disabilities, or an inpatient hospital.

(2) The debt accruing under subsection (1) of this section arises during the life of the recipient but shall be held in abeyance until the death of the recipient. Any such debt to the department that exists when the recipient dies shall be recovered only after the death of the recipient's spouse, if any, and only after the recipient is not survived by a child who either is under twenty-one years of age or is blind or totally and permanently disabled as defined by the Supplemental Security Income criteria. In recovering such debt, the department shall not foreclose on a lien on the home of the recipient (a) if a sibling of the recipient with an equity interest in the home has lawfully resided in the home for at least one year before the recipient's admission and has lived there continuously since the date of the recipient's admission or (b) while the home is

the residence of an adult child who has lived in the recipient's home for at least two years immediately before the recipient was institutionalized, has lived there continuously since that time, and can establish to the satisfaction of the department that he or she provided care that delayed the recipient's admission.

(3) The debt shall include the total amount of medical assistance provided when the recipient was fifty-five years of age or older or during a period of institutionalization as described in subsection (1) of this section and shall not include interest.

(4)(a) It is the intent of the Legislature that the debt specified in subsection (1) of this section be collected by the department before any portion of the estate of a recipient of medical assistance is enjoyed by or transferred to a person not specified in subsection (2) of this section as a result of the death of such recipient. The debt may be recovered from the estate of a recipient of medical assistance. The department shall undertake all reasonable and cost-effective measures to enforce recovery under the Medical Assistance Act. All persons specified in subsections (2) and (4) of this section shall cooperate with the department in the enforcement of recovery under the act.

(b) For purposes of this section:

(i) Estate of a recipient of medical assistance means any real estate, personal property, or other asset in which the recipient had any legal title or interest at or immediately preceding the time of the recipient's death, to the extent of such interests. In furtherance and not in limitation of the foregoing, the estate of a recipient of medical assistance also includes:

(A) Assets to be transferred to a beneficiary described in section 77-2004 or 77-2005 in relation to the recipient through a revocable trust or other similar arrangement which has become irrevocable by reason of the recipient's death; and

(B) Notwithstanding anything to the contrary in subdivision (3) or (4) of section 68-923, assets conveyed or otherwise transferred to a survivor, an heir, an assignee, a beneficiary, or a devisee of the recipient of medical assistance through joint tenancy, tenancy in common, transfer on death deed, survivorship, conveyance of a remainder interest, retention of a life estate or of an estate for a period of time, living trust, or other arrangement by which value or possession is transferred to or realized by the beneficiary of the conveyance or transfer at or as a result of the recipient's death. Such other arrangements include insurance policies or annuities in which the recipient of medical assistance had at the time of death any incidents of ownership of the policy or annuity or the power to designate beneficiaries and any pension rights or completed retirement plans or accounts of the recipient. A completed retirement plan or account is one which because of the death of the recipient of medical assistance ceases to have elements of retirement relating to such recipient and under which one or more beneficiaries exist after such recipient's death; and

(ii) Estate of a recipient of medical assistance does not include:

(A) Insurance proceeds, any trust account subject to the Burial Pre-Need Sale Act, or any limited lines funeral insurance policy to the extent used to pay for funeral, burial, or cremation expenses of the recipient of medical assistance;

(B) Conveyances of real estate made prior to August 24, 2017, that are subject to the grantor's retention of a life estate or an estate for a period of time; and

(C) Any pension rights or completed retirement plans to the extent that such rights or plans are exempt from claims for reimbursement of medical assistance under federal law.

(c) As to any interest in property created after August 24, 2017, and for as long as any portion of the debt arising under subsection (1) of this section remains unpaid, the death of the recipient of medical assistance shall not trigger a change in the rights to possession, enjoyment, access, income, or otherwise that the recipient had at the time of death and the personal representative of the recipient's estate is empowered to and shall exercise or enjoy such rights for the purpose of paying such debt, including, but not limited to, renting such property held as a life estate, severing joint tenancies, bringing partition actions, claiming equitable rights of contribution, or taking other actions otherwise appropriate to effect the intent of this section. Such rights shall survive the death of the recipient of medical assistance and shall be administered, marshaled, and disposed of for the purposes of this section. In the event that a claim for reimbursement is made as to some, but not all, nonprobate transferees or assets, the party or owner against whom the claim is asserted may seek equitable contribution toward the claim from the other nonprobate transferees or assets in a court of applicable jurisdiction. Except as otherwise provided in this section and except for the right of the department to recover the debt from such interests in property, this subsection in and of itself does not create any rights in any other person or entity.

(d) The department, upon application of the personal representative of an estate, any person or entity otherwise authorized under the Nebraska Probate Code to act on behalf of a decedent, any person or entity having an interest in assets of the decedent which are subject to this subsection, a successor trustee of a revocable trust or other similar arrangement which has become irrevocable by reason of the decedent's death, or any other person or entity holding assets of the decedent described in this subsection, shall timely certify to the applicant, that as of a designated date, whether medical assistance reimbursement is due or an application for medical assistance was pending that may result in medical assistance reimbursement due. An application for a certificate under this subdivision shall be provided to the department in a delivery manner and at an address designated by the department, which manner may include email. The department shall post the acceptable manner of delivery on its web site. Any application that fails to conform with such manner is void. Notwithstanding the lack of an order by a court designating the applicant as a person or entity who may receive information protected by applicable privacy laws, the applicant shall have the authority of a personal representative for the limited purpose of seeking and obtaining from the department this certification. If, in response to a certification request, the department certifies that reimbursement for medical assistance is due, the department may release some or all of the property of a decedent from the provisions of this subsection.

(e) An action for recovery of the debt created under subsection (1) of this section may be brought by the department against the estate of a recipient of medical assistance as defined in subdivision (4)(b) of this section at any time before five years after the last of the following events:

- (i) The death of the recipient of medical assistance;
- (ii) The death of the recipient's spouse, if applicable;

(iii) The attainment of the age of twenty-one years by the youngest of the recipient's minor children, if applicable; or

(iv) A determination that any adult child of the recipient is no longer blind or totally and permanently disabled as defined by the Supplemental Security Income criteria, if applicable.

(5) In any probate proceedings in which the department has filed a claim under this section, no additional evidence of foundation shall be required for the admission of the department's payment record supporting its claim if the payment record bears the seal of the department, is certified as a true copy, and bears the signature of an authorized representative of the department.

(6) The department may waive or compromise its claim, in whole or in part, if the department determines that enforcement of the claim would not be in the best interests of the state or would result in undue hardship as provided in rules and regulations of the department.

(7)(a) Whenever the department has provided medical assistance because of sickness or injury to any person resulting from a third party's wrongful act or negligence and the person has recovered damages from such third party, the department shall have the right to recover the medical assistance it paid from any amounts that the person has received as follows:

(i) In those cases in which the person is fully compensated by the recovery, the department shall be fully reimbursed subject to its contribution to attorney's fees and costs as provided in subdivision (b) of this subsection; or

(ii) In those cases in which the person is not fully compensated by the recovery, the department shall be reimbursed that portion of the recovery that represents the same proportionate reduction of medical expenses paid that the recovery amount bears to full compensation of the person subject to its contributions to attorney's fees and costs as provided in subdivision (b) of this subsection.

(b) When an action or claim is brought by the person and the person incurs or will incur a personal liability to pay attorney's fees and costs of litigation or costs incurred in pursuit of a claim, the department's claim for reimbursement of the medical assistance provided to the person shall be reduced by an amount that represents the department's reasonable pro rata share of attorney's fees and costs of litigation or the costs incurred in pursuit of a claim.

(8) The department may adopt and promulgate rules and regulations to carry out this section.

(9) The changes made to this section by Laws 2019, LB593, shall apply retroactively to August 30, 2015.

Source: Laws 1994, LB 1224, § 39; Laws 1996, LB 1044, § 334; Laws 2001, LB 257, § 1; Laws 2004, LB 1005, § 7; R.S.Supp.,2004, § 68-1036.02; Laws 2006, LB 1248, § 19; Laws 2007, LB185, § 2; Laws 2013, LB23, § 13; Laws 2015, LB72, § 4; Laws 2017, LB268, § 14; Laws 2019, LB593, § 6.

Cross References

Burial Pre-Need Sale Act, see section 12-1101.

Nebraska Probate Code, see section 30-2201.

68-953 Preferred drug list; department; establish and maintain; pharmaceutical and therapeutics committee; members; expenses.

(1) No later than July 1, 2010, the department shall establish and maintain a preferred drug list for the medical assistance program. The department shall establish a pharmaceutical and therapeutics committee to advise the department on all matters relating to the establishment and maintenance of such list.

(2) The pharmaceutical and therapeutics committee shall include at least fifteen but no more than twenty members. The committee shall consist of at least (a) eight physicians, (b) four pharmacists, (c) a university professor of pharmacy or a person with a doctoral degree in pharmacology, and (d) two public members. No more than twenty-five percent of the committee shall be state employees.

(3) The physician members of the committee, so far as practicable, shall include physicians practicing in the areas of (a) family medicine, (b) internal medicine, (c) pediatrics, (d) cardiology, (e) psychiatry or neurology, (f) obstetrics or gynecology, (g) endocrinology, and (h) oncology.

(4) Members of the committee shall submit conflict of interest disclosure statements to the department and shall have an ongoing duty to disclose conflicts of interest not included in the original disclosure.

(5) The committee shall elect a chairperson and a vice-chairperson from among its members. Members of the committee shall be reimbursed for expenses as provided in sections 81-1174 to 81-1177.

(6) The department, in consultation with the committee, shall adopt and publish policies and procedures relating to the preferred drug list, including (a) guidelines for the presentation and review of drugs for inclusion on the preferred drug list, (b) the manner and frequency of audits of the preferred drug list for appropriateness of patient care and cost effectiveness, (c) an appeals process for the resolution of disputes, and (d) such other policies and procedures as the department deems necessary and appropriate.

Source: Laws 2008, LB830, § 5; Laws 2020, LB381, § 54.
Operative date January 1, 2021.

68-955 Prescription of drug not on preferred drug list; conditions; antidepressant, antipsychotic, or anticonvulsant prescription drug; prior authorization; not required, when.

(1) Except as otherwise provided in subsection (3) of this section, a health care provider may prescribe a prescription drug not on the preferred drug list to a medicaid recipient if (a) the prescription drug is medically necessary, (b)(i) the provider certifies that the preferred drug has not been therapeutically effective, or with reasonable certainty is not expected to be therapeutically effective, in treating the recipient's condition or (ii) the preferred drug causes or is reasonably expected to cause adverse or harmful reactions in the recipient, and (c) the department authorizes coverage for the prescription drug prior to the dispensing of the drug. The department shall respond to a prior authorization request no later than twenty-four hours after receiving such request.

(2) A health care provider may prescribe a prescription drug not on the preferred drug list to a medicaid recipient without prior authorization by the department or a managed care organization if the provider certifies that (a) the recipient is achieving therapeutic success with a course of antidepressant, antipsychotic, or anticonvulsant medication or medication for human immuno-

deficiency virus, multiple sclerosis, epilepsy, cancer, or immunosuppressant therapy or (b) the recipient has experienced a prior therapeutic failure with a medication.

(3) Neither the department nor a managed care organization shall require prior authorization for coverage for an antidepressant, antipsychotic, or anticonvulsant prescription drug that is deemed medically necessary by a patient's health care provider for a new or existing medicaid recipient if the medicaid recipient has prior prescription history for the antidepressant, antipsychotic, or anticonvulsant prescription drug within the immediately preceding ninety-day period. A prospective drug utilization review as described in section 38-2869 and applicable federal law for a prescription for an antidepressant, antipsychotic, or anticonvulsant prescription drug for a medicaid recipient with prior prescription history within the immediately preceding ninety-day period shall occur in order to ensure that the prescription for a medicaid recipient is appropriate and is not likely to result in adverse medical results. Use of a pharmaceutical sample is not considered prior prescription history.

Source: Laws 2008, LB830, § 7; Laws 2020, LB1052, § 4.
Effective date November 14, 2020.

68-973 Medical assistance programs; improper payments; postpayment reimbursement; legislative findings; integrity procedures and guidelines; legislative intent.

(1) The Legislature finds that the medical assistance program would benefit from increased efforts to (a) prevent improper payments to service providers, including, but not limited to, enforcement of eligibility criteria for recipients of benefits, enforcement of enrollment criteria for providers of benefits, determination of third-party liability for benefits, review of claims for benefits prior to payment, and identification of the extent and cause of improper payment, (b) identify and recoup improper payments, including, but not limited to, identification and investigation of questionable payments for benefits, administrative recoupment of payments for benefits, and referral of cases of fraud to the state medicaid fraud control unit for prosecution, and (c) collect postpayment reimbursement, including, but not limited to, maximizing prescribed drug rebates and maximizing recoveries from estates for paid benefits.

(2) The Legislature further finds that (a) the medical assistance program was established under Title XIX of the federal Social Security Act and is a joint federal-state-funded health insurance program that is the primary source of medical assistance for low-income, disabled, and elderly Nebraskans and (b) the federal government establishes minimum requirements for the medical assistance program and the state designs, implements, administers, and oversees the medical assistance program.

(3) It is the intent of the Legislature to establish and maintain integrity procedures and guidelines for the medical assistance program that meet minimum federal requirements and that coordinate with federal program integrity efforts in order to provide a system that encourages efficient and effective provision of services by Nebraska providers for the medical assistance program.

Source: Laws 2012, LB541, § 2; Laws 2020, LB956, § 4.
Effective date November 14, 2020.

68-974 Program integrity contractors; contracts; contents; audit procedures; powers; health insurance premium assistance payment program; contract; department; powers and duties; form of records authorized; appeal; report.

(1) One or more program integrity contractors may be used to promote the integrity of the medical assistance program, to assist with investigations and audits, or to investigate the occurrence of fraud, waste, or abuse. The contract or contracts may include services for (a) cost-avoidance through identification of third-party liability, (b) cost recovery of third-party liability through postpayment reimbursement, (c) casualty recovery of payments by identifying and recovering costs for claims that were the result of an accident or neglect and payable by a casualty insurer, and (d) reviews of claims submitted by providers of services or other individuals furnishing items and services for which payment has been made to determine whether providers have been underpaid or overpaid, and to take actions to recover any overpayments identified or make payment for any underpayment identified.

(2) Notwithstanding any other provision of law, all program integrity contractors when conducting a program integrity audit, investigation, or review shall:

(a) Review claims within four years from the date of the payment;

(b) Send a determination letter concluding an audit within one hundred eighty days after receipt of all requested material from a provider;

(c) In any records request to a provider, furnish information sufficient for the provider to identify the patient, procedure, or location;

(d) Develop and implement with the department a procedure in which an improper payment identified by an audit may be resubmitted as a claims adjustment, including (i) the resubmission of claims denied as a result of an interpretation of scope of services not previously held by the department, (ii) the resubmission of documentation when the document provided is incomplete, illegible, or unclear, and (iii) the resubmission of documentation when clerical errors resulted in a denial of claims for services actually provided. If a service was provided and sufficiently documented but denied because it was determined by the department or the contractor that a different service should have been provided, the department or the contractor shall disallow the difference between the payment for the service that was provided and the payment for the service that should have been provided;

(e) Utilize a licensed health care professional from the specialty area of practice being audited to establish relevant audit methodology consistent with (i) state-issued medicaid provider handbooks and (ii) established clinical practice guidelines and acceptable standards of care established by professional or specialty organizations responsible for setting such standards of care;

(f) Provide a written notification and explanation of an adverse determination that includes the reason for the adverse determination, the medical criteria on which the adverse determination was based, an explanation of the provider's appeal rights, and, if applicable, the appropriate procedure to submit a claims adjustment in accordance with subdivision (2)(d) of this section; and

(g) Schedule any onsite audits with advance notice of not less than ten business days and make a good faith effort to establish a mutually agreed upon time and date for the onsite audit.

(3) A program integrity contractor retained by the department or the federal Centers for Medicare and Medicaid Services shall work with the department at

the start of a recovery audit to review this section and section 68-973 and any other relevant state policies, procedures, regulations, and guidelines regarding program integrity audits. The program integrity contractor shall comply with this section regarding audit procedures. A copy of the statutes, policies, and procedures shall be specifically maintained in the audit records to support the audit findings.

(4) The department shall exclude from the scope of review of recovery audit contractors any claim processed or paid through a capitated medicaid managed care program. The department shall exclude from the scope of review of program integrity contractors any claims that are currently being audited or that have been audited by a program integrity contractor, by the department, or by another entity. Claims processed or paid through a capitated medicaid managed care program shall be coordinated between the department, the contractor, and the managed care organization. All such audits shall be coordinated as to scope, method, and timing. The contractor and the department shall avoid duplication or simultaneous audits. No payment shall be recovered in a medical necessity review in which the provider has obtained prior authorization for the service and the service was performed as authorized.

(5) Extrapolated overpayments are not allowed under the Medical Assistance Act without evidence of a sustained pattern of error, an excessively high error rate, or the agreement of the provider.

(6) The department may contract with one or more persons to support a health insurance premium assistance payment program.

(7) The department may enter into any other contracts deemed to increase the efforts to promote the integrity of the medical assistance program.

(8) Contracts entered into under the authority of this section may be on a contingent fee basis. Contracts entered into on a contingent fee basis shall provide that contingent fee payments are based upon amounts recovered, not amounts identified. Whether the contract is a contingent fee contract or otherwise, the contractor shall not recover overpayments by the department until all appeals have been completed unless there is a credible allegation of fraudulent activity by the provider, the contractor has referred the claims to the department for investigation, and an investigation has commenced. In that event, the contractor may recover overpayment prior to the conclusion of the appeals process. In any contract between the department and a program integrity contractor, the payment or fee provided for identification of overpayments shall be the same provided for identification of underpayments. Contracts shall be in compliance with federal law and regulations when pertinent, including a limit on contingent fees of no more than twelve and one-half percent of amounts recovered, and initial contracts shall be entered into as soon as practicable under such federal law and regulations.

(9) All amounts recovered and savings generated as a result of this section shall be returned to the medical assistance program.

(10) Records requests made by a program integrity contractor in any one-hundred-eighty-day period shall be limited to not more than two hundred records for the specific service being reviewed. The contractor shall allow a provider no less than forty-five days to respond to and comply with a records request. If the contractor can demonstrate a significant provider error rate relative to an audit of records, the contractor may make a request to the department to initiate an additional records request regarding the subject

under review for the purpose of further review and validation. The contractor shall not make the request until the time period for the appeals process has expired.

(11) On an annual basis, the department shall require the recovery audit contractor to compile and publish on the department's Internet web site metrics related to the performance of each recovery audit contractor. Such metrics shall include: (a) The number and type of issues reviewed; (b) the number of medical records requested; (c) the number of overpayments and the aggregate dollar amounts associated with the overpayments identified by the contractor; (d) the number of underpayments and the aggregate dollar amounts associated with the identified underpayments; (e) the duration of audits from initiation to time of completion; (f) the number of adverse determinations and the overturn rating of those determinations in the appeal process; (g) the number of appeals filed by providers and the disposition status of such appeals; (h) the contractor's compensation structure and dollar amount of compensation; and (i) a copy of the department's contract with the recovery audit contractor.

(12) The program integrity contractor, in conjunction with the department, shall perform educational and training programs for providers that encompass a summary of audit results, a description of common issues, problems, and mistakes identified through audits and reviews, and opportunities for improvement.

(13) Providers shall be allowed to submit records requested as a result of an audit in electronic format, including compact disc, digital versatile disc, or other electronic format deemed appropriate by the department or via facsimile transmission, at the request of the provider.

(14)(a) A provider shall have the right to appeal a determination made by the program integrity contractor.

(b) The contractor shall establish an informal consultation process to be utilized prior to the issuance of a final determination. Within thirty days after receipt of notification of a preliminary finding from the contractor, the provider may request an informal consultation with the contractor to discuss and attempt to resolve the findings or portion of such findings in the preliminary findings letter. The request shall be made to the contractor. The consultation shall occur within thirty days after the provider's request for informal consultation, unless otherwise agreed to by both parties.

(c) Within thirty days after notification of an adverse determination, a provider may request an administrative appeal of the adverse determination as set forth in the Administrative Procedure Act.

(15) The department shall by December 1 of each year report to the Legislature the status of the contracts, including the parties, the programs and issues addressed, the estimated cost recovery, and the savings accrued as a result of the contracts. Such report shall be filed electronically.

(16) For purposes of this section:

(a) Adverse determination means any decision rendered by a program integrity contractor or recovery audit contractor that results in a payment to a provider for a claim for service being reduced or rescinded;

(b) Extrapolated overpayment means an overpayment amount obtained by calculating claims denials and reductions from a medical records review based on a statistical sampling of a claims universe;

(c) Person means bodies politic and corporate, societies, communities, the public generally, individuals, partnerships, limited liability companies, joint-stock companies, and associations;

(d) Program integrity audit means an audit conducted by the federal Centers for Medicare and Medicaid Services, the department, or the federal Centers for Medicare and Medicaid Services with the coordination and cooperation of the department;

(e) Program integrity contractor means private entities with which the department or the federal Centers for Medicare and Medicaid Services contracts to carry out integrity responsibilities under the medical assistance program, including, but not limited to, recovery audits, integrity audits, and unified program integrity audits, in order to identify underpayments and overpayments and recoup overpayments; and

(f) Recovery audit contractor means private entities with which the department contracts to audit claims for medical assistance, identify underpayments and overpayments, and recoup overpayments.

Source: Laws 2012, LB541, § 3; Laws 2015, LB315, § 1; Laws 2019, LB260, § 1; Laws 2020, LB956, § 5.
Effective date November 14, 2020.

Cross References

Administrative Procedure Act, see section 84-920.

68-989 Disclosure by applicant; income and assets; action for recovery of medical assistance authorized.

(1) This section shall apply to the fullest extent permitted by federal law and understandings entered into between the state and the federal government. An applicant for medical assistance, or a person acting on behalf of the applicant, shall disclose at the time of application and, to the extent not owned at the time of application, at the time of any subsequent review of the applicant's eligibility for medical assistance all of his or her interests in any assets, including, but not limited to, any security, bank account, intellectual property right, contractual or lease right, real estate, trust, corporation, limited liability company, or other entity, whether such interest is direct or indirect or vested or contingent. The applicant or a person acting on behalf of the applicant shall also disclose any income derived from such interests and the source of the income.

(2) If the applicant or a person acting on behalf of the applicant willfully fails to make the disclosures required in this section, any medical assistance obtained as a result of such failure is deemed unlawfully obtained and the department shall seek recovery of such medical assistance from the applicant or the estate of the recipient of medical assistance as defined in subdivision (4)(b) of section 68-919.

(3)(a) If income is derived from a related party as described in subdivision (3)(c) of this section, the department shall determine whether the income is or, in the case of a written lease, whether the terms of the lease at the time it was entered into were commercially reasonable and consistent with income or lease

terms derived in the relevant market area and negotiated at arms length between parties who are not related.

(b) If the department determines that the income or lease fails to meet these requirements, such income or lease shall be considered a transfer of the applicant's assets for less than full consideration and the department shall consider the resulting shortfall, to the fullest extent permitted by federal law, when determining eligibility for medical assistance or any share of cost or as otherwise required by law. The burden of proof of commercial reasonableness rests with the applicant. The department's determination on commercial reasonableness may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

(c) A related party is (i) the applicant's spouse or an individual who is related to the applicant as described in section 77-2004 or 77-2005 or (ii) an entity controlled by one or more individuals described in subdivision (1)(c)(i) of this section. For purposes of this subdivision, control means individuals listed in subdivision (1)(c)(i) of this section who together own or have the option to acquire more than fifty percent of the entity.

(4) An action for recovery of medical assistance obtained in violation of this section may be brought by the department against the applicant or against the estate of the recipient of medical assistance as defined in subdivision (4)(b) of section 68-919 at any time before five years after the death of both the applicant and the applicant's spouse, if any.

(5) The department may adopt and promulgate rules and regulations to carry out this section. The rules and regulations may include guidance on the commercial reasonableness of lease terms.

Source: Laws 2017, LB268, § 11; Laws 2019, LB593, § 7.

Cross References

Administrative Procedure Act, see section 84-920.

68-990 Medical assistance; transfers; security for recovery of indebtedness to department; lien; notice; filing; department; duties; section null and void.

(1) For purposes of this section:

(a) Related transferee means:

(i) An individual who is related to the transferor as described in section 77-2004 or 77-2005;

(ii) An entity controlled by one or more individuals described in subdivision (1)(a)(i) of this section. For purposes of this subdivision, control means individuals described in subdivision (1)(a)(i) of this section together own or have the option to acquire more than fifty percent of the entity; or

(iii) An irrevocable trust in which an individual described in subdivision (1)(a)(i) of this section is a beneficiary; and

(b) Related transferee does not include the recipient's spouse, if any, or a child who either is under twenty-one years of age or is blind or totally and permanently disabled as defined by Supplemental Security Income criteria.

(2) This section shall apply to the fullest extent permitted by federal law and understandings entered into between the state and the federal government. This section provides security for the recovery of the indebtedness to the department for medical assistance as provided in section 68-919. This section applies to

transfers of real estate made on or after August 24, 2017. If, during the transferor's lifetime, an interest in real estate is irrevocably transferred to a related transferee for less than full consideration and the real estate transferred to the related transferee is subject to rights, actual or constructive possession, or powers retained by the transferor in a deed or other instrument, the interest in the real estate when acquired by the related transferee is subject to a lien in favor of the State of Nebraska for medical assistance reimbursement pursuant to section 68-919 to the extent necessary to secure payment in full of any claim remaining unpaid after application of the assets of the transferor's probate estate, not to exceed the amount determined under subsection (6) of this section. The lien does not attach to any interest retained by the transferor. Except as provided in this section, the lien applies to medical assistance provided before, at the same time as, or after the filing of the notice of lien under subsection (4) of this section.

(3) Within fifteen days after receipt of a statement required by section 76-214 indicating that the underlying real estate transfer was between relatives or, if to a trustee, where the trustor or settlor and the beneficiary are relatives, the register of deeds shall send a copy of such statement, together with the parcel identification number, if ascertainable, to the department. The copy shall be provided to the department in a delivery manner and at an address designated by the department, which manner may include email. The department shall post the acceptable manner of delivering the copy on its web site or otherwise communicate the manner of delivery to the registers of deeds.

(4) The lien imposed by subsection (2) of this section becomes effective upon the filing of a notice of lien in accordance with this subsection. The department may file a notice of the lien imposed by subsection (2) of this section only after the department receives an application for medical assistance on behalf of a transferor. The notice must be filed in the office of the register of deeds of the county or counties in which the real estate subject to the lien is located. The notice must provide the legal description of the real estate subject to the lien, specify the amount then secured by the lien, and indicate that the lien also covers any future medical assistance provided to the transferor. The department shall provide the register of deeds with a self-addressed return envelope bearing sufficient postage for purposes of returning to the department a file-stamped copy of the notice of lien, which the register of deeds shall mail to the department. The lien is not valid against the owner of an interest in real estate received by a grantee who is not a related transferee pursuant to a deed or other instrument if such deed or other instrument is filed prior to the notice of lien. A lien that is not valid under this subsection shall be released by the department upon notice thereof from such grantee or a subsequent bona fide purchaser. A lien is valid against any subsequent creditor only if notice of such lien has been filed by the department in accordance with this subsection. Any mortgage or trust deed recorded prior to the filing of a notice of lien shall have priority over such lien. Except as provided in subsection (5) of this section, any optional future advance or advance necessary to protect the security secured by the mortgage or trust deed shall have the same priority as the mortgage or trust deed.

(5) Any optional future advance made pursuant to a mortgage or trust deed on real estate recorded prior to the filing of a notice of lien under subsection (4) of this section shall be junior to such lien only if the optional future advance is made after:

(a) A notice of lien has been filed by the department in accordance with subsection (4) of this section; and

(b) Written notice of the filing for record of such notice of lien has been received by the mortgagee or beneficiary at the address of the mortgagee or beneficiary set forth in the mortgage or trust deed or, if the mortgage or trust deed has been assigned, by the assignee at the address of the most recent assignee reflected in a recorded assignment of the mortgage or trust deed. The notice under this subdivision shall be sent by the department by certified mail to the applicable mortgagee, beneficiary, or assignee.

(6)(a) The lien authorized in this section is limited to the lesser of (i) the amount necessary to fully satisfy any reimbursement obligations remaining unpaid after application of any assets from the transferor's probate estate or (ii) the actual value of the real estate at the time that the lien is enforced minus the consideration adjustment and minus the cost of the improvements made to the real estate by or on behalf of the related transferee, if any.

(b) For purposes of this subsection:

(i) Actual value has the same meaning as in section 77-112;

(ii) Consideration adjustment means the amount of consideration paid by the related transferee to the transferor for the real estate multiplied by the growth factor; and

(iii) Growth factor means the actual value of the real estate at the time the lien is enforced divided by the actual value of the real estate at the time the consideration was paid.

(c) The burden of proof for showing the consideration paid for the real estate, the cost of any improvements to the real estate, and the actual value of the real estate rests with the related transferee or his or her successor in interest.

(7) If a deed or other instrument transferring an interest in real estate contains a recital acknowledged by the grantor stating that the grantee is not a related transferee, the real estate being transferred shall not be subject to the lien imposed by this section. A related transferee who takes possession or otherwise enjoys the benefits of the transfer knowing the recital is false becomes personally liable for medical assistance reimbursement to the extent necessary to discharge any claim remaining unpaid after application of the assets of the transferor's probate estate, not to exceed the amount determined under subsection (6) of this section.

(8) The department shall release or subordinate the lien authorized in this section upon application by the related transferee in which the related transferee agrees to indemnify the department for medical assistance reimbursement pursuant to section 68-919 to the extent necessary to discharge any such claim remaining unpaid after application of the assets of the transferor's probate estate, not to exceed the amount determined under subsection (6) of this section. The department may require the application submitted pursuant to this subsection to be accompanied by good and sufficient sureties or other evidence determined by the department to be sufficient to secure the liability. The department shall also release the lien upon a satisfactory showing of undue hardship or a showing that the interest subject to the lien is not one from which medical assistance reimbursement may be had.

(9)(a) Any indemnity and any lien shall be released upon:

(i) Notice delivered to the department, by certified mail, return receipt requested, of (A) the death and identification, including the social security number, of the transferor, (B) the legal description of the real estate subject to the indemnity or lien, and (C) the names and addresses of the owners of record of the real estate; and

(ii) The department either (A) filing a release of lien with the register of deeds of the county or counties in which the real estate subject to the lien is located or (B) not filing an action to foreclose the lien or collect on the indemnity within one year after delivery of the notice required under subdivision (9)(a)(i) of this section.

(b) Proof of delivery of such notice shall be made by filing a copy of the notice and a copy of the certified mail return receipt with the register of deeds of the county or counties in which the real estate subject to the lien is located.

(10) The department may adopt and promulgate rules and regulations to carry out this section.

(11) This section is null and void as of August 24, 2017.

Source: Laws 2017, LB268, § 12; Laws 2019, LB593, § 8.

68-992 Eligibility for medical assistance; expanded population; Department of Health and Human Services; duties.

(1) Eligibility for medical assistance shall be expanded to include certain adults ages nineteen through sixty-four whose income is equal to or less than one hundred thirty-eight percent of the federal poverty level, as authorized and using the income methodology defined by 42 U.S.C. 1396a(a)(10)(A)(i)(VIII) and related federal regulations and guidance, as such statute, regulations, and guidance existed on January 1, 2018.

(2) On or before April 1, 2019, in order to ensure that eligibility for medical assistance is expanded as required by this section, the Department of Health and Human Services shall submit a state plan amendment and all other necessary documents seeking required approvals or waivers to the federal Centers for Medicare and Medicaid Services.

(3) The Department of Health and Human Services shall take all actions necessary to maximize federal financial participation in funding medical assistance pursuant to this section.

(4) No greater or additional burdens or restrictions on eligibility, enrollment, benefits, or access to health care services shall be imposed on persons eligible for medical assistance pursuant to this section than on any other population eligible for medical assistance.

(5) This section shall apply notwithstanding any other provision of law or federal waiver.

Source: Initiative Law 2018, No. 427, § 2.

68-993 Medical parole; protocol.

The Division of Medicaid and Long-Term Care of the Department of Health and Human Services shall, in consultation with the Department of Correctional Services, develop a protocol to assist an individual who is eligible for medical

parole pursuant to section 83-1,110.02 to apply for and receive benefits under the Medical Assistance Act.

Source: Laws 2019, LB726, § 2.

68-994 Long-term care services and supports; department; limitation on addition to medicaid managed care program.

Until July 1, 2021, the department shall not add long-term care services and supports to the medicaid managed care program. For purposes of this section, long-term care services and supports includes services of a skilled nursing facility, a nursing facility, and an assisted-living facility and home and community-based services.

Source: Laws 2019, LB468, § 2.

68-995 Contracts and agreements; department; duties.

All contracts and agreements relating to the medical assistance program governing at-risk managed care service delivery for health services entered into by the department and existing on or after August 11, 2020, shall:

(1) Provide a definition and cap on administrative spending such that (a) administrative expenditures do not include profit greater than the contracted amount, (b) any administrative spending is necessary to improve the health status of the population to be served, and (c) administrative expenditures do not include contractor incentives. Administrative spending shall not under any circumstances exceed twelve percent. Such spending shall be tracked by the contractor and reported quarterly to the department and electronically to the Clerk of the Legislature;

(2) Provide a definition of annual contractor profits and losses and restrict such profits and losses under the contract so that profit shall not exceed a percentage specified by the department but not more than three percent per year as a percentage of the aggregate of all income and revenue earned by the contractor and related parties, including parent and subsidiary companies and risk-bearing partners, under the contract;

(3) Provide for return of (a) any remittance if the contractor does not meet the minimum medical loss ratio, (b) any unearned incentive funds, and (c) any other funds in excess of the contractor limitations identified in state or federal statute or contract to the State Treasurer for credit to the Medicaid Managed Care Excess Profit Fund;

(4) Provide for a minimum medical loss ratio of eighty-five percent of the aggregate of all income and revenue earned by the contractor and related parties under the contract;

(5) Provide that contractor incentives, in addition to potential profit, be up to two percent of the aggregate of all income and revenue earned by the contractor and related parties under the contract; and

(6) Be reviewed and awarded competitively and in full compliance with the procurement requirements of the State of Nebraska.

Source: Laws 2012, LB1158, § 2; Laws 2016, LB1011, § 1; R.S.1943, (2018), § 71-831; Laws 2020, LB1158, § 2.
Effective date August 11, 2020.

68-996 Medicaid Managed Care Excess Profit Fund; created; use; investment.

The Medicaid Managed Care Excess Profit Fund is created. The fund shall contain money returned to the State Treasurer pursuant to subdivision (3) of section 68-995. The fund shall first be used to offset any losses under subdivision (2) of section 68-995 and then to provide for services addressing the health needs of adults and children under the Medical Assistance Act, including filling service gaps, providing system improvements, and sustaining access to care as determined by the Legislature. The fund shall only be used for the purposes described in this section. 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.

Source: Laws 2020, LB1158, § 3.
Effective date August 11, 2020.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

68-997 Job-skills programs; voluntary; departments; powers and duties.

(1) Beginning October 1, 2020, the Department of Health and Human Services shall inform each adult applicant for medical assistance about job-skills programs within the Department of Health and Human Services, the Department of Labor, or other skill-based programs that could assist the applicant for medical assistance in obtaining job skills or training, employment, higher-paying jobs, or related skills. The Department of Health and Human Services shall connect interested applicants to such job-skills programs. The job-skills programs may be utilized on a voluntary basis by applicants for medical assistance or recipients of medical assistance. The job-skills programs do not affect the receipt of services provided under the Medical Assistance Act.

(2) Beginning February 1, 2021, and within thirty days of the expiration of each subsequent calendar quarter within the years 2021 and 2022, the Department of Health and Human Services shall report electronically to the Clerk of the Legislature on the total number of applicants for medical assistance who were referred to job-skills programs under this section and any job-skills services received as a result of this section by applicants for medical assistance.

(3) Beginning January 1, 2021, through December 31, 2022, the Department of Labor shall report quarterly to the Department of Health and Human Services the number of applicants for medical assistance who were referred to job-skills programs under this section, the number of applicants for medical assistance who received help obtaining job skills or training, employment, higher-paying jobs, or related skills under this section, and the types of job-skills services received as a result of this section.

(4) The Department of Health and Human Services and the Department of Labor shall administer this section.

Source: Laws 2020, LB1158, § 4.
Effective date August 11, 2020.

68-998 Managed care organization; provider contract; material change; notice.

(1) For purposes of this section:

(a)(i) Material change means a change to a provider contract, the occurrence and timing of which is not otherwise clearly identified in the provider contract, that decreases the provider's payment or compensation for services to be provided or changes the administrative procedures in a way that may reasonably be expected to significantly increase the provider's administrative expense, including altering an existing prior authorization, precertification, or notification.

(ii) Material change does not include a change implemented as a result of a requirement of state law, rules and regulations adopted and promulgated or policies established by the Department of Health and Human Services, or policies or regulations of the federal Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services; and

(b) Provider means a provider that has entered into a provider contract with a managed care organization to provide health care services under the medical assistance program.

(2) Each managed care organization shall establish procedures for changing an existing provider contract with a provider that include the requirements of this section.

(3) If a managed care organization makes any material change to a provider contract, the managed care organization shall provide the provider with at least sixty days' notice of the material change. The notice of a material change required under this section shall include:

(a) The effective date of the material change;

(b) A description of the material change;

(c) The name, business address, telephone number, and electronic mail address of a representative of the managed care organization to discuss the material change, if requested by the provider;

(d) Notice of the opportunity for a meeting using real-time communication to discuss the proposed changes if requested by the provider, including any mode of telecommunications in which all users can exchange information instantly such as the use of traditional telephone, mobile telephone, teleconferencing, and videoconferencing. If requested by the provider, the opportunity to communicate to discuss the proposed changes may occur via electronic mail instead of real-time communication; and

(e) Notice that upon three material changes in a twelve-month period, the provider may request a copy of the provider contract with material changes consolidated into a single document. The provision of the copy of the provider contract with the material changes incorporated by the managed care organization (i) shall be for informational purposes only, (ii) shall have no effect on the terms and conditions of the provider contract, and (iii) shall not be construed as the creation of a new contract.

(4) Any notice required to be delivered pursuant to this section shall be sent to the provider's point of contact as set forth in the provider contract and shall be clearly and conspicuously marked "contract change". If no point of contact is set forth in the provider contract, the insurer shall send the requisite notice to the provider's place of business addressed to the provider.

Source: Laws 2020, LB956, § 2.

Effective date November 14, 2020.

68-999 Direct care staff; psychiatric facilities caring for juveniles; standards.

The Division of Medicaid and Long-Term Care of the Department of Health and Human Services shall set standards required for direct care staff of inpatient psychiatric units for juveniles and psychiatric residential treatment facilities for juveniles. The standards shall require that each such staff member:

- (1) Be twenty years of age or older;
- (2) Be at least two years older than the oldest resident in the unit or facility;
- (3) Have a high school diploma or its equivalent; and
- (4) Have appropriate training for basic interaction care such as supervision, daily living care, and mentoring of residents in the unit or facility.

Source: Laws 2020, LB1002, § 44.

Operative date November 14, 2020.

68-9,100 Hospital and nursing facility services; reimbursement; rate methodology; rules and regulations.

The department shall adopt and promulgate rules and regulations regarding the rate methodology for reimbursement of hospital and nursing facility services. Any change to the rate methodology is considered substantive and requires a new rulemaking or regulationmaking proceeding under the Administrative Procedure Act.

Source: Laws 2020, LB1053, § 2.

Operative date November 14, 2020.

Cross References

Administrative Procedure Act, see section 84-920.

ARTICLE 11**AGING**

(a) ADVISORY COMMITTEE ON AGING

Section

68-1105. Committee; special committees; members; expenses.

(a) ADVISORY COMMITTEE ON AGING

68-1105 Committee; special committees; members; expenses.

The members of the Division of Medicaid and Long-Term Care Advisory Committee on Aging, and noncommittee members serving on special committees, shall receive no compensation for their services other than reimbursement for expenses as provided in sections 81-1174 to 81-1177. Committee expenses and any office expenses shall be paid from funds made available to the committee by the Legislature.

Source: Laws 1965, c. 409, § 5, p. 1314; Laws 1971, LB 97, § 4; Laws 1974, LB 660, § 4; Laws 1981, LB 204, § 104; Laws 1982, LB 404, § 33; Laws 1996, LB 1044, § 344; Laws 2007, LB296, § 276; Laws 2020, LB381, § 55.

Operative date January 1, 2021.

ARTICLE 12

SOCIAL SERVICES

Section

- 68-1206. Social services; administration; contracts; payments; duties; federal Child Care Subsidy program; participation; requirements.
- 68-1212. Department of Health and Human Services; cases; case manager; employee of department; duties; case management lead agency model pilot project; contract authorized; conditions, performance outcomes, and oversight; readiness assessment; notice required.

68-1206 Social services; administration; contracts; payments; duties; federal Child Care Subsidy program; participation; requirements.

(1) The Department of Health and Human Services shall administer the program of social services in this state. The department may contract with other social agencies for the purchase of social services at rates not to exceed those prevailing in the state or the cost at which the department could provide those services. The statutory maximum payments for the separate program of aid to dependent children shall apply only to public assistance grants and shall not apply to payments for social services. As part of the provision of social services authorized by section 68-1202, the department shall participate in the federal child care assistance program under 42 U.S.C. 618, as such section existed on January 1, 2013, and provide child care assistance to families with incomes up to one hundred twenty-five percent of the federal poverty level for FY2013-14 and one hundred thirty percent of the federal poverty level for FY2014-15 and each fiscal year thereafter.

(2) As part of the provision of social services authorized by this section and section 68-1202, the department shall participate in the federal Child Care Subsidy program. A child care provider seeking to participate in the federal Child Care Subsidy program shall comply with the criminal history record information check requirements of the Child Care Licensing Act. In determining ongoing eligibility for this program, ten percent of a household's gross earned income shall be disregarded after twelve continuous months on the program and at each subsequent redetermination. In determining ongoing eligibility, if a family's income exceeds one hundred thirty percent of the federal poverty level, the family shall receive transitional child care assistance through the remainder of the family's eligibility period or until the family's income exceeds eighty-five percent of the state median income for a family of the same size as reported by the United States Bureau of the Census, whichever occurs first. When the family's eligibility period ends, the family shall continue to be eligible for transitional child care assistance if the family's income is below one hundred eighty-five percent of the federal poverty level. The family shall receive transitional child care assistance through the remainder of the transitional eligibility period or until the family's income exceeds eighty-five percent of the state median income for a family of the same size as reported by the United States Bureau of the Census, whichever occurs first. The amount of such child care assistance shall be based on a cost-shared plan between the recipient family and the state and shall be based on a sliding-scale methodology. A recipient family may be required to contribute a percentage of such family's gross income for child care that is no more than the cost-sharing rates in the transitional child care assistance program as of January 1, 2015, for those no longer eligible for cash assistance as provided in section 68-1724. Initial

program eligibility standards shall not be impacted by the provisions of this subsection.

(3) In determining the rate or rates to be paid by the department for child care as defined in section 43-2605, the department shall adopt a fixed-rate schedule for the state or a fixed-rate schedule for an area of the state applicable to each child care program category of provider as defined in section 71-1910 which may claim reimbursement for services provided by the federal Child Care Subsidy program, except that the department shall not pay a rate higher than that charged by an individual provider to that provider's private clients. The schedule may provide separate rates for care for infants, for children with special needs, including disabilities or technological dependence, or for other individual categories of children. The schedule may also provide tiered rates based upon a quality scale rating of step three or higher under the Step Up to Quality Child Care Act. The schedule shall be effective on October 1 of every year and shall be revised annually by the department.

Source: Laws 1973, LB 511, § 6; Laws 1982, LB 522, § 44; Laws 1991, LB 836, § 26; Laws 1995, LB 401, § 22; Laws 1996, LB 1044, § 347; Laws 2006, LB 994, § 68; Laws 2007, LB296, § 279; Laws 2013, LB507, § 15; Laws 2014, LB359, § 3; Laws 2015, LB81, § 1; Laws 2019, LB460, § 1; Laws 2020, LB1185, § 1.
Effective date November 14, 2020.

Cross References

Child Care Licensing Act, see section 71-1908.

Step Up to Quality Child Care Act, see section 71-1952.

68-1212 Department of Health and Human Services; cases; case manager; employee of department; duties; case management lead agency model pilot project; contract authorized; conditions, performance outcomes, and oversight; readiness assessment; notice required.

(1) Except as provided in subsection (2) of this section, for all cases in which a court has awarded a juvenile to the care of the Department of Health and Human Services according to subsection (1) of section 43-285 and for any noncourt and voluntary cases, the case manager shall be an employee of the department. Such case manager shall be responsible for and shall directly oversee: Case planning; service authorization; investigation of compliance; monitoring and evaluation of the care and services provided to children and families; and decisionmaking regarding the determination of visitation and the care, placement, medical services, psychiatric services, training, and expenditures on behalf of each juvenile under subsection (1) of section 43-285. Such case manager shall be responsible for decisionmaking and direct preparation regarding the proposed plan for the care, placement, services, and permanency of the juvenile filed with the court required under subsection (2) of section 43-285. The health and safety of the juvenile shall be the paramount concern in the proposed plan in accordance with such subsection.

(2) The department may contract with a lead agency for a case management lead agency model pilot project in the department's eastern service area as designated pursuant to section 81-3116. The department shall include in the pilot project the appropriate conditions, performance outcomes, and oversight for the lead agency, including, but not be limited to:

(a) The reporting and survey requirements of lead agencies described in sections 43-4406 and 43-4407;

(b) Departmental monitoring and functional capacities of lead agencies described in section 43-4408;

(c) The key areas of evaluation specified in subsection (3) of section 43-4409;

(d) Compliance and coordination with the strategic child welfare priorities determined by the Nebraska Children's Commission as provided in section 43-4204; and

(e) Assurance of financial accountability and reporting by the lead agency.

(3) A lead agency contracted to provide community-based care for children and families shall:

(a) Have a board of directors of which at least fifty-one percent of the membership is comprised of Nebraska residents who are not employed by the lead agency or by a subcontractor of the lead agency;

(b) Demonstrate readiness shown by the completion of a readiness assessment developed by the Department of Health and Human Services to determine the lead agency's viability. The assessment shall evaluate organizational, operational, and programmatic capabilities and performance, including readiness of: The board of directors; compliance and oversight; financial risk management; financial liquidity and performance; infrastructure maintenance; funding sources, including state, federal, and external private funding; and operations, including reporting, staffing, evaluation, training, supervision, contract monitoring, and program performance tracking capabilities;

(c) Have the ability to provide directly or by contract through a local network of providers the services required of a lead agency. A lead agency shall not directly provide more than thirty-five percent of direct services required under the contract; and

(d) Provide accountability for meeting the outcomes and performance standards related to child welfare services established by Nebraska child welfare policy and the federal government.

(4) Each condition of subsection (3) of this section shall be met prior to the assumption of service provision by such lead agency under this section. Nothing in this section shall prohibit the department from phasing the transition of case management services to such lead agency over a period of time.

(5) The Director of Children and Family Services of the Division of Children and Family Services of the Department of Health and Human Services shall notify the Health and Human Services Committee of the Legislature when the readiness assessment required under subdivision (3)(b) of this section is complete and provide assurance that the lead agency has demonstrated full readiness, prior to the assumption of service provision by such lead agency.

Source: Laws 2012, LB961, § 2; Laws 2014, LB660, § 1; Laws 2019, LB600, § 18; Laws 2020, LB219, § 3.
Effective date November 14, 2020.

ARTICLE 17

WELFARE REFORM

(a) WELFARE REFORM ACT

Section

68-1724. Cash assistance; duration; reimbursement of expenses; when; conditions; extension of time limit.

(a) WELFARE REFORM ACT

68-1724 Cash assistance; duration; reimbursement of expenses; when; conditions; extension of time limit.

(1) Cash assistance shall be provided for a period or periods of time not to exceed a total of sixty months for recipient families with children subject to the following:

(a) If the state fails to meet the specific terms of the self-sufficiency contract developed under section 68-1719, the sixty-month time limit established in this section shall be extended;

(b) The sixty-month time period for cash assistance shall begin within the first month of eligibility;

(c) When no longer eligible to receive cash assistance, assistance shall be available to reimburse work-related child care expenses even if the recipient family has not achieved economic self-sufficiency. The amount of such assistance shall be based on a cost-shared plan between the recipient family and the state which shall provide assistance up to one hundred eighty-five percent of the federal poverty level. A recipient family may be required to contribute up to twenty percent of such family's gross income for child care. It is the intent of the Legislature that transitional health care coverage be made available on a sliding-scale basis to individuals and families with incomes up to one hundred eighty-five percent of the federal poverty level if other health care coverage is not available; and

(d) The self-sufficiency contract shall be revised and cash assistance extended when there is no job available for adult members of the recipient family. It is the intent of the Legislature that available job shall mean a job which results in an income of at least equal to the amount of cash assistance that would have been available if receiving assistance minus unearned income available to the recipient family.

The department shall develop policy guidelines to allow for cash assistance to persons who have received the maximum cash assistance provided by this section and who face extreme hardship without additional assistance. For purposes of this section, extreme hardship means a recipient family does not have adequate cash resources to meet the costs of the basic needs of food, clothing, and housing without continuing assistance or the child or children are at risk of losing care by and residence with their parent or parents.

(2) Cash assistance conditions under the Welfare Reform Act shall be as follows:

(a) Adults in recipient families shall mean individuals at least nineteen years of age living with and related to a child eighteen years of age or younger and shall include parents, siblings, uncles, aunts, cousins, or grandparents, whether the relationship is biological, adoptive, or step;

(b) The payment standard shall be based upon family size;

(c) The adults in the recipient family shall ensure that the minor children regularly attend school. Education is a valuable personal resource. The cash assistance provided to the recipient family may be reduced when the parent or parents have failed to take reasonable action to encourage the minor children of the recipient family ages sixteen and under to regularly attend school. No reduction of assistance shall be such as may result in extreme hardship. It is the intent of the Legislature that a process be developed to insure communication between the case manager, the parent or parents, and the school to address issues relating to school attendance;

(d) Two-parent families which would otherwise be eligible under section 43-504 or a federally approved waiver shall receive cash assistance under this section;

(e) For minor parents, the assistance payment shall be based on the minor parent's income. If the minor parent lives with at least one parent, the family's income shall be considered in determining eligibility and cash assistance payment levels for the minor parent. If the minor parent lives independently, support shall be pursued from the parents of the minor parent. If the absent parent of the minor's child is a minor, support from his or her parents shall be pursued. Support from parents as allowed under this subdivision shall not be pursued when the family income is less than three hundred percent of the federal poverty guidelines; and

(f) For adults who are not biological or adoptive parents or stepparents of the child or children in the family, if assistance is requested for the entire family, including the adults, a self-sufficiency contract shall be entered into as provided in section 68-1719. If assistance is requested for only the child or children in such a family, such children shall be eligible after consideration of the family's income and if (i) the family cooperates in pursuing child support and (ii) the minor children of the family regularly attend school.

Source: Laws 1994, LB 1224, § 24; Laws 1995, LB 455, § 15; Laws 2007, LB351, § 11; Laws 2019, LB460, § 2.

CHAPTER 69

PERSONAL PROPERTY

Article.

- 12. Debt Management. 69-1204, 69-1206.
- 13. Disposition of Unclaimed Property.
 - (a) Uniform Disposition of Unclaimed Property Act. 69-1311 to 69-1321.
- 20. Degradable Products. 69-2011.
- 21. Consumer Rental Purchase Agreements. 69-2103 to 69-2117.
- 23. Disposition of Personal Property Landlord and Tenant Act. 69-2302.
- 25. Plastic Container Coding. 69-2502, 69-2505.
- 27. Tobacco. 69-2703.02 to 69-2710.03.

ARTICLE 12

DEBT MANAGEMENT

Section

- 69-1204. License; application; fees; bond; expiration; copy of contract.
- 69-1206. License; renewal; fee; bond.

69-1204 License; application; fees; bond; expiration; copy of contract.

(1) Any person desiring to obtain a license to engage in the debt management business in this state shall file with the secretary an application in writing, under oath, setting forth the person's business name, the person's social security number if the applicant is an individual, the exact location of the person's office, the names and addresses of all officers and directors if an association or a corporation, if a partnership, the partnership name and the names and addresses of all partners, and if a limited liability company, the company name and the names and addresses of all members, and a copy of the certificate of registration of trade name, certificate of partnership, articles of organization, or articles of incorporation.

(2) At the time of filing the application, the applicant shall pay to the secretary a license fee of two hundred dollars for the main office within each county and one hundred dollars for each additional office. An initial investigation fee of two hundred dollars shall also be paid to the secretary at the time of filing the application.

(3) At the time of filing the application, the applicant shall furnish a bond to the people of the state in the sum of ten thousand dollars, conditioned upon the faithful accounting of all money collected upon accounts entrusted to such person engaged in debt management, and the person's employees and agents. The aggregate liability of the surety to all claimants doing business with the office for which the bond is filed shall in no event exceed the amount of such bond. The bond or bonds shall be approved by the secretary and filed in the office of the Secretary of State. No person, firm, limited liability company, or corporation shall engage in the business of debt management until a good and sufficient bond is filed in accordance with sections 69-1201 to 69-1217.

(4) Each licensee shall furnish with the application a blank copy of the contract that the licensee intends to use between the licensee and the debtor

and shall notify the secretary of all changes and amendments thereto within thirty days after such changes and amendments.

(5) The license issued under sections 69-1201 to 69-1217 shall expire on December 31 next following its issuance unless sooner surrendered, revoked, or suspended, but may be renewed as provided in such sections.

(6) The secretary shall remit the fees received pursuant to this section to the State Treasurer for credit to the Secretary of State Cash Fund.

Source: Laws 1967, c. 377, § 4, p. 1180; Laws 1982, LB 928, § 50; Laws 1983, LB 447, § 83; Laws 1993, LB 121, § 411; Laws 1997, LB 752, § 155; Laws 2020, LB910, § 29.

Operative date July 1, 2021.

69-1206 License; renewal; fee; bond.

Each licensee on or before December 1 may make application to the secretary for renewal of its license. The application shall be on the form prescribed by the secretary and shall be accompanied by a fee of one hundred dollars, together with a bond as in the case of an original application. A separate application shall be made for each office. The secretary shall remit the fees received pursuant to this section to the State Treasurer for credit to the Secretary of State Cash Fund.

Source: Laws 1967, c. 377, § 6, p. 1182; Laws 1982, LB 928, § 51; Laws 2020, LB910, § 30.

Operative date July 1, 2021.

ARTICLE 13

DISPOSITION OF UNCLAIMED PROPERTY

(a) UNIFORM DISPOSITION OF UNCLAIMED PROPERTY ACT

Section

69-1311. Report of property presumed abandoned; notices; time; contents; exceptions.

69-1317. Abandoned property; Unclaimed Property Escheat Trust Fund; record; professional finder's fee; information withheld; when; transfers; Unclaimed Property Cash Fund; created; investment.

69-1321. Abandoned property; State Treasurer; decline to accept; when; other payments or delivery authorized.

(a) UNIFORM DISPOSITION OF UNCLAIMED PROPERTY ACT

69-1311 Report of property presumed abandoned; notices; time; contents; exceptions.

(a) Between March 1 and March 10 of each year the State Treasurer shall cause notice to be published once in an English language legal newspaper of general circulation in the county in this state in which is located the last-known address of any person to be named in the notice. If no address is known, then the notice shall be published in a legal newspaper having statewide circulation.

(b) The published notice shall be entitled Notice to Owners of Abandoned Property, and shall contain:

(1) The names in alphabetical order and counties of last-known addresses, if any, of persons listed in the report and entitled to notice as provided in subsection (a) of this section.

(2) A statement that information concerning the amount or description of the property and the name and address of the holder may be obtained by any person possessing an interest in the property by addressing an inquiry to the State Treasurer.

(c) The State Treasurer is not required to publish in such notice any item of less than fifty dollars unless he or she deems such publication to be in the public interest.

(d) Within one hundred twenty days from the receipt of the report required by section 69-1310, the State Treasurer shall mail a notice to each person having an address listed therein who appears to be entitled to property of the value of fifty dollars or more presumed abandoned under the Uniform Disposition of Unclaimed Property Act.

(e) The mailed notice shall contain:

(1) A statement that, according to a report filed with the State Treasurer, property is being held to which the addressee appears entitled.

(2) The name and address of the person holding the property and any necessary information regarding changes of name and address of the holder.

(3) A statement that, if satisfactory proof of claim is presented by the owner to the State Treasurer, arrangements will be made to transfer the property to the owner as provided by law.

(f) This section is not applicable to sums payable on traveler's checks or money orders presumed abandoned under section 69-1302.

Source: Laws 1969, c. 611, § 11, p. 2485; Laws 1971, LB 648, § 1; Laws 1977, LB 305, § 5; Laws 2005, LB 476, § 1; Laws 2019, LB406, § 3.

69-1317 Abandoned property; Unclaimed Property Escheat Trust Fund; record; professional finder's fee; information withheld; when; transfers; Unclaimed Property Cash Fund; created; investment.

(a)(1) Except as otherwise provided in this subdivision, all funds received under the Uniform Disposition of Unclaimed Property Act, including the proceeds from the sale of abandoned property under section 69-1316, shall be deposited by the State Treasurer into the Unclaimed Property Escheat Trust Fund from which he or she shall make prompt payment of claims allowed pursuant to the act and payment of any expenses related to unclaimed property. All funds received under section 69-1307.05 shall be deposited by the State Treasurer into the Unclaimed Property Escheat Trust Fund from which he or she shall make prompt payment of claims regarding such funds allowed pursuant to the act. Transfers from the Unclaimed Property Escheat Trust Fund to the General Fund may be made at the direction of the Legislature. Before making the deposit he or she shall record the name and last-known address of each person appearing from the holders' reports to be entitled to the abandoned property, the name and last-known address of each insured person or annuitant, and with respect to each policy or contract listed in the report of a life insurance corporation, its number, the name of the corporation, and the amount due. The record shall be available for public inspection during business hours. The separate life insurance corporation demutualization trust fund terminates on March 13, 2019, and the State Treasurer shall transfer any money in the fund on such date to the Unclaimed Property Escheat Trust Fund.

The record shall not be subject to public inspection or available for copying, reproduction, or scrutiny by commercial or professional locators of property presumed abandoned who charge any service or finders' fee until twenty-four months after the names from the holders' reports have been published or officially disclosed. Records concerning the social security number, date of birth, and last-known address of an owner shall be treated as confidential and subject to the same confidentiality as tax return information held by the Department of Revenue, except that the Auditor of Public Accounts shall have unrestricted access to such records.

A professional finders' fee shall be limited to ten percent of the total dollar amount of the property presumed abandoned. To claim any such fee, the finder shall disclose to the owner the nature, location, and value of the property, provide notice of when such property was reported to the State Treasurer, and provide notice that the property may be claimed by the owner from the State Treasurer free of charge. To claim any such fee if the property has not yet been abandoned, the finder shall disclose to the owner the nature, location, and value of the property, provide notice of when such property will be reported to the State Treasurer, if known, and provide notice that, upon receipt of the property by the State Treasurer, such property may be claimed by the owner from the State Treasurer free of charge.

(2) The unclaimed property records of the State Treasurer, the unclaimed property reports of holders, and the information derived by an unclaimed property examination or audit of the records of a person or otherwise obtained by or communicated to the State Treasurer may be withheld from the public. Any record or information that may be withheld under the laws of this state or of the United States when in the possession of such a person may be withheld when revealed or delivered to the State Treasurer. Any record or information that is withheld under any law of another state when in the possession of that other state may be withheld when revealed or delivered by the other state to the State Treasurer.

Information withheld from the general public concerning any aspect of unclaimed property shall only be disclosed to an apparent owner of the property or to the escheat, unclaimed, or abandoned property administrators or officials of another state if that other state accords substantially reciprocal privileges to the State Treasurer.

(b) On or before November 1 of each year, the State Treasurer shall distribute any balance in excess of one million dollars from the Unclaimed Property Escheat Trust Fund to the permanent school fund.

(c) Before making any deposit to the credit of the permanent school fund or the General Fund, the State Treasurer may deduct any costs related to unclaimed property and place such funds in the Unclaimed Property Cash Fund which is hereby created. Transfers from the fund to the General Fund may be made at the direction of the Legislature. Any money in the Unclaimed Property Cash 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.

Source: Laws 1969, c. 611, § 17, p. 2488; Laws 1971, LB 648, § 2; Laws 1977, LB 305, § 7; Laws 1978, LB 754, § 1; Laws 1986, LB 212, § 2; Laws 1992, Third Spec. Sess., LB 26, § 17; Laws 1994, LB 1048, § 8; Laws 1994, LB 1049, § 1; Laws 1994, LB 1066, § 63;

DEGRADABLE PRODUCTS

§ 69-2011

Laws 1995, LB 7, § 67; Laws 1997, LB 57, § 1; Laws 2003, LB 424, § 4; Laws 2009, LB432, § 1; Laws 2012, LB1026, § 1; Laws 2019, LB406, § 4.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

69-1321 Abandoned property; State Treasurer; decline to accept; when; other payments or delivery authorized.

(a) The State Treasurer or his or her designee, after receiving reports of property deemed abandoned pursuant to the Uniform Disposition of Unclaimed Property Act, may decline to receive any property reported which he or she deems to have a value less than the cost of giving notice and holding sale, or he or she may, if he or she deems it desirable because of the small sum involved, postpone taking possession until a sufficient sum accumulates. Unless the holder of the property is notified to the contrary within one hundred twenty days after filing the report required under section 69-1310, the State Treasurer or his or her designee shall be deemed to have elected to receive the custody of the property.

(b) A holder may pay or deliver property before the property is presumed abandoned with written consent of the State Treasurer or his or her designee and upon conditions and terms prescribed by the State Treasurer or his or her designee. Property paid or delivered under this subsection shall be held by the State Treasurer and is not presumed abandoned until such time as it otherwise would be presumed abandoned under the act.

Source: Laws 1969, c. 611, § 21, p. 2489; Laws 1992, Third Spec. Sess., LB 26, § 18; Laws 2019, LB406, § 5.

ARTICLE 20

DEGRADABLE PRODUCTS

Section

69-2011. Disposable diapers; requirements; Director of Environment and Energy; duties.

69-2011 Disposable diapers; requirements; Director of Environment and Energy; duties.

On and after October 1, 1993, a person shall not sell or offer for sale at retail any disposable diaper which is constructed of a material which is not biodegradable or photodegradable if the Director of Environment and Energy determines that biodegradable or photodegradable disposable diapers are readily available at a comparable price and quality. The determination of quality shall include a study of the environmental impact and fate of such disposable diapers. The director shall issue his or her determination to the Legislature on or before October 1, 1992. For purposes of this section (1) readily available shall mean available for purchase in sufficient quantities to meet demand through usual retail channels throughout the state and (2) comparable price and quality shall mean at a cost not in excess of five percent above the average price for products of comparable quality which are not biodegradable or photodegradable.

Source: Laws 1989, LB 325, § 11; Laws 1993, LB 3, § 42; Laws 2019, LB302, § 84.

ARTICLE 21

CONSUMER RENTAL PURCHASE AGREEMENTS

Section

69-2103. Terms, defined.

69-2104. Lessor; disclosures required.

69-2112. Advertisement; requirements.

69-2117. Cease and desist order; fine; injunction; procedures; appeal.

69-2103 Terms, defined.

For purposes of the Consumer Rental Purchase Agreement Act:

(1) Advertisement means a commercial message in any medium that aids, promotes, or assists directly or indirectly a consumer rental purchase agreement but does not include in-store merchandising aids such as window signs and ceiling banners;

(2) Cash price means the price at which the lessor would have sold the property to the consumer for cash on the date of the consumer rental purchase agreement for the property;

(3) Consumer means a natural person who rents property under a consumer rental purchase agreement;

(4) Consumer rental purchase agreement means an agreement which is for the use of property by a consumer primarily for personal, family, or household purposes, which is for an initial period of four months or less, whether or not there is any obligation beyond the initial period, which is automatically renewable with each payment, and which permits the consumer to become the owner of the property. A consumer rental purchase agreement in compliance with the act shall not be construed to be a lease or agreement which constitutes a credit sale as defined in 12 C.F.R. 1026.2(a)(16), as such regulation existed on January 1, 2020, and 15 U.S.C. 1602(h), as such section existed on January 1, 2020, or a lease which constitutes a consumer lease as defined in 12 C.F.R. 1013.2, as such regulation existed on January 1, 2020. Consumer rental purchase agreement does not include:

(a) Any lease for agricultural, business, or commercial purposes;

(b) Any lease made to an organization;

(c) A lease or agreement which constitutes an installment sale or installment contract as defined in section 45-335;

(d) A security interest as defined in subdivision (35) of section 1-201, Uniform Commercial Code; and

(e) A home solicitation sale as defined in section 69-1601;

(5) Consummation means the occurrence of an event which causes a consumer to become contractually obligated on a consumer rental purchase agreement;

(6) Department means the Department of Banking and Finance;

(7) Lease payment means a payment to be made by the consumer for the right of possession and use of the property for a specific lease period but does not include taxes imposed on such payment;

(8) Lease period means a week, month, or other specific period of time, during which the consumer has the right to possess and use the property after paying the lease payment and applicable taxes for such period;

(9) Lessor means a person who in the ordinary course of business operates a commercial outlet which regularly leases, offers to lease, or arranges for the leasing of property under a consumer rental purchase agreement;

(10) Property means any property that is not real property under the laws of this state when made available for a consumer rental purchase agreement; and

(11) Total of payments to acquire ownership means the total of all charges imposed by the lessor and payable by the consumer as a condition of acquiring ownership of the property. Total of payments to acquire ownership includes lease payments and any initial nonrefundable administrative fee or required delivery charge but does not include taxes, late charges, reinstatement fees, or charges for optional products or services.

Source: Laws 1989, LB 681, § 3; Laws 1993, LB 111, § 2; Laws 2001, LB 641, § 1; Laws 2005, LB 570, § 3; Laws 2011, LB76, § 6; Laws 2016, LB761, § 1; Laws 2019, LB259, § 9; Laws 2020, LB909, § 49.

Operative date July 25, 2020.

69-2104 Lessor; disclosures required.

(1) Before entering into any consumer rental purchase agreement, the lessor shall disclose to the consumer the following items as applicable:

(a) A brief description of the leased property sufficient to identify the property to the consumer and lessor;

(b) The number, amount, and timing of all payments included in the total of payments to acquire ownership;

(c) The total of payments to acquire ownership;

(d) A statement that the consumer will not own the property until the consumer has paid the total of payments to acquire ownership plus applicable taxes;

(e) A statement that the total of payments to acquire ownership does not include other charges such as taxes, late charges, reinstatement fees, or charges for optional products or services the consumer may have elected to purchase and that the consumer should see the rental purchase agreement for an explanation of these charges;

(f) A statement that the consumer is responsible for the fair market value, remaining rent, early purchase option amount, or cost of repair of the property, whichever is less, if it is lost, stolen, damaged, or destroyed;

(g) A statement indicating whether the property is new or used. A statement that indicates that new property is used shall not be a violation of the Consumer Rental Purchase Agreement Act;

(h) A statement of the cash price of the property. When the agreement involves a lease for two or more items, a statement of the aggregate cash price of all items shall satisfy the requirement of this subdivision;

(i) The total amount of the initial payments required to be paid before consummation of the agreement or delivery of the property, whichever occurs later, and an itemization of the components of the initial payment, including any initial nonrefundable administrative fee or delivery charge, lease payment, taxes, or fee or charge for optional products or services;

(j) A statement clearly summarizing the terms of the consumer's options to purchase, including a statement that at any time after the first periodic payment is made the consumer may acquire ownership of the property by tendering an amount which may not exceed fifty-five percent of the difference between the total of payments to acquire ownership and the total of lease payments the consumer has paid on the property at that time;

(k) A statement identifying the party responsible for maintaining or servicing the property while it is being leased, together with a description of that responsibility and a statement that if any part of a manufacturer's warranty covers the leased property at the time the consumer acquires ownership of the property, such warranty shall be transferred to the consumer if allowed by the terms of the warranty; and

(1) The date of the transaction and the names of the lessor and the consumer.

(2) With respect to matters specifically governed by the federal Consumer Credit Protection Act, 15 U.S.C. 1601 et seq., as such act existed on January 1, 2020, compliance with such act shall satisfy the requirements of this section.

(3) Subsection (1) of this section shall not apply to a lessor who complies with the disclosure requirements of the federal Consumer Credit Protection Act, 15 U.S.C. 1667a, as such section existed on January 1, 2020, with respect to a consumer rental purchase agreement entered into with a consumer.

Source: Laws 1989, LB 681, § 4; Laws 2001, LB 641, § 2; Laws 2011, LB76, § 7; Laws 2016, LB761, § 2; Laws 2019, LB259, § 10; Laws 2020, LB909, § 50.

Operative date July 25, 2020.

69-2112 Advertisement; requirements.

(1) Any advertisement for a consumer rental purchase agreement which refers to or states the amount of any payment or the right to acquire ownership for any specific item shall also state clearly and conspicuously the following if applicable:

(a) That the transaction advertised is a consumer rental purchase agreement;

(b) The total of payments to acquire ownership; and

(c) That the consumer acquires no ownership rights until the total of payments to acquire ownership is paid.

(2) Any owner or employee of any medium in which an advertisement appears or through which it is disseminated shall not be liable under this section.

(3) Subsection (1) of this section shall not apply to an advertisement which does not refer to a specific item of property, which does not refer to or state the amount of any payment, or which is published in the yellow pages of a telephone directory or any similar directory of business.

(4) With respect to matters specifically governed by the federal Consumer Credit Protection Act, 15 U.S.C. 1601 et seq., as such act existed on January 1, 2020, compliance with such act shall satisfy the requirements of this section.

Source: Laws 1989, LB 681, § 12; Laws 2001, LB 641, § 7; Laws 2011, LB76, § 8; Laws 2016, LB761, § 3; Laws 2019, LB259, § 11; Laws 2020, LB909, § 51.

Operative date July 25, 2020.

69-2117 Cease and desist order; fine; injunction; procedures; appeal.

(1) The Director of Banking and Finance may summarily order a lessor to cease and desist from the use of certain forms or practices relating to consumer rental purchase agreements if he or she finds that (a) there has been a substantial failure to comply with any of the provisions of the Consumer Rental Purchase Agreement Act or (b) the continued use of certain forms or practices relating to consumer rental purchase agreements would constitute misrepresentation to or deceit or fraud on the consumer.

(2) If the director believes, whether or not based upon an investigation conducted under section 69-2116, that any person or lessor has engaged in or is about to engage in any act or practice constituting a violation of any provision of the Consumer Rental Purchase Agreement Act or any rule, regulation, or order under the act, the director may:

(a) Issue a cease and desist order;

(b) Impose a fine of not to exceed one thousand dollars per violation, in addition to costs of the investigation; or

(c) Initiate an action in any court of competent jurisdiction to enjoin such acts or practices and to enforce compliance with the act or any order under the act.

(3) Upon a proper showing a permanent or temporary injunction, restraining order, or writ of mandamus shall be granted. The director shall not be required to post a bond.

(4) The fines and costs imposed pursuant to this section shall be in addition to all other penalties imposed by the laws of this state. The director shall collect the fines and costs and remit them to the State Treasurer. The State Treasurer shall credit the costs to the Securities Act Cash Fund and distribute the fines in accordance with Article VII, section 5, of the Constitution of Nebraska. If a person fails to pay the fine or costs of the investigation referred to in this subsection, a lien in the amount of the fine and costs shall be imposed upon all of the assets and property of such person in this state and may be recovered by suit by the director. Failure of the person to pay a fine and costs shall constitute a separate violation of the act.

(5) Upon entry of an order pursuant to this section, the director shall promptly notify all persons to whom such order is directed that it has been entered and of the reasons for such order and that any person to whom the order is directed may request a hearing in writing within fifteen business days of the issuance of the order. Upon a receipt of a written request, the matter shall be set down for hearing to commence within thirty business days after the receipt unless the parties consent to a later date or the hearing officer sets a later date for good cause. If a hearing is not requested within fifteen business days and none is ordered by the director, the order shall automatically become final and shall remain in effect until it is modified or vacated by the director. If a hearing is requested or ordered, the director after notice and hearing shall enter his or her written findings of fact and conclusions of law and may affirm, modify, or vacate the order.

(6) The director may vacate or modify a cease and desist order if he or she finds that the conditions which caused its entry have changed or that it is otherwise in the public interest to do so.

(7) Any person aggrieved by a final order of the director may appeal the order. The appeal shall be in accordance with the Administrative Procedure Act.

Source: Laws 1993, LB 111, § 6; Laws 2001, LB 53, § 111; Laws 2019, LB259, § 12.

Cross References

Administrative Procedure Act, see section 84-920.

ARTICLE 23

**DISPOSITION OF PERSONAL PROPERTY
LANDLORD AND TENANT ACT**

Section

69-2302. Terms, defined.

69-2302 Terms, defined.

For purposes of the Disposition of Personal Property Landlord and Tenant Act:

(1) Landlord means the owner, lessor, or sublessor of furnished or unfurnished premises, including self-service storage units or facilities, for rent or his or her agent or successor in interest;

(2) Owner means one or more persons, jointly or severally, in whom is vested (a) all or part of the legal title to property or (b) all or part of the beneficial ownership and a right to present use and enjoyment of premises and shall include a mortgagee in possession;

(3) Premises means (a) a dwelling unit as defined in section 76-1410 or a distinct portion of a dwelling unit, the facilities and appurtenances in such dwelling unit, and the grounds, areas, and facilities held out for the use of tenants generally or the use of which is promised to the tenants or (b) self-service storage units or facilities;

(4) Reasonable belief means the knowledge or belief a prudent person should have without making an investigation, including any investigation of public records, except that when the landlord has specific information indicating that such an investigation would more probably than not reveal pertinent information and the cost of such an investigation would be reasonable in relation to the probable value of the personal property involved, reasonable belief shall include the actual knowledge or belief a prudent person would have if such investigation were made;

(5) Reasonable costs of storage includes:

(a) Reasonable costs actually incurred, the reasonable value of labor actually provided, or both in removing personal property from its original location on the vacated premises to the place of storage, including disassembly and transportation; and

(b) Reasonable storage costs actually incurred which shall not exceed the fair rental value of the space reasonably required for the storage of the personal property; and

(6) Tenant means a person entitled under a rental agreement to occupy any premises for rent or storage uses to the exclusion of others whether such

premises are used as a dwelling unit or self-service storage unit or facility or not.

Source: Laws 1991, LB 36, § 2; Laws 1993, LB 617, § 1; Laws 2019, LB264, § 1.

ARTICLE 25

PLASTIC CONTAINER CODING

Section

69-2502. Terms, defined.

69-2505. Repealed. Laws 2019, LB302, § 181.

69-2502 Terms, defined.

For purposes of the Plastic Container Coding Act:

- (1) Code shall mean a molded, imprinted, or raised symbol on or near the bottom of a plastic bottle or rigid plastic container;
- (2) Department shall mean the Department of Environment and Energy;
- (3) Plastic shall mean any material made of polymeric organic compounds and additives that can be shaped by flow;
- (4) Plastic bottle shall mean a plastic container intended for a single use that:
 - (a) Has a neck smaller than the body of the container;
 - (b) Is designed for a screw-top, snap cap, or other closure; and
 - (c) Has a capacity of not less than sixteen fluid ounces or more than five gallons; and
- (5) Rigid plastic container shall mean any formed or molded container intended for a single use, composed predominately of plastic resin, that has a relatively inflexible finite shape or form with a capacity of not less than eight ounces or more than five gallons. Rigid plastic container shall not include a plastic bottle.

Source: Laws 1993, LB 63, § 2; Laws 2019, LB302, § 85.

69-2505 Repealed. Laws 2019, LB302, § 181.

ARTICLE 27

TOBACCO

Section

69-2703.02. Tobacco product manufacturer; qualified escrow fund; irrevocable assignment; form; amounts withdrawn; distribution.

69-2705. Terms, defined.

69-2706. Tobacco product manufacturer; certification; contents; Tax Commissioner; powers and duties; directory; prohibited acts.

69-2707. Nonresident or foreign nonparticipating manufacturer; agent for service of process.

69-2707.01. Nonparticipating manufacturers; bond or cash equivalent; amount; provide evidence to Attorney General and Tax Commissioner; failure to make escrow deposits; execution upon bond.

69-2709. Revocation or suspension of stamping agent license; civil penalty; termination of license; grounds; violations; penalties; effect of termination; eligibility for reinstatement; directory license; termination; procedure; contraband; actions to enjoin; criminal penalty; remedies cumulative.

69-2710. Removal from directory; procedure.

Section

69-2710.01. Report; contents.

69-2710.03. Rules and regulations.

69-2703.02 Tobacco product manufacturer; qualified escrow fund; irrevocable assignment; form; amounts withdrawn; distribution.

(1) Notwithstanding subdivision (2)(b) of section 69-2703, a tobacco product manufacturer that elects to place funds into a qualified escrow fund pursuant to subdivision (2)(a) of section 69-2703 may make an irrevocable assignment of its interest in the fund to the benefit of the State of Nebraska. Such assignment shall be permanent and apply to all monetary amounts in the subject qualified escrow fund or that may subsequently come into the fund, including those deposited into the qualified escrow fund prior to the assignment being executed, those deposited into the qualified escrow fund after the assignment is executed, and interest or other appreciation on the amounts. The tobacco product manufacturer, the Attorney General, and the financial institution where the qualified escrow fund is maintained may make such amendments to the qualified escrow fund agreement, the title to the account, and the account itself as may be necessary to effectuate an assignment of rights executed pursuant to this subsection (1) or a withdrawal of amounts from the qualified escrow fund pursuant to subsection (2) of this section. An assignment of rights executed pursuant to this section shall be in writing, shall have received prior approval issued in writing by the Attorney General, shall be signed by the tobacco product manufacturer or a duly authorized representative of the tobacco product manufacturer making the assignment, and shall become effective upon delivery of the assignment to the Attorney General and the financial institution where the qualified escrow fund is maintained.

(2) Notwithstanding subdivision (2)(b) of section 69-2703, any escrow amounts assigned to the State of Nebraska pursuant to subsection (1) of this section shall be withdrawn by the state upon request by the State Treasurer and approval by the Attorney General. Any amounts withdrawn pursuant to this subsection shall be remitted to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska, and shall be calculated on a dollar-for-dollar basis as a credit against any judgment or settlement described in subdivision (2)(b) of section 69-2703 which may be obtained against the tobacco product manufacturer who has assigned the amounts in the subject qualified escrow fund. Nothing in this section shall be construed to relieve a tobacco product manufacturer from any past, current, or future obligations the manufacturer may have pursuant to sections 69-2701 to 69-2711.

Source: Laws 2019, LB397, § 12.

69-2705 Terms, defined.

For purposes of sections 69-2704 to 69-2711:

(1) Brand family means all styles of cigarettes sold under the same trademark and differentiated from one another by means of additional modifiers or descriptors, including, but not limited to, menthol, lights, kings, and 100s, and includes any brand name, alone or in conjunction with any other word, trademark, logo, symbol, motto, selling message, or recognizable pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, a previously known brand of cigarettes;

- (2) Cigarette has the same meaning as in section 69-2702;
- (3) Cigarette inputs means any machinery or other component parts typically used in the manufacture of cigarettes, including, without limitation, tobacco whether processed or unprocessed, cigarette papers and tubes, cigarette filters or any component parts intended for use in the making of cigarette filters, and any machinery typically used in the making of cigarettes;
- (4) Days has the same meaning as in section 69-2702;
- (5) Directory means the directory compiled by the Tax Commissioner under section 69-2706 or, in the case of references to another state's directory, the directory compiled under the similar law in that other state;
- (6) Importer has the same meaning as in section 69-2702;
- (7) Indian country has the same meaning as in section 69-2702;
- (8) Indian tribe has the same meaning as in section 69-2702;
- (9) Master Settlement Agreement has the same meaning as in section 69-2702;
- (10) Nonparticipating manufacturer means any tobacco product manufacturer that is not a participating manufacturer;
- (11) Nonparticipating manufacturer cigarettes means cigarettes (a) of a brand family that is not included in the certification of a participating manufacturer under subsection (1) of section 69-2706, (b) that are subject to the escrow requirement under subdivision (2) of section 69-2703 because the participating manufacturer in whose certification the brand family is included is not generally performing its financial obligations under the Master Settlement Agreement, or (c) of a brand family of a participating manufacturer that is not otherwise listed on the directory under subsection (2) of section 69-2706;
- (12) Package means any pack or other container on which a state stamp or tribal stamp could be applied consistent with and as required by sections 69-2701 to 69-2711 and 77-2601 to 77-2622 that contains one or more individual cigarettes for sale. Nothing in such sections shall alter any other applicable requirement with respect to the minimum number of cigarettes that may be contained in a pack or other container of cigarettes. References to package do not include a container of multiple packages;
- (13) Participating manufacturer has the same meaning as in section II(jj) of the Master Settlement Agreement;
- (14) Person means any natural person, trustee, company, partnership, corporation, or other legal entity, including any Indian tribe or instrumentality thereof;
- (15) Purchase means any acquisition in any manner or by any means for any consideration. The term includes transporting or receiving product in connection with a purchase;
- (16) Qualified escrow fund has the same meaning as in section 69-2702;
- (17) Retailer includes retail dealers as defined in section 77-2601 or anyone who is licensed under sections 28-1420 to 28-1422;
- (18) Sale or sell means any transfer, exchange, or barter in any manner or by any means for any consideration. Sale or sell includes distributing or shipping product in connection with a sale;

(19) Shortfall amount means the difference between (a) the full amount of the deposit required to be made by a nonparticipating manufacturer for a calendar quarter under section 69-2703 and (b) the sum of (i) any amounts precollected by a stamping agent and deposited into escrow for that calendar quarter on behalf of the nonparticipating manufacturer under section 69-2708.01, (ii) the amount deposited into escrow by the nonparticipating manufacturer for that calendar quarter under section 69-2703, (iii) any amounts deposited into escrow for that calendar quarter under subdivision (2)(d) of section 69-2703 by an importer on such nonparticipating manufacturer's cigarettes, and (iv) any amounts collected by the state for that calendar quarter under the bond posted by the nonparticipating manufacturer under section 69-2707.01. The shortfall amount, if any, for a nonparticipating manufacturer for a calendar quarter shall be calculated by the Attorney General within fifteen days following the date on which the state determines the amount it will collect on the bond posted by the nonparticipating manufacturer as provided in section 69-2707.01;

(20) Stamping agent means a person that is authorized to affix stamps to packages or other containers of cigarettes under section 77-2603 or 77-2603.01 or any person that is required to pay the tobacco tax imposed pursuant to section 77-4008 on roll-your-own cigarettes;

(21) Tax Commissioner means the Tax Commissioner of the State of Nebraska;

(22) Tobacco product manufacturer has the same meaning as in section 69-2702;

(23) Units sold has the same meaning as in section 69-2702; and

(24) Unstamped cigarettes means any cigarettes that are not contained in a package bearing a stamp required under section 77-2603 or 77-2603.01.

Source: Laws 2003, LB 572, § 2; Laws 2011, LB590, § 6; Laws 2019, LB397, § 13.

69-2706 Tobacco product manufacturer; certification; contents; Tax Commissioner; powers and duties; directory; prohibited acts.

(1)(a) Every tobacco product manufacturer whose cigarettes are sold in this state, whether directly or through a distributor, retailer, or similar intermediary or intermediaries, shall execute and deliver on a form prescribed by the Tax Commissioner a certification to the Tax Commissioner and the Attorney General no later than the thirtieth day of April each year, certifying under penalty of perjury that, as of the date of such certification, such tobacco product manufacturer either is a participating manufacturer in compliance with subdivision (1) of section 69-2703 or is a nonparticipating manufacturer in full compliance with subdivision (2) of section 69-2703.

(b) A participating manufacturer shall include in its certification a list of its brand families. The participating manufacturer shall update such list thirty calendar days prior to any addition to or modification of its brand families by executing and delivering a supplemental certification to the Tax Commissioner and the Attorney General.

(c) A nonparticipating manufacturer shall include in its certification (i) a list of all of its brand families and the number of units sold for each brand family that were sold in the state during the preceding calendar year and (ii) a list of all of its brand families that have been sold in the state at any time during the

current calendar year (A) indicating by an asterisk any brand family sold in the state during the preceding or current calendar year that is no longer being sold in the state as of the date of such certification and (B) identifying by name and address any other manufacturer of such brand families in the preceding calendar year. The nonparticipating manufacturer shall update such list thirty calendar days prior to any addition to or modification of its brand families by executing and delivering a supplemental certification to the Tax Commissioner and the Attorney General.

(d) In the case of a nonparticipating manufacturer, such certification shall further certify:

(i) That such nonparticipating manufacturer is registered to do business in the state or has appointed an agent for service of process in Nebraska and provided notice thereof as required by section 69-2707;

(ii) That such nonparticipating manufacturer has established and continues to maintain a qualified escrow fund pursuant to a qualified escrow agreement that has been reviewed and approved by the Attorney General or has been submitted for review by the Attorney General;

(iii) That such nonparticipating manufacturer is in full compliance with subdivision (2) of section 69-2703 and this section and any rules and regulations adopted and promulgated pursuant thereto;

(iv)(A) The name, address, and telephone number of the financial institution where the nonparticipating manufacturer has established such qualified escrow fund required pursuant to subdivision (2) of section 69-2703 and all rules and regulations adopted and promulgated pursuant thereto; (B) the account number of such qualified escrow fund and any subaccount number for the State of Nebraska; (C) the amount such nonparticipating manufacturer placed in such fund for cigarettes sold in the state during the preceding calendar year, the dates and amount of each such deposit, and such evidence or verification as may be deemed necessary by the Attorney General to confirm the foregoing; and (D) the amounts and dates of any withdrawal or transfer of funds the nonparticipating manufacturer made at any time from such fund or from any other qualified escrow fund into which it ever made escrow payments pursuant to subdivision (2) of section 69-2703 and all rules and regulations adopted and promulgated pursuant thereto;

(v) That such nonparticipating manufacturer consents to be sued in the district courts of the State of Nebraska for purposes of the state (A) enforcing any provision of sections 69-2703 to 69-2711 and any rules and regulations adopted and promulgated thereunder or (B) bringing a released claim as defined in section 69-2702; and

(vi) The information required to establish that such nonparticipating manufacturer has posted the appropriate bond or cash equivalent required under section 69-2707.01.

(e) A tobacco product manufacturer shall not include a brand family in its certification unless (i) in the case of a participating manufacturer, the participating manufacturer affirms that the brand family is to be deemed to be its cigarettes for purposes of calculating its payments under the Master Settlement Agreement for the relevant year in the volume and shares determined pursuant to the Master Settlement Agreement and (ii) in the case of a nonparticipating manufacturer, the nonparticipating manufacturer affirms that the brand family is to be deemed to be its cigarettes for purposes of subdivision (2) of section

69-2703. Nothing in this section shall be construed as limiting or otherwise affecting the state's right to maintain that a brand family constitutes cigarettes of a different tobacco product manufacturer for purposes of calculating payments under the Master Settlement Agreement or for purposes of section 69-2703.

(f) Tobacco product manufacturers shall maintain all invoices and documentation of sales and other such information relied upon for such certification for a period of five years unless otherwise required by law to maintain them for a greater period of time.

(2) The Tax Commissioner shall develop, maintain, and make available for public inspection or publish on its web site a directory listing all tobacco product manufacturers that have provided current and accurate certifications conforming to the requirements of subsection (1) of this section and all brand families that are listed in such certifications, and:

(a) The Tax Commissioner shall not include or retain in such directory the name or brand families of any tobacco product manufacturer that has failed to provide the required certification or whose certification the commissioner determines is not in compliance with subsection (1) of this section unless the Tax Commissioner has determined that such violation has been cured to his or her satisfaction;

(b) Neither a tobacco product manufacturer nor brand family shall be included or retained in the directory if the Attorney General recommends and notifies the Tax Commissioner who concludes, in the case of a nonparticipating manufacturer, that (i) any escrow payment required pursuant to subdivision (2) of section 69-2703 for any period for any brand family, whether or not listed by such nonparticipating manufacturer, has not been fully paid into a qualified escrow fund governed by a qualified escrow agreement that has been approved by the Attorney General or (ii) any outstanding final judgment, including interest thereon, for violations of section 69-2703 has not been fully satisfied for such brand family and such manufacturer;

(c) As a condition to being listed and having its brand families listed in the directory, a tobacco product manufacturer shall also (i) certify annually that such manufacturer or its importer holds a valid permit under 26 U.S.C. 5713 and provide a copy of such permit to the Tax Commissioner and the Attorney General, (ii) upon request of the Tax Commissioner or Attorney General, provide documentary proof that it is not in violation of subdivision (1) of section 59-1520, and (iii) certify that it is in compliance with all reporting and registration requirements of 15 U.S.C. 376 and 376a;

(d) The Tax Commissioner shall update the directory no later than May 15 of each year to reflect certifications made on or before April 30 as required in subsection (1) of this section. The Tax Commissioner shall continuously update the directory as necessary in order to correct mistakes and to add or remove a tobacco product manufacturer or brand family to keep the directory in conformity with the requirements of sections 69-2704 to 69-2711;

(e) The Tax Commissioner shall transmit by email or other practicable means to each stamping agent notice of any removal from the directory of any tobacco product manufacturer or brand family. Unless otherwise provided by agreement between the stamping agent and a tobacco product manufacturer, the stamping agent shall be entitled to a refund from a tobacco product manufacturer for any money paid by the stamping agent to the tobacco product

manufacturer for any cigarettes of the tobacco product manufacturer still held by the stamping agent on the date of notice by the Tax Commissioner of the removal from the directory of that tobacco product manufacturer or the brand family or for any cigarettes returned to the stamping agent by its customers under subsection (8) of section 69-2709. The Tax Commissioner shall not restore to the directory the tobacco product manufacturer or the brand family until the tobacco product manufacturer has paid the stamping agent any refund due; and

(f) Every stamping agent shall provide and update as necessary an electronic mail address to the Tax Commissioner for the purpose of receiving any notifications as may be required by sections 69-2704 to 69-2711.

(3) The failure of the Tax Commissioner to provide notice of any intended removal from the directory as required under subdivision (2)(e) of this section or the failure of a stamping agent to receive such notice shall not relieve the stamping agent of its obligations under sections 69-2704 to 69-2711.

(4) It shall be unlawful for any person (a) to affix a Nebraska stamp pursuant to section 77-2603 to a package or other container of cigarettes of a tobacco product manufacturer or brand family not included in the directory, (b) to affix a tribal stamp to a package or other container of cigarettes of a tobacco product manufacturer or brand family not included in the directory except as authorized by an agreement pursuant to section 77-2602.06, or (c) to sell, offer, or possess for sale in this state cigarettes of a tobacco product manufacturer or brand family in this state not included in the directory.

Source: Laws 2003, LB 572, § 3; Laws 2007, LB580, § 1; Laws 2011, LB590, § 7; Laws 2019, LB397, § 14.

69-2707 Nonresident or foreign nonparticipating manufacturer; agent for service of process.

(1) Any nonresident or foreign nonparticipating manufacturer that has not registered to do business in the state as a foreign corporation or business entity shall, as a condition precedent to having its brand families included or retained in the directory created in subsection (2) of section 69-2706, appoint and continually engage without interruption the services of an agent in Nebraska to act as agent for the service of process on whom all process, and any action or proceeding against it concerning or arising out of the enforcement of sections 69-2703 to 69-2711, may be served in any manner authorized by law. Such service shall constitute legal and valid service of process on the nonparticipating manufacturer. The nonparticipating manufacturer shall provide the name, address, telephone number, and proof of the appointment and availability of such agent to the Tax Commissioner and Attorney General.

(2) The nonparticipating manufacturer shall provide notice to the Tax Commissioner and Attorney General thirty calendar days prior to termination of the authority of an agent and shall further provide proof to the satisfaction of the Attorney General of the appointment of a new agent no less than five calendar days prior to the termination of an existing agent appointment. In the event an agent terminates an agency appointment, the nonparticipating manufacturer shall notify the Tax Commissioner and Attorney General of the termination within five calendar days and shall include proof to the satisfaction of the Attorney General of the appointment of a new agent.

(3) Any nonparticipating manufacturer whose products are sold in this state who has not appointed and engaged the services of an agent as required by this section shall be deemed to have appointed the Secretary of State as its agent for service of process. The appointment of the Secretary of State as agent shall not satisfy the condition precedent required in subsection (1) of this section to have the nonparticipating manufacturer's brand families included or retained in the directory.

Source: Laws 2003, LB 572, § 4; Laws 2007, LB580, § 2; Laws 2011, LB590, § 8; Laws 2019, LB397, § 15.

69-2707.01 Nonparticipating manufacturers; bond or cash equivalent; amount; provide evidence to Attorney General and Tax Commissioner; failure to make escrow deposits; execution upon bond.

(1) All nonparticipating manufacturers subject to the certification requirements of section 69-2706, or whose sales are authorized pursuant to an agreement under section 77-2602.06, shall post a bond, or its cash equivalent, for the benefit of the state, which is subject to execution under subsection (5) of this section. The bond shall be posted by corporate surety located within the United States. The cash equivalent of the bond shall be posted by the nonparticipating manufacturer in an account approved by the Attorney General.

(2) The amount of the bond, or its cash equivalent, shall be the greater of:

(a) One hundred thousand dollars;

(b) The greatest required escrow amount due from the nonparticipating manufacturer, or its predecessors, successors, affiliates, importers, or stamping agents, as such terms may be defined and liabilities may be established within sections 69-2701 to 69-2711, for any of the preceding twenty calendar quarters; or

(c) The greatest required annual total of quarterly escrow amounts due from the nonparticipating manufacturer, or its predecessors, successors, affiliates, importers, or stamping agents, as such terms may be defined and liabilities may be established within sections 69-2701 to 69-2711, for any of the preceding five calendar years, if the Attorney General deems the nonparticipating manufacturer to pose an elevated risk for noncompliance.

(3) The Attorney General may deem a nonparticipating manufacturer to pose an elevated risk for noncompliance if:

(a) The nonparticipating manufacturer or its brands or brand families, or any predecessor, successor, affiliate, or importer or any of their brands or brand families, has failed to deposit fully the amount due on an escrow obligation with respect to any state at any time during the calendar year or within the preceding five calendar years unless either:

(i) The nonparticipating manufacturer did not underdeposit knowingly or recklessly and promptly cured the underdeposit within one hundred eighty days of notice of the underdeposit; or

(ii) The underdeposit or lack of deposit is the subject of a good faith dispute in the form of ongoing litigation that has not reached a final order as reasonably documented to the Attorney General and the underdeposit is cured within one hundred eighty days of entry of a final order establishing the amount of the required escrow deposit;

(b) Any state has removed the nonparticipating manufacturer or its brands or brand families, or any predecessor, successor, affiliate, or importer or any of their brands or brand families, from the state's tobacco directory for noncompliance with the state's escrow deposit or tobacco tax laws at any time during the calendar year or within the preceding five calendar years, unless such removal is subject to a good faith dispute in the form of an ongoing challenge under administrative procedure or litigation that has not reached a final order as reasonably documented to the Attorney General;

(c) Any state has an unsatisfied final judgment against the nonparticipating manufacturer or its brands or brand families, or any predecessor, successor, affiliate, or importer or any of their brands or brand families, for escrow or for penalties, fees, costs, refunds, or attorney's fees related to noncompliance with state escrow laws;

(d) The nonparticipating manufacturer, or any predecessor, successor, or affiliate, sells its cigarettes or tobacco products directly to consumers via remote or other non-face-to-face means;

(e) A state or federal court determines that the nonparticipating manufacturer, or any predecessor, successor, or affiliate, has violated any tobacco tax or tobacco control law or engaged in unfair business practices or unfair competition;

(f) Any state has suspended or revoked a license granted to the nonparticipating manufacturer, or any predecessor, successor, or affiliate, to engage in any aspect of tobacco business, unless the suspension or revocation is subject to a good faith dispute in the form of an ongoing challenge under administrative procedure or litigation that has not reached a final order as reasonably documented to the Attorney General;

(g) Any state or federal court has determined that the nonparticipating manufacturer, or any predecessor, successor, or affiliate, failed to comply with state or federal law imposing marking, labeling, and stamping requirements or requiring information to be affixed to, or contained in, the labels, markings, or packaging; or

(h) The nonparticipating manufacturer fails to submit or complete any required forms, documents, certification, or notices, in a timely manner or to the satisfaction of the Attorney General or Tax Commissioner, unless such failure is subject to a good faith dispute in the form of an ongoing challenge under administrative procedure or litigation that has not reached a final order as reasonably documented to the Attorney General.

(4) A nonparticipating manufacturer shall post the bond or its cash equivalent and shall provide evidence of such posting to the Attorney General and Tax Commissioner both annually, as required by section 69-2706, and at least ten days in advance of each calendar quarter as a condition to the nonparticipating manufacturer and its brands or brand families being included in the directory.

(5) If a nonparticipating manufacturer that posted a bond pursuant to this section has failed to make, or have made on its behalf by an entity with joint and several liability, escrow deposits equal to the full amount owed for a quarter within fifteen days following the due date for the quarter under section 69-2703, the state may execute upon the bond, first to recover delinquent escrow, which amount shall be deposited into a qualified escrow account under section 69-2703, and then to recover civil penalties and costs authorized under such section. Escrow obligations above the amount collected on the bond

remain due from that nonparticipating manufacturer and, as provided in subdivision (2)(d) of section 69-2703 and section 69-2708.01, from the importers and stamping agents that sold its cigarettes during that calendar quarter.

Source: Laws 2011, LB590, § 9; Laws 2019, LB397, § 16.

69-2709 Revocation or suspension of stamping agent license; civil penalty; termination of license; grounds; violations; penalties; effect of termination; eligibility for reinstatement; directory license; termination; procedure; contraband; actions to enjoin; criminal penalty; remedies cumulative.

(1) In addition to or in lieu of any other civil or criminal remedy provided by law, upon a determination that a stamping agent has violated subsection (4) of section 69-2706 or any rule or regulation adopted and promulgated pursuant thereto, the Tax Commissioner may revoke or suspend the license of any stamping agent in the manner provided by section 77-2615.01. For each violation of subsection (4) of section 69-2706 or the rules and regulations, the Tax Commissioner may also impose a civil penalty in an amount not to exceed the greater of five hundred percent of the retail value of the cigarettes or five thousand dollars upon a determination of violation of subsection (4) of section 69-2706 or any rules or regulations adopted and promulgated pursuant thereto. Such penalty shall be imposed in the manner provided by section 77-2615.01.

(2) The license of a stamping agent shall be subject to termination if the stamping agent:

(a) Fails to provide a report required under section 69-2708, 69-2710.01, or 77-2604.01;

(b) Files an incomplete or inaccurate report required under section 69-2708, 69-2710.01, or 77-2604.01 or files an inaccurate certification required under section 69-2708, subsection (2) of section 77-2603, or section 69-2710.01;

(c) Fails to pay taxes as provided in section 77-2602 or deposit escrow as provided in section 69-2708.01;

(d) Sells cigarettes in or into the state in a package that bears a stamp required under section 77-2603 or 77-2603.01 that is not the correct stamp and provides for a lower level of tax than the correct stamp;

(e) Sells unstamped cigarettes in, into, or from the state or possesses unstamped cigarettes in the state except as provided in section 77-2607;

(f) Purchases, sells in or into the state, or affixes a stamp to a package containing cigarettes of a manufacturer or brand family that is not at the time listed in the directory, or possesses such cigarettes more than ten days after receiving notice that the manufacturer or brand family is not in the directory, unless such stamping agent possesses a directory license under section 77-2603 or unless expressly permitted under sections 69-2701 to 69-2711 or sections 77-2601 to 77-2622; or

(g) Purchases or sells cigarettes in violation of subsection (5) of this section or section 69-2710.02.

(3) In the case of a violation under subdivision (2)(a), (b), (c), or (d) of this section that was not knowing or intentional, the stamping agent shall be entitled to cure the violation within ten days after receipt of notice of such violation. The license of a stamping agent that fully cures the violation during that period shall not be terminated on account of that violation.

(4) In the case of a knowing or intentional violation under subdivision (2)(a), (b), (c), or (d) of this section, or of any violation described in subdivision (2)(e) or (f) of this section, the stamping agent shall for a first violation be subject to a civil penalty of up to one thousand dollars and be guilty of a Class IV misdemeanor and for a second or subsequent violation be subject to a civil penalty of up to five thousand dollars per violation and be guilty of a Class II misdemeanor. In the case of violations described in subdivision (2)(d), (e), or (f) of this section, each sale constitutes a separate offense.

(5) The Tax Commissioner shall promptly remove any stamping agent whose license is terminated from the list required by subsection (4) of section 77-2603 and shall publish a notice of the termination on the Tax Commissioner's web site and send notice of the termination to all stamping agents and to all persons listed in the directory. Beginning ten days following the publication and sending of such notice, no person may sell cigarettes to, or purchase cigarettes from, the stamping agent whose license has been terminated.

(6) If a stamping agent whose license has been terminated is a tobacco product manufacturer, the tobacco product manufacturer and its brand families shall be removed from the directory.

(7) A stamping agent whose license is terminated shall be eligible for reinstatement:

(a) Ninety days following the termination, in the case of a first failure under subdivision (2)(a), (b), (c), or (d) of this section that was not knowing or intentional;

(b) One hundred eighty days following the termination, in the case of a second failure under subdivision (2)(a), (b), (c), or (d) of this section that was not knowing or intentional;

(c) One year following the termination, in the case of a third or subsequent failure under subdivision (2)(a), (b), (c), or (d) of this section that was not knowing or intentional;

(d) One year following the termination, in the case of a first knowing or intentional failure under subdivision (2)(a), (b), (c), or (d) of this section or a first violation described in subdivision (2)(e), (f), or (g) of this section; and

(e) Three years following the termination, in the case of a second or subsequent knowing or intentional failure under subdivision (2)(a), (b), (c), or (d) of this section or a second or subsequent violation described in subdivision (2)(e), (f), or (g) of this section.

(8) Any cigarettes that have been sold, offered for sale, or possessed for sale in this state in violation of subsection (4) of section 69-2706 shall be deemed contraband under section 77-2620 and such cigarettes shall be subject to seizure and forfeiture as provided in section 77-2620, except that all such cigarettes so seized and forfeited shall be destroyed and not resold. The stamping agent shall notify its customers for a brand family with regard to any notice of removal of a tobacco product manufacturer or a brand family from the directory and give its customers a seven-day period for the return of cigarettes that become contraband.

(9) The Attorney General, on behalf of the Tax Commissioner, may seek an injunction to restrain a threatened or actual violation of subsection (4) of section 69-2706 or section 69-2708 by a stamping agent and to compel the stamping agent to comply with subsection (4) of section 69-2706 or section

69-2708. In any action brought pursuant to this section, the state shall be entitled to recover the costs of investigation, costs of the action, and reasonable attorney's fees. This subsection shall not apply to a stamping agent purchasing cigarettes which are not in violation of subsection (4) of section 69-2706 or section 69-2708.

(10) It is unlawful for a person to (a) sell or distribute cigarettes for sale in this state or (b) acquire, hold, own, possess, transport, import, or cause to be imported cigarettes that the person knows or should know are intended for distribution or sale in the state in violation of subsection (4) of section 69-2706. A violation of this subsection is a Class III misdemeanor.

(11) If a court determines that a person has violated any portion of sections 69-2704 to 69-2711, the court shall order the payment of any profits, gains, gross receipts, or other benefits from the violation to be remitted to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska. Unless otherwise expressly provided, the remedies or penalties provided by sections 69-2704 to 69-2711 are cumulative to each other and to the remedies or penalties available under all applicable laws of this state.

(12) It is unlawful for any manufacturer, importer, or stamping agent to knowingly submit any false information required pursuant to sections 69-2703 to 69-2711. A violation of this subsection is a Class IV felony. Knowing submission of false information shall also be grounds for removal of a tobacco product manufacturer from the directory.

(13) A tobacco product manufacturer that knowingly or intentionally sells cigarettes in violation of subsection (5) of this section or section 69-2710.01 and its brand families shall be removed from the directory.

(14) A nonparticipating manufacturer whose total nationwide reported sales on which federal excise tax is paid exceed the sum of its nationwide reports under 15 U.S.C. 375 et seq. and any intrastate sales reports under 15 U.S.C. 375 et seq. by more than five percent of its total sales or one million cigarettes, whichever is less, shall be subject to removal from the directory unless it cures or satisfactorily explains the discrepancy within ten days after receipt of notice of the discrepancy from the Attorney General pursuant to section 69-2708.01.

(15) Any person that is not a stamping agent or tobacco product manufacturer that fails to file a complete and accurate report required under section 69-2708, 69-2710.01, 77-2604, or 77-2604.01 shall be entitled to cure the failure within ten days after receipt of notice of the discrepancy from the Attorney General pursuant to section 69-2708.01. If the person fails to fully cure the failure within such period, it shall be subject to a civil penalty of up to one thousand dollars per violation and shall be ineligible to hold any license of the state regarding cigarette sales until the date specified by subsection (7) of this section for violations of subdivision (2)(a) of this section.

(16) A directory license shall be subject to termination if the licensee acts inconsistently with its certification under subsection (2) of section 77-2603 or violates sections 69-2701 to 69-2711.

(17) Any person that knowingly or intentionally purchases or sells cigarettes in violation of subsection (5) of this section or section 69-2710.01 or that knowingly or intentionally sells cigarettes in or into the state in a package that bears a stamp required under section 77-2603 or 77-2603.01 that is not the correct stamp and provides for a lower level of tax than the correct stamp shall

for a first violation be subject to a civil penalty of up to one thousand dollars and be guilty of a Class IV misdemeanor and for a second or subsequent violation be subject to a civil penalty of up to five thousand dollars per violation and be guilty of a Class II misdemeanor. Each sale constitutes a separate violation.

Source: Laws 2003, LB 572, § 6; Laws 2007, LB580, § 4; Laws 2011, LB590, § 12; Laws 2019, LB397, § 17.

69-2710 Removal from directory; procedure.

(1) Before any tobacco product manufacturer may be removed from the directory, the Tax Commissioner shall provide the tobacco product manufacturer thirty days' notice of the intended action and shall post the notice in the directory. The tobacco product manufacturer shall have thirty days to come into compliance with sections 69-2703 to 69-2711 or, in the alternative, secure a temporary injunction against removal in the district court of Lancaster County. For purposes of the temporary injunction sought pursuant to this subsection, loss of the ability to sell tobacco products as a result of removal from the directory shall constitute irreparable harm. If after thirty days the tobacco product manufacturer remains in noncompliance and has not obtained a temporary injunction pursuant to this subsection, the tobacco product manufacturer shall be removed from the directory.

(2) If the Tax Commissioner determines that a tobacco product manufacturer shall not be included in the directory, such manufacturer may request a contested case before the Tax Commissioner under the Administrative Procedure Act. The Tax Commissioner shall notify the tobacco product manufacturer in writing of the determination not to include it in the directory. A request for hearing shall be made within thirty calendar days after the date of the determination that the manufacturer shall not be included in the directory and shall contain the evidence supporting the manufacturer's compliance with sections 69-2703 to 69-2711. The hearing shall be held within sixty days after the request. At the hearing, the Tax Commissioner shall determine whether the tobacco product manufacturer is in compliance with sections 69-2703 to 69-2711 and whether the manufacturer should be listed in the directory. A final decision shall be rendered within thirty days after the hearing. Any decision of the Tax Commissioner may be appealed. The appeal shall be in accordance with the Administrative Procedure Act.

Source: Laws 2003, LB 572, § 7; Laws 2011, LB590, § 13; Laws 2019, LB397, § 18.

Cross References

Administrative Procedure Act, see section 84-920.

69-2710.01 Report; contents.

(1) Any person that during a month acquired, purchased, sold, possessed, transferred, transported, or caused to be transported in or into this state cigarettes of a tobacco product manufacturer or brand family that was not in the directory at the time shall, within fifteen days following the end of that month, file a report in the manner prescribed by the Tax Commissioner and certify to the state that the report is complete and accurate. The report shall contain, in addition to any further information that the Tax Commissioner may reasonably require to assist the Tax Commissioner in enforcing sections

§ 69-2710.01

PERSONAL PROPERTY

69-2701 to 69-2711 and 77-2601 to 77-2622 and the Tobacco Products Tax Act, the following information:

(a) The total number of those cigarettes, in each case identifying by name and number of cigarettes (i) the manufacturers of those cigarettes, (ii) the brand families of those cigarettes, (iii) in the case of a sale or transfer, the name and address of the recipient of those cigarettes, (iv) in the case of an acquisition or purchase, the name and address of the seller or sender of those cigarettes, and (v) the other states in whose directory the manufacturer and brand family of those cigarettes were listed at the time and whose stamps the person is authorized to affix; and

(b) In the case of acquisition, purchase, or possession, the details of the person's subsequent sale or transfer of those cigarettes, identifying by name and number of cigarettes (i) the brand families of those cigarettes, (ii) the date of the sale or transfer, (iii) the name and address of the recipient, (iv) the number of stamps of each other state that the person affixed to the packages containing those cigarettes during that month, (v) the total number of cigarettes contained in the packages to which it affixed each respective other state's stamp, (vi) the manufacturers and brand families of the packages to which it affixed each respective other state's stamp, and (vii) a certification that it reported each sale or transfer to the taxing authority of the other state by fifteen days following the end of the month in which the sale or transfer was made and attaching a copy of all such reports. If the subsequent sale or transfer is from this state into another state in packages not bearing a stamp of the other state, the report shall also contain the information described in subdivision (2)(c) of section 77-2604.01.

(2) Reports under this section shall be in addition to reports under sections 69-2708, 77-2604, and 77-2604.01.

Source: Laws 2011, LB590, § 14; Laws 2017, LB217, § 4; Laws 2019, LB397, § 19.

Cross References

Tobacco Products Tax Act, see section 77-4001.

69-2710.03 Rules and regulations.

The Tax Commissioner may adopt and promulgate rules and regulations necessary to effect the purposes of sections 69-2703 to 69-2711.

Source: Laws 2011, LB590, § 16; Laws 2019, LB397, § 20.

CHAPTER 70

POWER DISTRICTS AND CORPORATIONS

Article.

6. Public Power and Irrigation Districts. 70-625, 70-642.02.
7. Electric Cooperative Corporations. 70-719.
10. Nebraska Power Review Board. 70-1003 to 70-1032.
16. Denial or Discontinuance of Utility Service. 70-1605, 70-1606.

ARTICLE 6

PUBLIC POWER AND IRRIGATION DISTRICTS

Section

- 70-625. Public power district; powers; restrictions.
70-642.02. Repealed. Laws 2020, LB1055, § 22.

70-625 Public power district; powers; restrictions.

(1) Subject to the limitations of the petition for its creation and all amendments to such petition, a public power district has all the usual powers of a corporation for public purposes and may purchase, hold, sell, and lease personal property and real property reasonably necessary for the conduct of its business. No district may sell household appliances at retail if the retail price of any such appliance exceeds fifty dollars, except that newly developed electrical appliances may be merchandised and sold during the period of time in which any such appliances are being introduced to the public. New models of existing appliances shall not be deemed to be newly developed appliances. An electrical appliance shall be considered to be in such introductory period of time until the particular type of appliance is used by twenty-five percent of all the electrical customers served by such district, but such period shall in no event exceed five years from the date of introduction by the manufacturer of the new appliance to the local market.

(2) In addition to its powers authorized by Chapter 70 and specified in its petition for creation, as amended, a public power district may sell, lease, and service satellite television signal descrambling or decoding devices, satellite television programming, and equipment and services associated with such devices and programming, except that this section does not authorize public power districts (a) to provide signal descrambling or decoding devices or satellite programming to any location (i) being furnished such devices or programming on April 24, 1987, or (ii) where community antenna television service is available from any person, firm, or corporation holding a franchise pursuant to sections 18-2201 to 18-2206 or a permit pursuant to sections 23-383 to 23-388 on April 24, 1987, or (b) to sell, service, or lease C-band satellite dish systems or repair parts.

(3) In addition to the powers authorized by Chapter 70 and specified in its petition for creation as amended, the board of directors of a public power district may apply for and use funds available from the United States Department of Agriculture or other federal agencies for grants or loans to promote economic development and job creation projects in rural areas as permitted

under the rules and regulations of the federal agency from which the funds are received. Any loan to be made by a district shall only be made in participation with a bank pursuant to a contract. The district and the participating bank shall determine the terms and conditions of the contract. In addition, in rural areas of the district, the board of directors of such district may provide technical or management assistance to prospective, new, or expanding businesses, including home-based businesses, provide assistance to a local or regional industrial or economic development corporation or foundation located within or contiguous to the district's service area, and provide youth and adult community leadership training.

(4) In addition to the powers authorized by Chapter 70 and specified in its petition for creation as amended, a public power district may sell or lease its dark fiber pursuant to sections 86-574 to 86-578.

(5) In addition to the powers authorized by Chapter 70 and specified in its petition for creation as amended, a public power district may develop, manufacture, use, purchase, or sell at wholesale advanced biofuels and biofuel byproducts and other fuels and fuel byproducts so long as the development, manufacture, use, purchase, or sale of such biofuels and biofuel byproducts and other fuels and fuel byproducts is done to help offset greenhouse gas emissions.

(6) Notwithstanding any law, ordinance, resolution, or regulation of any political subdivision to the contrary, each public power district may receive funds and extend loans pursuant to the Nebraska Investment Finance Authority Act or pursuant to this section. In addition to the powers authorized by Chapter 70 and specified in its petition for creation, as amended, and without the need for further amendment thereto, a public power district may own and operate, contract to operate, or lease energy equipment and provide billing, meter reading, surveys, or evaluations and other administrative services, but not to include natural gas services, of public utility systems within a district's service territory.

Source: Laws 1933, c. 86, § 6, p. 346; Laws 1937, c. 152, § 5, p. 583; C.S.Supp.,1941, § 70-706; Laws 1943, c. 146, § 3(1), p. 521; R.S.1943, § 70-625; Laws 1961, c. 335, § 1, p. 1045; Laws 1980, LB 954, § 62; Laws 1987, LB 23, § 1; Laws 1987, LB 345, § 1; Laws 1994, LB 915, § 2; Laws 1997, LB 658, § 8; Laws 1997, LB 660, § 1; Laws 2001, LB 827, § 15; Laws 2002, LB 1105, § 477; Laws 2020, LB899, § 1.
Effective date November 14, 2020.

Cross References

Nebraska Investment Finance Authority Act, see section 58-201.

70-642.02 Repealed. Laws 2020, LB1055, § 22.

ARTICLE 7

ELECTRIC COOPERATIVE CORPORATIONS

Section

70-719. Directors; alternate directors; election; compensation; expenses.

70-719 Directors; alternate directors; election; compensation; expenses.

The directors, other than those named in the certificate of incorporation to serve until the first annual meeting of members, shall be elected annually, or as

otherwise provided in the bylaws, by the members. The directors shall be members of the corporation and shall be entitled to such compensation and reimbursement for expenses incurred by them as provided in sections 81-1174 to 81-1177. The bylaws may provide for the election of alternate directors, who shall be elected and serve in the same manner as members elected to the board of directors. Such alternate directors shall serve in the event of the absence, disability, disqualification, or death of an elected director.

Source: Laws 1937, c. 50, § 19, p. 208; C.S.Supp.,1941, § 70-819; R.S. 1943, § 70-719; Laws 1974, LB 833, § 1; Laws 1981, LB 204, § 106; Laws 2020, LB381, § 56.
Operative date January 1, 2021.

ARTICLE 10

NEBRASKA POWER REVIEW BOARD

Section	
70-1003.	Nebraska Power Review Board; establishment; composition; appointment; term; vacancy; qualifications; compensation; expenses; jurisdiction; officers; executive director; staff; reports.
70-1014.02.	Legislative findings; privately developed renewable energy generation facility; owner; duties; certification; decommissioning plan; bond; joint transmission development agreement; contents; property not subject to eminent domain.
70-1015.	Suppliers; electric generation facilities and transmission lines; unauthorized construction, acquisition, or service; injunction; violation; actions authorized; private electric supplier; commencement of construction prior to providing notice; violation; fine; executive director; powers and duties; dispute; hearing; procedure; decision; costs.
70-1032.	Working group; members.

70-1003 Nebraska Power Review Board; establishment; composition; appointment; term; vacancy; qualifications; compensation; expenses; jurisdiction; officers; executive director; staff; reports.

(1) There is hereby established an independent board to be known as the Nebraska Power Review Board to consist of five members, one of whom shall be an engineer, one an attorney, one an accountant, and two laypersons. No person who is or who has within four years preceding his or her appointment been either a director, officer, or employee of any electric utility or an elective state officer shall be eligible for membership on the board. Members of the board shall be appointed by the Governor subject to the approval of the Legislature. Upon expiration of the terms of the members first appointed, the successors shall be appointed for terms of four years. No member of the board shall serve more than two consecutive terms. Any vacancy on the board arising other than from the expiration of a term shall be filled by appointment for the unexpired portion of the term, and any person appointed to fill a vacancy on the board shall be eligible for reappointment for two more consecutive terms. No more than three members of the board shall be registered members of that political party represented by the Governor.

(2) Each member of the board shall receive sixty dollars per day for each day actually and necessarily engaged in the performance of his or her duties, but not to exceed six thousand dollars in any one year, except for the member designated to represent the board on the Southwest Power Pool Regional State Committee or its equivalent successor, who shall receive two hundred fifty

dollars for each day actually and necessarily engaged in the performance of his or her duties, not to exceed twenty thousand dollars in any one year. If the member designated to represent the board on the Southwest Power Pool Regional State Committee should for any reason no longer serve in that capacity during a year, the pay received while serving in such capacity shall not be used for purposes of calculating the six-thousand-dollar limitation for board members not serving in that capacity. When another board member acts as the proxy for the designated Southwest Power Pool Regional State Committee member, he or she shall receive the same pay as the designated member would have for that activity. Pay received while serving as proxy for such designated member shall not be used for purposes of determining whether the six-thousand-dollar limitation has been met for board members not serving as such designated member. Total pay to board members for activities related to the Southwest Power Pool shall not exceed an aggregate total of twenty-five thousand dollars in any one year. Each member shall be reimbursed for expenses while so engaged as provided in sections 81-1174 to 81-1177. The board shall have jurisdiction as provided in Chapter 70, article 10.

(3) The board shall elect from their members a chairperson and a vice-chairperson. Decisions of the board shall require the approval of a majority of the members of the board.

(4) The board shall employ an executive director and may employ such other staff necessary to carry out the duties pursuant to Chapter 70, article 10. The executive director shall serve at the pleasure of the board and shall be solely responsible to the board. The executive director shall be responsible for the administrative operations of the board and shall perform such other duties as may be delegated or assigned to him or her by the board. The board may obtain the services of experts and consultants necessary to carry out the board's duties pursuant to Chapter 70, article 10.

(5) The board shall publish and submit a biennial report with annual data to the Governor, with copies to be filed with the Clerk of the Legislature and with the Department of Environment and Energy. The report submitted to the Clerk of the Legislature shall be submitted electronically. The department shall consider the information in the Nebraska Power Review Board's report when the department prepares its own reports pursuant to sections 81-1606 and 81-1607. The report of the board shall include:

- (a) The assessments for the fiscal year imposed pursuant to section 70-1020;
- (b) The gross income totals for each category of the industry and the industry total;
- (c) The number of suppliers against whom the assessment is levied, by category and in total;
- (d) The projected dollar costs of generation, transmission, and microwave applications, approved and denied;
- (e) The actual dollar costs of approved applications upon completion, and a summary of an informational hearing concerning any significant divergence between the projected and actual costs;
- (f) A description of Nebraska's current electric system and information on additions to and retirements from the system during the fiscal year, including microwave facilities;
- (g) A statistical summary of board activities and an expenditure summary;

(h) A roster of power suppliers in Nebraska and the assessment each paid; and

(i) Appropriately detailed historical and projected electric supply and demand statistics, including information on the total generating capacity owned by Nebraska suppliers and the total peak load demand of the previous year, along with an indication of how the industry will respond to the projected situation.

(6) The board may, in its discretion, hold public hearings concerning the conditions that may indicate that retail competition in the electric industry would benefit Nebraska's citizens and what steps, if any, should be taken to prepare for retail competition in Nebraska's electricity market. In determining whether to hold such hearings, the board shall consider the sufficiency of public interest.

(7) The board may, at any time deemed beneficial by the board, submit a report to the Governor with copies to be filed with the Clerk of the Legislature and the Natural Resources Committee of the Legislature. The report filed with the Clerk of the Legislature and the committee shall be filed electronically. The report may include:

(a) Whether or not a viable regional transmission organization and adequate transmission exist in Nebraska or in a region which includes Nebraska;

(b) Whether or not a viable wholesale electricity market exists in a region which includes Nebraska;

(c) To what extent retail rates have been unbundled in Nebraska;

(d) A comparison of Nebraska's wholesale electricity prices to the prices in the region; and

(e) Any other information the board believes to be beneficial to the Governor, the Legislature, and Nebraska's citizens when considering whether retail electric competition would be beneficial, such as, but not limited to, an update on deregulation activities in other states and an update on federal deregulation legislation.

(8) The board may establish working groups of interested parties to assist the board in carrying out the powers set forth in subsections (6) and (7) of this section.

Source: Laws 1963, c. 397, § 3, p. 1260; Laws 1971, LB 554, § 1; Laws 1978, LB 800, § 1; Laws 1980, LB 863, § 1; Laws 1981, LB 181, § 46; Laws 1981, LB 204, § 107; Laws 2000, LB 901, § 8; Laws 2010, LB797, § 1; Laws 2012, LB782, § 101; Laws 2016, LB824, § 4; Laws 2019, LB302, § 86; Laws 2020, LB381, § 57.
Operative date January 1, 2021.

70-1014.02 Legislative findings; privately developed renewable energy generation facility; owner; duties; certification; decommissioning plan; bond; joint transmission development agreement; contents; property not subject to eminent domain.

(1) The Legislature finds that:

(a) Nebraska has the authority as a sovereign state to protect its land, natural resources, and cultural resources for economic and aesthetic purposes for the benefit of its residents and future generations by regulation of energy generation projects;

(b) The unique terrain and ecology of the Nebraska Sandhills provide an irreplaceable habitat for millions of migratory birds and other wildlife every year and serve as the home to numerous ranchers and farmers;

(c) The grasslands of the Nebraska Sandhills and other natural resources in Nebraska will become increasingly valuable, both economically and strategically, as the demand for food and energy increases; and

(d) The Nebraska Sandhills are home to priceless archaeological sites of historical and cultural significance to American Indians.

(2)(a) A privately developed renewable energy generation facility that meets the requirements of this section is exempt from sections 70-1012 to 70-1014.01 if no less than thirty days prior to the commencement of construction the owner of the facility:

(i) Notifies the board in writing of its intent to commence construction of a privately developed renewable energy generation facility;

(ii) Certifies to the board that the facility will meet the requirements for a privately developed renewable energy generation facility;

(iii) Certifies to the board that the private electric supplier will (A) comply with any decommissioning requirements adopted by the local governmental entities having jurisdiction over the privately developed renewable energy generation facility and (B) except as otherwise provided in subdivision (b) of this subsection, submit a decommissioning plan to the board obligating the private electric supplier to bear all costs of decommissioning the privately developed renewable energy generation facility and requiring that the private electric supplier post a security bond or other instrument, no later than the tenth year following commercial operation, securing the costs of decommissioning the facility and provide a copy of the bond or instrument to the board;

(iv) Certifies to the board that the private electric supplier has entered into or prior to commencing construction will enter into a joint transmission development agreement pursuant to subdivision (c) of this subsection with the electric supplier owning the transmission facilities of sixty thousand volts or greater to which the privately developed renewable energy generation facility will interconnect; and

(v) Certifies to the board that the private electric supplier has consulted with the Game and Parks Commission to identify potential measures to avoid, minimize, and mitigate impacts to species identified under subsection (1) or (2) of section 37-806 during the project planning and design phases, if possible, but in no event later than the commencement of construction.

(b) The board may bring an action in the name of the State of Nebraska for failure to comply with subdivision (a)(iii)(B) of this subsection. Subdivision (a)(iii)(B) of this subsection does not apply if a local government entity with the authority to create requirements for decommissioning has enacted decommissioning requirements for the applicable jurisdiction.

(c) The joint transmission development agreement shall address construction, ownership, operation, and maintenance of such additions or upgrades to the transmission facilities as required for the privately developed renewable energy generation facility. The joint transmission development agreement shall be negotiated and executed contemporaneously with the generator interconnection agreement or other directives of the applicable regional transmission organization with jurisdiction over the addition or upgrade of transmission, upon terms

consistent with prudent electric utility practices for the interconnection of renewable generation facilities, the electric supplier's reasonable transmission interconnection requirements, and applicable transmission design and construction standards. The electric supplier shall have the right to purchase and own transmission facilities as set forth in the joint transmission development agreement. The private electric supplier of the privately developed renewable energy generation facility shall have the right to construct any necessary facilities or improvements set forth in the joint transmission development agreement pursuant to the standards set forth in the agreement at the private electric supplier's cost.

(3) Within ten days after receipt of a written notice complying with subsection (2) of this section, the executive director of the board shall issue a written acknowledgment that the privately developed renewable energy generation facility is exempt from sections 70-1012 to 70-1014.01.

(4) The exemption allowed under this section for a privately developed renewable energy generation facility shall extend to and exempt all private electric suppliers owning any interest in the facility, including any successor private electric supplier which subsequently acquires any interest in the facility.

(5) No property owned, used, or operated as part of a privately developed renewable energy generation facility shall be subject to eminent domain by a consumer-owned electric supplier operating in the State of Nebraska. Nothing in this section shall be construed to grant the power of eminent domain to a private electric supplier or limit the rights of any entity to acquire any public, municipal, or utility right-of-way across property owned, used, or operated as part of a privately developed renewable energy generation facility as long as the right-of-way does not prevent the operation of or access to the privately developed renewable energy generation facility.

(6) Only a consumer-owned electric supplier operating in the State of Nebraska may exercise eminent domain authority to acquire the land rights necessary for the construction of transmission lines and related facilities. There is a rebuttable presumption that the exercise of eminent domain to provide needed transmission lines and related facilities for a privately developed renewable energy generation facility is a public use.

(7) Nothing in this section shall be construed to authorize a private electric supplier to sell or deliver electricity at retail in Nebraska.

(8) Nothing in this section shall be construed to limit the authority of or require a consumer-owned electric supplier operating in the State of Nebraska to enter into a joint agreement with a private electric supplier to develop, construct, and jointly own a privately developed renewable energy generation facility.

Source: Laws 2010, LB1048, § 6; Laws 2011, LB208, § 3; Laws 2016, LB824, § 10; Laws 2019, LB155, § 1.

70-1015 Suppliers; electric generation facilities and transmission lines; unauthorized construction, acquisition, or service; injunction; violation; actions authorized; private electric supplier; commencement of construction prior to providing notice; violation; fine; executive director; powers and duties; dispute; hearing; procedure; decision; costs.

(1) If any supplier violates Chapter 70, article 10, by either (a) commencing the construction or finalizing or attempting to finalize the acquisition of any generation facilities, any transmission lines, or any related facilities without first providing notice or obtaining board approval, whichever is required, or (b) serving or attempting to serve at retail any customers located in Nebraska or any wholesale customers in violation of section 70-1002.02, such construction, acquisition, or service of such customers shall be enjoined in an action brought in the name of the State of Nebraska until such supplier has complied with Chapter 70, article 10.

(2) If the executive director of the board determines that a private electric supplier commenced construction of a privately developed renewable energy generation facility less than thirty days prior to providing the notice required in subdivision (2)(a) of section 70-1014.02, the executive director shall send notice via certified mail to the private electric supplier, informing it of the determination that the private electric supplier is in violation of such subdivision and is subject to a fine in the amount of five hundred dollars. The private electric supplier shall have twenty days from the date on which the notice is received in which to submit the notice described in such subdivision and to pay the fine. Within ten days after the private electric supplier submits a notice compliant with subsection (2) of section 70-1014.02 and payment of the fine, the executive director of the board shall issue the written acknowledgment described in subsection (3) of section 70-1014.02. If the private electric supplier fails to submit a notice compliant with subsection (2) of section 70-1014.02 and pay the fine within twenty days after the date on which the private electric supplier receives the notice from the executive director of the board, the private electric supplier shall immediately cease construction or operation of the privately developed renewable energy generation facility.

(3) If the private electric supplier disputes that construction was commenced less than thirty days prior to submitting the written notice required by subdivision (2)(a) of section 70-1014.02, the private electric supplier may request a hearing before the board. Such request shall be submitted within twenty days after the private electric supplier receives the notice sent by the executive director pursuant to subsection (2) of this section. If the private electric supplier does not accept the certified mail sent pursuant to such subsection, the executive director shall send a second notice to the private electric supplier by first-class United States mail. The private electric supplier may submit a request for hearing within twenty days after the date on which the second notice was mailed.

(4) Upon receipt of a request for hearing, the board shall set a hearing date. Such hearing shall be held within sixty days after such receipt. The board shall provide to the private electric supplier written notice of the hearing at least twenty days prior to the date of the hearing. The board or its hearing officer may grant continuances upon good cause shown or upon the request of the private electric supplier. Timely filing of a request for hearing by a private electric supplier shall stay any further enforcement under this section until the board issues an order pursuant to subsection (5) of this section or the request for hearing is withdrawn.

(5) The board shall issue a written decision within sixty days after conclusion of the hearing. All costs of the hearing shall be paid by the private electric supplier if (a) the board determines that the private electric supplier commenced construction of the privately developed renewable energy generation

facility less than thirty days prior to submitting the written notice required pursuant to subsection (2) of section 70-1014.02 or (b) the private electric supplier withdraws its request for hearing prior to the board issuing its decision.

(6) A private electric supplier which the board finds to be in violation of the requirements of subsection (2) of section 70-1014.02 shall either (a) pay the fine described in this section and submit a notice compliant with subsection (2) of section 70-1014.02 or (b) immediately cease construction or operation of the privately developed renewable energy generation facility.

Source: Laws 1963, c. 397, § 15, p. 1265; Laws 1967, c. 426, § 1, p. 1302; Laws 1981, LB 181, § 52; Laws 2011, LB208, § 4; Laws 2016, LB824, § 11; Laws 2018, LB1008, § 4; Laws 2019, LB155, § 2.

70-1032 Working group; members.

The scope of the study provided for under sections 70-1029 to 70-1033 shall receive input from a working group that may include, but not be limited to, members of the Legislature, the Department of Economic Development, the Department of Environment and Energy, public power districts and other Nebraska electric providers, renewable energy development companies, municipalities, the Southwest Power Pool, the Western Area Power Administration, other transmission system owners, transmission operators, transmission developers, environmental interests, and other interested parties.

Source: Laws 2014, LB1115, § 4; Laws 2019, LB302, § 87.

ARTICLE 16

DENIAL OR DISCONTINUANCE OF UTILITY SERVICE

Section

70-1605. Discontinuance of service; notice; procedure; limitation on fees.

70-1606. Discontinuance of service; notice; contents; accessible to public.

70-1605 Discontinuance of service; notice; procedure; limitation on fees.

No public or private utility company, other than a municipal utility owned and operated by a village, furnishing water, natural gas, or electricity at retail in this state shall discontinue service to any domestic subscriber for nonpayment of any past-due account unless the utility company first gives notice to any subscriber whose service is proposed to be terminated. Such notice shall be given in person, by first-class mail, or by electronic delivery, except that electronic delivery shall only be used if the subscriber has specifically elected to receive such notices by electronic delivery. If notice is given by first-class mail or electronic delivery, such notice shall be conspicuously marked as to its importance. Service shall not be discontinued for at least seven days after notice is sent or given. Holidays and weekends shall be excluded from the seven days. A public or private utility company shall not charge a fee for the discontinuance or reconnection of utility service that exceeds the reasonable costs of providing such service.

Source: Laws 1972, LB 1201, § 1; R.R.S.1943, (1977), § 18-416; Laws 1979, LB 143, § 1; Laws 1982, LB 522, § 1; R.S.1943, (1987), § 19-2702; Laws 1988, LB 792, § 5; Laws 1996, LB 1044, § 370; Laws 2010, LB849, § 18; Laws 2015, LB104, § 1; Laws 2020, LB632, § 7.

Effective date November 14, 2020.

70-1606 Discontinuance of service; notice; contents; accessible to public.

(1) The notice required by section 70-1605 shall contain the following information:

- (a) The reason for the proposed disconnection;
- (b) A statement of intention to disconnect unless the domestic subscriber either pays the bill or reaches an agreement with the utility regarding payment of the bill;
- (c) The date upon which service will be disconnected if the domestic subscriber does not take appropriate action;
- (d) The name, address, and telephone number of the utility's employee or department to whom the domestic subscriber may address any inquiry or complaint;
- (e) The domestic subscriber's right, prior to the disconnection date, to request a conference regarding any dispute over such proposed disconnection;
- (f) A statement that the utility may not disconnect service pending the conclusion of the conference;
- (g) A statement to the effect that disconnection shall be postponed or prevented upon presentation of a duly licensed physician's, physician assistant's, or advanced practice registered nurse's certificate, which shall certify that a domestic subscriber or resident within such subscriber's household has an existing illness or handicap which would cause such subscriber or resident to suffer an immediate and serious health hazard by the disconnection of the utility's service to that household. Such certificate shall be filed with the utility within five days of receiving notice under this section, excluding holidays and weekends, and will prevent the disconnection of the utility's service for a period of at least thirty days from such filing. Only one postponement of disconnection shall be required under this subdivision for each incidence of nonpayment of any past-due account;
- (h) The cost that will be borne by the domestic subscriber for restoration of service;
- (i) A statement that the domestic subscriber may arrange with the utility for an installment payment plan;
- (j) A statement to the effect that those domestic subscribers who are welfare recipients may qualify for assistance in payment of their utility bill and that they should contact their caseworker in that regard; and
- (k) Any additional information not inconsistent with this section which has received prior approval from the board of directors or administrative board of any utility.

(2) A public or private utility company, other than a municipal utility owned and operated by a village, shall make the service termination information required under subdivisions (d), (e), (f), (g), (i), (j), and (k) of subsection (1) of this section readily accessible to the public on the web site of the utility company and available by mail upon request.

Source: Laws 1979, LB 143, § 3; R.S.1943, (1987), § 19-2704; Laws 1988, LB 792, § 6; Laws 2020, LB632, § 8.
Effective date November 14, 2020.

PUBLIC HEALTH AND WELFARE

CHAPTER 71
PUBLIC HEALTH AND WELFARE

Article.

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§ 71-202.01

PUBLIC HEALTH AND WELFARE

Article.

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ARTICLE 2

PRACTICE OF BARBERING

Section

- 71-202.01. Terms, defined.
- 71-219.03. Board of Barber Examiners; set fees; manner; annual report.
- 71-222. Board; officers; compensation; expenses; records; reports; employees.
- 71-224. Act, how cited.
- 71-256. Home barber services permit; issuance.
- 71-257. Home barber services permit; requirements.
- 71-258. Client; home inspection; limitations.
- 71-259. Home barber services; requirements.
- 71-260. Home barber services permit; renewal; revocation or expiration; effect.
- 71-261. Home barber services permit; owner; liability.

71-202.01 Terms, defined.

For purposes of the Barber Act, unless the context otherwise requires:

- (1) Barber shall mean any person who engages in the practice of any act of barbering;
- (2) Barber pole shall mean a cylinder or pole with alternating stripes of red, white, and blue or any combination of them which run diagonally along the length of the cylinder or pole;
- (3) Barber shop shall mean (a) an establishment or place of business properly licensed as required by the act where one or more persons properly licensed are engaged in the practice of barbering or (b) a mobile barber shop. Barber shop shall not include barber schools or colleges;
- (4) Barber school or college shall mean an establishment properly licensed and operated for the teaching and training of barber students;
- (5) Board shall mean the Board of Barber Examiners;
- (6) Manager shall mean a licensed barber having control of the barber shop and of the persons working at or employed by the barber shop;
- (7) License shall mean a certificate of registration issued by the board;
- (8) Barber instructor shall mean a teacher of the barber trade as provided in the act;

(9) Assistant barber instructor shall mean a teacher of the barbering trade registered as an assistant barber instructor as required by the act;

(10) Mobile barber shop shall mean a self-contained, self-supporting, enclosed mobile unit licensed under the act as a mobile site for the performance of the practice of barbering by persons licensed under the act;

(11) Registered or licensed barber shall mean a person who has completed the requirements to receive a certificate as a barber and to whom a certificate has been issued;

(12) Secretary of the board shall mean the director appointed by the board who shall keep a record of the proceedings of the board;

(13) Student shall mean a person attending an approved, licensed barber school or college, duly registered with the board as a student engaged in learning and acquiring any and all of the practices of barbering, and who, while learning, performs and assists any of the practices of barbering in a barber school or college; and

(14) Postsecondary barber school or college shall mean an establishment properly licensed and operated for the teaching and training of barber students who have successfully completed high school or its equivalent as determined by successfully passing a general educational development test prior to admittance.

Source: Laws 1971, LB 1020, § 5; Laws 1978, LB 722, § 3; Laws 1983, LB 87, § 15; Laws 1993, LB 226, § 3; Laws 2011, LB46, § 1; Laws 2016, LB842, § 1; Laws 2018, LB731, § 79; Laws 2020, LB755, § 24.
Effective date November 14, 2020.

71-219.03 Board of Barber Examiners; set fees; manner; annual report.

The Board of Barber Examiners shall set the fees at a level sufficient to provide for all expenses and salaries of the board authorized in section 71-222 and in such a manner that unnecessary surpluses are avoided. The board shall annually file a report with the Attorney General and the Legislative Fiscal Analyst stating the amount of the fees set by the board. Such report shall be submitted on or before July 1 of each year. The report submitted to the Legislative Fiscal Analyst shall be submitted electronically.

Source: Laws 1975, LB 66, § 7; Laws 2012, LB782, § 102; Laws 2020, LB381, § 58.
Operative date January 1, 2021.

71-222 Board; officers; compensation; expenses; records; reports; employees.

The board shall annually elect a president and vice president, and the board shall appoint a director who shall serve as secretary of the board. The board shall be furnished with suitable quarters in the State Capitol or elsewhere. It shall adopt and use a common seal for the authentication of its orders and records. The secretary of the board shall keep a record of all proceedings of the board. A majority of the board, in a meeting duly assembled, may perform and exercise all the duties and powers devolving upon the board. Each member of the board shall receive a compensation of seventy-five dollars per diem and shall be reimbursed for expenses incurred in the discharge of his or her duties as provided in sections 81-1174 to 81-1177, not to exceed two thousand dollars

per annum. Salaries and expenses shall be paid only from the fund created by fees collected in the administration of the Barber Act, and no other funds or state money except as collected in the administration of the act shall be drawn upon to pay the expense of administration. The board shall report each year to the Governor a full statement of its receipts and expenditures and also a full statement of its work during the year, together with such recommendations as it may deem expedient. The board may employ one field inspector and such other inspectors, clerks, and other assistants as it may deem necessary to carry out the act and prescribe their qualifications. No owner, agent, or employee of any barber school shall be eligible to membership on the board.

Source: Laws 1927, c. 163, § 19, p. 435; C.S.1929, § 71-2023; Laws 1933, c. 121, § 2, p. 491; C.S.Supp.,1941, § 71-2023; R.S.1943, § 71-222; Laws 1957, c. 294, § 9, p. 1057; Laws 1963, c. 409, § 25, p. 1326; Laws 1971, LB 1020, § 26; Laws 1972, LB 1183, § 5; Laws 1978, LB 722, § 16; Laws 1981, LB 204, § 113; Laws 1993, LB 226, § 8; Laws 2020, LB381, § 59.
Operative date January 1, 2021.

71-224 Act, how cited.

Sections 71-201 to 71-261 shall be known and may be cited as the Barber Act.

Source: Laws 1927, c. 163, § 23, p. 436; C.S.1929, § 71-2027; R.S.1943, § 71-224; Laws 1971, LB 1020, § 31; Laws 1993, LB 226, § 11; Laws 2009, LB195, § 62; Laws 2018, LB731, § 91; Laws 2020, LB755, § 25.
Effective date November 14, 2020.

71-256 Home barber services permit; issuance.

(1) A barber shop may employ licensed barbers, according to the licensed activities of the barber shop, to perform home barber services by obtaining a home barber services permit.

(2) In order to obtain a home barber services permit from the board, an applicant shall:

(a) Hold a current, active barber shop license; and

(b) Submit a complete application at least ten days before the proposed date for beginning home barbering services.

(3) The board shall issue a home barber services permit to each applicant meeting the requirements set forth in this section.

Source: Laws 2020, LB755, § 26.
Effective date November 14, 2020.

71-257 Home barber services permit; requirements.

In order to maintain in good standing or renew its home barber services permit, a barber shop shall at all times operate in accordance with the requirements for operation, maintain its license in good standing, and ensure that the home barber services comply with the following requirements:

(1)(a) Clients receiving home barber services shall be in emergency or persistent circumstances which shall generally be defined as any condition sufficiently immobilizing to prevent the client from leaving the client's resi-

dence regularly to conduct routine affairs of daily living such as grocery shopping, visiting friends and relatives, attending social events, attending worship services, and other similar activities.

(b) Emergency or persistent circumstances may include such conditions or situations as:

(i) Chronic illness or injury leaving the client bedridden or with severely restricted mobility;

(ii) Extreme general infirmity such as that associated with the aging process;

(iii) Temporary conditions, including, but not limited to, immobilizing injury and recuperation from serious illness or surgery;

(iv) Having sole responsibility for the care of an invalid dependent or a mentally disabled person requiring constant attention;

(v) Mental disability that significantly limits the client in areas of functioning described in subdivision (1)(a) of this section; or

(vi) Any other condition that, in the opinion of the board, meets the general definition of emergency or persistent circumstances;

(2) The barber shop shall determine that each person receiving home barber services meets the requirements of subdivision (1) of this section and shall:

(a) Complete a client information form supplied by the board before home barber services may be provided to any client; and

(b) Keep on file the client information forms of all clients it is currently providing with home barber services or to whom it has provided such services within the past two years;

(3) The barber shop shall employ or contract with barbers licensed under the Barber Act to provide home barber services and shall not permit any person to perform any home barber services under its authority for which the person is not licensed;

(4) No client shall be left unattended while any chemical service is in progress or while any electrical appliance is in use; and

(5) Each barber shop providing home barber services shall post a daily itinerary for each barber providing home barber services. The kit used by each barber to provide home barber services shall be available for inspection at the barber shop or at the home of the client receiving the home barber services.

Source: Laws 2020, LB755, § 27.

Effective date November 14, 2020.

71-258 Client; home inspection; limitations.

An agent of the board may make an operation inspection in the home of a client if the inspection is limited to the activities, procedures, and materials of the barber providing the home barber services.

Source: Laws 2020, LB755, § 28.

Effective date November 14, 2020.

71-259 Home barber services; requirements.

No barber may perform home barber services except when employed by or under contract to a barber shop holding a valid home barber services permit.

Source: Laws 2020, LB755, § 29.

Effective date November 14, 2020.

71-260 Home barber services permit; renewal; revocation or expiration; effect.

Each home barber services permit shall be subject to renewal at the same time as the barber shop license and shall be renewed upon request of the permitholder if the barber shop is operating its home barber services in compliance with the Barber Act and if the barber shop license is renewed. No permit that has been revoked or expired may be reinstated or transferred to another owner or location.

Source: Laws 2020, LB755, § 30.

Effective date November 14, 2020.

71-261 Home barber services permit; owner; liability.

The owner of a barber shop holding a home barber services permit shall have full responsibility for ensuring that the home barber services are provided in compliance with all applicable laws and rules and regulations and shall be liable for any violation which occurs.

Source: Laws 2020, LB755, § 31.

Effective date November 14, 2020.

ARTICLE 4

HEALTH CARE FACILITIES

Section

71-401.	Act, how cited.
71-403.	Definitions, where found.
71-404.	Adult day service, defined.
71-405.	Ambulatory surgical center, defined.
71-413.	Health care facility, defined.
71-415.	Health care service, defined.
71-416.	Health clinic, defined.
71-417.	Home health agency, defined.
71-422.02.	MAR, defined.
71-424.01.	PACE center, defined.
71-424.02.	PACE program, defined.
71-424.03.	PACE provider, defined.
71-436.	License; multiple services or locations; effect.
71-439.	Design standards for health care facilities; adoption by Legislature; waiver of rule, regulation, or standard; when; procedure.
71-476.	Drugs and devices; labeling requirements.

71-401 Act, how cited.

Sections 71-401 to 71-476 shall be known and may be cited as the Health Care Facility Licensure Act.

Source: Laws 2000, LB 819, § 1; Laws 2001, LB 398, § 65; Laws 2004, LB 1005, § 41; Laws 2007, LB203, § 1; Laws 2009, LB288, § 31; Laws 2010, LB849, § 19; Laws 2010, LB999, § 1; Laws 2011, LB34, § 1; Laws 2011, LB542, § 1; Laws 2012, LB1077, § 1;

Laws 2013, LB459, § 1; Laws 2015, LB37, § 68; Laws 2016, LB698, § 17; Laws 2016, LB722, § 12; Laws 2017, LB166, § 19; Laws 2018, LB731, § 92; Laws 2018, LB1034, § 50; Laws 2020, LB1052, § 5; Laws 2020, LB1053, § 3.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB1052, section 5, with LB1053, section 3, to reflect all amendments.

Note: Changes made by LB1052 became effective November 14, 2020. Changes made by LB1053 became operative January 1, 2021.

71-403 Definitions, where found.

For purposes of the Health Care Facility Licensure Act, unless the context otherwise requires, the definitions found in sections 71-404 to 71-431 shall apply.

Source: Laws 2000, LB 819, § 3; Laws 2007, LB203, § 2; Laws 2010, LB849, § 20; Laws 2015, LB37, § 69; Laws 2016, LB698, § 18; Laws 2018, LB731, § 93; Laws 2018, LB1034, § 51; Laws 2020, LB1052, § 6; Laws 2020, LB1053, § 4.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB1052, section 6, with LB1053, section 4, to reflect all amendments.

Note: Changes made by LB1052 became effective November 14, 2020. Changes made by LB1053 became operative January 1, 2021.

71-404 Adult day service, defined.

(1) Adult day service means a person or any legal entity which provides care and an array of social, medical, or other support services for a period of less than twenty-four consecutive hours in a community-based group program to four or more persons who require or request such services due to age or functional impairment.

(2) Adult day service does not include services provided under the Developmental Disabilities Services Act or a PACE center.

Source: Laws 2000, LB 819, § 4; Laws 2002, LB 1062, § 39; Laws 2020, LB1053, § 5.

Operative date January 1, 2021.

Cross References

Developmental Disabilities Services Act, see section 83-1201.

71-405 Ambulatory surgical center, defined.

(1) Ambulatory surgical center means a facility (a) where surgical services are provided to persons not requiring hospitalization who are discharged from such facility within twenty-three hours and fifty-nine minutes from the time of admission, (b) which meets all applicable requirements for licensure as a health clinic under the Health Care Facility Licensure Act, and (c) which has qualified for a written agreement with the Health Care Financing Administration of the United States Department of Health and Human Services or its successor to participate in medicare as an ambulatory surgical center as defined in 42 C.F.R. 416 et seq. or which receives other third-party reimbursement for such services.

(2) Ambulatory surgical center does not include an office or clinic used solely by a practitioner or group of practitioners in the practice of medicine, dentistry, or podiatry.

Source: Laws 2000, LB 819, § 5; Laws 2020, LB783, § 2.

Effective date November 14, 2020.

71-413 Health care facility, defined.

Health care facility means an ambulatory surgical center, an assisted-living facility, a center or group home for the developmentally disabled, a critical access hospital, a general acute hospital, a health clinic, a hospital, an intermediate care facility, an intermediate care facility for persons with developmental disabilities, a long-term care hospital, a mental health substance use treatment center, a nursing facility, a PACE center, a pharmacy, a psychiatric or mental hospital, a public health clinic, a rehabilitation hospital, or a skilled nursing facility.

Source: Laws 2000, LB 819, § 13; Laws 2013, LB23, § 26; Laws 2018, LB1034, § 52; Laws 2020, LB1053, § 6.
Operative date January 1, 2021.

71-415 Health care service, defined.

Health care service means an adult day service, a children's day health service, a home health agency, a hospice or hospice service, a PACE center, or a respite care service. Health care service does not include an in-home personal services agency as defined in section 71-6501.

Source: Laws 2000, LB 819, § 15; Laws 2007, LB236, § 43; Laws 2010, LB849, § 22; Laws 2020, LB1053, § 7.
Operative date January 1, 2021.

71-416 Health clinic, defined.

(1) Health clinic means a facility where advice, counseling, diagnosis, treatment, surgery, care, or services relating to the preservation or maintenance of health are provided on an outpatient basis for a period of less than twenty-four consecutive hours to persons not residing or confined at such facility. Health clinic includes, but is not limited to, an ambulatory surgical center or a public health clinic.

(2) Health clinic does not include (a) a health care practitioner facility (i) unless such facility is an ambulatory surgical center, (ii) unless ten or more abortions, as defined in subdivision (1) of section 28-326, are performed during any one calendar week at such facility, or (iii) unless hemodialysis or labor and delivery services are provided at such facility, (b) a facility which provides only routine health screenings, health education, or immunizations, or (c) a PACE center.

(3) For purposes of this section:

(a) Public health clinic means the department, any county, city-county, or multicounty health department, or any private not-for-profit family planning clinic licensed as a health clinic;

(b) Routine health screenings means the collection of health data through the administration of a screening tool designed for a specific health problem, evaluation and comparison of results to referral criteria, and referral to appropriate sources of care, if indicated; and

(c) Screening tool means a simple interview or testing procedure to collect basic information on health status.

Source: Laws 2000, LB 819, § 16; Laws 2020, LB1053, § 8.
Operative date January 1, 2021.

71-417 Home health agency, defined.

(1) Home health agency means a person or any legal entity which provides skilled nursing care or a minimum of one other therapeutic service as defined by the department on a full-time, part-time, or intermittent basis to persons in a place of temporary or permanent residence used as the person's home.

(2) Home health agency does not include a PACE center.

Source: Laws 2000, LB 819, § 17; Laws 2020, LB1053, § 9.
Operative date January 1, 2021.

71-422.02 MAR, defined.

MAR means a medication administration record kept by an assisted-living facility, a nursing facility, or a skilled nursing facility.

Source: Laws 2020, LB1052, § 7.
Effective date November 14, 2020.

71-424.01 PACE center, defined.

PACE center means a facility from which a PACE provider offers services within the scope of a PACE program pursuant to a written agreement between the provider, the United States Department of Health and Human Services, and the Nebraska Department of Health and Human Services.

Source: Laws 2020, LB1053, § 10.
Operative date January 1, 2021.

71-424.02 PACE program, defined.

PACE program means a program of all-inclusive care for elderly under 42 U.S.C. 13964, as such section existed on January 1, 2020.

Source: Laws 2020, LB1053, § 11.
Operative date January 1, 2021.

71-424.03 PACE provider, defined.

PACE provider means provider of services pursuant to a PACE program meeting the requirements of 42 U.S.C. 1396u-4(a)(3), as such section existed on January 1, 2020.

Source: Laws 2020, LB1053, § 12.
Operative date January 1, 2021.

71-436 License; multiple services or locations; effect.

(1) Except as otherwise provided in section 71-470, an applicant for licensure under the Health Care Facility Licensure Act shall obtain a separate license for each type of health care facility or health care service that the applicant seeks to operate. A single license may be issued for (a) a facility or service operating in separate buildings or structures on the same premises under one management, (b) an inpatient facility that provides services on an outpatient basis at multiple locations, or (c) a health clinic operating satellite clinics on an intermittent basis within a portion of the total geographic area served by such health clinic and sharing administration with such clinics. A single license shall be issued for a PACE center which meets the requirements for licensure established by the department pursuant to section 71-457.

(2) The department may issue one license document that indicates the various types of health care facilities or health care services for which the entity is licensed. The department may inspect any of the locations that are covered by the license. If an entity is licensed in multiple types of licensure for one location, the department shall conduct all required inspections simultaneously for all types of licensure when requested by the entity.

Source: Laws 2000, LB 819, § 36; Laws 2002, LB 1062, § 43; Laws 2015, LB37, § 72; Laws 2020, LB1053, § 13.
Operative date January 1, 2021.

71-439 Design standards for health care facilities; adoption by Legislature; waiver of rule, regulation, or standard; when; procedure.

(1)(a) For purposes of construction relating to ambulatory surgical centers, critical access hospitals, general acute hospitals, and hospitals, the Legislature adopts the 2018 Guidelines for Design and Construction of Hospitals, the 2018 Guidelines for Design and Construction of Outpatient Facilities, and the 2018 Guidelines for Design and Construction of Residential Health, Care, and Support Facilities published by the Facility Guidelines Institute.

(b) For new construction of assisted-living facilities, long-term care hospitals, nursing facilities, and skilled nursing facilities on or after September 1, 2019, the Legislature adopts the 2018 Guidelines for Design and Construction of Hospitals, the 2018 Guidelines for Design and Construction of Outpatient Facilities, and the 2018 Guidelines for Design and Construction of Residential Health, Care, and Support Facilities published by the Facility Guidelines Institute, except that the Legislature adopts only the definition of new construction found in section 1.1-2.1 and excludes the part of the definition found in sections 1.1-2.2 and 1.1-2.3 and any related provisions of such guidelines.

(2) The department may waive any rule, regulation, or standard adopted and promulgated by the department relating to construction or physical plant requirements of a licensed health care facility or health care service upon proof by the licensee satisfactory to the department (a) that such waiver would not unduly jeopardize the health, safety, or welfare of the persons residing in or served by the facility or service, (b) that such rule, regulation, or standard would create an unreasonable hardship for the facility or service, and (c) that such waiver would not cause the State of Nebraska to fail to comply with any applicable requirements of medicare or medicaid so as to make the state ineligible for the receipt of all funds to which it might otherwise be entitled.

(3) In evaluating the issue of unreasonable hardship, the department shall consider the following:

(a) The estimated cost of the modification or installation;

(b) The extent and duration of the disruption of the normal use of areas used by persons residing in or served by the facility or service resulting from construction work;

(c) The estimated period over which the cost would be recovered through reduced insurance premiums and increased reimbursement related to cost;

(d) The availability of financing; and

(e) The remaining useful life of the building.

(4) Any such waiver may be granted under such terms and conditions and for such period of time as provided in rules and regulations adopted and promulgated by the department.

Source: Laws 2000, LB 819, § 39; Laws 2019, LB409, § 1.

71-476 Drugs and devices; labeling requirements.

(1) In an assisted-living facility, a nursing facility, or a skilled nursing facility, all drugs and devices shall be labeled in accordance with currently accepted professional standards of care, including the appropriate accessory and cautionary instructions and the expiration date when applicable.

(2) If the dosage or directions for a specific drug or device to be used in an assisted-living facility, a nursing facility, or a skilled nursing facility are changed by a health care practitioner authorized to prescribe controlled substances and credentialed under the Uniform Credentialing Act, a pharmacist shall apply a new label as soon as practicable with the correct dosage or directions to the drug or device package or reissue the drug or device with the correct label. To protect the safety of the resident of such a facility receiving the drug or device until the drug or device can be correctly labeled, the drug or device package shall be temporarily flagged with a sticker indicating dose change, drug change, or MAR, to alert nursing staff or an unlicensed person responsible for providing the drug or device to a resident that the dosage or directions have changed and the drug or device is to be provided according to the corrected information contained in the resident's MAR, if one exists.

Source: Laws 2020, LB1052, § 8.
Effective date November 14, 2020.

Cross References

Uniform Credentialing Act, see section 38-101.

ARTICLE 5

DISEASES

(a) CONTAGIOUS, INFECTIOUS, AND MALIGNANT DISEASES

Section

71-503.02. Chlamydia, gonorrhea, or trichomoniasis; prescription oral antibiotic drugs; powers of medical professionals; restrictions.

71-507. Terms, defined.

71-509. Health care facility or alternate facility; emergency services provider; significant exposure; completion of form; reports required; tests; notification; costs.

(c) INHERITED OR CONGENITAL INFANT OR CHILDHOOD-ONSET DISEASES

71-519. Screening test; duties; disease management; duties; fees authorized; immunity from liability.

(a) CONTAGIOUS, INFECTIOUS, AND MALIGNANT DISEASES

71-503.02 Chlamydia, gonorrhea, or trichomoniasis; prescription oral antibiotic drugs; powers of medical professionals; restrictions.

If a physician, a physician assistant, a nurse practitioner, or a certified nurse midwife licensed under the Uniform Credentialing Act diagnoses a patient as having chlamydia, gonorrhea, or trichomoniasis, the physician may prescribe,

provide drug samples of, or dispense pursuant to section 38-2850, and the physician assistant, nurse practitioner, or certified nurse midwife may prescribe or provide drug samples of, prescription oral antibiotic drugs to that patient's sexual partner or partners without examination of that patient's partner or partners. Adequate directions for use and medication guides, where applicable, shall be provided along with additional prescription oral antibiotic drugs for any additional partner. The physician, physician assistant, nurse practitioner, or certified nurse midwife shall at the same time provide written information about chlamydia, gonorrhea, and trichomoniasis to the patient for the patient to provide to the partner or partners. The oral antibiotic drugs prescribed, provided, or dispensed pursuant to this section must be stored, dispensed, and labeled in accordance with federal and state pharmacy laws and regulations. Prescriptions for the patient's sexual partner or partners must include the partner's name. If the infected patient is unwilling or unable to deliver such prescription oral antibiotic drugs to his or her sexual partner or partners, such physician may prescribe, provide, or dispense pursuant to section 38-2850 and such physician assistant, nurse practitioner, or certified nurse midwife may prescribe or provide samples of the prescription oral antibiotic drugs for delivery to such partner, if such practitioner has sufficient locating information.

Source: Laws 2013, LB528, § 1; Laws 2019, LB62, § 1.

Cross References

Uniform Credentialing Act, see section 38-101.

71-507 Terms, defined.

For purposes of sections 71-507 to 71-513:

- (1) Alternate facility means a facility other than a health care facility that receives a patient transported to the facility by an emergency services provider;
- (2) Department means the Department of Health and Human Services;
- (3) Designated physician means the physician representing the emergency services provider as identified by name, address, and telephone number on the significant exposure report form. The designated physician shall serve as the contact for notification in the event an emergency services provider believes he or she has had significant exposure to an infectious disease or condition. Each emergency services provider shall designate a physician as provided in subsection (2) of section 71-509;
- (4) Emergency services provider means an emergency care provider licensed pursuant to the Emergency Medical Services Practice Act or authorized pursuant to the EMS Personnel Licensure Interstate Compact, a sheriff, a deputy sheriff, a police officer, a state highway patrol officer, a funeral director, a paid or volunteer firefighter, a school district employee, and a person rendering emergency care gratuitously as described in section 25-21,186;
- (5) Funeral director means a person licensed under section 38-1414 or an employee of such a person with responsibility for transport or handling of a deceased human;
- (6) Funeral establishment means a business licensed under section 38-1419;
- (7) Health care facility has the meaning found in sections 71-419, 71-420, 71-424, and 71-429 or any facility that receives patients of emergencies who are transported to the facility by emergency services providers;

(8) Infectious disease or condition means hepatitis B, hepatitis C, meningococcal meningitis, active pulmonary tuberculosis, human immunodeficiency virus, diphtheria, plague, hemorrhagic fevers, rabies, and such other diseases as the department may by rule and regulation specify;

(9) Patient means an individual who is sick, injured, wounded, deceased, or otherwise helpless or incapacitated;

(10) Patient's attending physician means the physician having the primary responsibility for the patient as indicated on the records of a health care facility;

(11) Provider agency means any law enforcement agency, fire department, emergency medical service, funeral establishment, or other entity which employs or directs emergency services providers or public safety officials;

(12) Public safety official means a sheriff, a deputy sheriff, a police officer, a state highway patrol officer, a paid or volunteer firefighter, a school district employee, and any civilian law enforcement employee or volunteer performing his or her duties, other than those as an emergency services provider;

(13) Responsible person means an individual who has been designated by an alternate facility to carry out the facility's responsibilities under sections 71-507 to 71-513. A responsible person may be designated on a case-by-case basis;

(14) Significant exposure means a situation in which the body fluids, including blood, saliva, urine, respiratory secretions, or feces, of a patient or individual have entered the body of an emergency services provider or public safety official through a body opening including the mouth or nose, a mucous membrane, or a break in skin from cuts or abrasions, from a contaminated needlestick or scalpel, from intimate respiratory contact, or through any other situation when the patient's or individual's body fluids may have entered the emergency services provider's or public safety official's body or when an airborne pathogen may have been transmitted from the patient or individual to the emergency services provider or public safety official; and

(15) Significant exposure report form means the form used by the emergency services provider to document information necessary for notification of significant exposure to an infectious disease or condition.

Source: Laws 1989, LB 157, § 1; Laws 1991, LB 244, § 2; Laws 1992, LB 1138, § 20; Laws 1994, LB 1210, § 111; Laws 1996, LB 1044, § 497; Laws 1996, LB 1155, § 27; Laws 1997, LB 138, § 46; Laws 1997, LB 608, § 5; Laws 1999, LB 781, § 1; Laws 2000, LB 819, § 95; Laws 2003, LB 55, § 1; Laws 2006, LB 1115, § 36; Laws 2007, LB296, § 385; Laws 2007, LB463, § 1182; Laws 2018, LB1034, § 58; Laws 2020, LB1002, § 45.

Operative date November 14, 2020.

Cross References

Emergency Medical Services Practice Act, see section 38-1201.

EMS Personnel Licensure Interstate Compact, see section 38-3801.

71-509 Health care facility or alternate facility; emergency services provider; significant exposure; completion of form; reports required; tests; notification; costs.

(1) If a health care facility or alternate facility determines that a patient treated or transported by an emergency services provider has been diagnosed

or detected with an infectious airborne disease, the health care facility or alternate facility shall notify the department as soon as practical but not later than forty-eight hours after the determination has been made. The department shall investigate all notifications from health care facilities and alternate facilities and notify as soon as practical the physician medical director of each emergency medical service with an affected emergency medical care provider employed by or associated with the service, the fire chief of each fire department with an affected firefighter employed by or associated with the department, the head of each law enforcement agency with an affected peace officer employed by or associated with the agency, the funeral director of each funeral establishment with an affected individual employed by or associated with the funeral establishment, and any emergency services provider known to the department with a significant exposure who is not employed by or associated with an emergency medical service, a fire department, a law enforcement agency, or a funeral establishment. Notification of affected individuals shall be made as soon as practical.

(2) Whenever an emergency services provider believes he or she has had a significant exposure while acting as an emergency services provider, he or she may complete a significant exposure report form. A copy of the completed form shall be given by the emergency services provider to the health care facility or alternate facility, to the emergency services provider's supervisor, and to the designated physician.

(3) Upon receipt of the significant exposure form, if a patient has been diagnosed during the normal course of treatment as having an infectious disease or condition or information is received from which it may be concluded that a patient has an infectious disease or condition, the health care facility or alternate facility receiving the form shall notify the designated physician pursuant to subsection (5) of this section. If the patient has not been diagnosed as having an infectious disease or condition and upon the request of the designated physician, the health care facility or alternate facility shall request the patient's attending physician or other responsible person to order the necessary diagnostic testing of the patient to determine the presence of an infectious disease or condition. Upon such request, the patient's attending physician or other responsible person shall order the necessary diagnostic testing subject to section 71-510. Each health care facility shall develop a policy or protocol to administer such testing and assure confidentiality of such testing.

(4) Results of tests conducted under this section and section 71-510 shall be reported by the health care facility or alternate facility that conducted the test to the designated physician and to the patient's attending physician, if any.

(5) Notification of the patient's diagnosis of infectious disease or condition, including the results of any tests, shall be made orally to the designated physician within forty-eight hours of confirmed diagnosis. A written report shall be forwarded to the designated physician within seventy-two hours of confirmed diagnosis.

(6) Upon receipt of notification under subsection (5) of this section, the designated physician shall notify the emergency services provider of the exposure to infectious disease or condition and the results of any tests conducted under this section and section 71-510.

(7) The notification to the emergency services provider shall include the name of the infectious disease or condition diagnosed but shall not contain the

patient's name or any other identifying information. Any person receiving such notification shall treat the information received as confidential and shall not disclose the information except as provided in sections 71-507 to 71-513.

(8) The provider agency shall be responsible for the costs of diagnostic testing required under this section and section 71-510, except that if a person renders emergency care gratuitously as described in section 25-21,186, such person shall be responsible for the costs.

(9) The patient's attending physician shall inform the patient of test results for all tests conducted under such sections.

Source: Laws 1989, LB 157, § 3; Laws 1997, LB 138, § 48; Laws 1999, LB 781, § 2; Laws 2020, LB1002, § 46.
Operative date November 14, 2020.

(c) INHERITED OR CONGENITAL INFANT
OR CHILDHOOD-ONSET DISEASES

71-519 Screening test; duties; disease management; duties; fees authorized; immunity from liability.

(1) All infants born in the State of Nebraska shall be screened for phenylketonuria, congenital primary hypothyroidism, biotinidase deficiency, galactosemia, hemoglobinopathies, medium-chain acyl co-a dehydrogenase (MCAD) deficiency, X-linked adrenoleukodystrophy (X-ALD), mucopolysaccharidoses type 1 (MPS-1), Pompe disease, spinal muscular atrophy, and such other inherited or congenital infant or childhood-onset diseases as the Department of Health and Human Services may from time to time specify. Confirmatory tests shall be performed if a presumptive positive result on the screening test is obtained.

(2) The attending physician shall collect or cause to be collected the prescribed blood specimen or specimens and shall submit or cause to be submitted the same to the laboratory designated by the department for the performance of such tests within the period and in the manner prescribed by the department. If a birth is not attended by a physician and the infant does not have a physician, the person registering the birth shall cause such tests to be performed within the period and in the manner prescribed by the department. The laboratory shall within the period and in the manner prescribed by the department perform such tests as are prescribed by the department on the specimen or specimens submitted and report the results of these tests to the physician, if any, the hospital or other birthing facility or other submitter, and the department. The laboratory shall report to the department the results of such tests that are presumptive positive or confirmed positive within the period and in the manner prescribed by the department.

(3) The hospital or other birthing facility shall record the collection of specimens for tests for metabolic diseases and the report of the results of such tests or the absence of such report. For purposes of tracking, monitoring, and referral, the hospital or other birthing facility shall provide from its records, upon the department's request, information about the infant's and mother's location and contact information, and care and treatment of the infant.

(4)(a) The department shall have authority over the use, retention, and disposal of blood specimens and all related information collected in connection with disease testing conducted under subsection (1) of this section.

(b) The department shall adopt and promulgate rules and regulations relating to the retention and disposal of such specimens. The rules and regulations shall: (i) Be consistent with nationally recognized standards for laboratory accreditation and shall comply with all applicable provisions of federal law; (ii) require that the disposal be conducted in the presence of a witness who may be an individual involved in the disposal or any other individual; and (iii) provide for maintenance of a written or electronic record of the disposal, verified by such witness.

(c) The department shall adopt and promulgate rules and regulations relating to the use of such specimens and related information. Such use shall only be made for public health purposes and shall comply with all applicable provisions of federal law. The department may charge a reasonable fee for evaluating proposals relating to the use of such specimens for public health research and for preparing and supplying specimens for research proposals approved by the department.

(5) The department shall prepare written materials explaining the requirements of this section. The department shall include the following information in the pamphlet:

(a) The nature and purpose of the testing program required under this section, including, but not limited to, a brief description of each condition or disorder listed in subsection (1) of this section;

(b) The purpose and value of the infant's parent, guardian, or person in loco parentis retaining a blood specimen obtained under subsection (6) of this section in a safe place;

(c) The department's procedures for retaining and disposing of blood specimens developed under subsection (4) of this section; and

(d) That the blood specimens taken for purposes of conducting the tests required under subsection (1) of this section may be used for research pursuant to subsection (4) of this section.

(6) In addition to the requirements of subsection (1) of this section, the attending physician or person registering the birth may offer to draw an additional blood specimen from the infant. If such an offer is made, it shall be made to the infant's parent, guardian, or person in loco parentis at the time the blood specimens are drawn for purposes of subsection (1) of this section. If the infant's parent, guardian, or person in loco parentis accepts the offer of an additional blood specimen, the blood specimen shall be preserved in a manner that does not require special storage conditions or techniques. The attending physician or person making the offer shall explain to the parent, guardian, or person in loco parentis at the time the offer is made that the additional blood specimen can be used for future identification purposes and should be kept in a safe place. The attending physician or person making the offer may charge a fee that is not more than the actual cost of obtaining and preserving the additional blood specimen.

(7) The person responsible for causing the tests to be performed under subsection (2) of this section shall inform the parent or legal guardian of the infant of the tests and of the results of the tests and provide, upon any request for further information, at least a copy of the written materials prepared under subsection (5) of this section.

(8) Dietary and therapeutic management of the infant with phenylketonuria, primary hypothyroidism, biotinidase deficiency, galactosemia, hemoglobinopathies, MCAD deficiency, X-linked adrenoleukodystrophy (X-ALD), mucopolysaccharidoses type 1 (MPS-1), Pompe disease, spinal muscular atrophy, or such other inherited or congenital infant or childhood-onset diseases as the department may from time to time specify shall be the responsibility of the child's parent, guardian, or custodian with the aid of a physician selected by such person.

(9) Except for acts of gross negligence or willful or wanton conduct, any physician, hospital or other birthing facility, laboratory, or other submitter making reports or notifications under sections 71-519 to 71-524 shall be immune from criminal or civil liability of any kind or character based on any statements contained in such reports or notifications.

Source: Laws 1987, LB 385, § 1; Laws 1988, LB 1100, § 99; Laws 1996, LB 1044, § 502; Laws 1998, LB 1073, § 85; Laws 2001, LB 432, § 10; Laws 2002, LB 235, § 1; Laws 2003, LB 119, § 2; Laws 2005, LB 301, § 15; Laws 2007, LB296, § 390; Laws 2017, LB91, § 1; Laws 2020, LB755, § 32.
Effective date November 14, 2020.

**ARTICLE 6
VITAL STATISTICS**

Section	
71-601.	Act, how cited.
71-604.02.	Acknowledgment of maternity; biological mother not the birth mother; forms; effect on birth certificate; rebuttable presumption; spouse; paternity; affidavits; department; powers and duties.
71-605.	Death certificate; cause of death; sudden infant death syndrome; how treated; cremation, disinterment, or transit permits; how executed; filing; requirements.

71-601 Act, how cited.

Sections 71-601 to 71-649 shall be known and may be cited as the Vital Statistics Act.

Source: Laws 2005, LB 301, § 21; Laws 2018, LB1040, § 1; Laws 2020, LB966, § 17.
Effective date November 14, 2020.

71-604.02 Acknowledgment of maternity; biological mother not the birth mother; forms; effect on birth certificate; rebuttable presumption; spouse; paternity; affidavits; department; powers and duties.

- (1) For purposes of this section:
 - (a) Biological mother means a person who is related to a child as the source of the egg that resulted in the conception of the child; and
 - (b) Birth mother means the person who gave birth to the child.
- (2) During the period immediately before or after the in-hospital birth of a child whose biological mother is not the same as the birth mother, the person in charge of such hospital or such person's designated representative shall provide to the child's biological mother and birth mother the documents and written instructions for such biological mother and birth mother to complete a

notarized acknowledgment of maternity. Such acknowledgment, if signed by both parties and notarized, shall be filed with the department at the same time at which the certificate of live birth is filed.

(3) Nothing in this section shall be deemed to require the person in charge of such hospital or such person's designee to seek out or otherwise locate an alleged mother who is not readily identifiable or available.

(4) The acknowledgment shall be executed on a form prepared by the department. Such form shall be in essentially the same form provided by the department. The acknowledgment shall include, but not be limited to, (a) a statement by the birth mother consenting to the acknowledgment of maternity and a statement that the biological mother is the legal mother of the child, (b) a statement by the biological mother that she is the biological mother of the child, (c) written information regarding parental rights and responsibilities, and (d) the social security numbers of the mothers.

(5) The form provided for in subsection (4) of this section shall also contain instructions for completion and filing with the department if it is not completed and filed with a birth certificate as provided in subsection (2) of this section.

(6) The department shall accept completed acknowledgment forms. The department may prepare photographic, electronic, or other reproductions of acknowledgments. Such reproductions, when certified and approved by the department, shall be accepted as the original records, and the documents from which permanent reproductions have been made may be disposed of as provided by rules and regulations of the department.

(7) The department shall enter on the birth certificate of any child described in subsection (2) of this section the name of the biological mother of the child upon receipt of an acknowledgment of maternity as provided in this section signed by the biological mother of the child and the birth mother of the child. The name of the birth mother shall not be entered on the birth certificate. If the birth mother is married, the name of the birth mother's spouse shall not be entered on the birth certificate unless paternity for such spouse is otherwise established by law.

(8)(a) The signing of a notarized acknowledgment of maternity, whether under this section or otherwise, by the biological mother shall create a rebuttable presumption of maternity as against the biological mother. The signed, notarized acknowledgment is subject to the right of any signatory to rescind the acknowledgment at any time prior to the earlier of:

- (i) Sixty days after the acknowledgment; or
- (ii) The date of an administrative or judicial proceeding relating to the child, including a proceeding to establish a support order in which the signatory is a party.

(b) After the rescission period provided for in subdivision (8)(a) of this section, a signed, notarized acknowledgment is considered a legal finding which may be challenged only on the basis of fraud, duress, or material mistake of fact with the burden of proof upon the challenger, and the legal responsibilities, including the child support obligation, of any signatory arising from the acknowledgment shall not be suspended during the challenge, except for good cause shown. Such a signed and notarized acknowledgment or a certified copy or certified reproduction thereof shall be admissible in evidence in any proceeding to establish support.

(9)(a) If the biological mother was married at the time of either conception or birth or at any time between conception and birth of a child described in subsection (2) of this section, the name of the biological mother's spouse shall be entered on the certificate as the other parent of the child unless:

(i) Paternity has been determined otherwise by a court of competent jurisdiction;

(ii) The biological mother and the biological mother's spouse execute affidavits attesting that the biological mother's spouse is not the biological parent of the child, in which case information about the other parent shall be omitted from the certificate; or

(iii) The biological mother executes an affidavit attesting that her spouse is not the biological father and naming the biological father; the biological father executes an affidavit attesting that he is the biological father; and the biological mother's spouse executes an affidavit attesting that such spouse is not the biological parent of the child. In such case the biological father shall be shown as the other parent on the certificate.

(b) For affidavits executed under subdivision (8)(a)(ii) or (iii) of this section, each signature shall be individually notarized.

(10) If the biological mother was not married at the time of either conception or birth or at any time between conception and birth, the name of the biological father shall not be entered on the certificate as the other parent without the written consent of the biological mother and the person named as the biological father.

(11) In any case in which paternity of a child is determined by a court of competent jurisdiction, the name of the adjudicated father shall be entered on the certificate as the other parent in accordance with the finding of the court.

(12) If the other parent is not named on the certificate, no other information about the other parent shall be entered thereon.

(13) The identification of the father as provided in this section shall not be deemed to affect the legitimacy of the child or the duty to support as set forth in sections 42-377 and 43-1401 to 43-1418.

(14) The department may adopt and promulgate rules and regulations as necessary and proper to assist it in the implementation and administration of this section and to establish a nominal payment and procedure for payment for each acknowledgment filed with the department.

Source: Laws 2020, LB966, § 18.

Effective date November 14, 2020.

71-605 Death certificate; cause of death; sudden infant death syndrome; how treated; cremation, disinterment, or transit permits; how executed; filing; requirements.

(1) The funeral director and embalmer in charge of the funeral of any person dying in the State of Nebraska shall cause a certificate of death to be filled out with all the particulars contained in the standard form adopted and promulgated by the department. Such standard form shall include a space for veteran status and the period of service in the armed forces of the United States and a statement of the cause of death made by a person holding a valid license as a physician, physician assistant, or nurse practitioner who last attended the deceased. The standard form shall also include the deceased's social security

number and a notice that, pursuant to section 30-2413, demands for notice which may affect the estate of the deceased are filed with the county court in the county where the decedent resided at the time of death. Death and fetal death certificates shall be completed by the funeral directors and embalmers and physicians, physician assistants, or nurse practitioners for the purpose of filing with the department and providing child support enforcement information pursuant to section 43-3340.

(2) The physician, physician assistant, or nurse practitioner shall have the responsibility and duty to complete and sign by electronic means pursuant to section 71-603.01, within twenty-four hours from the time of death, that part of the certificate of death entitled medical certificate of death. In the case of a death when no person licensed as a physician, physician assistant, or nurse practitioner was in attendance, the funeral director and embalmer shall refer the case to the county attorney who shall have the responsibility and duty to complete and sign the death certificate by electronic means pursuant to section 71-603.01.

No cause of death shall be certified in the case of the sudden and unexpected death of a child between the ages of one week and three years until an autopsy is performed at county expense by a qualified pathologist pursuant to section 23-1824. The parents or guardian shall be notified of the results of the autopsy by their physician, physician assistant, nurse practitioner, community health official, or county coroner within forty-eight hours. The term sudden infant death syndrome shall be entered on the death certificate as the principal cause of death when the term is appropriately descriptive of the pathology findings and circumstances surrounding the death of a child.

If the circumstances show it possible that death was caused by neglect, violence, or any unlawful means, the case shall be referred to the county attorney for investigation and certification. The county attorney shall, within twenty-four hours after taking charge of the case, state the cause of death as ascertained, giving as far as possible the means or instrument which produced the death. All death certificates shall show clearly the cause, disease, or sequence of causes ending in death. If the cause of death cannot be determined within the period of time stated above, the death certificate shall be filed to establish the fact of death. As soon as possible thereafter, and not more than six weeks later, supplemental information as to the cause, disease, or sequence of causes ending in death shall be filed with the department to complete the record. For all certificates stated in terms that are indefinite, insufficient, or unsatisfactory for classification, inquiry shall be made to the person completing the certificate to secure the necessary information to correct or complete the record.

(3) A completed death certificate shall be filed with the department within five business days after the date of death. If it is impossible to complete the certificate of death within five business days, the funeral director and embalmer shall notify the department of the reason for the delay and file the certificate as soon as possible.

(4) Before any dead human body may be cremated, a cremation permit shall first be signed electronically by the county attorney, or by his or her authorized representative as designated by the county attorney in writing, of the county in which the death occurred on an electronic form prescribed and furnished by the department.

(5) A permit for disinterment shall be required prior to disinterment of a dead human body. The permit shall be issued by the department to a licensed funeral director and embalmer upon proper application. The request for disinterment shall be made by the person listed in section 30-2223 or a county attorney on a form furnished by the department. The application shall be signed by the funeral director and embalmer who will be directly supervising the disinterment. When the disinterment occurs, the funeral director and embalmer shall sign the permit giving the date of disinterment and file the permit with the department within ten days of the disinterment.

(6) When a request is made under subsection (5) of this section for the disinterment of more than one dead human body, an order from a court of competent jurisdiction shall be submitted to the department prior to the issuance of a permit for disinterment. The order shall include, but not be limited to, the number of bodies to be disinterred if that number can be ascertained, the method and details of transportation of the disinterred bodies, the place of reinterment, and the reason for disinterment. No sexton or other person in charge of a cemetery shall allow the disinterment of a body without first receiving from the department a disinterment permit properly completed.

(7) No dead human body shall be removed from the state for final disposition without a transit permit issued by the funeral director and embalmer having charge of the body in Nebraska, except that when the death is subject to investigation, the transit permit shall not be issued by the funeral director and embalmer without authorization of the county attorney of the county in which the death occurred. No agent of any transportation company shall allow the shipment of any body without the properly completed transit permit prepared in duplicate.

(8) The interment, disinterment, or reinterment of a dead human body shall be performed under the direct supervision of a licensed funeral director and embalmer, except that hospital disposition may be made of the remains of a child born dead pursuant to section 71-20,121.

(9) All transit permits issued in accordance with the law of the place where the death occurred in a state other than Nebraska shall be signed by the funeral director and embalmer in charge of burial and forwarded to the department within five business days after the interment takes place.

(10) The changes made to this section by Laws 2019, LB593, shall apply retroactively to August 24, 2017.

Source: Laws 1921, c. 253, § 2, p. 863; C.S.1922, § 8233; Laws 1927, c. 166, § 3, p. 449; C.S.1929, § 71-2405; R.S.1943, § 71-605; Laws 1949, c. 202, § 1, p. 585; Laws 1953, c. 241, § 1, p. 830; Laws 1961, c. 341, § 3, p. 1091; Laws 1965, c. 418, § 3, p. 1335; Laws 1973, LB 29, § 1; Laws 1978, LB 605, § 1; Laws 1985, LB 42, § 3; Laws 1989, LB 344, § 10; Laws 1993, LB 187, § 8; Laws 1996, LB 1044, § 517; Laws 1997, LB 307, § 137; Laws 1997, LB 752, § 172; Laws 1999, LB 46, § 4; Laws 2003, LB 95, § 33; Laws 2005, LB 54, § 14; Laws 2005, LB 301, § 25; Laws 2007, LB463, § 1184; Laws 2009, LB195, § 68; Laws 2012, LB1042, § 4; Laws 2014, LB998, § 14; Laws 2016, LB786, § 1; Laws 2017, LB268, § 15; Laws 2019, LB593, § 9.

Cross References

For authority of chiropractors to sign death certificates, see section 38-811.

For authority of physician assistants to sign death certificates, see section 38-2047.

Medical Assistance Act, see section 68-901.

Organ and tissue donation, notation required, see section 71-4816.

ARTICLE 7

WOMEN'S HEALTH

Section

71-702. Women's Health Initiative Advisory Council; created; members; terms; duties; expenses.

71-702 Women's Health Initiative Advisory Council; created; members; terms; duties; expenses.

(1) The Women's Health Initiative Advisory Council is created and shall consist of not more than thirty members, at least three-fourths of whom are women. At least one member shall be appointed from the following disciplines: (a) An obstetrician/gynecologist; (b) a nurse practitioner or physician's assistant from a rural community; (c) a geriatrics physician or nurse; (d) a pediatrician; (e) a community public health representative from each congressional district; (f) a health educator; (g) an insurance industry representative; (h) a mental health professional; (i) a representative from a statewide health volunteer agency; (j) a private health care industry representative; (k) an epidemiologist or a health statistician; (l) a foundation representative; and (m) a woman who is a health care consumer from each of the following age categories: Eighteen to thirty; thirty-one to forty; forty-one to sixty-five; and sixty-six and older. The membership shall also include a representative of the University of Nebraska Medical Center, a representative from Creighton University Medical Center, the chief medical officer if one is appointed under section 81-3115, and the Title V Administrator of the Department of Health and Human Services.

(2) The Governor shall appoint advisory council members and shall consider and attempt to balance representation based on political party affiliation, race, and different geographical areas of Nebraska when making appointments. The Governor shall appoint the first chairperson and vice-chairperson of the advisory council. There shall be two ex officio, nonvoting members from the Legislature, one of which shall be the chairperson of the Health and Human Services Committee.

(3) The terms of the initial members shall be as follows: One-third shall serve for one-year terms, one-third shall serve for two-year terms, and one-third shall serve for three-year terms including the members designated chairperson and vice-chairperson. Thereafter members shall serve for three-year terms. Members may not serve more than two consecutive three-year terms.

(4) The Governor shall make the appointments within three months after July 13, 2000.

(5) The advisory council shall meet quarterly the first two years. After this time the advisory council shall meet at least every six months or upon the call of the chairperson or a majority of the voting members. A quorum shall be one-half of the voting members.

(6) The members of the advisory council shall be reimbursed for expenses as provided in sections 81-1174 to 81-1177 and pursuant to policies of the

advisory council. Funds for reimbursement for expenses shall be from the Women's Health Initiative Fund.

(7) The advisory council shall advise the Women's Health Initiative of Nebraska in carrying out its duties under section 71-701 and may solicit private funds to support the initiative.

Source: Laws 2000, LB 480, § 2; Laws 2004, LB 818, § 1; Laws 2007, LB296, § 449; Laws 2009, LB84, § 1; Laws 2009, LB154, § 16; Laws 2020, LB381, § 60.

Operative date January 1, 2021.

ARTICLE 8

BEHAVIORAL HEALTH SERVICES

Section

71-801. Nebraska Behavioral Health Services Act; act, how cited.

71-808. Regional behavioral health authority; established; regional governing board; matching funds; requirements.

71-831. Transferred to section 68-995.

71-801 Nebraska Behavioral Health Services Act; act, how cited.

Sections 71-801 to 71-830 shall be known and may be cited as the Nebraska Behavioral Health Services Act.

Source: Laws 2004, LB 1083, § 1; Laws 2006, LB 994, § 91; Laws 2009, LB154, § 17; Laws 2009, LB603, § 3; Laws 2012, LB1158, § 3; Laws 2020, LB1158, § 5.

Effective date August 11, 2020.

71-808 Regional behavioral health authority; established; regional governing board; matching funds; requirements.

(1) A regional behavioral health authority shall be established in each behavioral health region by counties acting under provisions of the Interlocal Cooperation Act. Each regional behavioral health authority shall be governed by a regional governing board consisting of one county board member from each county in the region. Board members shall serve for staggered terms of three years and until their successors are appointed and qualified. Board members shall serve without compensation but shall be reimbursed for expenses as provided in sections 81-1174 to 81-1177.

(2) The regional governing board shall appoint a regional administrator who shall be responsible for the administration and management of the regional behavioral health authority. Each regional behavioral health authority shall encourage and facilitate the involvement of consumers in all aspects of service planning and delivery within the region and shall coordinate such activities with the office of consumer affairs within the division. Each regional behavioral health authority shall establish and utilize a regional advisory committee consisting of consumers, providers, and other interested parties and may establish and utilize such other task forces, subcommittees, or other committees as it deems necessary and appropriate to carry out its duties under this section.

(3) Each county in a behavioral health region shall provide funding for the operation of the behavioral health authority and for the provision of behavioral health services in the region. The total amount of funding provided by counties under this subsection shall be equal to one dollar for every three dollars from

the General Fund. The division shall annually certify the total amount of county matching funds to be provided. At least forty percent of such amount shall consist of local and county tax revenue, and the remainder shall consist of other nonfederal sources. The regional governing board of each behavioral health authority, in consultation with all counties in the region, shall determine the amount of funding to be provided by each county under this subsection. Any General Funds transferred from regional centers for the provision of community-based behavioral health services after July 1, 2004, and funds received by a regional behavioral health authority for the provision of behavioral health services to children under section 71-826 shall be excluded from any calculation of county matching funds under this subsection.

Source: Laws 2004, LB 1083, § 8; Laws 2009, LB603, § 4; Laws 2020, LB381, § 61.

Operative date January 1, 2021.

Cross References

Interlocal Cooperation Act, see section 13-801.

71-831 Transferred to section 68-995.

ARTICLE 10

STATE ANATOMICAL BOARD, DISPOSAL OF DEAD BODIES

Section

- 71-1001. State Anatomical Board; members; powers and duties; State Anatomical Board Cash Fund; created; use; investment.
- 71-1002. Repealed. Laws 2019, LB559, § 6.
- 71-1003. Board; dead human bodies; distribution.
- 71-1004. Board; dead human bodies; transportation.
- 71-1005. Repealed. Laws 2019, LB559, § 6.
- 71-1006. Repealed. Laws 2019, LB559, § 6.
- 71-1007. Board; purpose.

71-1001 State Anatomical Board; members; powers and duties; State Anatomical Board Cash Fund; created; use; investment.

(1) The heads of the anatomy departments of the medical schools and colleges of this state, one professor of anatomy appointed by the head of the anatomy department from each medical school or college of this state, one professor of anatomy appointed from each dental school or college of this state, and one layperson appointed by the Department of Health and Human Services shall constitute the State Anatomical Board of the State of Nebraska for the distribution, delivery, and use of certain dead human bodies, described in section 71-4834, to and among such schools, colleges, and persons as are entitled thereto under such section.

(2) The board shall have power to (a) establish rules and regulations for its government and for the collection, storage, and distribution of dead human bodies for anatomical purposes and (b) appoint and remove its officers and agents.

(3) The board shall keep minutes of its meetings and shall cause a record to be kept of all of its transactions, of bodies received and distributed by it, and of the school, college, or person receiving every such body. The records of the board shall be open at all times to the inspection of each member of the board and to every county attorney within this state.

(4) There is hereby created the State Anatomical Board Cash Fund. The fund shall be under the University of Nebraska Medical Center for accounting and budgeting purposes only. The fund shall consist of revenue collected by the State Anatomical Board and shall only be used to pay for costs of operating the board. 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.

Source: Laws 1929, c. 158, § 1, p. 551; C.S.1929, § 71-2801; R.S.1943, § 71-1001; Laws 1969, c. 570, § 1, p. 2314; Laws 1978, LB 583, § 1; Laws 1979, LB 98, § 2; Laws 1992, LB 860, § 2; Laws 1996, LB 1044, § 556; Laws 2007, LB296, § 464; Laws 2017, LB331, § 36; Laws 2019, LB559, § 1.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

71-1002 Repealed. Laws 2019, LB559, § 6.

71-1003 Board; dead human bodies; distribution.

The State Anatomical Board, or its duly authorized officers or agents, may take and receive dead bodies as provided in section 71-4834. The board shall distribute the bodies among the medical, chiropractic, osteopathic, and dental schools and colleges, and physicians and surgeons designated by the board, under such rules and regulations as may be adopted and promulgated by it. The number of bodies so distributed to such schools and colleges shall be in proportion to the number of students matriculated in the first-year work of such schools and colleges. If there are more bodies than are required by such schools and colleges, the board, or its duly authorized officers, may, from time to time, designate physicians and surgeons to receive such bodies, and the number of bodies they may receive, if such physicians and surgeons have complied with all rules and regulations which the board may adopt and promulgate for such disposition. All expenses incurred by the board in receiving, caring for, and delivering any such body shall be paid by those receiving such body.

Source: Laws 1929, c. 158, § 3, p. 552; C.S.1929, § 71-2803; R.S.1943, § 71-1003; Laws 1971, LB 268, § 2; Laws 2019, LB559, § 2.

Cross References

Board of Funeral Directing and Embalming, distribution to and use by, see section 38-1417.

71-1004 Board; dead human bodies; transportation.

The State Anatomical Board may employ a carrier or carriers for the transportation of bodies, referred to in sections 71-1001 to 71-1007, and may transport such bodies, or order them to be transported, under such rules and regulations as it may adopt and promulgate.

Source: Laws 1929, c. 158, § 4, p. 553; C.S.1929, § 71-2804; R.S.1943, § 71-1004; Laws 2019, LB559, § 3.

71-1005 Repealed. Laws 2019, LB559, § 6.

71-1006 Repealed. Laws 2019, LB559, § 6.**71-1007 Board; purpose.**

The purpose of the State Anatomical Board is to:

- (1) Provide for the orderly receipt, maintenance, distribution, and use of human bodies used for medical education and research;
- (2) Ensure that proper and considerate care is given to human bodies used for medical education and research; and
- (3) Ensure that an orderly and equitable procedure is used for the allocation of human bodies to colleges and universities in Nebraska which provide medical education and research.

Source: Laws 1979, LB 98, § 1; Laws 2019, LB559, § 4.

ARTICLE 15**HOUSING**

(e) NEBRASKA HOUSING AGENCY ACT

Section

71-1599. Commissioners; vacancies.

(e) NEBRASKA HOUSING AGENCY ACT

71-1599 Commissioners; vacancies.

All vacancies shall be filled for the unexpired terms. A vacancy shall be filled not later than six months after the date of such vacancy by the same authority and in the same manner as the previous commissioner whose position has become vacant was appointed.

Source: Laws 1999, LB 105, § 28; Laws 2020, LB1003, § 185.
Operative date November 14, 2020.

ARTICLE 17**NURSES**

(h) NEBRASKA CENTER FOR NURSING ACT

Section

71-1799. Nebraska Center for Nursing Board; created; members; terms; powers and duties; expenses.

(h) NEBRASKA CENTER FOR NURSING ACT

71-1799 Nebraska Center for Nursing Board; created; members; terms; powers and duties; expenses.

(1) The Nebraska Center for Nursing Board is created. The board shall be a policy-setting board for the Nebraska Center for Nursing. The board shall be appointed by the Governor as follows:

(a) Ten members, at least three of whom shall be registered nurses, one of whom shall be a licensed practical nurse, one of whom shall be a representative of the hospital industry, and one of whom shall be a representative of the long-term care industry;

(b) One nurse educator recommended by the Board of Regents of the University of Nebraska;

(c) One nurse educator recommended by the Nebraska Community College Association;

(d) One nurse educator recommended by the Nebraska Association of Independent Colleges and Universities; and

(e) Three members recommended by the State Board of Health.

(2) The initial terms of the members of the Nebraska Center for Nursing Board shall be:

(a) Five of the ten members appointed under subdivision (1)(a) of this section shall serve for one year and five shall serve for two years;

(b) The member recommended by the Board of Regents shall serve for three years;

(c) The member recommended by the Nebraska Community College Association shall serve for two years;

(d) The member recommended by the Nebraska Association of Independent Colleges and Universities shall serve for one year; and

(e) The members recommended by the State Board of Health shall serve for three years.

The initial appointments shall be made within sixty days after July 13, 2000. After the initial terms expire, the terms of all of the members shall be three years with no member serving more than two consecutive terms.

(3) The Nebraska Center for Nursing Board shall have the following powers and duties:

(a) To determine operational policy;

(b) To elect a chairperson and officers to serve two-year terms. The chairperson and officers may not succeed themselves;

(c) To establish committees of the board as needed;

(d) To appoint a multidisciplinary advisory council for input and advice on policy matters;

(e) To implement the major functions of the Nebraska Center for Nursing; and

(f) To seek and accept nonstate funds for carrying out center policy.

(4) The board members shall be reimbursed for expenses as provided in sections 81-1174 to 81-1177.

(5) The Department of Health and Human Services shall provide administrative support for the board. The board may contract for additional support not provided by the department.

Source: Laws 2000, LB 1025, § 4; Laws 2007, LB296, § 489; Laws 2020, LB381, § 62.

Operative date January 1, 2021.

ARTICLE 19

CARE OF CHILDREN

(b) CHILD CARE LICENSURE

Section

71-1908.

71-1912.

Child Care Licensing Act; act, how cited; legislative findings.

Department; investigation; inspections; national criminal history record information check; procedure; cost; background checks; person ineligible for employment; when.

§ 71-1908

PUBLIC HEALTH AND WELFARE

Section

71-1912.01. Child care staff member; national criminal history record information check; required, when; federal Child Care Subsidy program; eligibility to participate.

(c) CHILDREN'S RESIDENTIAL FACILITIES AND PLACING LICENSURE ACT

71-1924. Children's Residential Facilities and Placing Licensure Act; act, how cited.

71-1928.01. National criminal history record information check; procedure; cost; background checks.

71-1936. Alleged violation of act; complaint; investigation; department; duties; confidentiality; immunity; report.

(d) STEP UP TO QUALITY CHILD CARE ACT

71-1962. Nebraska Early Childhood Professional Record System; creation and operation; State Department of Education; duties; develop classification system for eligible staff members; use.

(b) CHILD CARE LICENSURE

71-1908 Child Care Licensing Act; act, how cited; legislative findings.

(1) Sections 71-1908 to 71-1923 shall be known and may be cited as the Child Care Licensing Act.

(2) The Legislature finds that there is a present and growing need for quality child care programs and facilities. There is a need to establish and maintain licensure of persons providing such programs to ensure that such persons are competent and are using safe and adequate facilities. The Legislature further finds and declares that the development and supervision of programs are a matter of statewide concern and should be dealt with uniformly on the state and local levels. There is a need for cooperation among the various state and local agencies which impose standards on licensees, and there should be one agency which coordinates the enforcement of such standards and informs the Legislature about cooperation among the various agencies.

Source: Laws 1984, LB 130, § 1; Laws 1995, LB 401, § 29; Laws 2004, LB 1005, § 67; Laws 2013, LB105, § 1; Laws 2018, LB1034, § 60; Laws 2020, LB1185, § 2.
Effective date November 14, 2020.

71-1912 Department; investigation; inspections; national criminal history record information check; procedure; cost; background checks; person ineligible for employment; when.

(1) Before issuance of a license, the department shall investigate or cause an investigation to be made, when it deems necessary, to determine if the applicant or person in charge of the program meets or is capable of meeting the physical well-being, safety, and protection standards and the other rules and regulations of the department adopted and promulgated under the Child Care Licensing Act. The department may investigate the character of applicants and licensees, any member of the applicant's or licensee's household, and the staff and employees of programs. The department may at any time inspect or cause an inspection to be made of any place where a program is operating to determine if such program is being properly conducted.

(2) All inspections by the department shall be unannounced except for initial licensure visits and consultation visits. Initial licensure visits are announced visits necessary for a provisional license to be issued to a family child care home I, family child care home II, child care center, or school-age-only or

preschool program. Consultation visits are announced visits made at the request of a licensee for the purpose of consulting with a department specialist on ways of improving the program.

(3) An unannounced inspection of any place where a program is operating shall be conducted by the department or the city, village, or county pursuant to subsection (2) of section 71-1914 at least annually for a program licensed to provide child care for fewer than thirty children and at least twice every year for a program licensed to provide child care for thirty or more children.

(4) Whenever an inspection is made, the findings shall be recorded in a report designated by the department. The public shall have access to the results of these inspections upon a written or oral request to the department. The request must include the name and address of the program. Additional unannounced inspections shall be performed as often as is necessary for the efficient and effective enforcement of the Child Care Licensing Act.

(5)(a) A person applying for a license as a child care provider or a licensed child care provider under the Child Care Licensing Act shall submit a request for a national criminal history record information check for each child care staff member, including a prospective child care staff member of the child care provider, at the applicant's or licensee's expense, as set forth in this section. Beginning on October 1, 2019, a prospective child care staff member shall submit to a national criminal history record information check (i) prior to employment, except as otherwise permitted under 45 C.F.R. 98.43, as such regulation existed on January 1, 2019, or (ii) prior to residing in a family child care home. A child care staff member who was employed by a child care provider prior to October 1, 2019, or who resided in a family child care home prior to October 1, 2019, shall submit to a national criminal history record information check by October 1, 2021, unless the child care staff member ceases to be a child care staff member prior to such date.

(b) A child care staff member shall be required to undergo a national criminal history record information check not less than once during each five-year period. A child care staff member shall submit a complete set of his or her fingerprints to the Nebraska State Patrol. The Nebraska State Patrol shall transmit a copy of the child care staff member's fingerprints to the Federal Bureau of Investigation for a national criminal history record information check. The national criminal history record information check shall include information concerning child care staff members from federal repositories of such information and repositories of such information in other states, if authorized by federal law for use by the Nebraska State Patrol. The Nebraska State Patrol shall issue a report to the department that includes the information collected from the national criminal history record information check concerning child care staff members. The department shall seek federal funds, if available, to assist child care providers and child care staff members with the costs of the fingerprinting and national criminal history record information check. If the department does not receive sufficient federal funds to assist child care providers and staff members with such costs, then the child care staff member being screened, applicant for a license, or licensee shall pay the actual cost of the fingerprinting and national criminal history record information check, except that the department may pay all or part of the cost if funding becomes available. The department and the Nebraska State Patrol may adopt and promulgate rules and regulations concerning the costs associated with the fingerprinting and the national criminal history record information check. The

department may adopt and promulgate rules and regulations implementing national criminal history record information check requirements for child care providers and child care staff members.

(c) A child care staff member shall also submit to the following background checks at his or her expense not less than once during each five-year period:

(i) A search of the National Crime Information Center's National Sex Offender Registry; and

(ii) A search of the following registries, repositories, or data bases in the state where the child care provider is located or where the child care staff member resides and each state where the child care provider was located or where the child care staff member resided during the preceding five years:

(A) State criminal registries or repositories;

(B) State sex offender registries or repositories; and

(C) State-based child abuse and neglect registries and data bases.

(d) Any individual shall be ineligible for employment by a child care provider if such individual:

(i) Refuses to consent to the national criminal history record information check or a background check described in this subsection;

(ii) Knowingly makes a materially false statement in connection with the national criminal history record information check or a background check described in this subsection;

(iii) Is registered, or required to be registered, on a state sex offender registry or repository or the National Sex Offender Registry; or

(iv) Has been convicted of a crime of violence, a crime of moral turpitude, or a crime of dishonesty.

(e) The department may adopt and promulgate rules and regulations for purposes of this section.

(f) A child care provider shall be ineligible for a license under the Child Care Licensing Act and shall be ineligible to participate in the child care subsidy program if the provider employs a child care staff member who is ineligible for employment under subdivisions (d) or (e) of this subsection.

(g) National criminal history record information and information from background checks described in this subsection subject to state or federal confidentiality requirements may only be used for purposes of granting a child care license or approving a child care provider for participation in the child care subsidy program.

(h) For purposes of this subsection:

(i) Child care provider means a child care program required to be licensed under the Child Care Licensing Act; and

(ii) Child care staff member means an individual who is not related to all of the children for whom child care services are provided and:

(A) Who is employed by a child care provider for compensation, including contract employees or self-employed individuals;

(B) Whose activities involve the care or supervision of children for a child care provider or unsupervised access to children who are cared for or supervised by a child care provider; or

(C) Who is residing in a family child care home and who is eighteen years of age or older.

Source: Laws 1984, LB 130, § 5; Laws 1985, LB 447, § 38; Laws 1987, LB 386, § 5; Laws 1988, LB 1013, § 2; Laws 1995, LB 401, § 33; Laws 1997, LB 310, § 7; Laws 2004, LB 1005, § 73; Laws 2014, LB1050, § 3; Laws 2019, LB460, § 3; Laws 2020, LB1185, § 3. Effective date November 14, 2020.

71-1912.01 Child care staff member; national criminal history record information check; required, when; federal Child Care Subsidy program; eligibility to participate.

(1) For purposes of this section, child care staff member means an individual who is not related to all of the children for whom child care services are provided and:

(a) Who is employed for compensation by a child care provider not required to be licensed under the Child Care Licensing Act, including contract employees or self-employed individuals;

(b) Whose activities involve the care or supervision of children for a child care provider or unsupervised access to children who are cared for or supervised by a child care provider; or

(c) Who is residing in a family child care home and who is eighteen years of age or older.

(2) Beginning on November 14, 2020, an individual who is not required to be licensed under the Child Care Licensing Act but seeks to participate as a provider in the federal Child Care Subsidy program shall submit a request for a national criminal history record information check for each child care staff member, including a prospective child care staff member of the child care provider, (a) prior to the child care provider being approved to participate as a child care provider in the federal Child Care Subsidy program, except as otherwise permitted under 45 C.F.R. 98.43, as such regulation existed on January 1, 2020, or (b) prior to residing in a family child care home. A child care staff member who was a provider in the federal Child Care Subsidy program prior to November 14, 2020, or who resided in a family child care home prior to November 14, 2020, shall submit to a national criminal history record information check by October 1, 2021, unless the child care staff member ceases to be a child care staff member prior to such date. The child care staff member or the child care provider seeking to participate in the subsidy program shall pay the cost of such national criminal history record information check. A person who undergoes a national criminal history record information check to obtain a license under the Child Care Licensing Act or work as a child care staff member and is in good standing with the department shall not be required to undergo an additional national criminal history record information check to become a child care provider in the federal Child Care Subsidy program if the person has not been separated from employment from a child care provider within the state for a period of not more than one hundred eighty consecutive days.

(3) Any individual, entity, or provider shall be ineligible to participate in the federal Child Care Subsidy program if such individual, entity, or provider:

(a) Refuses to consent to the national criminal history record information check described in this section;

(b) Knowingly makes a materially false statement in connection with the national criminal history record information check described in this section;

(c) Is registered, or required to be registered, on a state sex offender registry or repository or the National Sex Offender Registry; or

(d) Has been convicted of a crime of violence, a crime of moral turpitude, or a crime of dishonesty.

Source: Laws 2020, LB1185, § 4.

Effective date November 14, 2020.

(c) CHILDREN'S RESIDENTIAL FACILITIES
AND PLACING LICENSURE ACT

71-1924 Children's Residential Facilities and Placing Licensure Act; act, how cited.

Sections 71-1924 to 71-1951 shall be known and may be cited as the Children's Residential Facilities and Placing Licensure Act.

Source: Laws 2013, LB265, § 1; Laws 2019, LB460, § 4.

71-1928.01 National criminal history record information check; procedure; cost; background checks.

(1) Any individual eighteen years of age or older working in a residential child-caring agency shall be required to undergo a national criminal history record information check not less than once during each five-year period that he or she is working in such an agency. The individual shall submit a complete set of his or her fingerprints to the Nebraska State Patrol. The Nebraska State Patrol shall transmit a copy of the individual's fingerprints to the Federal Bureau of Investigation for a national criminal history record information check. The national criminal history record information check shall include information concerning the individual from federal repositories of such information and repositories of such information in other states, if authorized by federal law for use by the Nebraska State Patrol. The Nebraska State Patrol shall issue a report to the department that includes the information collected from the national criminal history record information check concerning the individual. The department shall seek federal funds, if available, to assist residential child-caring agencies and individuals working in a residential child-caring agency with the costs of the fingerprinting and national criminal history record information check. If the department does not receive sufficient federal funds to assist residential child-caring agencies and individuals working in a residential child-caring agency with such costs, then the individual being screened or the residential child-caring agency shall pay the actual cost of the fingerprinting and national criminal history record information check, except that the department may pay all or part of the cost if funding becomes available. The department and the Nebraska State Patrol may adopt and promulgate rules and regulations concerning the costs associated with the fingerprinting and the national criminal history record information check. The department may adopt and promulgate rules and regulations implementing national criminal history record information check requirements for residential child-caring agencies.

(2) An individual eighteen years of age or older working in a residential child-caring agency shall also submit to the following background checks not less than once during each five-year period: A search of the following registries, repositories, or data bases in the state where the individual resides and each state where the individual resided during the preceding five years:

- (a) State criminal registries or repositories;
- (b) State sex offender registries or repositories; and
- (c) State-based child abuse and neglect registries and data bases.

Source: Laws 2019, LB460, § 5; Laws 2020, LB1185, § 5.
Effective date November 14, 2020.

71-1936 Alleged violation of act; complaint; investigation; department; duties; confidentiality; immunity; report.

(1) Any person may submit a complaint to the department and request investigation of an alleged violation of the Children's Residential Facilities and Placing Licensure Act or rules and regulations adopted and promulgated under the act. The department shall review all complaints, including complaints of such violations received pursuant to section 28-711, and determine whether to conduct an investigation within five working days after receiving the complaint. In making such determination, the department may consider factors such as:

- (a) Whether the complaint pertains to a matter within the authority of the department to enforce;
- (b) Whether the circumstances indicate that a complaint is made in good faith;
- (c) Whether the complaint is timely or has been delayed too long to justify present evaluation of its merit;
- (d) Whether the complainant may be a necessary witness if action is taken and is willing to identify himself or herself and come forward to testify if action is taken; or
- (e) Whether the information provided or within the knowledge of the complainant is sufficient to provide a reasonable basis to believe that a violation has occurred or to secure necessary evidence from other sources.

(2) A complaint submitted to the department shall be confidential. An individual submitting a complaint shall be immune from criminal or civil liability of any nature, whether direct or derivative, for submitting a complaint or for disclosure of documents, records, or other information to the department.

(3) If an investigation is conducted under this section, an investigation report shall be issued within sixty days after the determination is made to conduct the investigation, except that the final investigation report may be issued within ninety days after such determination if an interim report is issued within sixty days after such determination.

Source: Laws 2013, LB265, § 13; Laws 2019, LB59, § 1.

(d) STEP UP TO QUALITY CHILD CARE ACT

71-1962 Nebraska Early Childhood Professional Record System; creation and operation; State Department of Education; duties; develop classification system for eligible staff members; use.

(1) Not later than March 1, 2014, the State Department of Education shall create and operate the Nebraska Early Childhood Professional Record System. The system shall be designed in order to:

- (a) Establish a data base of Nebraska's early childhood education workforce;
- (b) Verify educational degrees and professional credentials held and relevant training completed by employees of participating applicable child care and early childhood education programs; and
- (c) Provide such information to the Department of Health and Human Services for use in evaluating applications to be rated at a step above step one under section 71-1959.

(2) When an applicable child care or early childhood education program participating in the quality rating and improvement system developed pursuant to section 71-1955 applies under section 71-1959 to be rated at a step above step one, the child care or early childhood education program shall report the educational degrees and professional credentials held and relevant training completed by its child care and early childhood education employees to the Nebraska Early Childhood Professional Record System for the program to be eligible for a quality scale rating above step one.

(3) Any child care or early childhood education provider residing or working in Nebraska may report his or her educational degrees and professional credentials held, relevant training completed, and work history to the Nebraska Early Childhood Professional Record System.

(4) The State Department of Education shall develop a classification system for all eligible staff members as defined in section 77-3603 who are employees of or who are self-employed individuals providing services for applicable child care and early childhood education programs listed in the Nebraska Early Childhood Professional Record System. The classification system shall be based on the eligible staff members' educational degrees and professional credentials held, relevant training completed, and work history and shall be made up of four levels, with level one being the least qualified and level four being the most qualified. The minimum qualification for an eligible staff member to be classified as level one shall be a Child Development Associate Credential or a one-year certificate or diploma in early childhood education or child development. The classification system shall be used for purposes of the tax credit granted in section 77-3605.

Source: Laws 2013, LB507, § 11; Laws 2015, LB525, § 1; Laws 2016, LB889, § 9; Laws 2020, LB266, § 1.
Operative date January 1, 2020.

ARTICLE 20

HOSPITALS

(j) RECEIVERS

Section

- 71-2085. Appointment of receiver; conditions.
- 71-2086. Appointment of receiver; procedure; temporary receiver; purpose of receivership.
- 71-2087. Receiver; appointment; effect; duties.
- 71-2092. Receivership; termination; procedure; failure to terminate; effect.
- 71-2093. Receivership; payment of expenses.
- 71-2094. Action against receiver; requirements; Attorney General; defense or representation; conditions; costs.

Section

(k) MEDICAID PROGRAM VIOLATIONS

- 71-2097. Terms, defined.
71-2098. Civil penalties; department; powers.
71-20,100. Nursing Facility Penalty Cash Fund; created; use; investment.

(j) RECEIVERS

71-2085 Appointment of receiver; conditions.

The department may petition the district court of Lancaster County or the county where the health care facility is located for appointment of a receiver for a health care facility when any of the following conditions exist:

- (1) If the department determines that the health, safety, or welfare of the residents or patients is in immediate danger;
- (2) The health care facility is operating without a license;
- (3) The department has suspended, revoked, or refused to renew the existing license of the health care facility;
- (4) The health care facility is closing, or has informed the department that it intends to close, and adequate arrangements for the relocation of the residents or patients of such health care facility have not been made at least thirty days prior to closure; or
- (5) The department determines that an emergency exists, whether or not it has initiated revocation or nonrenewal procedures, and because of the unwillingness or inability of the licensee, owner, or operator to remedy the emergency, the department believes a receiver is necessary.

Source: Laws 1983, LB 274, § 2; R.S.1943, (1990), § 71-6002; Laws 1995, LB 406, § 61; Laws 2020, LB1053, § 14.
Operative date November 14, 2020.

71-2086 Appointment of receiver; procedure; temporary receiver; purpose of receivership.

(1) The department shall file the petition for the appointment of a receiver provided for in section 71-2085 in the district court of Lancaster County or the county where the health care facility is located and shall request that a receiver be appointed for the health care facility. Unless otherwise approved by the court, no person shall be appointed as a receiver for more than six health care facilities at the same time.

(2) The court shall expeditiously hold a hearing on the petition within seven days after the filing of the petition. The department shall present evidence at the hearing in support of the petition. The licensee, owner, or operator may also present evidence, and both parties may subpoena witnesses. The court may appoint a temporary receiver for the health care facility ex parte if the department, by affidavit, states that an emergency exists which presents an imminent danger of death or physical harm to the residents or patients of the health care facility. If a temporary receiver is appointed, notice of the petition and order shall be served on the licensee, owner, operator, or administrator of the health care facility within seventy-two hours after the entry of the order. The petition and order may be served by any method specified in section 25-505.01 or the court may permit substitute or constructive service as provided in section 25-517.02 when service cannot be made with reasonable diligence

by any of the methods specified in section 25-505.01. A hearing on the petition and temporary order shall be held within seventy-two hours after notice has been served unless the licensee, owner, or operator consents to a later date. After the hearing the court may terminate, continue, or modify the temporary order. If the court determines that the department did not have probable cause to submit the affidavit in support of the appointment of the temporary receiver, the court shall have the jurisdiction to determine and award compensatory damages against the state to the owner or operator. If the licensee, owner, or operator informs the court at or before the time set for hearing that the licensee, owner, or operator does not object to the petition, the court shall waive the hearing and at once appoint a receiver for the health care facility.

(3) The purpose of a receivership created under this section is to safeguard the health, safety, and continuity of care of residents and patients and to protect them from adverse health effects. A receiver shall not take any actions or assume any responsibilities inconsistent with this purpose. No person shall impede the operation of a receivership created under this section. After the appointment of a receiver, there shall be an automatic stay of any action that would interfere with the functioning of the health care facility, including, but not limited to, cancellation of insurance policies executed by the licensee, owner, or operator, termination of utility services, attachments or setoffs of resident trust funds or working capital accounts, and repossession of equipment used in the health care facility. The stay shall not apply to any licensure, certification, or injunctive action taken by the department.

Source: Laws 1983, LB 274, § 3; R.S.1943, (1990), § 71-6003; Laws 1995, LB 406, § 62; Laws 2007, LB296, § 521; Laws 2020, LB1053, § 15.

Operative date November 14, 2020.

71-2087 Receiver; appointment; effect; duties.

When a receiver is appointed under section 71-2086, the licensee, owner, or operator shall be divested of possession and control of the health care facility in favor of the receiver. The appointment of the receiver shall not affect the rights of the owner or operator to defend against any claim, suit, or action against such owner or operator or the health care facility, including, but not limited to, any licensure, certification, or injunctive action taken by the department. A receiver shall:

(1) Take such action as is reasonably necessary to protect and conserve the assets or property of which the receiver takes possession or the proceeds of any transfer of the assets or property and may use them only in the performance of the powers and duties set forth in this section and section 71-2088 or by order of the court;

(2) Apply the current revenue and current assets of the health care facility to current operating expenses and to debts incurred by the licensee, owner, or operator prior to the appointment of the receiver. The receiver may apply to the court for approval for payment of debts incurred prior to appointment if the debts appear extraordinary, of questionable validity, or unrelated to the normal and expected maintenance and operation of the health care facility or if the payment of the debts will interfere with the purposes of the receivership. The receiver shall give priority to expenditures for current, direct resident care, including nursing care, social services, dietary services, and housekeeping;

(3) Be responsible for the payment of taxes against the health care facility which become due during the receivership, including property taxes, sales and use taxes, withholding, taxes imposed pursuant to the Federal Insurance Contributions Act, and other payroll taxes, but not including state and federal taxes which are the liability of the owner or operator;

(4) Be entitled to and take possession of all property or assets of residents or patients which are in the possession of the licensee, owner, operator, or administrator of the health care facility. The receiver shall preserve all property, assets, and records of residents or patients of which the receiver takes possession and shall provide for the prompt transfer of the property, assets, and necessary and appropriate records to the alternative placement of any transferred or discharged resident;

(5) Upon order of the court, provide for the orderly transfer of all residents or patients in the health care facility to other suitable facilities if correction of violations of federal and state laws and regulations is not possible or cannot be completed in a timely manner or there are reasonable grounds to believe the health care facility cannot be operated on a sound financial basis and in compliance with all applicable federal or state laws and regulations or make other provisions for the continued health, safety, and welfare of the residents or patients;

(6) Conduct a thorough analysis of the financial records of the health care facility within the first thirty days of the receivership, perform ongoing accountings throughout the remainder of the receivership, and provide monthly reports of the financial status of the health care facility to the court and the department; and

(7) Make monthly reports to the court and the department related to plans for continued operation or sale of the health care facility.

Source: Laws 1995, LB 406, § 63; Laws 2020, LB1053, § 16.
Operative date November 14, 2020.

71-2092 Receivership; termination; procedure; failure to terminate; effect.

(1) A receivership established under section 71-2086 may be terminated by the district court which established it after a hearing upon an application for termination. The application may be filed:

(a) Jointly by the receiver and the current licensee of the health care facility which is in receivership, stating that the deficiencies in the operation, maintenance, or other circumstances which were the grounds for establishment of the receivership have been corrected and that there are reasonable grounds to believe that the health care facility will be operated in compliance with all applicable statutes and the rules and regulations adopted and promulgated pursuant thereto;

(b) By the current licensee of the health care facility, alleging that termination of the receivership is merited for the reasons set forth in subdivision (a) of this subsection, but that the receiver has declined to join in the petition for termination of the receivership;

(c) By the receiver, stating that all residents or patients of the health care facility have been relocated elsewhere and that there are reasonable grounds to believe it will not be feasible to again operate the health care facility on a sound financial basis and in compliance with federal and state laws and regulations

and asking that the court approve the surrender of the license of the health care facility to the department and the subsequent return of the control of the premises of the health care facility to the owner of the premises; or

(d) By the department (i) stating that the deficiencies in the operation, maintenance, or other circumstances which were the grounds for establishment of the receivership have been corrected and that there are reasonable grounds to believe that the health care facility will be operated in compliance with all applicable statutes and the rules and regulations adopted and promulgated pursuant thereto or (ii) stating that there are reasonable grounds to believe that the health care facility cannot be operated in compliance with federal or state law and regulations and asking that the court order the removal of the residents or patients to appropriate alternative placements, the closure of the facility, and the license, if any, surrendered to the department or that the health care facility be sold under reasonable terms approved by the court to a new owner meeting the requirements for licensure by the department.

(2) If the receivership has not been terminated within six months after the appointment of the receiver, the court shall, after hearing, order either that the health care facility be closed after an orderly transfer of the residents or patients to appropriate alternative placements or that the health care facility be sold under reasonable terms approved by the court to a new owner meeting the requirements for licensure by the department. The closure or sale shall occur within sixty days after the court order, unless ordered otherwise, to protect the health, safety, and welfare of the residents or patients.

Source: Laws 1983, LB 274, § 4; R.S.1943, (1990), § 71-6004; Laws 1995, LB 406, § 68; Laws 2020, LB1053, § 17.
Operative date November 14, 2020.

71-2093 Receivership; payment of expenses.

The health care facility for which a receiver is appointed shall be responsible for payment of the expenses of a receivership established under section 71-2086 unless the court directs otherwise. The expenses include, but are not limited to:

(1) Compensation for the receiver and any related receivership expenses approved by the court;

(2) Expenses incurred by the health care facility for the continuing care of the residents or patients of the health care facility;

(3) Expenses incurred by the health care facility for the maintenance of buildings and grounds of the health care facility; and

(4) Expenses incurred by the health care facility in the ordinary course of business, such as employees' salaries and accounts payable.

Source: Laws 1983, LB 274, § 5; R.S.1943, (1990), § 71-6005; Laws 1995, LB 406, § 69; Laws 2020, LB1053, § 18.
Operative date November 14, 2020.

71-2094 Action against receiver; requirements; Attorney General; defense or representation; conditions; costs.

(1) No person shall bring an action against a receiver appointed under section 71-2086 without first securing leave of the court. The receiver and the members and officers of the receiver are liable in their individual capacity for intentional wrongdoing or gross negligence.

(2) In all other cases, the receiver is liable in the receiver's official capacity only, and any judgment rendered shall be satisfied out of the receivership assets. The receiver is not liable in the receiver's individual capacity for the expenses of the health care facility during the receivership. The receiver is an employee of the state only for the purpose of defending a claim filed against the receiver in the receiver's official capacity. If an action is brought against a receiver in the receiver's official capacity, the receiver may file a written request for counsel with the Attorney General asserting that such civil action is based in fact upon an alleged act or omission in the course and scope of the receiver's duties. The Attorney General shall thereupon appear and defend the receiver unless after investigation the Attorney General finds that the claim or demand does not arise out of an alleged act or omission occurring in the course and scope of the receiver's duties or the act or omission complained of amounted to intentional wrongdoing or gross negligence, in which case the Attorney General shall give the receiver written notice that defense of the claim or representation before the court has been rejected.

(3) A receiver against whom a claim is made, which is not rejected by the Attorney General pursuant to subsection (2) of this section, shall cooperate fully with the Attorney General in the defense of such claim. If the Attorney General determines that such receiver has not cooperated or has otherwise acted to prejudice the defense of the claim or the appearance, the Attorney General may at any time reject the defense of the claim before the court.

(4) If the Attorney General rejects the defense of a claim pursuant to subsection (2) of this section or if it is established by the judgment ultimately rendered on the claim that the act or omission complained of was not in the course or scope of the receiver's duties or amounted to intentional wrongdoing or gross negligence, no public money shall be paid in settlement of such claim or in payment of any judgment against such receiver. Such action by the Attorney General shall not prejudice the right of the receiver to assert and establish as a defense that the claim arose out of an alleged act or omission occurring in the course and scope of the receiver's duties or that the act or omission complained of did not amount to intentional wrongdoing or gross negligence. If the receiver is successful in asserting such defense, the receiver shall be indemnified for the reasonable costs of defending the claim.

(5) If the receiver has been defended by the Attorney General and it is established by the judgment ultimately rendered on the claim that the act or omission complained of amounted to intentional wrongdoing or gross negligence, the judgment against the receiver shall provide for payment to the state of the state's costs, including a reasonable attorney's fee.

Source: Laws 1995, LB 406, § 70; Laws 2020, LB1053, § 19.
Operative date November 14, 2020.

(k) MEDICAID PROGRAM VIOLATIONS

71-2097 Terms, defined.

For purposes of sections 71-2097 to 71-20,101:

- (1) Civil penalty includes any remedy required under federal law and includes the imposition of a civil money penalty;
- (2) Department means the Department of Health and Human Services;

(3) Federal regulations for participation in the medicaid program means the regulations found in 42 C.F.R. parts 442 and 483, as amended, for participation in the medicaid program under Title XIX of the federal Social Security Act, as amended; and

(4) Nursing facility means any intermediate care facility or nursing facility, as defined in sections 71-420 and 71-424, which receives federal and state funds under Title XIX of the federal Social Security Act, as amended.

Source: Laws 1996, LB 1155, § 72; Laws 1997, LB 307, § 180; Laws 2000, LB 819, § 103; Laws 2007, LB296, § 523; Laws 2019, LB22, § 1.

71-2098 Civil penalties; department; powers.

(1) The department may assess, enforce, and collect civil penalties against a nursing facility which the department has found in violation of federal regulations for participation in the medicaid program pursuant to the authority granted to the department under section 81-604.03.

(2) If the department finds that a violation is life threatening to one or more residents or creates a direct threat of serious adverse harm to one or more residents, a civil penalty shall be imposed for each day the deficiencies which constitute the violation exist. The department may assess an appropriate civil penalty for other violations based on the nature of the violation. Any civil money penalty assessed shall not be less than fifty dollars nor more than ten thousand dollars for each day the facility is found to be in violation of such federal regulations. Any civil money penalty assessed shall include interest at the rate specified in section 45-104.02, as such rate may from time to time be adjusted.

Source: Laws 1996, LB 1155, § 73; Laws 1997, LB 307, § 181; Laws 2007, LB296, § 524; Laws 2019, LB22, § 2.

71-20,100 Nursing Facility Penalty Cash Fund; created; use; investment.

(1) The Nursing Facility Penalty Cash Fund is created. Any civil money penalty collected by the department as part of any civil penalty imposed pursuant to section 71-2098 or in accordance with the federal Social Security Act, as amended, and imposed by the Centers for Medicare and Medicaid Services pursuant to 42 C.F.R. 488.431 and disbursed to the department in accordance with 42 C.F.R. 488.433 or imposed by the department pursuant to 42 C.F.R. 488.432 shall be remitted to the State Treasurer for credit to such fund. The state investment officer shall invest any money in the fund available for investment pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) The department shall adopt and promulgate rules and regulations which establish circumstances under which the department may distribute funds from the Nursing Facility Penalty Cash Fund. Funds collected as part of a civil money penalty imposed by the Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services as described in subsection (1) of this section shall be distributed in accordance with the federal Social Security Act, as amended, and the federal regulations for participation in

the medicaid program, to support activities that benefit nursing home residents as provided in 42 C.F.R. 488.433.

Source: Laws 1996, LB 1155, § 75; Laws 1997, LB 307, § 183; Laws 2007, LB296, § 526; Laws 2019, LB22, § 3.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.
 Nebraska State Funds Investment Act, see section 72-1260.

ARTICLE 21
INFANTS

Section

- 71-2102. Abusive head trauma; legislative findings.
- 71-2103. Information for parents of newborn child; requirements.
- 71-2104. Public awareness activities; duties.

71-2102 Abusive head trauma; legislative findings.

The Legislature finds that abusive head trauma may occur when an infant or child is violently shaken as part of a pattern of abuse or because an adult has momentarily succumbed to the frustration of responding to a crying infant or child. The Legislature further finds that the injuries sustained by the infant or child can include brain swelling and damage, subdural hemorrhage, intellectual disability, or death. The Legislature further finds and declares that there is a present and growing need to provide programs aimed at reducing the number of cases of abusive head trauma in infants and children in Nebraska.

Source: Laws 2006, LB 994, § 148; Laws 2013, LB23, § 33; Laws 2019, LB60, § 2.

71-2103 Information for parents of newborn child; requirements.

Every hospital, birth center, or other medical facility that discharges a newborn child shall request that each maternity patient and father of a newborn child, if available, view a video presentation and read printed materials, approved by the Department of Health and Human Services, on the dangers of shaking infants and children, the symptoms of abusive head trauma in infants and children, the dangers associated with rough handling or the striking of an infant, safety measures which can be taken to prevent sudden infant death and abusive head trauma in infants and children, including crying plans, and the dangers associated with infants sleeping on the same surface with other children or adults. After viewing the presentation and reading the materials or upon a refusal to do so, the hospital, birth center, or other medical facility shall request that the mother and father, if available, sign a form stating that he or she has viewed and read or refused to view and read the presentation and materials. Such presentation, materials, and forms may be provided by the department.

Source: Laws 2006, LB 994, § 149; Laws 2019, LB60, § 3.

71-2104 Public awareness activities; duties.

The Department of Health and Human Services shall conduct public awareness activities designed to promote the prevention of sudden infant death syndrome and abusive head trauma in infants and children. The public aware-

ness activities may include, but not be limited to, public service announcements, information kits and brochures, and the promotion of preventive telephone hotlines.

Source: Laws 2006, LB 994, § 150; Laws 2019, LB60, § 4.

ARTICLE 24

DRUGS

(c) EMERGENCY BOX DRUG ACT

Section

- 71-2411. Terms, defined.
 71-2412. Long-term care facility; emergency boxes; use; conditions.
 71-2413. Drugs to be included in emergency boxes; requirements; removal; conditions; notification of supplying pharmacy; expired drugs; treatment; examination of emergency boxes; written procedures; establishment.

(h) CLANDESTINE DRUG LABS

- 71-2433. Property owner; law enforcement agency; Nebraska State Patrol; duties.
 (l) PRESCRIPTION DRUG MONITORING PROGRAM
 71-2454. Prescription drug monitoring; system established; provisions included; not public records.
 71-2455. Prescription drug monitoring; Department of Health and Human Services; powers and duties; Health Information Technology Board; administration.

(m) PRESCRIPTION DRUG SAFETY ACT

- 71-2457. Prescription Drug Safety Act; act, how cited.
 71-2458. Definitions, where found.
 71-2461.01. Central fill, defined.
 71-2468. Labeling, defined.
 71-2478. Legend drug not a controlled substance; written, oral, or electronic prescription; information required; controlled substance; requirements; pharmacist; authority to adapt prescription; duties; prohibited acts.
 71-2479. Legend drug not a controlled substance; prescription; retention; label; contents.

(n) DISCLOSURE OF COST, PRICE, OR COPAYMENT OF PRESCRIPTION DRUGS

- 71-2484. Information regarding cost, price, or copayment of a prescription drug; pharmacist or contracted pharmacy; authorized activities; pharmacy benefit manager; insurer; prohibited acts.

(o) OPIOID PREVENTION AND TREATMENT

- 71-2485. Act, how cited.
 71-2486. Act, purpose.
 71-2487. Legislative findings.
 71-2488. Funds appropriated or distributed; not considered entitlement or state obligation; conditions on expenditures.
 71-2489. Funds appropriated; report on use.
 71-2490. Nebraska Opioid Recovery Fund; created; use; investment.

(c) EMERGENCY BOX DRUG ACT

71-2411 Terms, defined.

For purposes of the Emergency Box Drug Act:

(1) Authorized personnel means any medical doctor, doctor of osteopathy, registered nurse, licensed practical nurse, nurse practitioner, pharmacist, or physician assistant;

(2) Calculated expiration date has the same meaning as in section 38-2808.01;

(3) Department means the Department of Health and Human Services;

(4) Drug means any prescription drug or device or legend drug or device defined under section 38-2841, any nonprescription drug as defined under section 38-2829, any controlled substance as defined under section 28-405, or any device as defined under section 38-2814;

(5) Emergency box drugs means drugs required to meet the immediate therapeutic needs of patients when the drugs are not available from any other authorized source in time to sufficiently prevent risk of harm to such patients by the delay resulting from obtaining such drugs from such other authorized source;

(6) Long-term care facility means an intermediate care facility, an intermediate care facility for persons with developmental disabilities, a long-term care hospital, a mental health substance use treatment center, a nursing facility, or a skilled nursing facility, as such terms are defined in the Health Care Facility Licensure Act;

(7) Multiple dose vial means any bottle in which more than one dose of a liquid drug is stored or contained;

(8) NDC means the National Drug Code published by the United States Food and Drug Administration;

(9) Pharmacist means a pharmacist as defined in section 38-2832 who is employed by a supplying pharmacy or who has contracted with a long-term care facility to provide consulting services; and

(10) Supplying pharmacy means a pharmacy that supplies drugs for an emergency box located in a long-term care facility. Drugs in the emergency box are owned by the supplying pharmacy.

Source: Laws 1994, LB 1210, § 183; Laws 1996, LB 1044, § 625; Laws 1997, LB 608, § 16; Laws 2000, LB 819, § 106; Laws 2001, LB 398, § 70; Laws 2007, LB296, § 540; Laws 2007, LB463, § 1194; Laws 2009, LB195, § 69; Laws 2013, LB23, § 34; Laws 2018, LB1034, § 63; Laws 2020, LB1052, § 9.
Effective date November 14, 2020.

Cross References

Health Care Facility Licensure Act, see section 71-401.

71-2412 Long-term care facility; emergency boxes; use; conditions.

(1) Drugs may be administered to residents of a long-term care facility by authorized personnel of the long-term care facility from the contents of emergency boxes located within such long-term care facility if such drugs and boxes meet the requirements of this section.

(2) When electronic or automated emergency boxes are in use in a long-term care facility, the supplying pharmacy shall have policies and procedures to ensure proper utilization of the drugs in the emergency boxes. Policies and procedures shall include who is allowed to retrieve drugs from the emergency boxes, security for the location of the emergency boxes within the long-term care facility, and other necessary provisions as determined by the pharmacist-in-charge of the supplying pharmacy.

(3) For emergency boxes that are not electronic or automated:

(a) All emergency box drugs shall be provided by and all emergency boxes containing such drugs shall be sealed by a supplying pharmacy with the seal on such emergency box to be of such a nature that it can be easily identified if it has been broken;

(b) Emergency boxes shall be stored in a medication room or other secured area within the long-term care facility. Only authorized personnel of the long-term care facility or the supplying pharmacy shall obtain access to such room or secured area, by key or combination, in order to prevent unauthorized access and to ensure a proper environment for preservation of the emergency box drugs;

(c) The exterior of each emergency box shall be labeled so as to clearly indicate that it is an emergency box for use in emergencies only. The label shall contain a listing of the drugs contained in the box, including the name, strength, route of administration, quantity, and expiration date of each drug, and the name, address, and telephone number of the supplying pharmacy; and

(d) Emergency boxes shall be inspected by a pharmacist designated by the supplying pharmacy at least once a month or after a reported usage of any drug to determine the expiration date and quantity of the drugs in the box. Every inspection shall be documented and the record retained by the long-term care facility for a period of five years.

(4) All drugs in emergency boxes shall be in the original manufacturer's or distributor's containers or shall be repackaged by the supplying pharmacy in a tight, light-resistant container and shall include the manufacturer's or distributor's name, lot number, drug name, strength, dosage form, NDC number, route of administration, and expiration date on a typewritten label. Any drug which is repackaged shall contain on the label the calculated expiration date.

Source: Laws 1994, LB 1210, § 184; Laws 2002, LB 1062, § 52; Laws 2007, LB463, § 1195; Laws 2009, LB195, § 70; Laws 2017, LB166, § 21; Laws 2020, LB1052, § 10.
Effective date November 14, 2020.

71-2413 Drugs to be included in emergency boxes; requirements; removal; conditions; notification of supplying pharmacy; expired drugs; treatment; examination of emergency boxes; written procedures; establishment.

(1) The supplying pharmacy and the medical director and quality assurance committee of the long-term care facility shall jointly determine the drugs, by identity and quantity, to be included in the emergency boxes. The supplying pharmacy shall maintain a list of emergency box drugs which is identical to the list on the exterior of the emergency box or the electronic inventory record of the emergency box and shall make such list available to the department upon request. The supplying pharmacy shall obtain a receipt upon delivery of the emergency box to the long-term care facility signed by the director of nursing of the long-term care facility or his or her designee which acknowledges that the drugs initially placed in the emergency box are identical to the initial list on the exterior of the emergency box or the electronic inventory record of the emergency box. The receipt shall be retained by the supplying pharmacy for a period of five years.

(2) Except for the removal of expired drugs as provided in subsection (4) of this section, drugs shall be removed from emergency boxes only pursuant to a prescription. Whenever access to the emergency box occurs, the prescription and proof of use shall be provided to the supplying pharmacy and shall be recorded on the resident's medical record by authorized personnel of the long-term care facility. Removal of any drug from an emergency box by authorized personnel of the long-term care facility shall be recorded on a form showing the name of the resident who received the drug, his or her room number, the name of the drug, the strength of the drug, the quantity used, the dose administered, the route of administration, the date the drug was used, the time of usage, the disposal of waste, if any, and the signature or signatures of authorized personnel. The form shall be maintained at the long-term care facility for a period of five years from the date of removal with a copy of the form to be provided to the supplying pharmacy.

(3) Whenever an emergency box is opened or otherwise accessed, the supplying pharmacy shall be notified by the charge nurse or the director of nursing of the long-term care facility within twenty-four hours and a pharmacist designated by the supplying pharmacy shall restock and refill the box, reseal the box if it is not an electronic or automated emergency box, and update the drug listing on the exterior of the emergency box or update the electronic inventory record of the emergency box as outlined in the policies and procedures of the supplying pharmacy required by section 71-2412 for an electronic or automated emergency box.

(4) Upon the expiration of any drug in the emergency box, the supplying pharmacy shall replace the expired drug, reseal the box if it is not an electronic or automated emergency box, and update the drug listing on the exterior of the emergency box or update the electronic inventory record of the emergency box as outlined in the policies and procedures of the supplying pharmacy required by section 71-2412 for an electronic or automated emergency box. Emergency box drugs shall be considered inventory of the supplying pharmacy until such time as they are removed for administration.

(5) Authorized personnel of the long-term care facility shall examine the emergency boxes once every twenty-four hours and shall immediately notify the supplying pharmacy upon discovering evidence of tampering with any emergency box. Proof of examination by authorized personnel of the long-term care facility shall be recorded and maintained at the long-term care facility for a period of five years from the date of examination.

(6) The supplying pharmacy and the medical director and quality assurance committee of the long-term care facility shall jointly establish written procedures for the safe and efficient distribution of emergency box drugs.

Source: Laws 1994, LB 1210, § 185; Laws 1999, LB 828, § 166; Laws 2001, LB 398, § 71; Laws 2009, LB195, § 71; Laws 2017, LB166, § 22; Laws 2020, LB1052, § 11.
Effective date November 14, 2020.

(h) CLANDESTINE DRUG LABS

71-2433 Property owner; law enforcement agency; Nebraska State Patrol; duties.

A property owner with knowledge of a clandestine drug lab on his or her property shall report such knowledge and location as soon as practicable to the

local law enforcement agency or to the Nebraska State Patrol. A law enforcement agency that discovers a clandestine drug lab in the State of Nebraska shall report the location of such lab to the Nebraska State Patrol within thirty days after making such discovery. Such report shall include the date of discovery of such lab, the county where the property containing such lab is located, and a legal description of the property or other description or address of such property sufficient to clearly establish its location. As soon as practicable after such discovery, the appropriate law enforcement agency shall provide the Nebraska State Patrol with a complete list of the chemicals, including methamphetamine, its precursors, solvents, and related reagents, found at or removed from the location of such lab. Upon receipt, the Nebraska State Patrol shall promptly forward a copy of such report and list to the department, the Department of Environment and Energy, the municipality or county where the lab is located, the director of the local public health department serving such municipality or county, and the property owner or owners.

Source: Laws 2006, LB 915, § 2; Laws 2019, LB302, § 88.

(l) PRESCRIPTION DRUG MONITORING PROGRAM

71-2454 Prescription drug monitoring; system established; provisions included; not public records.

(1) An entity described in section 71-2455 shall establish a system of prescription drug monitoring for the purposes of (a) preventing the misuse of controlled substances that are prescribed, (b) allowing prescribers and dispensers to monitor the care and treatment of patients for whom such a prescription drug is prescribed to ensure that such prescription drugs are used for medically appropriate purposes, (c) providing information to improve the health and safety of patients, and (d) ensuring that the State of Nebraska remains on the cutting edge of medical information technology.

(2) Such system of prescription drug monitoring shall be implemented as follows: Except as provided in subsection (4) of this section, all prescription drug information shall be reported to the prescription drug monitoring system. The prescription drug monitoring system shall include, but not be limited to, provisions that:

(a) Prohibit any patient from opting out of the prescription drug monitoring system;

(b) Require any prescription drug that is dispensed in this state or to an address in this state to be entered into the system by the dispenser or his or her delegate no less frequently than daily after such prescription drug is sold, including prescription drugs for patients paying cash or otherwise not relying on a third-party payor for payment;

(c) Allow all prescribers or dispensers of prescription drugs to access the system at no cost to such prescriber or dispenser;

(d) Ensure that such system includes information relating to all payors, including, but not limited to, the medical assistance program established pursuant to the Medical Assistance Act; and

(e) Make the prescription drug information available to the statewide health information exchange described in section 71-2455 for access by its participants if such access is in compliance with the privacy and security protections set forth in the provisions of the federal Health Insurance Portability and

Accountability Act of 1996, Public Law 104-191, and regulations promulgated thereunder, except that if a patient opts out of the statewide health information exchange, the prescription drug information regarding that patient shall not be accessible by the participants in the statewide health information exchange.

(3) Except as provided in subsection (4) of this section, prescription drug information that shall be submitted electronically to the prescription drug monitoring system shall be determined by the entity described in section 71-2455 and shall include, but not be limited to:

(a) The patient's name, address, telephone number, if a telephone number is available, gender, and date of birth;

(b) A patient identifier such as a military identification number, driver's license number, state identification card number, or other valid government-issued identification number, insurance identification number, pharmacy software-generated patient-specific identifier, or other identifier associated specifically with the patient;

(c) The name and address of the pharmacy dispensing the prescription drug;

(d) The date the prescription is issued;

(e) The date the prescription is filled;

(f) The date the prescription is sold to the patient;

(g) The number of refills authorized;

(h) The prescription number of the prescription drug;

(i) The National Drug Code number as published by the federal Food and Drug Administration of the prescription drug;

(j) The strength of the prescription drug prescribed;

(k) The quantity of the prescription drug prescribed and the number of days' supply;

(l) The prescriber's name and National Provider Identifier number or Drug Enforcement Administration number when reporting a controlled substance; and

(m) Additional information as determined by the Health Information Technology Board and as published in the submitter guide for the prescription drug monitoring system.

(4) Beginning July 1, 2018, a veterinarian licensed under the Veterinary Medicine and Surgery Practice Act shall be required to report the dispensing of prescription drugs which are controlled substances listed on Schedule II, Schedule III, Schedule IV, or Schedule V pursuant to section 28-405. Each such veterinarian shall indicate that the prescription is an animal prescription and shall include the following information in such report:

(a) The first and last name and address, including city, state, and zip code, of the individual to whom the prescription drug is dispensed in accordance with a valid veterinarian-client-patient relationship;

(b) Reporting status;

(c) The first and last name of the prescribing veterinarian and his or her federal Drug Enforcement Administration number;

(d) The National Drug Code number as published by the federal Food and Drug Administration of the prescription drug and the prescription number;

(e) The date the prescription is written and the date the prescription is filled;

(f) The number of refills authorized, if any; and

(g) The quantity of the prescription drug and the number of days' supply.

(5)(a) All prescription drug information submitted pursuant to this section, all data contained in the prescription drug monitoring system, and any report obtained from data contained in the prescription drug monitoring system are confidential, are privileged, are not public records, and may be withheld pursuant to section 84-712.05 except for information released as provided in subsection (9) or (10) of this section.

(b) No patient-identifying data as defined in section 81-664, including the data collected under subsection (3) of this section, shall be disclosed, made public, or released to any public or private person or entity except to the statewide health information exchange described in section 71-2455 and its participants, to prescribers and dispensers as provided in subsection (2) of this section, or as provided in subsection (7), (9), or (10) of this section.

(c) All other data is for the confidential use of the department and the statewide health information exchange described in section 71-2455 and its participants. The department, or the statewide health information exchange in accordance with policies adopted by the Health Information Technology Board and in collaboration with the department, may release such information in accordance with the privacy and security provisions set forth in the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, and regulations promulgated thereunder, as Class I, Class II, or Class IV data in accordance with section 81-667, except for purposes in accordance with subsection (9) or (10) of this section, to the private or public persons or entities that the department or the statewide health information exchange, in accordance with policies adopted by the Health Information Technology Board, determines may view such records as provided in sections 81-663 to 81-675. In addition, the department, or the statewide health information exchange in accordance with policies adopted by the Health Information Technology Board and in collaboration with the department, may release such information as provided in subsection (9) or (10) of this section.

(6) The statewide health information exchange described in section 71-2455, in accordance with policies adopted by the Health Information Technology Board and in collaboration with the department, shall establish the minimum administrative, physical, and technical safeguards necessary to protect the confidentiality, integrity, and availability of prescription drug information.

(7) If the entity receiving the prescription drug information has privacy protections at least as restrictive as those set forth in this section and has implemented and maintains the minimum safeguards required by subsection (6) of this section, the statewide health information exchange described in section 71-2455, in accordance with policies adopted by the Health Information Technology Board and in collaboration with the department, may release the prescription drug information and any other data collected pursuant to this section to:

(a) Other state prescription drug monitoring programs;

(b) State and regional health information exchanges;

(c) The medical director and pharmacy director of the Division of Medicaid and Long-Term Care of the department, or their designees;

(d) The medical directors and pharmacy directors of medicaid-managed care entities, the state's medicaid drug utilization review board, and any other state-administered health insurance program or its designee if any such entities have a current data-sharing agreement with the statewide health information exchange described in section 71-2455, and if such release is in accordance with the privacy and security provisions of the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, and all regulations promulgated thereunder;

(e) Organizations which facilitate the interoperability and mutual exchange of information among state prescription drug monitoring programs or state or regional health information exchanges; or

(f) Electronic health record systems or pharmacy-dispensing software systems for the purpose of integrating prescription drug information into a patient's medical record.

(8) The department, or the statewide health information exchange described in section 71-2455, in accordance with policies adopted by the Health Information Technology Board and in collaboration with the department, may release to patients their prescription drug information collected pursuant to this section. Upon request of the patient, such information may be released directly to the patient or a personal health record system designated by the patient which has privacy protections at least as restrictive as those set forth in this section and that has implemented and maintains the minimum safeguards required by subsection (6) of this section.

(9) In accordance with the privacy and security provisions set forth in the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, and regulations promulgated thereunder, the department, or the statewide health information exchange described in section 71-2455 under policies adopted by the Health Information Technology Board, may release data collected pursuant to this section for statistical, public policy, or educational purposes after removing information which identifies or could reasonably be used to identify the patient, prescriber, dispenser, or other person who is the subject of the information, except as otherwise provided in subsection (10) of this section.

(10) In accordance with the privacy and security provisions set forth in the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, and regulations promulgated thereunder, the department, or statewide health information exchange described in section 71-2455 under policies adopted by the Health Information Technology Board, may release data collected pursuant to this section for quality measures as approved or regulated by state or federal agencies or for patient quality improvement or research initiatives approved by the Health Information Technology Board.

(11) The statewide health information exchange described in section 71-2455, entities described in subsection (7) of this section, or the department may request and receive program information from other prescription drug monitoring programs for use in the prescription drug monitoring system in this state in accordance with the privacy and security provisions set forth in the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, and regulations promulgated thereunder.

(12) The statewide health information exchange described in section 71-2455, in collaboration with the department, shall implement technological improve-

ments to facilitate the secure collection of, and access to, prescription drug information in accordance with this section.

(13) Before accessing the prescription drug monitoring system, any user shall undergo training on the purpose of the system, access to and proper usage of the system, and the law relating to the system, including confidentiality and security of the prescription drug monitoring system. Such training shall be administered by the statewide health information exchange described in section 71-2455 or the department. The statewide health information exchange described in section 71-2455 shall have access to the prescription drug monitoring system for training operations, maintenance, and administrative purposes. Users who have been trained prior to May 10, 2017, or who are granted access by an entity receiving prescription drug information pursuant to subsection (7) of this section, are deemed to be in compliance with the training requirement of this subsection.

(14) For purposes of this section:

(a) Deliver or delivery means to actually, constructively, or attempt to transfer a drug or device from one person to another, whether or not for consideration;

(b) Department means the Department of Health and Human Services;

(c) Delegate means any licensed or registered health care professional credentialed under the Uniform Credentialing Act designated by a prescriber or dispenser to act as an agent of the prescriber or dispenser for purposes of submitting or accessing data in the prescription drug monitoring system and who is supervised by such prescriber or dispenser;

(d) Prescription drug or drugs means a prescription drug or drugs dispensed by delivery to the ultimate user or caregiver by or pursuant to the lawful order of a prescriber but does not include (i) the delivery of such prescription drug for immediate use for purposes of inpatient hospital care or emergency department care, (ii) the administration of a prescription drug by an authorized person upon the lawful order of a prescriber, (iii) a wholesale distributor of a prescription drug monitored by the prescription drug monitoring system, or (iv) the dispensing to a nonhuman patient of a prescription drug which is not a controlled substance listed in Schedule II, Schedule III, Schedule IV, or Schedule V of section 28-405;

(e) Dispenser means a person authorized in the jurisdiction in which he or she is practicing to deliver a prescription drug to the ultimate user or caregiver by or pursuant to the lawful order of a prescriber;

(f) Participant means an individual or entity that has entered into a participation agreement with the statewide health information exchange described in section 71-2455 which requires the individual or entity to comply with the privacy and security protections set forth in the provisions of the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, and regulations promulgated thereunder; and

(g) Prescriber means a health care professional authorized to prescribe in the profession which he or she practices.

Source: Laws 2011, LB237, § 1; Laws 2014, LB1072, § 1; Laws 2016, LB471, § 1; Laws 2017, LB223, § 1; Laws 2018, LB1034, § 65; Laws 2019, LB556, § 4; Laws 2020, LB1183, § 7.
Effective date August 8, 2020.

Cross References

Medical Assistance Act, see section 68-901.

Uniform Credentialing Act, see section 38-101.

Veterinary Medicine and Surgery Practice Act, see section 38-3301.

71-2455 Prescription drug monitoring; Department of Health and Human Services; powers and duties; Health Information Technology Board; administration.

Subject to sections 81-6,127 and 81-6,128, the Department of Health and Human Services, in collaboration with the Nebraska Health Information Initiative or any successor public-private statewide health information exchange, shall enhance or establish technology for prescription drug monitoring to carry out the purposes of section 71-2454. The department may use state funds and accept grants, gifts, or other funds in order to implement and operate the technology. The department may adopt and promulgate rules and regulations to authorize use of electronic health information, if necessary to carry out the purposes of sections 71-2454 and 71-2455. The department shall contract with the statewide health information exchange for the administration of the Health Information Technology Board, and such contract shall specify that the health information exchange is responsible for the administration of the Health Information Technology Board, including, but not limited to, providing meeting notices, recording and distributing meeting minutes, administrative tasks related to the same, and funding such activities. The contract shall also include provisions for the statewide health information exchange to reimburse the expenses of the members of the board pursuant to subsection (5) of section 81-6,127. Such reimbursement shall be paid using a process essentially similar to sections 81-1174 to 81-1177. No state funds, including General Funds, cash funds, and federal funds, shall be used to carry out the administrative duties of the Health Information Technology Board nor for reimbursement of the expenses of the board members.

Source: Laws 2011, LB237, § 2; Laws 2014, LB1072, § 2; Laws 2020, LB1183, § 8.
Effective date August 8, 2020.

(m) PRESCRIPTION DRUG SAFETY ACT

71-2457 Prescription Drug Safety Act; act, how cited.

Sections 71-2457 to 71-2483 shall be known and may be cited as the Prescription Drug Safety Act.

Source: Laws 2015, LB37, § 1; Laws 2020, LB1052, § 12.
Effective date November 14, 2020.

71-2458 Definitions, where found.

For purposes of the Prescription Drug Safety Act, the definitions found in sections 71-2459 to 71-2476 apply.

Source: Laws 2015, LB37, § 2; Laws 2020, LB1052, § 13.
Effective date November 14, 2020.

71-2461.01 Central fill, defined.

Central fill means the preparation, other than by compounding, of a drug, device, or biological pursuant to a medical order where the preparation occurs in a pharmacy other than the pharmacy dispensing to the patient or caregiver.

Source: Laws 2020, LB1052, § 14.

Effective date November 14, 2020.

71-2468 Labeling, defined.

Labeling means the process of preparing and affixing a label to any drug container or device container, exclusive of the labeling by a manufacturer, packager, or distributor of a nonprescription drug or commercially packaged legend drug or device. Any such label shall include all information required by section 71-2479 and federal law or regulation. Compliance with labeling requirements under federal law for devices described in subsection (2) of section 38-2841, medical gases, and medical gas devices constitutes compliance with state law and regulations for purposes of this section. Labeling does not include affixing an auxiliary sticker or other such notation to a container after a drug has been dispensed when the sticker or notation is affixed by a person credentialed under the Uniform Credentialing Act in a facility licensed under the Health Care Facility Licensure Act.

Source: Laws 2015, LB37, § 12; Laws 2020, LB1052, § 15.

Effective date November 14, 2020.

Cross References

Health Care Facility Licensure Act, see section 71-401.

Uniform Credentialing Act, see section 38-101.

71-2478 Legend drug not a controlled substance; written, oral, or electronic prescription; information required; controlled substance; requirements; pharmacist; authority to adapt prescription; duties; prohibited acts.

(1) Except as otherwise provided in this section or the Uniform Controlled Substances Act or except when administered directly by a practitioner to an ultimate user, a legend drug which is not a controlled substance shall not be dispensed without a written, oral, or electronic prescription. Such prescription shall be valid for twelve months after the date of issuance.

(2) A prescription for a legend drug which is not a controlled substance shall contain the following information prior to being filled by a pharmacist or practitioner who holds a pharmacy license under subdivision (1) of section 38-2850: (a) Patient's name, (b) name of the drug, device, or biological, (c) strength of the drug or biological, if applicable, (d) dosage form of the drug or biological, (e) quantity of the drug, device, or biological prescribed, (f) directions for use, (g) date of issuance, (h) number of authorized refills, including pro re nata or PRN refills, (i) prescribing practitioner's name, and (j) if the prescription is written, prescribing practitioner's signature. Prescriptions for controlled substances must meet the requirements of sections 28-414 and 28-414.01.

(3)(a) A pharmacist who is exercising reasonable care and who has obtained patient consent may do the following:

(i) Change the quantity of a drug prescribed if:

(A) The prescribed quantity or package size is not commercially available; or

(B) The change in quantity is related to a change in dosage form;

(ii) Change the dosage form of the prescription if it is in the best interest of the patient and if the directions for use are also modified to equate to an equivalent amount of drug dispensed as prescribed;

(iii) Dispense multiple months' supply of a drug if a prescription is written with sufficient refills; and

(iv) Substitute any chemically equivalent drug product for a prescribed drug to comply with a drug formulary which is covered by the patient's health insurance plan unless the prescribing practitioner specifies "no substitution", "dispense as written", or "D.A.W." to indicate that substitution is not permitted. If a pharmacist substitutes any chemically equivalent drug product as permitted under this subdivision, the pharmacist shall provide notice to the prescribing practitioner or the prescribing practitioner's designee. If drug product selection occurs involving a generic substitution, the drug product selection shall comply with section 38-28,111.

(b) A pharmacist who adapts a prescription in accordance with this subsection shall document the adaptation in the patient's pharmacy record.

(4) A written, signed paper prescription may be transmitted to the pharmacy via facsimile which shall serve as the original written prescription. An electronic prescription may be electronically or digitally signed and transmitted to the pharmacy and may serve as the original prescription.

(5) It shall be unlawful for any person knowingly or intentionally to possess or to acquire or obtain or to attempt to acquire or obtain, by means of misrepresentation, fraud, forgery, deception, or subterfuge, possession of any drug substance not classified as a controlled substance under the Uniform Controlled Substances Act which can only be lawfully dispensed, under federal statutes in effect on January 1, 2015, upon the written or oral prescription of a practitioner authorized to prescribe such substances.

Source: Laws 2015, LB37, § 22; Laws 2017, LB166, § 24; Laws 2020, LB1052, § 16.
Effective date November 14, 2020.

Cross References

Uniform Controlled Substances Act, see section 28-401.01.

71-2479 Legend drug not a controlled substance; prescription; retention; label; contents.

(1) Any prescription for a legend drug which is not a controlled substance shall be kept by the pharmacy or the practitioner who holds a pharmacy license in a readily retrievable format and shall be maintained for a minimum of five years. The pharmacy or practitioner shall make all such files readily available to the department and law enforcement for inspection without a search warrant.

(2) Before dispensing a legend drug which is not a controlled substance pursuant to a written, oral, or electronic prescription, a label shall be affixed to the container in which the drug is dispensed. Such label shall bear (a) the name, address, and telephone number of the pharmacy or practitioner and the central fill pharmacy if central fill is used, (b) the name of the patient, (c) the date of filling, (d) the serial number of the prescription under which it is recorded in the practitioner's prescription records, (e) the name of the prescribing practitioner, (f) the directions for use, (g) the name of the drug, device, or

biological unless instructed to omit by the prescribing practitioner, (h) the strength of the drug or biological, if applicable, (i) the quantity of the drug, device, or biological in the container, except unit-dose containers, (j) the dosage form of the drug or biological, and (k) any cautionary statements contained in the prescription.

(3) For multidrug containers, more than one drug, device, or biological may be dispensed in the same container when (a) such container is prepackaged by the manufacturer, packager, or distributor and shipped directly to the pharmacy in this manner or (b) the container does not accommodate greater than a thirty-one-day supply of compatible dosage units and is labeled to identify each drug or biological in the container in addition to all other information required by law.

Source: Laws 2015, LB37, § 23; Laws 2017, LB166, § 25; Laws 2020, LB1052, § 17.
Effective date November 14, 2020.

(n) DISCLOSURE OF COST, PRICE, OR COPAYMENT
OF PRESCRIPTION DRUGS

71-2484 Information regarding cost, price, or copayment of a prescription drug; pharmacist or contracted pharmacy; authorized activities; pharmacy benefit manager; insurer; prohibited acts.

(1) For purposes of this section:

(a) Contracted pharmacy means a pharmacy located in this state that participates either in the network of a pharmacy benefit manager or in a health care or pharmacy benefits management plan through a direct contract or through a contract with a pharmacy services administration organization, a group purchasing organization, or another contracting agent;

(b) Covered entity means (i) a nonprofit hospital or medical services corporation, an insurer, a third-party payor, a managed care company, or a health maintenance organization, (ii) a health program administered by the state in the capacity of provider of health insurance coverage, or (iii) an employer, a labor union, or any other group of persons organized in the state that provides health insurance coverage;

(c) Covered individual means a member, participant, enrollee, contract holder, policyholder, or beneficiary of a covered entity who is provided health insurance coverage by the covered entity and includes a dependent or other person provided health insurance coverage through a policy, contract, or plan for a covered individual;

(d)(i) Insurer means any person providing life insurance, sickness and accident insurance, workers' compensation insurance, or annuities in this state.

(ii) Insurer includes an authorized insurance company, a prepaid hospital or medical care plan, a managed care plan, a health maintenance organization, any other person providing a plan of insurance subject to state insurance regulation, and an employer who is approved by the Nebraska Workers' Compensation Court as a self-covered entity;

(e) Pharmacist has the same meaning as in section 38-2832;

(f) Pharmacy has the same meaning as in section 71-425;

(g) Pharmacy benefit manager means a person or an entity that performs pharmacy benefits management services for a covered entity and includes any other person or entity acting on behalf of a pharmacy benefit manager pursuant to a contractual or employment relationship;

(h) Pharmacy benefits management means the administration or management of prescription drug benefits provided by a covered entity under the terms and conditions of the contract between the pharmacy benefit manager and the covered entity; and

(i) Prescription drug means a prescription drug or device or legend drug or device as defined in section 38-2841.

(2) A pharmacist or contracted pharmacy shall not be prohibited from or subject to penalties or removal from a network or plan for sharing information regarding the cost, price, or copayment of a prescription drug with a covered individual or a covered individual's caregiver. A pharmacy benefit manager shall not prohibit or inhibit a pharmacist or contracted pharmacy from discussing any such information or selling a more affordable alternative to a covered individual or a covered individual's caregiver.

(3) An insurer that offers a health plan which covers prescription drugs shall not require a covered individual to make a payment for a prescription drug at the point of sale in an amount that exceeds the lesser of:

(a) The covered individual's copayment, deductible, or coinsurance for such prescription drug; or

(b) The amount any individual would pay for such prescription drug if that individual paid in cash.

Source: Laws 2019, LB316, § 1.

(o) OPIOID PREVENTION AND TREATMENT

71-2485 Act, how cited.

Sections 71-2485 to 71-2490 shall be known and may be cited as the Opioid Prevention and Treatment Act.

Source: Laws 2020, LB1124, § 1.
Effective date November 14, 2020.

71-2486 Act, purpose.

The purpose of the Opioid Prevention and Treatment Act is to provide for the use of dedicated revenue for opioid-disorder-related treatment and prevention.

Source: Laws 2020, LB1124, § 2.
Effective date November 14, 2020.

71-2487 Legislative findings.

The Legislature finds that:

(1) There is an opioid epidemic occurring in the United States, and Nebraska has been impacted;

(2) Many states are recovering funds for the management of opioid addiction within their borders;

(3) Coordination surrounding and managing opioid addiction and related disorders is critical to the health and safety of all Nebraskans;

(4) Funding for prevention and treatment of opioid addiction and related disorders, including those that are co-occurring with other mental health and substance use disorders, is needed in Nebraska;

(5) Law enforcement agencies in the State of Nebraska are dealing with the effects of the opioid epidemic daily and are in need of resources for training, education, and interdiction;

(6) There is a need to enhance the network of professionals who provide treatment for opioid addiction and related disorders, including co-occurring mental health disorders and other co-occurring substance use disorders;

(7) There is a need for education of medical professionals, including training on proper prescription practices and best practices for tapering patients off of prescribed opioids for medical use;

(8) Incarcerated individuals in the Nebraska correctional system and other vulnerable populations with opioid use disorder need access to resources that will help address addiction; and

(9) The health and safety of all Nebraskans will be improved by the abatement of opioid addiction in the State of Nebraska.

Source: Laws 2020, LB1124, § 3.

Effective date November 14, 2020.

71-2488 Funds appropriated or distributed; not considered entitlement or state obligation; conditions on expenditures.

Any funds appropriated or distributed under the Opioid Prevention and Treatment Act shall not be considered ongoing entitlements or an obligation on the part of the State of Nebraska. Any funds appropriated or distributed under the act shall be spent in accordance with the terms of any verdict, judgment, compromise, or settlement in or out of court, of any case or controversy brought by the Attorney General pursuant to the Consumer Protection Act or the Uniform Deceptive Trade Practices Act.

Source: Laws 2020, LB1124, § 4.

Effective date November 14, 2020.

Cross References

Consumer Protection Act, see section 59-1623.

Uniform Deceptive Trade Practices Act, see section 87-306.

71-2489 Funds appropriated; report on use.

The Department of Health and Human Services shall report annually on or before December 15 to the Legislature, the Governor, and the Attorney General regarding the use of funds appropriated under the Opioid Prevention and Treatment Act and the outcomes achieved from such use. The reports submitted to the Legislature shall be submitted electronically.

Source: Laws 2020, LB1124, § 5.

Effective date November 14, 2020.

71-2490 Nebraska Opioid Recovery Fund; created; use; investment.

(1) The Nebraska Opioid Recovery Fund is created. The fund shall include all recoveries received on behalf of the state by the Department of Justice pursuant to the Consumer Protection Act or the Uniform Deceptive Trade Practices Act

related to the advertising of opioids. The fund shall include any money, payments, or other things of value in the nature of civil damages or other payment, except criminal penalties, whether such recovery is by way of verdict, judgment, compromise, or settlement in or out of court, of any case or controversy pursuant to such acts. The Department of Justice shall remit any such revenue to the State Treasurer for credit to the Nebraska Opioid Recovery Fund.

(2) Any funds appropriated, expended, or distributed from the Nebraska Opioid Recovery Fund shall be spent in accordance with the terms of any verdict, judgment, compromise, or settlement in or out of court, of any case or controversy brought by the Attorney General pursuant to the Consumer Protection Act or the Uniform Deceptive Trade Practices Act.

(3) The fund shall exclude funds held in a trust capacity where specific benefits accrue to specific individuals, organizations, political subdivisions, or governments. Such excluded funds shall be deposited in the State Settlement Trust Fund pursuant to section 59-1608.05.

(4) Any money in the Nebraska Opioid Recovery 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.

Source: Laws 2020, LB1124, § 6.

Effective date November 14, 2020.

Cross References

Consumer Protection Act, see section 59-1623.

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

Uniform Deceptive Trade Practices Act, see section 87-306.

ARTICLE 26

STATE BOARD OF HEALTH

Section

71-2605. Board; members; per diem; expenses.

71-2605 Board; members; per diem; expenses.

The members of the State Board of Health shall receive the sum of twenty dollars per diem, while actually engaged in the business of the board, and shall be reimbursed for expenses incurred in the performance of their duties as provided in sections 81-1174 to 81-1177.

Source: Laws 1953, c. 335, § 11, p. 1103; Laws 1981, LB 204, § 123; Laws 2020, LB381, § 63.

Operative date January 1, 2021.

ARTICLE 32

PRIVATE DETECTIVES

Section

71-3204. Secretary of State; rules and regulations; fees.

71-3204 Secretary of State; rules and regulations; fees.

(1) The secretary may adopt and promulgate and alter from time to time rules and regulations relating to the administration of, but not inconsistent with, sections 71-3201 to 71-3213.

(2) The secretary shall establish fees for initial and renewal applications for applicants at rates sufficient to cover the costs of administering sections 71-3201 to 71-3213. The secretary shall remit the fees received pursuant to this section to the State Treasurer for credit to the Secretary of State Cash Fund.

Source: Laws 1959, c. 329, § 4, p. 1197; Laws 2002, Second Spec. Sess., LB 25, § 1; Laws 2020, LB910, § 31.
Operative date July 1, 2021.

ARTICLE 34

REDUCTION IN MORBIDITY AND MORTALITY

(b) CHILD AND MATERNAL DEATHS

Section

71-3405. Terms, defined.

71-3406. State Child and Maternal Death Review Team; core members; terms; chairperson; not considered public body; meetings; expenses.

(b) CHILD AND MATERNAL DEATHS

71-3405 Terms, defined.

For purposes of the Child and Maternal Death Review Act:

- (1) Child means a person from birth to eighteen years of age;
- (2) Investigation of child death means a review of existing records and other information regarding the child from relevant agencies, professionals, and providers of medical, dental, prenatal, and mental health care. The records to be reviewed may include, but not be limited to, medical records, coroner's reports, autopsy reports, social services records, records of alternative response cases under alternative response implemented in accordance with sections 28-710.01, 28-712, and 28-712.01, educational records, emergency and paramedic records, and law enforcement reports;
- (3) Investigation of maternal death means a review of existing records and other information regarding the woman from relevant agencies, professionals, and providers of medical, dental, prenatal, and mental health care. The records to be reviewed may include, but not be limited to, medical records, coroner's reports, autopsy reports, social services records, educational records, emergency and paramedic records, and law enforcement reports;
- (4) Maternal death means the death of a woman during pregnancy or the death of a postpartum woman;
- (5) Postpartum woman means a woman during the period of time beginning when the woman ceases to be pregnant and ending one year after the woman ceases to be pregnant;
- (6) Preventable child or maternal death means the death of any child or pregnant or postpartum woman which reasonable medical, social, legal, psychological, or educational intervention may have prevented. Preventable child or maternal death includes, but is not limited to, the death of a child or pregnant or postpartum woman from (a) intentional and unintentional injuries, (b) medical misadventures, including untoward results, malpractice, and foreseeable complications, (c) lack of access to medical care, (d) neglect and reckless conduct, including failure to supervise and failure to seek medical care for various reasons, and (e) preventable premature birth;

(7) Reasonable means taking into consideration the condition, circumstances, and resources available; and

(8) Team means the State Child and Maternal Death Review Team.

Source: Laws 1993, LB 431, § 2; Laws 2013, LB361, § 2; Laws 2014, LB853, § 46; Laws 2020, LB1061, § 10.
Effective date November 14, 2020.

71-3406 State Child and Maternal Death Review Team; core members; terms; chairperson; not considered public body; meetings; expenses.

(1) The chief executive officer of the Department of Health and Human Services shall appoint a minimum of twelve and a maximum of fifteen members to the State Child and Maternal Death Review Team. The core members shall be (a) a physician employed by the department, who shall be a permanent member and shall serve as the chairperson of the team, (b) a senior staff member with child protective services of the department, (c) a forensic pathologist, (d) a law enforcement representative, (e) the Inspector General of Nebraska Child Welfare, and (f) an attorney. The remaining members appointed may be, but shall not be limited to, the following: A county attorney; a Federal Bureau of Investigation agent responsible for investigations on Native American reservations; a social worker; and members of organizations which represent hospitals or physicians. The department shall be responsible for the general administration of the activities of the team and shall employ or contract with a team coordinator to provide administrative support for the team.

(2) Members shall serve four-year terms with the exception of the chairperson. In the absence of the chairperson, the chief executive officer may appoint another member of the core team to serve as chairperson.

(3) The team shall not be considered a public body for purposes of the Open Meetings Act. The team shall meet a minimum of four times a year. Members of the team shall be reimbursed for expenses as provided in sections 81-1174 to 81-1177.

Source: Laws 1993, LB 431, § 3; Laws 1996, LB 1044, § 648; Laws 1997, LB 307, § 187; Laws 1998, LB 1073, § 125; Laws 2003, LB 467, § 1; Laws 2004, LB 821, § 17; Laws 2007, LB296, § 563; Laws 2013, LB269, § 12; Laws 2013, LB361, § 3; Laws 2020, LB381, § 64.

Operative date January 1, 2021.

Cross References

Open Meetings Act, see section 84-1407.

ARTICLE 35

RADIATION CONTROL AND RADIOACTIVE WASTE

(a) RADIATION CONTROL ACT

Section
71-3503. Terms, defined.

(a) RADIATION CONTROL ACT

71-3503 Terms, defined.

For purposes of the Radiation Control Act, unless the context otherwise requires:

(1) Radiation means ionizing radiation and nonionizing radiation as follows:

(a) Ionizing radiation means gamma rays, X-rays, alpha and beta particles, high-speed electrons, neutrons, protons, and other atomic or nuclear particles or rays but does not include sound or radio waves or visible, infrared, or ultraviolet light; and

(b) Nonionizing radiation means (i) any electromagnetic radiation which can be generated during the operations of electronic products to such energy density levels as to present a biological hazard to occupational and public health and safety and the environment, other than ionizing electromagnetic radiation, and (ii) any sonic, ultrasonic, or infrasonic waves which are emitted from an electronic product as a result of the operation of an electronic circuit in such product and to such energy density levels as to present a biological hazard to occupational and public health and safety and the environment;

(2) Radioactive material means any material, whether solid, liquid, or gas, which emits ionizing radiation spontaneously. Radioactive material includes, but is not limited to, accelerator-produced material, byproduct material, naturally occurring material, source material, and special nuclear material;

(3) Radiation-generating equipment means any manufactured product or device, component part of such a product or device, or machine or system which during operation can generate or emit radiation except devices which emit radiation only from radioactive material;

(4) Sources of radiation means any radioactive material, any radiation-generating equipment, or any device or equipment emitting or capable of emitting radiation or radioactive material;

(5) Undesirable radiation means radiation in such quantity and under such circumstances as determined from time to time by rules and regulations adopted and promulgated by the department;

(6) Person means any individual, corporation, partnership, limited liability company, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, any other state or political subdivision or agency thereof, and any legal successor, representative, agent, or agency of the foregoing;

(7) Registration means registration with the department pursuant to the Radiation Control Act;

(8) Department means the Department of Health and Human Services;

(9) Administrator means the administrator of radiation control designated pursuant to section 71-3504;

(10) Electronic product means any manufactured product, device, assembly, or assemblies of such products or devices which, during operation in an electronic circuit, can generate or emit a physical field of radiation;

(11) License means:

(a) A general license issued pursuant to rules and regulations adopted and promulgated by the department without the filing of an application with the department or the issuance of licensing documents to particular persons to transfer, acquire, own, possess, or use quantities of or devices or equipment utilizing radioactive materials;

(b) A specific license, issued to a named person upon application filed with the department pursuant to the Radiation Control Act and rules and regulations

adopted and promulgated pursuant to the act, to use, manufacture, produce, transfer, receive, acquire, own, or possess quantities of or devices or equipment utilizing radioactive materials; or

(c) A license issued to a radon measurement specialist, radon mitigation specialist, radon measurement business, or radon mitigation business;

(12) Byproduct material means:

(a) Any radioactive material, except special nuclear material, yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material;

(b) The tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content, including discrete surface wastes resulting from uranium or thorium solution extraction processes. Underground ore bodies depleted by such solution extraction operations do not constitute byproduct material;

(c)(i) Any discrete source of radium-226 that is produced, extracted, or converted after extraction for use for a commercial, medical, or research activity; or

(ii) Any material that (A) has been made radioactive by use of a particle accelerator and (B) is produced, extracted, or converted after extraction for use for a commercial, medical, or research activity; and

(d) Any discrete source of naturally occurring radioactive material, other than source material, that:

(i) The United States Nuclear Regulatory Commission, in consultation with the Administrator of the United States Environmental Protection Agency, the United States Secretary of Energy, the United States Secretary of Homeland Security, and the head of any other appropriate federal agency, determines would pose a threat similar to the threat posed by a discrete source of radium-226 to the public health and safety or the common defense and security; and

(ii) Is extracted or converted after extraction for use in a commercial, medical, or research activity;

(13) Source material means:

(a) Uranium or thorium or any combination thereof in any physical or chemical form; or

(b) Ores which contain by weight one-twentieth of one percent or more of uranium, thorium, or any combination thereof. Source material does not include special nuclear material;

(14) Special nuclear material means:

(a) Plutonium, uranium 233, or uranium enriched in the isotope 233 or in the isotope 235 and any other material that the United States Nuclear Regulatory Commission pursuant to the provisions of section 51 of the federal Atomic Energy Act of 1954, as amended, determines to be special nuclear material but does not include source material; or

(b) Any material artificially enriched by any material listed in subdivision (14)(a) of this section but does not include source material;

(15) Users of sources of radiation means:

(a) Physicians using radioactive material or radiation-generating equipment for human use;

(b) Natural persons using radioactive material or radiation-generating equipment for education, research, or development purposes;

(c) Natural persons using radioactive material or radiation-generating equipment for manufacture or distribution purposes;

(d) Natural persons using radioactive material or radiation-generating equipment for industrial purposes; and

(e) Natural persons using radioactive material or radiation-generating equipment for any other similar purpose;

(16) Civil penalty means any monetary penalty levied on a licensee or registrant because of violations of statutes, rules, regulations, licenses, or registration certificates but does not include criminal penalties;

(17) Closure means all activities performed at a waste handling, processing, management, or disposal site, such as stabilization and contouring, to assure that the site is in a stable condition so that only minor custodial care, surveillance, and monitoring are necessary at the site following termination of licensed operation;

(18) Decommissioning means final operational activities at a facility to dismantle site structures, to decontaminate site surfaces and remaining structures, to stabilize and contain residual radioactive material, and to carry out any other activities to prepare the site for postoperational care;

(19) Disposal means the permanent isolation of low-level radioactive waste pursuant to the Radiation Control Act and rules and regulations adopted and promulgated pursuant to such act;

(20) Generate means to produce low-level radioactive waste when used in relation to low-level radioactive waste;

(21) High-level radioactive waste means:

(a) Irradiated reactor fuel;

(b) Liquid wastes resulting from the operation of the first cycle solvent extraction system or equivalent and the concentrated wastes from subsequent extraction cycles or the equivalent in a facility for reprocessing irradiated reactor fuel; and

(c) Solids into which such liquid wastes have been converted;

(22) Low-level radioactive waste means radioactive waste not defined as high-level radioactive waste, spent nuclear fuel, or byproduct material as defined in subdivision (12)(b) of this section;

(23) Management of low-level radioactive waste means the handling, processing, storage, reduction in volume, disposal, or isolation of such waste from the biosphere in any manner;

(24) Source material mill tailings or mill tailings means the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content, including discrete surface wastes resulting from underground solution extraction processes, but not including underground ore bodies depleted by such solution extraction processes;

(25) Source material milling means any processing of ore, including underground solution extraction of unmined ore, primarily for the purpose of extracting or concentrating uranium or thorium therefrom and which results in the production of source material and source material mill tailings;

(26) Spent nuclear fuel means irradiated nuclear fuel that has undergone at least one year of decay since being used as a source of energy in a power reactor. Spent nuclear fuel includes the special nuclear material, byproduct material, source material, and other radioactive material associated with fuel assemblies;

(27) Transuranic waste means radioactive waste material containing alpha-emitting radioactive elements, with radioactive half-lives greater than five years, having an atomic number greater than 92 in concentrations in excess of one hundred nanocuries per gram;

(28) Licensed practitioner means a person licensed to practice medicine, dentistry, podiatry, chiropractic, osteopathic medicine and surgery, or as an osteopathic physician;

(29) X-ray system means an assemblage of components for the controlled production of X-rays, including, but not limited to, an X-ray high-voltage generator, an X-ray control, a tube housing assembly, a beam-limiting device, and the necessary supporting structures. Additional components which function with the system are considered integral parts of the system;

(30) Licensed facility operator means any person or entity who has obtained a license under the Low-Level Radioactive Waste Disposal Act to operate a facility, including any person or entity to whom an assignment of a license is approved by the Department of Environment and Energy; and

(31) Deliberate misconduct means an intentional act or omission by a person that (a) would intentionally cause a licensee, registrant, or applicant for a license or registration to be in violation of any rule, regulation, or order of or any term, condition, or limitation of any license or registration issued by the department under the Radiation Control Act or (b) constitutes an intentional violation of a requirement, procedure, instruction, contract, purchase order, or policy under the Radiation Control Act by a licensee, a registrant, an applicant for a license or registration, or a contractor or subcontractor of a licensee, registrant, or applicant for a license or registration.

Source: Laws 1963, c. 406, § 3, p. 1297; Laws 1975, LB 157, § 3; Laws 1978, LB 814, § 3; Laws 1984, LB 716, § 3; Laws 1987, LB 390, § 4; Laws 1989, LB 342, § 32; Laws 1990, LB 1064, § 17; Laws 1993, LB 121, § 434; Laws 1993, LB 536, § 83; Laws 1995, LB 406, § 42; Laws 1996, LB 1044, § 651; Laws 1996, LB 1201, § 1; Laws 2002, LB 93, § 12; Laws 2002, LB 1021, § 71; Laws 2005, LB 301, § 42; Laws 2006, LB 994, § 103; Laws 2007, LB296 § 566; Laws 2007, LB463, § 1209; Laws 2008, LB928, § 23; Laws 2012, LB794, § 1; Laws 2019, LB302, § 89.

Cross References

Low-Level Radioactive Waste Disposal Act, see section 81-1578.

ARTICLE 37

BRAIN INJURY TRUST FUND ACT

Section

71-3701. Act, how cited.

71-3702. Terms, defined.

71-3703. Brain Injury Oversight Committee; created; members; terms; meetings; expenses.

71-3704. Committee; duties.

71-3705. Brain Injury Trust Fund; created; use; investment.

71-3706. Legislative intent.

71-3701 Act, how cited.

Sections 71-3701 to 71-3706 shall be known and may be cited as the Brain Injury Trust Fund Act.

Source: Laws 2019, LB481, § 1.

71-3702 Terms, defined.

For purposes of the Brain Injury Trust Fund Act:

(1) Brain injury has the definition found in section 81-654; and

(2) Committee means the Brain Injury Oversight Committee created in section 71-3703.

Source: Laws 2019, LB481, § 2.

71-3703 Brain Injury Oversight Committee; created; members; terms; meetings; expenses.

(1) The Brain Injury Oversight Committee is created. The committee shall consist of nine public members and the following directors, or their designees: The Commissioner of Education; the Director of Behavioral Health of the Department of Health and Human Services; and the Director of Public Health of the Department of Health and Human Services. The Governor shall appoint the nine public members which shall include individuals with a brain injury or family members of individuals with a brain injury, a representative of a public or private health-related organization, a representative of a developmental disability advisory or planning group within Nebraska, a representative of service providers for individuals with a brain injury, and a representative of a nonprofit brain injury advocacy organization.

(2) The Governor shall appoint the public members within ninety days after July 15, 2020. The Governor shall designate the initial terms so that three members serve one-year terms, three members serve two-year terms, and three members serve three-year terms. Their successors shall be appointed for four-year terms. Any vacancy shall be filled from the same category for the remainder of the unexpired term. Any member of the committee shall be eligible for reappointment. At least one member of the committee shall be appointed from each congressional district.

(3) The committee shall select a chairperson and such other officers as it deems necessary to perform its functions and shall establish policies to govern its procedures. The committee shall meet at least four times annually, and at any other time as the business of the committee requires, and shall meet at such place as may be established by the chairperson. The public members of the

committee shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177.

Source: Laws 2019, LB481, § 3.

71-3704 Committee; duties.

The committee shall:

- (1) Provide financial oversight and direction to the University of Nebraska Medical Center in the management of the Brain Injury Trust Fund;
- (2) Develop criteria for expenditures from the Brain Injury Trust Fund; and
- (3) Represent the interests of individuals with a brain injury and their families through advocacy, education, training, rehabilitation, research, and prevention.

Source: Laws 2019, LB481, § 4.

71-3705 Brain Injury Trust Fund; created; use; investment.

(1) The Brain Injury Trust Fund is created. The fund shall consist of appropriations from the Legislature, transfers authorized by the Legislature, grants, and any contributions designated for the purpose of the fund. 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.

(2)(a) The fund shall be administered through a contract with the University of Nebraska Medical Center for administration, accounting, and budgeting purposes and used to pay for contracts for assistance for individuals with a brain injury with outside sources that specialize in the area of brain injury. Such outside sources shall operate, at a minimum, statewide, and also in targeted areas as defined and determined in the contract, with individuals with a brain injury; work to secure and develop community-based services for individuals with a brain injury; provide support groups and access to pertinent information, medical resources, and service referrals for individuals with a brain injury; and educate professionals who work with individuals with a brain injury.

(b) Expenditures from the fund may also include, but not be limited to:

(i) Resource facilitation. Resource facilitation shall be given priority and made available to provide ongoing support for individuals with a brain injury and their families for coping with brain injuries. Resource facilitation may provide a linkage to existing services and increase the capacity of the state's providers of services to individuals with a brain injury by providing brain-injury-specific information, support, and resources and enhancing the usage of support commonly available in a community. Agencies providing resource facilitation shall specialize in providing services to individuals with a brain injury and their families;

(ii) Voluntary training for service providers in the appropriate provision of services to individuals with a brain injury;

(iii) Followup contact to provide information on brain injuries for individuals on the brain injury registry established in the Brain Injury Registry Act;

(iv) Activities to promote public awareness of brain injury and prevention methods;

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- (v) Supporting research in the field of brain injury;
 - (vi) Providing and monitoring quality improvement processes with standards of care among brain injury service providers; and
 - (vii) Collecting data and evaluating how the needs of individuals with a brain injury and their families are being met in this state.
- (c) No more than ten percent of the fund shall be used for administration of the fund.
- (d) Data collection and evaluation pursuant to this section shall not be a burden or unnecessary hardship to individuals with a brain injury or service providers.
- (e) Nothing in this section shall require a professional, provider, caregiver, or individual to receive training as a condition of receiving or providing nonmedical services to individuals with a brain injury.

Source: Laws 2019, LB481, § 5.

Cross References

Brain Injury Registry Act, see section 81-653.

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

71-3706 Legislative intent.

It is the intent of the Legislature to appropriate five hundred thousand dollars from the Nebraska Health Care Cash Fund annually beginning in fiscal year 2020-21 to the Brain Injury Trust Fund for purposes of carrying out the Brain Injury Trust Fund Act.

Source: Laws 2019, LB481, § 6.

ARTICLE 44

RABIES

Section

- 71-4401. Terms, defined.
- 71-4402.01. Repealed. Laws 2019, LB61, § 7.
- 71-4402.03. Control and prevention of rabies; rules and regulations.
- 71-4403. Veterinarian; vaccination for rabies; certificate; contents.
- 71-4406. Post-incident management.
- 71-4407. Domestic or hybrid animal or livestock; postexposure management.

71-4401 Terms, defined.

For purposes of sections 71-4401 to 71-4412, unless the context otherwise requires:

- (1) Compendium means the Compendium of Animal Rabies Prevention and Control as published by the National Association of State Public Health Veterinarians;
- (2) Department means the Department of Health and Human Services;
- (3) Domestic animal means any dog of the species *Canis familiaris*, cat of the species *Felis domesticus*, or ferret of the species *Mustela putorius furo*, and cat means a cat which is a household pet;
- (4) Hybrid animal means any animal which is the product of the breeding of a domestic dog with a nondomestic canine species;

(5) Own, unless otherwise specified, means to possess, keep, harbor, or have control of, charge of, or custody of a domestic or hybrid animal. This term does not apply to domestic or hybrid animals owned by other persons which are temporarily maintained on the premises of a veterinarian or kennel operator for a period of not more than thirty days;

(6) Owner means any person possessing, keeping, harboring, or having charge or control of any domestic or hybrid animal or permitting any domestic or hybrid animal to habitually be or remain on or be lodged or fed within such person's house, yard, or premises. This term does not apply to veterinarians or kennel operators temporarily maintaining on their premises domestic or hybrid animals owned by other persons for a period of not more than thirty days;

(7) Rabies control authority means county, township, city, or village health and law enforcement officials who shall enforce sections 71-4401 to 71-4412 relating to the vaccination and impoundment of domestic or hybrid animals. Such public officials are not responsible for any accident or disease of a domestic or hybrid animal resulting from the enforcement of such sections; and

(8) Vaccination against rabies means the inoculation of a domestic or hybrid animal with a United States Department of Agriculture-licensed rabies vaccine administered consistent with its labeling. Such vaccination shall be performed by a veterinarian duly licensed to practice veterinary medicine in the State of Nebraska or licensed in the state where the vaccination was administered.

Source: Laws 1969, c. 445, § 1, p. 1484; Laws 1987, LB 104, § 1; Laws 1996, LB 1044, § 674; Laws 2000, LB 1115, § 75; Laws 2007, LB25, § 1; Laws 2007, LB296, § 585; Laws 2019, LB61, § 1.

71-4402.01 Repealed. Laws 2019, LB61, § 7.

71-4402.03 Control and prevention of rabies; rules and regulations.

To protect the health, safety, and welfare of the public and to ensure, to the greatest extent possible, efficient and adequate practices, the department shall adopt and promulgate rules and regulations for the control and prevention of rabies. Such rules and regulations shall generally comply with the compendium and the recommendations of the Centers for Disease Control and Prevention of the United States Public Health Service of the United States Department of Health and Human Services. The department may consider changes in the compendium and recommendations of the Centers for Disease Control and Prevention of the United States Public Health Service of the United States Department of Health and Human Services when adopting and promulgating such rules and regulations.

Source: Laws 2007, LB25, § 4; Laws 2019, LB61, § 2.

71-4403 Veterinarian; vaccination for rabies; certificate; contents.

It shall be the duty of each veterinarian, at the time of vaccinating any domestic or hybrid animal, to complete a certificate of rabies vaccination which shall include, but not be limited to, the following information:

(1) The owner's name and address;

(2) An adequate description of the domestic or hybrid animal, including, but not limited to, such items as the domestic or hybrid animal's breed, sex, age, name, and distinctive markings;

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- (3) The date of vaccination;
- (4) The rabies vaccination tag number;
- (5) The type of rabies vaccine administered by dosage and number of years of effectiveness;
- (6) The manufacturer's serial number of the vaccine used; and
- (7) The date by which the next vaccination is due.

Such veterinarian shall issue a tag with the certificate of vaccination.

Source: Laws 1969, c. 445, § 3, p. 1485; Laws 1987, LB 104, § 3; Laws 2007, LB25, § 5; Laws 2019, LB61, § 3.

71-4406 Post-incident management.

Any domestic animal which has bitten any person or caused an abrasion of the skin of any person shall be subjected to post-incident management as provided in rules and regulations adopted and promulgated by the department.

Source: Laws 1969, c. 445, § 6, p. 1486; Laws 1987, LB 104, § 6; Laws 1989, LB 51, § 1; Laws 2007, LB25, § 8; Laws 2019, LB61, § 4.

71-4407 Domestic or hybrid animal or livestock; postexposure management.

Domestic or hybrid animals or livestock known to have been exposed to a confirmed or suspected rabid animal shall be subjected to postexposure management as provided in rules and regulations adopted and promulgated by the department.

Source: Laws 1969, c. 445, § 7, p. 1487; Laws 1987, LB 104, § 7; Laws 2007, LB25, § 9; Laws 2019, LB61, § 5.

ARTICLE 45

PALLIATIVE CARE AND QUALITY OF LIFE ACT

Section

71-4504. Palliative Care and Quality of Life Advisory Council; created; duties; members; meetings; expenses.

71-4504 Palliative Care and Quality of Life Advisory Council; created; duties; members; meetings; expenses.

(1) The Palliative Care and Quality of Life Advisory Council is created. The council shall consult with and advise the Department of Health and Human Services on matters relating to palliative care initiatives. The council shall:

(a) Survey palliative care providers regarding best practices and recommendations;

(b) Work with the department; and

(c) Make recommendations to the department regarding information on the web site pursuant to section 71-4503 as standards of care change.

(2) The council shall be composed of nine members appointed by the Governor for three-year terms. At least two of the members shall be physicians or nurses certified under the Hospice and Palliative Medicine Certification Program administered by the American Board of Internal Medicine. One member shall be an employee of the department familiar with hospice and palliative medicine. The remaining members shall (a) have palliative care work

experience, (b) have experience with palliative care delivery models in a variety of settings, such as acute care, long-term care, and hospice care, and with a variety of populations, including pediatric patients, youth patients, and adult patients, or (c) be representatives of palliative care patients and their family caregivers.

(3) The council shall meet at least twice each calendar year. The members shall elect a chairperson and vice-chairperson. The members shall be reimbursed for expenses as provided in sections 81-1174 to 81-1177 but shall not receive any other compensation for such services.

(4) The department shall provide a place and time for the council to meet and provide staffing assistance as necessary for the meetings.

Source: Laws 2017, LB323, § 4; Laws 2020, LB381, § 65.
Operative date January 1, 2021.

ARTICLE 47

HEARING

(b) COMMISSION FOR THE DEAF AND HARD OF HEARING

Section

71-4720. Commission for the Deaf and Hard of Hearing; created; members; appointment; qualifications.

71-4723. Members; expenses.

71-4728.05. Interpreter Review Board; members; duties; expenses.

(d) LANGUAGE ASSESSMENT PROGRAM

71-4745. Terms, defined.

71-4746. Language assessment program; children from birth through five years of age; scope; report.

71-4747. Advisory committee; members; meetings; quorum; duties; termination.

(b) COMMISSION FOR THE DEAF AND HARD OF HEARING

71-4720 Commission for the Deaf and Hard of Hearing; created; members; appointment; qualifications.

There is hereby created the Commission for the Deaf and Hard of Hearing which shall consist of nine members to be appointed by the Governor subject to approval by the Legislature. The commission members shall include three deaf persons, three hard of hearing persons, and three persons who have an interest in and knowledge of deafness and hearing loss issues. A majority of the commission members who are deaf or hard of hearing shall be able to express themselves through sign language. Employees of any state agency other than employees of the commission shall be eligible to serve on the commission. When appointing members to the commission, the Governor shall consider recommendations from individuals, organizations, and the public.

Source: Laws 1979, LB 101, § 1; Laws 1981, LB 250, § 1; Laws 1987, LB 376, § 16; Laws 1995, LB 25, § 1; Laws 1997, LB 851, § 12; Laws 2019, LB248, § 6.

71-4723 Members; expenses.

The members of the commission shall receive no compensation for their services as such but shall be reimbursed for expenses in attending meetings of

the commission and in carrying out their official duties as provided in sections 81-1174 to 81-1177.

Source: Laws 1979, LB 101, § 4; Laws 1981, LB 204, § 131; Laws 2020, LB381, § 66.

Operative date January 1, 2021.

71-4728.05 Interpreter Review Board; members; duties; expenses.

(1) The commission shall appoint the Interpreter Review Board as required in section 20-156.

(2) Members of the Interpreter Review Board shall be as follows:

(a) A representative of the Department of Health and Human Services and the executive director of the commission or his or her designee, both of whom shall serve continuously and without limitation;

(b) One qualified interpreter, appointed for a term to expire on June 30, 2008;

(c) One representative of local government, appointed for a term to expire on June 30, 2008;

(d) One deaf or hard of hearing person, appointed for a term to expire on June 30, 2009;

(e) One qualified interpreter, appointed for a term to expire on June 30, 2009;

(f) One deaf or hard of hearing person, appointed for a term to expire on June 30, 2010; and

(g) One representative of local government, appointed for a term to expire on June 30, 2010.

(3) Upon the expiration of the terms described in subsection (2) of this section, members other than those identified in subdivision (2)(a) of this section shall be appointed for terms of three years. No such member may serve more than two consecutive three-year terms beginning June 30, 2007, except that members whose terms have expired shall continue to serve until their successors have been appointed and qualified.

(4) The commission may remove a member of the board for inefficiency, neglect of duty, or misconduct in office after delivering to such member a copy of the charges and a public hearing in accordance with the Administrative Procedure Act. If a vacancy occurs on the board, the commission shall appoint another member with the same qualifications as the vacating member to serve the remainder of the term. The members of the board shall receive no compensation but shall be reimbursed for expenses as provided in sections 81-1174 to 81-1177 in attending meetings of the commission and in carrying out their official duties as provided in this section and section 20-156.

(5) The board shall establish policies, standards, and procedures for evaluating and licensing interpreters, including, but not limited to, testing, training, issuance, renewal, and denial of licenses, continuing education and continuing competency assessment, investigation of complaints, and disciplinary actions against a license pursuant to section 20-156.

Source: Laws 2002, LB 22, § 17; Laws 2006, LB 87, § 5; Laws 2007, LB296, § 590; Laws 2020, LB381, § 67.

Operative date January 1, 2021.

Cross References

Administrative Procedure Act, see section 84-920.

(d) LANGUAGE ASSESSMENT PROGRAM

71-4745 Terms, defined.

For purposes of sections 71-4745 to 71-4747:

(1) Communication means a two-way, interactive process to convey meaning from one person or group to another through the use of mutually understood signs, symbols, or voice;

(2) Credentialed teacher of the deaf means a certificated teacher with a special education endorsement in deaf or hard of hearing education;

(3) English means English literacy, spoken English, signing exact English and morphemic system of signs, conceptually accurate signed English, cued speech, and any other visual supplements;

(4) Language means a complex and dynamic system of conventional symbols that is used in various modes for thought and communication; and

(5) Literacy includes the developmental stages of literacy, which are necessary beginning stages to master a language and which include pre-emergent, emergent, and novice levels.

Source: Laws 2020, LB965, § 4.

Effective date November 14, 2020.

71-4746 Language assessment program; children from birth through five years of age; scope; report.

(1) The State Department of Education, in collaboration with the Commission for the Deaf and Hard of Hearing, shall establish and coordinate a language assessment program for children who are deaf or hard of hearing. The program shall assess, monitor, and track the language developmental milestones for children from birth through five years of age who are deaf or hard of hearing. The scope of the program shall include children who use one or more communication modes in American Sign Language, English literacy, and, if applicable, spoken English and visual supplements.

(2) Language assessments shall be given as needed to each child who is deaf or hard of hearing and who is less than six years of age in compliance with the Special Education Act and the federal Individuals with Disabilities Education Act, as such act existed on January 1, 2020. Such language assessments shall be provided in accordance with the provisions of this section and any recommendations adopted pursuant to this section.

(3) On or before December 31, 2022, and on or before each December 31 thereafter, the State Department of Education and the Commission for the Deaf and Hard of Hearing shall publish a joint report that is specific to language and literacy developmental milestones for each age from birth through five years of age of children who are deaf or hard of hearing, including children who are deaf or hard of hearing and have another disability, relative to such children's peers who are not deaf or hard of hearing. Such report shall be based on existing data annually reported by the State Department of Education in compliance with the federally required state performance plan on pupils with disabilities. The State Department of Education and the Commission for the

Deaf and Hard of Hearing shall each publish the report on their respective web sites. The report shall be electronically submitted to the Education Committee of the Legislature and the Clerk of the Legislature.

Source: Laws 2020, LB965, § 5.
Effective date November 14, 2020.

Cross References

Special Education Act, see section 79-1110.

71-4747 Advisory committee; members; meetings; quorum; duties; termination.

(1) The Commission for the Deaf and Hard of Hearing shall appoint an advisory committee to advise the commission regarding all aspects of the language assessment program established pursuant to section 71-4746. The advisory committee shall consist of fourteen members as follows:

(a) One member shall be a credentialed teacher of the deaf who uses both American Sign Language and English during instruction;

(b) One member shall be a credentialed teacher of the deaf who uses spoken English, with or without visual supplements, during instruction;

(c) One member shall be a credentialed teacher of the deaf who has expertise in curriculum development and instruction for American Sign Language and English;

(d) One member shall be a credentialed teacher of the deaf who has expertise in assessing language development in both American Sign Language and English;

(e) One member shall be a speech language pathologist who has experience working with children from birth through five years of age;

(f) One member shall be a professional with a linguistic background who conducts research on language outcomes of children who are deaf or hard of hearing and who uses both American Sign Language and English;

(g) One member shall be a parent of a child who is deaf or hard of hearing and who uses both American Sign Language and English;

(h) One member shall be a parent of a child who is deaf or hard of hearing and who uses spoken English with or without visual supplements;

(i) One member shall be knowledgeable about teaching and using both American Sign Language and English in the education of children who are deaf or hard of hearing;

(j) One member shall be a community member representing the deaf community;

(k) One member shall be a community member representing the hard of hearing community;

(l) One member shall be the state liaison for any regional programs for the education of children who are deaf or hard of hearing, coordinated through the State Department of Education, or the state liaison's designee;

(m) One member shall be a member of the Commission for the Deaf and Hard of Hearing; and

(n) One member shall be the coordinator of a network that provides service coordination for children with special needs who are below three years of age or the coordinator's designee.

(2) On or before December 30, 2020, the executive director of the Commission for the Deaf and Hard of Hearing shall call an organizational meeting of the advisory committee. At such organizational meeting, the members shall elect a chairperson and vice-chairperson from the membership of the advisory committee. The advisory committee may meet at any time and at any place within the state on the call of the chairperson. A quorum of the advisory committee shall be six members. All actions of the advisory committee shall be by motion adopted by a majority of those members present when there is a quorum.

(3) On or before July 1, 2022, the advisory committee shall develop specific action plans and make recommendations necessary to fully implement the language assessment program. The advisory committee shall:

(a) Collaborate with the coordinating council for a network that provides service coordination for children with special needs who are below three years of age and an advisory council that provides policy guidance to the State Department of Education;

(b) Solicit input from professionals trained in the language development and education of children who are deaf or hard of hearing on the selection of specific language developmental milestones;

(c) Review and recommend the use of existing and available language assessments for children who are deaf or hard of hearing;

(d) Recommend qualifications for identifying language professionals with knowledge of the use of evidence-based, best practices in English and American Sign Language who can be available to advocate at individualized family service plan or individualized education program team meetings;

(e) Recommend qualifications for identifying language assessment evaluators with knowledge of the use of evidence-based, best practices with children who are deaf or hard of hearing and the resources for locating such evaluators; and

(f) Recommend procedures and methods for communicating information on language acquisition, assessment results, milestones, assessment tools used, and progress of the child to the parent or legal guardian of such child and the teachers and other professionals involved in the early intervention and education of such child.

(4) The specific action plans and recommendations developed by the advisory committee shall include, but are not limited to, the following:

(a) Language assessments that include data collection and timely tracking of the child's development so as to provide information about the child's receptive and expressive language compared to such child's linguistically age-appropriate peers who are not deaf or hard of hearing;

(b) Language assessments conducted in accordance with standardized norms and timelines in order to monitor and track language developmental milestones in receptive, expressive, social, and pragmatic language acquisition and developmental stages to show progress in American Sign Language literacy, English literacy, or both, for all children from birth through five years of age who are deaf or hard of hearing;

(c) Language assessments delivered in the child's mode of communication and which have been validated for the specific purposes for which each assessment is used, and appropriately normed;

(d) Language assessments administered by individuals who are proficient in American Sign Language for American Sign Language assessments and English for English assessments;

(e) Use of assessment results, in addition to the results of the assessment required by federal law, for guidance in the language developmental discussions by individualized family service plan or individualized education program team meetings when assessing the child's progress in language development;

(f) Reporting of assessment results to the parents or legal guardian of the child and any applicable agency;

(g) Reporting of assessment results on an aggregated basis to the Education Committee of the Legislature, the Clerk of the Legislature, and the Governor; and

(h) Reporting of assessment results to the members of the child's individualized family service plan or individualized education program team, which assessment results may be used, in addition to the results of the assessment required by federal law, by the child's individualized family service plan or individualized education program team, as applicable, to track the child's progress, and to establish or modify the individualized family service plan or individualized education program.

(5) The advisory committee appointed pursuant to this section shall terminate on July 1, 2022.

Source: Laws 2020, LB965, § 6.

Effective date November 14, 2020.

ARTICLE 48

ANATOMICAL GIFTS

(c) BONE MARROW DONATIONS

Section

71-4819. Department of Health and Human Services; education regarding bone marrow donors; powers and duties.

71-4821. Physician; inquire of new patient; provide information.

(c) BONE MARROW DONATIONS

71-4819 Department of Health and Human Services; education regarding bone marrow donors; powers and duties.

(1) The Department of Health and Human Services shall educate residents of the state about:

(a) The need for bone marrow donors;

(b) Patient populations benefiting from bone marrow donations;

(c) How to acquire a free buccal swab kit from a bone marrow registry;

(d) The procedures required to become registered as a potential bone marrow donor, including the procedures for determining tissue type; and

(e) The medical procedures a donor must undergo to donate bone marrow and the attendant risks of the procedures.

(2) The department shall provide information and educational materials to the public regarding bone marrow donation. The department shall seek assistance from the national marrow donor program to establish a system to distribute materials, ensure that the materials are updated periodically, and fully disclose the risks involved in donating bone marrow. The department shall make special efforts to educate and recruit persons of racial and ethnic minorities to volunteer as potential bone marrow donors.

(3) The department may use the press, radio, and television and may place educational materials in appropriate health care facilities, blood banks, and state and local agencies. The department, in conjunction with the Director of Motor Vehicles, shall make educational materials available at all places where motor vehicle operators' licenses are issued or renewed.

Source: Laws 1992, LB 1099, § 1; Laws 1996, LB 1044, § 685; Laws 2007, LB296, § 601; Laws 2020, LB541, § 1.
Effective date November 14, 2020.

71-4821 Physician; inquire of new patient; provide information.

Each physician may inquire of a new patient who is at least eighteen years of age and younger than forty-five years of age on the new patient's intake form as to whether the patient is registered with the bone marrow registry. If the patient states that the patient is not registered with the bone marrow registry, the physician may provide information developed and disseminated by the Department of Health and Human Services regarding the bone marrow registry to the patient.

Source: Laws 2020, LB541, § 2.
Effective date November 14, 2020.

ARTICLE 53

DRINKING WATER

(a) NEBRASKA SAFE DRINKING WATER ACT

Section

71-5302. Drinking water and monitoring standards; harmful materials; how determined; applicability; priority system.

(b) DRINKING WATER STATE REVOLVING FUND ACT

71-5316. Terms, defined.

71-5318. Drinking Water Facilities Loan Fund; Land Acquisition and Source Water Loan Fund; Drinking Water Administration Fund; created; use; investment.

71-5325. Loan terms.

71-5327. Reserves authorized.

(a) NEBRASKA SAFE DRINKING WATER ACT

71-5302 Drinking water and monitoring standards; harmful materials; how determined; applicability; priority system.

(1) The director shall adopt and promulgate necessary minimum drinking water standards, in the form of rules and regulations, to insure that drinking water supplied to consumers through all public water systems shall not contain amounts of chemical, radiological, physical, or bacteriological material determined by the director to be harmful to human health.

(2) The director may adopt and promulgate rules and regulations to require the monitoring of drinking water supplied to consumers through public water

systems for chemical, radiological, physical, or bacteriological material determined by the director to be potentially harmful to human health.

(3) In determining what materials are harmful or potentially harmful to human health and in setting maximum levels for such harmful materials, the director shall be guided by:

(a) General knowledge of the medical profession and related scientific fields as to materials and substances which are harmful to humans if ingested through drinking water; and

(b) General knowledge of the medical profession and related scientific fields as to the maximum amounts of such harmful materials which may be ingested by human beings, over varying lengths of time, without resultant adverse effects on health.

(4) Subject to section 71-5310, state drinking water standards shall apply to each public water system in the state, except that such standards shall not apply to a public water system:

(a) Which consists only of distribution and storage facilities and does not have any collection and treatment facilities;

(b) Which obtains all of its water from, but is not owned or operated by, a public water system to which such standards apply;

(c) Which does not sell water to any person; and

(d) Which is not a carrier which conveys passengers in interstate commerce.

(5) The director may adopt alternative monitoring requirements for public water systems in accordance with section 1418 of the federal Safe Drinking Water Act, as such section existed on May 22, 2001.

(6) The director may adopt a system for the ranking of safe drinking water projects with known needs or for which loan applications have been received by the director or the Department of Environment and Energy. In establishing the ranking system the director shall consider, among other things, the risk to human health, compliance with the federal Safe Drinking Water Act, as the act existed on May 22, 2001, and assistance to systems most in need based upon affordability criteria adopted by the director. This priority system shall be reviewed annually by the director.

Source: Laws 1976, LB 821, § 2; Laws 1988, LB 383, § 3; Laws 1997, LB 517, § 18; Laws 2001, LB 667, § 30; Laws 2007, LB296, § 609; Laws 2019, LB302, § 90.

Cross References

Drinking water, standards for pesticide levels, see section 2-2626.

(b) DRINKING WATER STATE REVOLVING FUND ACT

71-5316 Terms, defined.

For purposes of the Drinking Water State Revolving Fund Act, unless the context otherwise requires:

(1) Safe Drinking Water Act means the federal Safe Drinking Water Act, as the act existed on October 23, 2018;

(2) Construction means any of the following: Preliminary planning to determine the feasibility of a safe drinking water project for a public water system;

engineering, architectural, legal, fiscal, or economic investigations or studies; surveys, designs, plans, working drawings, specifications, procedures, or other necessary preliminary actions; erection, building, acquisition, alteration, remodeling, improvement, or extension of public water systems; or the inspection or supervision of any of such items;

(3) Council means the Environmental Quality Council;

(4) Department means the Department of Environment and Energy;

(5) Director means the Director of Environment and Energy;

(6) Operate and maintain means all necessary activities, including the normal replacement of equipment or appurtenances, to assure the dependable and economical function of a public water system in accordance with its intended purpose;

(7) Owner means any person owning or operating a public water system;

(8) Public water system has the definition found in section 71-5301; and

(9) Safe drinking water project means the structures, equipment, surroundings, and processes required to establish and operate a public water system.

Source: Laws 1997, LB 517, § 5; Laws 2001, LB 667, § 45; Laws 2019, LB302, § 91; Laws 2019, LB307, § 1.

71-5318 Drinking Water Facilities Loan Fund; Land Acquisition and Source Water Loan Fund; Drinking Water Administration Fund; created; use; investment.

(1) The Drinking Water Facilities Loan Fund is created. The fund shall be held as a trust fund for the purposes and uses described in the Drinking Water State Revolving Fund Act.

The fund shall consist of federal capitalization grants, state matching appropriations, proceeds of state match bond issues credited to the fund, repayments of principal and interest on loans, transfers made pursuant to section 71-5327, and other money designated for the fund. The director may make loans from the fund pursuant to the Drinking Water State Revolving Fund Act and may conduct activities related to financial administration of the fund, administration or provision of technical assistance through public water system source water assessment programs, and implementation of a source water petition program under the Safe Drinking Water Act. The state investment officer shall invest any money in the fund available for investment pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act, except that any bond proceeds in the fund shall be invested in accordance with the terms of the documents under which the bonds are issued. The state investment officer may direct that the bond proceeds shall be deposited with the bond trustee for investment. Investment earnings shall be credited to the fund.

The department may create or direct the creation of accounts within the fund as the department determines to be appropriate and useful in administering the fund and in providing for the security, investment, and repayment of bonds.

The fund and the assets thereof may be used, to the extent permitted by the Safe Drinking Water Act and the regulations adopted and promulgated pursuant to such act, to pay or to secure the payment of bonds and the interest thereon, except that amounts deposited into the fund from state appropriations

and the earnings on such appropriations may not be used to pay or to secure the payment of bonds or the interest thereon.

The director may transfer any money in the Drinking Water Facilities Loan Fund to the Wastewater Treatment Facilities Construction Loan Fund to meet the purposes of section 71-5327. The director shall identify any such transfer in the intended use plan presented to the council for annual review and adoption pursuant to section 71-5321.

(2) The Land Acquisition and Source Water Loan Fund is created. The fund shall be held as a trust for the purposes and uses described in the Drinking Water State Revolving Fund Act.

The fund shall consist of federal capitalization grants, state matching appropriations, proceeds of state match bond issues credited to the fund, repayments of principal and interest on loans, and other money designated for the fund. The director may make loans from the fund pursuant to the Drinking Water State Revolving Fund Act and may, in consultation with the Director of Public Health of the Division of Public Health, conduct activities other than the making of loans permitted under section 1452(k) of the Safe Drinking Water Act. The state investment officer shall invest any money in the fund available for investment pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act, except that any bond proceeds in the fund shall be invested in accordance with the terms of the documents under which the bonds are issued. The state investment officer may direct that the bond proceeds shall be deposited with the bond trustee for investment. Investment earnings shall be credited to the fund.

The department may create or direct the creation of accounts within the fund as the department determines to be appropriate and useful in administering the fund and in providing for security, investment, and repayment of bonds.

The fund and assets thereof may be used, to the extent permitted by the Safe Drinking Water Act and the regulations adopted and promulgated pursuant to such act, to pay or secure the payment of bonds and the interest thereon, except that amounts credited to the fund from state appropriations and the earnings on such appropriations may not be used to pay or to secure the payment of bonds or the interest thereon.

The director may transfer any money in the Land Acquisition and Source Water Loan Fund to the Drinking Water Facilities Loan Fund.

(3) There is hereby created the Drinking Water Administration Fund. Any funds available for administering loans or fees collected pursuant to the Drinking Water State Revolving Fund Act shall be remitted to the State Treasurer for credit to such fund. The fund shall be administered by the department for the purposes of the act. The state investment officer shall invest any money in the fund available for investment pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Investment earnings shall be credited to the fund.

The fund and assets thereof may be used, to the extent permitted by the Safe Drinking Water Act and the regulations adopted and promulgated pursuant to such act, to fund subdivisions (9), (10), and (11) of section 71-5322. The annual obligation of the state pursuant to subdivisions (9) and (11) of section 71-5322 shall not exceed sixty-five percent of the revenue from administrative fees collected pursuant to section 71-5321 in the prior fiscal year.

The director may transfer any money in the Drinking Water Administration Fund to the Drinking Water Facilities Loan Fund to meet the state matching appropriation requirements of any applicable federal capitalization grants or to meet the purposes of subdivision (9) of section 71-5322.

Source: Laws 1997, LB 517, § 7; Laws 2001, LB 667, § 46; Laws 2007, LB80, § 1; Laws 2007, LB296, § 620; Laws 2019, LB307, § 2.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

71-5325 Loan terms.

Loan terms shall include, but not be limited to, the following:

- (1) The term of the loan shall not exceed thirty years, except for systems serving disadvantaged communities which term may not exceed forty years;
- (2) The interest rate shall be at or below market interest rates;
- (3) The annual principal and interest payment shall commence not later than one year after completion of any project; and
- (4) The loan recipient shall immediately repay any loan when a grant has been received which covers costs provided for by such loan.

Source: Laws 1997, LB 517, § 14; Laws 2019, LB307, § 3.

71-5327 Reserves authorized.

At any time after the first year the fund is effective the director may: (1) Reserve a dollar amount equal to thirty-three percent of a capitalization grant made pursuant to section 1452 of the Safe Drinking Water Act and add the funds reserved to any funds provided to the state pursuant to section 601 of the Federal Water Pollution Control Act; and (2) reserve in any year a dollar amount up to the dollar amount that may be reserved under subdivision (1) of this section of the capitalization grants made pursuant to section 601 of the Federal Water Pollution Control Act and add the reserved funds to any funds provided to the state pursuant to section 1452 of the federal Safe Drinking Water Act.

Source: Laws 1997, LB 517, § 16; Laws 2019, LB307, § 4.

ARTICLE 56

RURAL HEALTH

(d) RURAL HEALTH SYSTEMS AND PROFESSIONAL INCENTIVE ACT

Section

71-5657. Commission members; expenses.

(d) RURAL HEALTH SYSTEMS AND PROFESSIONAL INCENTIVE ACT

71-5657 Commission members; expenses.

Members of the commission shall be reimbursed for expenses as provided in sections 81-1174 to 81-1177 from funds appropriated for the Rural Health Systems and Professional Incentive Act.

Source: Laws 1991, LB 400, § 8; Laws 2020, LB381, § 68.
Operative date January 1, 2021.

ARTICLE 57

SMOKING AND TOBACCO

(d) NEBRASKA CLEAN INDOOR AIR ACT

Section

71-5716.	Act, how cited.
71-5717.	Purpose of act.
71-5718.	Definitions, where found.
71-5718.01.	Electronic smoking device, defined.
71-5718.02.	Electronic smoking device retail outlet, defined; persons allowed to enter; employees; age restrictions.
71-5727.	Smoke or smoking, defined.
71-5730.	Exemptions; legislative findings; legislative intent.
71-5735.	Tobacco retail outlet; sign required; waiver signed by employee; form; owner; duties.

(d) NEBRASKA CLEAN INDOOR AIR ACT

71-5716 Act, how cited.

Sections 71-5716 to 71-5735 shall be known and may be cited as the Nebraska Clean Indoor Air Act.

Source: Laws 2008, LB395, § 1; Laws 2015, LB118, § 8; Laws 2020, LB840, § 1.

Effective date November 14, 2020.

71-5717 Purpose of act.

The purpose of the Nebraska Clean Indoor Air Act is to protect the public health and welfare by prohibiting smoking in public places and places of employment with limited exceptions for guestrooms and suites, research, tobacco retail outlets, electronic smoking device retail outlets, and cigar shops. The limited exceptions permit smoking in public places where the public would reasonably expect to find persons smoking, including guestrooms and suites which are subject to expectations of privacy like private residences, institutions engaged in research related to smoking, and tobacco retail outlets, electronic smoking device retail outlets, and cigar shops which provide the public legal retail outlets to sample, use, and purchase tobacco products and products related to smoking. The act shall not be construed to prohibit or otherwise restrict smoking in outdoor areas. The act shall not be construed to permit smoking where it is prohibited or otherwise restricted by other applicable law, ordinance, or resolution. The act shall be liberally construed to further its purpose.

Source: Laws 2008, LB395, § 2; Laws 2015, LB118, § 9; Laws 2020, LB840, § 2.

Effective date November 14, 2020.

71-5718 Definitions, where found.

For purposes of the Nebraska Clean Indoor Air Act, the definitions found in sections 71-5718.01 to 71-5728 apply.

Source: Laws 2008, LB395, § 3; Laws 2020, LB840, § 3.

Effective date November 14, 2020.

71-5718.01 Electronic smoking device, defined.

Electronic smoking device means an electronic nicotine delivery system as defined in section 28-1418.01. The term includes any such device regardless of whether it is manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, or vape pen or under any other product name or descriptor. The term also includes any substance that is used in an electronic smoking device. The term does not include a diffuser, humidifier, prescription inhaler, or similar device.

Source: Laws 2020, LB840, § 4.
Effective date November 14, 2020.

71-5718.02 Electronic smoking device retail outlet, defined; persons allowed to enter; employees; age restrictions.

(1) Electronic smoking device retail outlet means a store that:

- (a) Is licensed as provided under sections 28-1421 and 28-1422;
- (b) Sells electronic smoking devices and products directly related to electronic smoking devices;
- (c) Does not sell alcohol or gasoline;
- (d) Derives no more than twenty percent of its revenue from the sale of food and food ingredients as defined in section 77-2704.24; and
- (e) Prohibits persons under twenty-one years of age from entering the store in accordance with subsection (2) of this section.

(2)(a) Prior to January 1, 2022, an electronic smoking device retail outlet shall not allow a person under twenty-one years of age to enter the store but may allow an employee who is under twenty-one years of age to work in the store.

(b) On and after January 1, 2022, an electronic smoking device retail outlet shall not allow a person under twenty-one years of age to enter the store and shall not allow an employee who is under twenty-one years of age to work in the store.

Source: Laws 2020, LB840, § 5.
Effective date November 14, 2020.

71-5727 Smoke or smoking, defined.

Smoke or smoking means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, pipe, hookah, or any other lighted or heated tobacco or plant product intended for inhalation, whether natural or synthetic, in any manner or in any form. The term includes the use of an electronic smoking device which creates an aerosol or vapor, in any manner or in any form.

Source: Laws 2008, LB395, § 12; Laws 2020, LB840, § 6.
Effective date November 14, 2020.

71-5730 Exemptions; legislative findings; legislative intent.

(1) The following indoor areas are exempt from section 71-5729:

(a) Guestrooms and suites that are rented to guests and that are designated as smoking rooms, except that not more than twenty percent of rooms rented to guests in an establishment may be designated as smoking rooms. All smoking rooms on the same floor shall be contiguous, and smoke from such rooms shall

not infiltrate into areas where smoking is prohibited under the Nebraska Clean Indoor Air Act;

(b) Indoor areas used in connection with a research study on the health effects of smoking conducted in a scientific or analytical laboratory under state or federal law or at a college or university approved by the Coordinating Commission for Postsecondary Education;

(c) Tobacco retail outlets; and

(d) Cigar shops as defined in section 53-103.08.

(2) Electronic smoking device retail outlets are exempt from section 71-5729 as it relates to the use of electronic smoking devices only.

(3)(a) The Legislature finds that allowing smoking in tobacco retail outlets as a limited exception to the Nebraska Clean Indoor Air Act does not interfere with the original intent that the general public and employees not be unwillingly subjected to second-hand smoke since the general public does not frequent tobacco retail outlets and should reasonably expect that there would be second-hand smoke in tobacco retail outlets and could choose to avoid such exposure. The products that tobacco retail outlets sell are legal for customers who meet the age requirement. Customers should be able to try them within the tobacco retail outlet, especially given the way that tobacco customization may occur in how tobacco is blended and cigars are produced. The Legislature finds that exposure to second-hand smoke is inherent in the selling and sampling of cigars and pipe tobacco and that this exposure is inextricably connected to the nature of selling this legal product, similar to other inherent hazards in other professions and employment.

(b) It is the intent of the Legislature to allow cigar and pipe smoking in tobacco retail outlets that meet specific statutory criteria not inconsistent with the fundamental nature of the business. This exception to the Nebraska Clean Indoor Air Act is narrowly tailored in accordance with the intent of the act to protect public places and places of employment.

(4)(a) The Legislature finds that allowing smoking in cigar shops as a limited exception to the Nebraska Clean Indoor Air Act does not interfere with the original intent that the general public and employees not be unwillingly subjected to second-hand smoke. This exception poses a de minimis restriction on the public and employees given the limited number of cigar shops compared to other businesses that sell alcohol, cigars, and pipe tobacco, and any member of the public should reasonably expect that there would be second-hand smoke in a cigar shop given the nature of the business and could choose to avoid such exposure.

(b) The Legislature finds that (i) cigars and pipe tobacco have different characteristics than other forms of tobacco such as cigarettes, (ii) cigars are customarily paired with various spirits such as cognac, single malt whiskey, bourbon, rum, rye, port, and others, and (iii) unlike cigarette smokers, cigar and pipe smokers may take an hour or longer to enjoy a cigar or pipe while cigarettes simply serve as a mechanism for delivering nicotine. Cigars paired with selected liquor creates a synergy unique to the particular pairing similar to wine paired with particular foods. Cigars are a pure, natural product wrapped in a tobacco leaf that is typically not inhaled in order to enjoy the taste of the smoke, unlike cigarettes that tend to be processed with additives and wrapped in paper and are inhaled. Cigars have a different taste and smell than cigarettes due to the fermentation process cigars go through during production. Cigars

tend to cost considerably more than cigarettes, and their quality and characteristics vary depending on the type of tobacco plant, the geography and climate where the tobacco was grown, and the overall quality of the manufacturing process. Not only does the customized blending of the tobacco influence the smoking experience, so does the freshness of the cigars, which is dependent on how the cigars were stored and displayed. These variables are similar to fine wines, which can also be very expensive to purchase. It is all of these variables that warrant a customer wanting to sample the product before making such a substantial purchase.

(c) The Legislature finds that exposure to second-hand smoke is inherent in the selling and sampling of cigars and pipe tobacco and that this exposure is inextricably connected to the nature of selling this legal product, similar to other inherent hazards in other professions and employment.

(d) It is the intent of the Legislature to allow cigar and pipe smoking in cigar shops that meet specific statutory criteria not inconsistent with the fundamental nature of the business. This exception to the Nebraska Clean Indoor Air Act is narrowly tailored in accordance with the intent of the act to protect public places and places of employment.

Source: Laws 2008, LB395, § 15; Laws 2009, LB355, § 6; Laws 2010, LB861, § 82; Laws 2015, LB118, § 10; Laws 2020, LB840, § 7.
Effective date November 14, 2020.

71-5735 Tobacco retail outlet; sign required; waiver signed by employee; form; owner; duties.

(1) The owner of a tobacco retail outlet shall post a sign on all entrances to the tobacco retail outlet, on the outside of each door, in a conspicuous location slightly above or next to the door, with the following statement: SMOKING OF CIGARS AND PIPES IS ALLOWED INSIDE THIS BUSINESS. SMOKING OF CIGARETTES AND ELECTRONIC SMOKING DEVICES IS NOT ALLOWED.

(2) Beginning November 1, 2015, the owner shall provide to the Division of Public Health a copy of a waiver signed prior to employment by each employee on a form prescribed by the division. The waiver shall expressly notify the employee that he or she will be exposed to second-hand smoke, and the employee shall acknowledge that he or she understands the risks of exposure to second-hand smoke.

(3) The owner shall not allow cigarette smoking or the use of an electronic smoking device in the tobacco retail outlet.

Source: Laws 2015, LB118, § 11; Laws 2020, LB840, § 8.
Effective date November 14, 2020.

ARTICLE 59

ASSISTED-LIVING FACILITY ACT

Section

71-5901. Act, how cited.
71-5907. State Fire Code classification.
71-5909. Grievance procedure.

71-5901 Act, how cited.

Sections 71-5901 to 71-5909 shall be known and may be cited as the Assisted-Living Facility Act.

Source: Laws 2004, LB 1005, § 45; Laws 2019, LB571, § 1.

71-5907 State Fire Code classification.

For purposes of the State Fire Code under section 81-503.01, an assisted-living facility shall be classified as (1) residential board and care if the facility meets the residential board and care classification requirements of the State Fire Code or (2) limited care if the facility meets the limited care classification requirements of the State Fire Code.

Source: Laws 2004, LB 1005, § 51; Laws 2019, LB195, § 1.

71-5909 Grievance procedure.

(1) For purposes of this section:

(a) Grievance means a written expression of dissatisfaction that may or may not be the result of an unresolved complaint; and

(b) Grievance procedure means the written policy of an assisted-living facility for addressing a grievance from an individual including an employee or resident.

(2) Each assisted-living facility shall, on or before January 1, 2020, provide to the department the grievance procedure provided to an applicant for admission to the assisted-living facility. When such grievance procedure is modified, updated, or otherwise changed, the new grievance procedure shall be provided to the department within seven business days after such new grievance procedure takes effect. The department shall make such grievance procedure available to the deputy public counsel for institutions.

Source: Laws 2019, LB571, § 2.

ARTICLE 62**NEBRASKA REGULATION OF HEALTH PROFESSIONS ACT**

Section

71-6227. Rules and regulations; professional and clerical services; expenses.

71-6227 Rules and regulations; professional and clerical services; expenses.

(1) The director may, with the advice of the board, adopt and promulgate rules and regulations necessary to carry out the Nebraska Regulation of Health Professions Act.

(2) The director shall provide all necessary professional and clerical services to assist the committees and the board. Records of all official actions and minutes of all business coming before the committees and the board shall be kept. The director shall be the custodian of all records, documents, and other property of the committees and the board.

(3) Committee members shall receive no salary but shall be reimbursed for expenses as provided in sections 81-1174 to 81-1177.

Source: Laws 1985, LB 407, § 27; Laws 2020, LB381, § 69.

Operative date January 1, 2021.

ARTICLE 63**ENVIRONMENTAL HAZARDS**

(a) ASBESTOS CONTROL

Section

71-6303. Administration of act; rules and regulations; fees; department; powers and duties.

Section

(b) RESIDENTIAL LEAD-BASED PAINT PROFESSIONS PRACTICE ACT

71-6321. Administration of act; rules and regulations; department; powers and duties.

(a) ASBESTOS CONTROL

71-6303 Administration of act; rules and regulations; fees; department; powers and duties.

(1) The department shall administer the Asbestos Control Act.

(2) The department shall adopt and promulgate rules and regulations necessary to carry out the act. The department shall adopt state standards governing asbestos projects and may adopt or incorporate part or all of any federal standards in the state standards so long as state standards are no less stringent than federal standards.

(3)(a) The department shall prescribe fees based upon the following schedule:

(i) For a business entity license or license renewal, not less than two thousand dollars or more than five thousand dollars;

(ii) For waiver on an emergency basis of a business entity license, not less than two thousand dollars or more than five thousand dollars;

(iii) For waiver of a license for a business entity not primarily engaged in asbestos projects, not less than two thousand dollars or more than five thousand dollars;

(iv) For approval of an initial training course, not less than one thousand dollars or more than two thousand five hundred dollars, which fee shall include one onsite inspection if the inspection is required by the department;

(v) For approval of a review course or a four-hour course on Nebraska law, rules, and regulations, not less than five hundred dollars or more than one thousand dollars, which fee shall include one onsite inspection if the inspection is required by the department;

(vi) For an onsite inspection of an asbestos project other than an initial inspection, not less than one hundred fifty dollars or more than two hundred fifty dollars. Such fees shall not be assessed for more than three onsite inspections per year during the period an actual asbestos project is in progress; and

(vii) For a project review of each asbestos project of a licensed business entity which is equal to or greater than two hundred sixty linear feet or any combination which is equal to or greater than one hundred sixty square feet and linear feet, including any initial onsite inspection, not less than two hundred dollars or more than five hundred dollars.

(b) Any business applicant whose application is rejected shall be allowed the return of the application fee, except that an administrative charge of three hundred dollars for a license and one hundred dollars for approval of a training course shall be retained by the department.

(c) All fees shall be based on the costs of administering the Asbestos Control Act. In addition to the fees prescribed in this section, the department may charge and receive reimbursement for board, room, and travel by employees in excess of three hundred dollars, which reimbursement shall not exceed the amounts allowable in sections 81-1174 to 81-1177. All such fees collected by the department shall be remitted to the State Treasurer for credit to the Health and

Human Services Cash Fund. Money credited to the fund pursuant to this section shall be used by the department for the purpose of administering the act.

(4) At least once a year during the continuation of an asbestos project, the department shall conduct an onsite inspection of each licensed business entity's procedures for performing asbestos projects.

(5) The department may enter into agreements or contracts with public agencies to conduct any inspections required under the act.

(6) The department shall adopt and promulgate rules and regulations defining work practices for asbestos projects. The department may provide for alternatives to specific work practices when the health, safety, and welfare of all classes of asbestos occupations and the general public are adequately protected.

(7) The department may apply for and receive funds from the federal government and any other public or private entity for the purposes of administering the act.

Source: Laws 1986, LB 1051, § 3; Laws 1988, LB 1073, § 3; Laws 1991, LB 703, § 52; Laws 1995, LB 406, § 74; Laws 1996, LB 1044, § 762; Laws 2002, LB 1021, § 99; Laws 2003, LB 242, § 144; Laws 2007, LB296, § 655; Laws 2007, LB463, § 1244; Laws 2020, LB381, § 70.

Operative date January 1, 2021.

(b) RESIDENTIAL LEAD-BASED PAINT PROFESSIONS PRACTICE ACT

71-6321 Administration of act; rules and regulations; department; powers and duties.

(1) The department shall administer the Residential Lead-Based Paint Professions Practice Act.

(2) The department shall adopt and promulgate rules and regulations necessary to carry out such act. The department shall adopt state standards governing abatement projects and may adopt or incorporate part or all of any federal standards in such state standards so long as state standards are no less stringent than federal standards.

(3) The department shall prescribe fees based upon the following schedule:

(a) For an annual firm license or license renewal, not less than two hundred dollars or more than five hundred dollars;

(b) For accreditation of a training program, not less than one thousand dollars or more than two thousand five hundred dollars, which fee shall include one onsite inspection if such inspection is required by the department;

(c) For accreditation of a review course or a course on Nebraska law, rules, and regulations, not less than five hundred dollars or more than one thousand dollars, which fee shall include one onsite inspection if such inspection is required by the department;

(d) For onsite inspections other than initial inspections, not less than one hundred fifty dollars or more than two hundred fifty dollars. Such fees shall not be assessed for more than three onsite inspections per year during the period an actual abatement project is in progress; and

(e) For a project review of each abatement project of a licensed firm, not less than two hundred dollars or more than five hundred dollars.

Any business applicant whose application is rejected shall be allowed the return of the application fee, except that an administrative charge of one hundred dollars for a firm license and for accreditation of a training program shall be retained by the department.

All fees shall be based on the costs of administering the act. In addition to the fees prescribed in this section, the department may charge and receive reimbursement for board, room, and travel by employees in excess of three hundred dollars, which reimbursement shall not exceed the amounts allowable in sections 81-1174 to 81-1177. All such fees collected by the department shall be remitted to the State Treasurer for credit to the Health and Human Services Cash Fund. Money credited to the fund pursuant to this section shall be used by the department for the purpose of administering the act.

(4) At least once a year during the continuation of an abatement project the department shall conduct an onsite inspection of each licensed firm's procedures for performing abatement projects.

(5) The department may enter into agreements or contracts with public agencies to conduct any inspections required under the act if such agencies have the appropriate licensure or accreditation as described in the act.

(6) The department shall adopt and promulgate rules and regulations defining work practices for abatement projects, for the licensure of lead-based paint professions, for the accreditation of training programs, for the accreditation of training program providers, for the dissemination of prerenovation information to homeowners and occupants, for the facilitation of compliance with federal lead-based paint hazard control grant programs, and for the implementation of lead-based paint compliance monitoring and enforcement activities. The department may provide for alternatives to specific work practices when the health, safety, and welfare of all classes of lead-based paint professions and the general public are adequately protected.

(7) The department may apply for and receive funds from the federal government and any other public or private entity for the purposes of administering the act. Any funds applied for, received, or used by the department or any political subdivision from the federal government or any public entity may be used only to abate lead-based paint hazards and for the administration of lead-based paint programs which address health and environmental hazards caused by lead-based paint.

Source: Laws 1994, LB 1210, § 169; Laws 1996, LB 1044, § 764; Laws 1999, LB 863, § 44; Laws 2001, LB 668, § 3; Laws 2002, LB 1021, § 101; Laws 2003, LB 242, § 145; Laws 2007, LB296, § 661; Laws 2007, LB463, § 1274; Laws 2020, LB381, § 71.
Operative date January 1, 2021.

ARTICLE 64

BUILDING CONSTRUCTION

Section

71-6403. State building code; adopted; amendments.

71-6404. State building code; applicability.

71-6406. County, city, or village; building code; adopt; amend; enforce; copy; fees.

71-6403 State building code; adopted; amendments.

(1) There is hereby created the state building code. The Legislature hereby adopts by reference:

(a) The International Building Code (IBC), chapter 13 of the 2018 edition, and all but such chapter of the 2018 edition, published by the International Code Council, except that (i) section 305.2.3 applies to a facility having twelve or fewer children and (ii) section 310.4.1 applies to a care facility for twelve or fewer persons;

(b) The International Residential Code (IRC), chapter 11 of the 2018 edition, and all but such chapter of the 2018 edition except section R313, published by the International Code Council; and

(c) The International Existing Building Code, 2018 edition, published by the International Code Council.

(2) The codes adopted by reference in subsection (1) of this section and the minimum standards for radon resistant new construction adopted under section 76-3504 shall constitute the state building code except as amended pursuant to the Building Construction Act or as otherwise authorized by state law.

Source: Laws 1987, LB 227, § 3; Laws 1993, LB 319, § 1; Laws 1996, LB 1304, § 4; Laws 2003, LB 643, § 1; Laws 2010, LB799, § 1; Laws 2011, LB546, § 1; Laws 2015, LB540, § 1; Laws 2017, LB590, § 1; Laws 2019, LB130, § 1; Laws 2019, LB348, § 1; Laws 2019, LB405, § 1.

71-6404 State building code; applicability.

(1) For purposes of the Building Construction Act:

(a) Component means a portion of the state building code created pursuant to section 71-6403; and

(b) Radon resistant new construction has the same meaning as in section 76-3503.

(2) The state building code shall be the building and construction standard within the state and shall be applicable:

(a) To all buildings and structures owned by the state or any state agency;

(b) In each county, city, or village which elects to adopt the state building code as its local building or construction code pursuant to section 71-6406; and

(c) In each county, city, or village which has not adopted a local building or construction code pursuant to section 71-6406 within two years after an update to the state building code.

Source: Laws 1987, LB 227, § 4; Laws 1993, LB 319, § 2; Laws 2010, LB799, § 2; Laws 2016, LB704, § 213; Laws 2019, LB96, § 1; Laws 2019, LB130, § 2.

71-6406 County, city, or village; building code; adopt; amend; enforce; copy; fees.

(1)(a) Any county, city, or village may enact, administer, or enforce a local building or construction code if or as long as such county, city, or village:

(i) Adopts the state building code; or

(ii) Adopts a building or construction code that conforms generally with the state building code.

(b) If a county, city, or village does not adopt a code as authorized under subdivision (a) of this subsection within two years after an update to the state building code, the state building code shall apply in the county, city, or village, except that such code shall not apply to construction on a farm or for farm purposes.

(2) A local building or construction code shall be deemed to conform generally with the state building code if it:

(a) Adopts a special or differing building standard by amending, modifying, or deleting any portion of the state building code in order to reduce unnecessary costs of construction, increase safety, durability, or efficiency, establish best building or construction practices within the county, city, or village, or address special local conditions within the county, city, or village;

(b) Adopts any supplement, new edition, appendix, or component or combination of components of the state building code;

(c) Adopts section 305 or 310 of the 2018 edition of the International Building Code without the exceptions described in subdivision (1)(a) of section 71-6403 or section R313 of the 2018 edition of the International Residential Code;

(d) Adopts a plumbing code, an electrical code, a fire prevention code, or any other standard code as authorized under section 14-419, 15-905, 18-132, or 23-172;

(e) Adopts a local energy code as authorized under section 81-1618; or

(f) Adopts minimum standards for radon resistant new construction which meet the minimum standards adopted under section 76-3504.

(3) A local building or construction code shall not be deemed to conform generally with the state building code if it:

(a) Includes a prior edition of any component or combination of components of the state building code; or

(b) Does not include minimum standards for radon resistant new construction that meet the minimum standards adopted under section 76-3504.

(4) A county, city, or village shall notify the State Energy Office if it amends or modifies its local building or construction code in such a way as to delete any portion of (a) chapter 13 of the 2018 edition of the International Building Code or (b) chapter 11 of the 2018 edition of the International Residential Code. The notification shall be made within thirty days after the adoption of such amendment or modification.

(5) A county, city, or village shall not adopt or enforce a local building or construction code other than as provided by this section.

(6) A county, city, or village which adopts or enforces a local building or construction code under this section shall regularly update its code. For purposes of this section, a code shall be deemed to be regularly updated if the most recently enacted state building code or a code that conforms generally with the state building code is adopted by the county, city, or village within two years after an update to the state building code.

(7) A county, city, or village may adopt amendments for the proper administration and enforcement of its local building or construction code including

organization of enforcement, qualifications of staff members, examination of plans, inspections, appeals, permits, and fees. Any amendment adopted pursuant to this section shall be published separately from the local building or construction code.

(8) A county, city, or village which adopts one or more standard codes as part of its local building or construction code under this section shall keep at least one copy of each adopted code, or portion thereof, for use and examination by the public in the office of the clerk of the county, city, or village prior to the adoption of the code and as long as such code is in effect.

(9) Notwithstanding the provisions of the Building Construction Act, a public building of any political subdivision shall be built in accordance with the applicable local building or construction code. Fees, if any, for services which monitor a builder's application of codes shall be negotiable between the political subdivisions involved, but such fees shall not exceed the actual expenses incurred by the county, city, or village doing the monitoring.

Source: Laws 1987, LB 227, § 6; Laws 1993, LB 319, § 4; Laws 2010, LB799, § 4; Laws 2011, LB546, § 3; Laws 2015, LB540, § 2; Laws 2016, LB704, § 214; Laws 2017, LB590, § 3; Laws 2019, LB96, § 2; Laws 2019, LB130, § 3; Laws 2019, LB348, § 2; Laws 2019, LB405, § 2.

ARTICLE 67

MEDICATION REGULATION

(b) MEDICATION AIDE ACT

Section

71-6720. Purpose of act; applicability.

(b) MEDICATION AIDE ACT

71-6720 Purpose of act; applicability.

(1) The purposes of the Medication Aide Act are to ensure the health, safety, and welfare of the public by providing for the accurate, cost-effective, efficient, and safe utilization of medication aides to assist in the administration of medications by (a) competent individuals, (b) caretakers who are parents, foster parents, family, friends or legal guardians, and (c) licensed health care professionals.

(2) The act applies to all settings in which medications are administered except the home, unless the in-home administration of medication is provided through a licensed home health agency, a licensed or certified home and community-based provider, or a licensed PACE center as defined in section 71-424.01.

(3) The act does not apply to the provision of reminders to persons to self-administer medication or assistance to persons in the delivery of nontherapeutic topical applications by in-home personal services workers. For purposes of this subsection, in-home personal services worker has the definition found in section 71-6501.

Source: Laws 1998, LB 1354, § 10; Laws 2007, LB236, § 44; Laws 2020, LB1053, § 20.

Operative date January 1, 2021.

ARTICLE 70

BREAST AND CERVICAL CANCER AND MAMMOGRAPHY

Section

71-7012. Breast and Cervical Cancer Advisory Committee; established; members; appointment; terms; duties; expenses.

71-7012 Breast and Cervical Cancer Advisory Committee; established; members; appointment; terms; duties; expenses.

The Breast and Cervical Cancer Advisory Committee is established. The committee consists of the members of the Mammography Screening Committee serving immediately prior to September 9, 1995, and eight additional members appointed by the chief executive officer of the department or his or her designee who have expertise or a personal interest in cervical cancer. The committee shall consist of not more than twenty-four volunteer members, at least eight of whom are women, appointed by the chief executive officer or his or her designee. Members of the committee shall be persons interested in health care, the promotion of breast cancer screening, and cervical cancer and shall be drawn from both the private sector and the public sector. At least one member shall be a person who has or who has had breast cancer.

Of the initial members of the committee, four shall be appointed for terms of one year and four shall be appointed for terms of two years. Thereafter all appointments shall be for terms of two years. All members shall serve until their successors are appointed. No member shall serve more than two successive two-year terms. Vacancies in the membership of the committee for any cause shall be filled by appointment by the chief executive officer or his or her designee for the unexpired term.

Duties of the committee shall include, but not be limited to, encouraging payment of public and private funds to the Breast and Cervical Cancer Cash Fund, researching and recommending to the department reimbursement limits, planning and implementing outreach and educational programs to Nebraska women, advising the department on its operation of the early detection of breast and cervical cancer grant from the United States Department of Health and Human Services, and encouraging payment of public and private funds to the fund. Members of the committee shall be reimbursed for expenses as provided in sections 81-1174 to 81-1177.

Source: Laws 1991, LB 256, § 12; Laws 1995, LB 68, § 10; Laws 1995, LB 406, § 84; Laws 1996, LB 1044, § 772; Laws 2007, LB296, § 668; Laws 2008, LB797, § 25; Laws 2020, LB381, § 72.
Operative date January 1, 2021.

ARTICLE 71

CRITICAL INCIDENT STRESS MANAGEMENT

Section

71-7104. Critical Incident Stress Management Program; created; duties.

71-7104 Critical Incident Stress Management Program; created; duties.

There is hereby created the Critical Incident Stress Management Program. The focus of the program shall be to minimize the harmful effects of critical incident stress for emergency service personnel, with a high priority on confidentiality and respect for the individuals involved. The program shall:

(1) Provide a stress management session to emergency service personnel who appropriately request such assistance in an effort to address critical incident stress;

(2) Assist in providing the emotional and educational support necessary to ensure optimal functioning of emergency service personnel;

(3) Conduct preincident educational programs to acquaint emergency service personnel with stress management techniques;

(4) Promote interagency cooperation;

(5) Provide an organized statewide response to the emotional needs of emergency service personnel impacted by critical incidents;

(6) Develop guidelines for resilience training for first responders under section 48-101.01;

(7) Set reimbursement rates for resilience training under section 48-101.01; and

(8) Set an annual limit on the hours or quantity of resilience training for which reimbursement is required under section 48-101.01.

Source: Laws 1991, LB 703, § 4; Laws 1997, LB 184, § 4; Laws 2020, LB963, § 3.

Operative date July 1, 2021.

ARTICLE 74

WHOLESALE DRUG DISTRIBUTOR LICENSING

Section

71-7436. Emergency medical reasons, defined.

71-7444. Wholesale drug distribution, defined.

71-7436 Emergency medical reasons, defined.

(1) Emergency medical reasons means the alleviation of a temporary shortage by transfers of prescription drugs between any of the following: (a) Holders of pharmacy licenses, (b) health care practitioner facilities as defined in section 71-414, (c) hospitals as defined in section 71-419, and (d) emergency medical services as defined in section 38-1207.

(2) Emergency medical reasons does not include regular and systematic sales (a) of prescription drugs to emergency medical services as defined in section 38-1207 or (b) to practitioners as defined in section 38-2838 of prescription drugs that will be used for routine office procedures.

Source: Laws 1992, LB 1019, § 9; Laws 1998, LB 1073, § 157; Laws 2001, LB 398, § 82; R.S.1943, (2003), § 71-7409; Laws 2006, LB 994, § 10; Laws 2007, LB463, § 1294; Laws 2015, LB37, § 89; Laws 2020, LB1002, § 47.

Operative date August 16, 2020.

71-7444 Wholesale drug distribution, defined.

(1) Wholesale drug distribution means the distribution of prescription drugs to a person other than a consumer or patient.

(2) Wholesale drug distribution does not include:

(a) Intracompany sales of prescription drugs, including any transaction or transfer between any division, subsidiary, or parent company and an affiliated or related company under common ownership or common control;

(b) The sale, purchase, or trade of or an offer to sell, purchase, or trade a prescription drug by a charitable organization described in section 501(c)(3) of the Internal Revenue Code, a state, a political subdivision, or any other governmental agency to a nonprofit affiliate of the organization, to the extent otherwise permitted by law;

(c) The sale, purchase, or trade of or an offer to sell, purchase, or trade a prescription drug among hospitals or other health care entities operating under common ownership or common control;

(d) The sale, purchase, or trade of or an offer to sell, purchase, or trade a prescription drug for emergency medical reasons or for a practitioner to use for routine office procedures, not to exceed five percent of sales as provided in section 71-7454;

(e) The sale, purchase, or trade of, an offer to sell, purchase, or trade, or the dispensing of a prescription drug pursuant to a prescription;

(f) The distribution of drug samples by representatives of a manufacturer or of a wholesale drug distributor;

(g) The sale, purchase, or trade of blood and blood components intended for transfusion;

(h) The delivery of or the offer to deliver a prescription drug by a common carrier solely in the usual course of business of transporting such drugs as a common carrier if the common carrier does not store, warehouse, or take legal ownership of such drugs; or

(i) The restocking of prescription drugs by a hospital for an emergency medical service as defined in section 38-1207 if the emergency medical service transports a patient to the hospital and such drugs were used for the patient prior to or during transportation of such patient to such hospital.

(3) Except as provided in subdivision (2)(c) of this section, wholesale drug distribution includes (a) the restocking of prescription drugs by a hospital for an emergency medical service as defined in section 38-1207 if such prescription drugs were not used for a patient prior to or during transportation to such hospital or (b) the general stocking of prescription drugs for an emergency medical service as defined in section 38-1207.

Source: Laws 1992, LB 1019, § 12; Laws 1995, LB 574, § 60; R.S.1943, (2003), § 71-7412; Laws 2006, LB 994, § 18; Laws 2015, LB37, § 90; Laws 2020, LB1002, § 48.
Operative date August 16, 2020.

ARTICLE 76

HEALTH CARE

(b) NEBRASKA HEALTH CARE FUNDING ACT

Section

71-7611. Nebraska Health Care Cash Fund; created; use; investment; report.

(b) NEBRASKA HEALTH CARE FUNDING ACT

71-7611 Nebraska Health Care Cash Fund; created; use; investment; report.

(1) The Nebraska Health Care Cash Fund is created. The State Treasurer shall transfer (a) sixty million three hundred thousand dollars on or before July 15, 2014, (b) sixty million three hundred fifty thousand dollars on or before July 15, 2015, (c) sixty million three hundred fifty thousand dollars on or before July 15, 2016, (d) sixty million seven hundred thousand dollars on or before July 15, 2017, (e) five hundred thousand dollars on or before May 15, 2018, (f) sixty-one million six hundred thousand dollars on or before July 15, 2018, (g) sixty-two million dollars on or before July 15, 2019, (h) sixty-one million four hundred fifty thousand dollars on or before July 15, 2020, and (i) sixty-one million one hundred thousand dollars on or before every July 15 thereafter from the Nebraska Medicaid Intergovernmental Trust Fund and the Nebraska Tobacco Settlement Trust Fund to the Nebraska Health Care Cash Fund, except that such amount shall be reduced by the amount of the unobligated balance in the Nebraska Health Care Cash Fund at the time the transfer is made. The state investment officer shall advise the State Treasurer on the amounts to be transferred first from the Nebraska Medicaid Intergovernmental Trust Fund until the fund balance is depleted and from the Nebraska Tobacco Settlement Trust Fund thereafter in order to sustain such transfers in perpetuity. The state investment officer shall report electronically to the Legislature on or before October 1 of every even-numbered year on the sustainability of such transfers. The Nebraska Health Care Cash Fund shall also include money received pursuant to section 77-2602. Except as otherwise provided by law, no more than the amounts specified in this subsection may be appropriated or transferred from the Nebraska Health Care Cash Fund in any fiscal year.

The State Treasurer shall transfer ten million dollars from the Nebraska Medicaid Intergovernmental Trust Fund to the General Fund on June 28, 2018, and June 28, 2019.

Except as otherwise provided in subsection (6) of this section, it is the intent of the Legislature that no additional programs are funded through the Nebraska Health Care Cash Fund until funding for all programs with an appropriation from the fund during FY2012-13 are restored to their FY2012-13 levels.

(2) Any money in the Nebraska Health Care Cash 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.

(3) The University of Nebraska and postsecondary educational institutions having colleges of medicine in Nebraska and their affiliated research hospitals in Nebraska, as a condition of receiving any funds appropriated or transferred from the Nebraska Health Care Cash Fund, shall not discriminate against any person on the basis of sexual orientation.

(4) The State Treasurer shall transfer fifty thousand dollars on or before July 15, 2016, from the Nebraska Health Care Cash Fund to the Board of Regents of the University of Nebraska for the University of Nebraska Medical Center. It is the intent of the Legislature that these funds be used by the College of Public Health for workforce training.

(5) It is the intent of the Legislature that the cost of the staff and operating costs necessary to carry out the changes made by Laws 2018, LB439, and not covered by fees or federal funds shall be funded from the Nebraska Health Care Cash Fund for fiscal years 2018-19 and 2019-20.

(6) It is the intent of the Legislature to fund the grants to be awarded pursuant to section 75-1101 with the Nebraska Health Care Cash Fund for FY2019-20 and FY2020-21.

Source: Laws 1998, LB 1070, § 7; Laws 2000, LB 1427, § 9; Laws 2001, LB 692, § 18; Laws 2003, LB 412, § 8; Laws 2004, LB 1091, § 7; Laws 2005, LB 426, § 12; Laws 2007, LB322, § 19; Laws 2007, LB482, § 6; Laws 2008, LB480, § 2; Laws 2008, LB830, § 9; Laws 2008, LB961, § 5; Laws 2009, LB27, § 7; Laws 2009, LB316, § 19; Laws 2012, LB782, § 125; Laws 2012, LB969, § 9; Laws 2013, LB199, § 29; Laws 2014, LB906, § 18; Laws 2015, LB390, § 12; Laws 2015, LB661, § 32; Laws 2017, LB331, § 38; Laws 2018, LB439, § 9; Laws 2018, LB793, § 10; Laws 2018, LB945, § 17; Laws 2019, LB298, § 17; Laws 2019, LB481, § 7; Laws 2019, LB570, § 1; Laws 2019, LB600, § 19; Laws 2019, LB641, § 2.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

ARTICLE 79

HEALTH CARE QUALITY IMPROVEMENT ACT

(b) HEALTH CARE QUALITY IMPROVEMENT ACT

Section

71-7904.	Act, how cited.
71-7906.	Definitions, where found.
71-7907.	Health care provider, defined.
71-7910.	Peer review committee, defined; policies and procedures.
71-7910.01.	Professional health care service entity, defined.
71-7911.	Liability for activities relating to peer review.
71-7912.	Confidentiality; discovery; availability of medical records, documents, or information; limitation; burden of proof.
71-7913.	Incident report or risk management report; how treated; burden of proof.

(b) HEALTH CARE QUALITY IMPROVEMENT ACT

71-7904 Act, how cited.

Sections 71-7904 to 71-7913 shall be known and may be cited as the Health Care Quality Improvement Act.

Source: Laws 2011, LB431, § 1; Laws 2019, LB119, § 1.

71-7906 Definitions, where found.

For purposes of the Health Care Quality Improvement Act, the definitions found in sections 71-7907 to 71-7910.01 apply.

Source: Laws 2011, LB431, § 3; Laws 2019, LB119, § 2.

71-7907 Health care provider, defined.

Health care provider means:

- (1) A facility licensed under the Health Care Facility Licensure Act;
- (2) A health care professional licensed under the Uniform Credentialing Act;

- (3) A professional health care service entity; and
- (4) An organization or association of health care professionals licensed under the Uniform Credentialing Act.

Source: Laws 2011, LB431, § 4; Laws 2019, LB119, § 3.

Cross References

Health Care Facility Licensure Act, see section 71-401.

Uniform Credentialing Act, see section 38-101.

71-7910 Peer review committee, defined; policies and procedures.

(1) Peer review committee means a utilization review committee, quality assessment committee, performance improvement committee, tissue committee, credentialing committee, or other committee established by a professional health care service entity or by the governing board of a facility which is a health care provider that does either of the following:

(a) Conducts professional credentialing or quality review activities involving the competence of, professional conduct of, or quality of care provided by a health care provider, including both an individual who provides health care and an entity that provides health care; or

(b) Conducts any other attendant hearing process initiated as a result of a peer review committee's recommendations or actions.

(2) To conduct peer review pursuant to the Health Care Quality Improvement Act, a professional health care service entity shall adopt and adhere to written policies and procedures governing the peer review committee of the professional health care service entity.

Source: Laws 2011, LB431, § 7; Laws 2019, LB119, § 5.

71-7910.01 Professional health care service entity, defined.

Professional health care service entity means an entity which is organized under the Nebraska Nonprofit Corporation Act, the Nebraska Professional Corporation Act, the Nebraska Uniform Limited Liability Company Act, or the Uniform Partnership Act of 1998 and which renders health care services through individuals credentialed under the Uniform Credentialing Act.

Source: Laws 2019, LB119, § 4; Laws 2020, LB783, § 3.
Effective date November 14, 2020.

Cross References

Nebraska Nonprofit Corporation Act, see section 21-1901.

Nebraska Professional Corporation Act, see section 21-2201.

Nebraska Uniform Limited Liability Company Act, see section 21-101.

Uniform Credentialing Act, see section 38-101.

Uniform Partnership Act of 1998, see section 67-401.

71-7911 Liability for activities relating to peer review.

(1) A health care provider or an individual (a) serving as a member or employee of a peer review committee, working on behalf of a peer review committee, furnishing counsel or services to a peer review committee, or participating in a peer review activity as an officer, director, employee, or member of a professional health care service entity or an officer, director, employee, or member of the governing board of a facility which is a health care provider and (b) acting without malice shall not be held liable in damages to

any person for any acts, omissions, decisions, or other conduct within the scope of the functions of a peer review committee.

(2) A person who makes a report or provides information to a peer review committee shall not be subject to suit as a result of providing such information if such person acts without malice.

Source: Laws 2011, LB431, § 8; Laws 2019, LB119, § 6.

71-7912 Confidentiality; discovery; availability of medical records, documents, or information; limitation; burden of proof.

(1) The proceedings, records, minutes, and reports of a peer review committee shall be held in confidence and shall not be subject to discovery or introduction into evidence in any civil action. No person who attends a meeting of a peer review committee, works for or on behalf of a peer review committee, provides information to a peer review committee, or participates in a peer review activity as an officer, director, employee, or member of a professional health care service entity or an officer, director, employee, or member of the governing board of a facility which is a health care provider shall be permitted or required to testify in any such civil action as to any evidence or other matters produced or presented during the proceedings or activities of the peer review committee or as to any findings, recommendations, evaluations, opinions, or other actions of the peer review committee or any members thereof.

(2) Nothing in this section shall be construed to prevent discovery or use in any civil action of medical records, documents, or information otherwise available from original sources and kept with respect to any patient in the ordinary course of business, but the records, documents, or information shall be available only from the original sources and cannot be obtained from the peer review committee's proceedings or records.

(3) A health care provider or individual claiming the privileges under this section has the burden of proving that the communications and documents are protected.

Source: Laws 2011, LB431, § 9; Laws 2019, LB119, § 7.

71-7913 Incident report or risk management report; how treated; burden of proof.

(1) An incident report or risk management report and the contents of an incident report or risk management report are not subject to discovery in, and are not admissible in evidence in the trial of, a civil action for damages for injury, death, or loss to a patient of a health care provider. A person who prepares or has knowledge of the contents of an incident report or risk management report shall not testify and shall not be required to testify in any civil action as to the contents of the report.

(2) A health care provider or individual claiming the privileges under this section has the burden of proving that the communications and documents are protected.

Source: Laws 2011, LB431, § 10; Laws 2019, LB119, § 8.

ARTICLE 82

STATEWIDE TRAUMA SYSTEM ACT

Section

- 71-8226. Physician medical director, defined.
 71-8227. Qualified physician surrogate, defined.
 71-8236. State Trauma Advisory Board; created; members; terms; expenses.
 71-8237. State Trauma Advisory Board; duties.
 71-8240. Department; statewide duties.
 71-8248. Statewide trauma registry.
 71-8249. Statewide trauma registry; data; confidentiality.
 71-8251. Regional trauma advisory boards; established; members; expenses.
 71-8253. Act; how construed.

71-8226 Physician medical director, defined.

Physician medical director means a qualified physician who is responsible for the medical supervision of emergency care providers and verification of skill proficiency of emergency care providers.

Source: Laws 1997, LB 626, § 26; Laws 2020, LB1002, § 49.
 Operative date November 14, 2020.

71-8227 Qualified physician surrogate, defined.

Qualified physician surrogate means a qualified, trained medical person, designated by a qualified physician in writing to act as an agent for the physician in directing the actions of emergency care providers.

Source: Laws 1997, LB 626, § 27; Laws 2020, LB1002, § 50.
 Operative date November 14, 2020.

71-8236 State Trauma Advisory Board; created; members; terms; expenses.

The State Trauma Advisory Board is created. The board shall be composed of representatives knowledgeable in emergency medical services and trauma care, including emergency medical providers such as physicians, nurses, hospital personnel, prehospital or emergency care providers, local government officials, state officials, consumers, and persons affiliated professionally with health science schools. The Director of Public Health or his or her designee shall appoint the members of the board for staggered terms of three years each. The department shall provide administrative support to the board. All members of the board may be reimbursed for expenses incurred in the performance of their duties as such members as provided in sections 81-1174 to 81-1177. The terms of members representing the same field shall not expire at the same time.

The board shall elect a chairperson and a vice-chairperson whose terms of office shall be for two years. The board shall meet at least twice per year by written request of the director or the chairperson.

Source: Laws 1997, LB 626, § 36; Laws 1998, LB 898, § 1; Laws 1999, LB 594, § 64; Laws 2007, LB296, § 691; Laws 2020, LB381, § 73; Laws 2020, LB1002, § 51.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB381, section 73, with LB1002, section 51, to reflect all amendments.

Note: Changes made by LB1002 became operative November 14, 2020. Changes made by LB381 became operative January 1, 2021.

71-8237 State Trauma Advisory Board; duties.

The State Trauma Advisory Board shall:

- (1) Advise the department regarding trauma care needs throughout the state;
- (2) Advise the Board of Emergency Medical Services regarding trauma care to be provided throughout the state by emergency medical services;
- (3) Review the regional trauma plans and recommend changes to the department before the department adopts the plans;
- (4) Review proposed departmental rules and regulations for trauma care;
- (5) Recommend modifications in rules regarding trauma care; and
- (6) Draft a five-year statewide prevention plan that each trauma care region shall implement.

Source: Laws 1997, LB 626, § 37; Laws 2009, LB195, § 99; Laws 2020, LB1002, § 52.

Operative date November 14, 2020.

71-8240 Department; statewide duties.

The department shall establish and maintain the following on a statewide basis:

- (1) Trauma system objectives and priorities;
- (2) Minimum trauma standards for facilities, equipment, and personnel for advanced, basic, comprehensive, and general level trauma centers and specialty level burn or pediatric trauma centers;
- (3) Minimum standards for facilities, equipment, and personnel for advanced, intermediate, and general level rehabilitation centers;
- (4) Minimum trauma standards for the development of facility patient care protocols;
- (5) Trauma care regions as provided for in section 71-8250;
- (6) Recommendations for an effective trauma transportation system;
- (7) The minimum number of hospitals and health care facilities in the state and within each trauma care region that may provide designated trauma care services based upon approved regional trauma plans;
- (8) The minimum number of prehospital or emergency care providers in the state and within each trauma care region that may provide trauma care services based upon approved regional trauma plans;
- (9) A format for submission of the regional trauma plans to the department;
- (10) A program for emergency medical services and trauma care research and development;
- (11) Review and approve regional trauma plans;
- (12) The initial designation of hospitals and health care facilities to provide designated trauma care services in accordance with needs identified in the approved regional trauma plan; and
- (13) The trauma implementation plan incorporating the regional trauma plans.

Source: Laws 1997, LB 626, § 40; Laws 2009, LB195, § 101; Laws 2015, LB46, § 9; Laws 2020, LB1002, § 53.

Operative date November 14, 2020.

71-8248 Statewide trauma registry.

The department shall establish and maintain a statewide trauma registry to collect and analyze data on the incidence, severity, and causes of trauma, including traumatic brain injury. The registry shall be used to improve the availability and delivery of prehospital or emergency care and hospital trauma care services. Specific data elements of the registry shall be defined by rule and regulation of the department. Every health care facility designated as an advanced, a basic, a comprehensive, or a general level trauma center, a specialty level burn or pediatric trauma center, an advanced, an intermediate, or a general level rehabilitation center, or a prehospital or emergency care provider shall furnish data to the registry. All other hospitals may furnish trauma data as required by the department by rule and regulation. All hospitals involved in the care of a trauma patient shall have unrestricted access to all prehospital reports for the trauma registry for that specific trauma occurrence.

Source: Laws 1997, LB 626, § 48; Laws 2009, LB195, § 108; Laws 2015, LB46, § 12; Laws 2020, LB1002, § 54.
Operative date November 14, 2020.

71-8249 Statewide trauma registry; data; confidentiality.

(1) All data collected under section 71-8248 shall be held confidential pursuant to sections 81-663 to 81-675. Confidential patient medical record data shall only be released as (a) Class I, II, or IV medical records under sections 81-663 to 81-675, (b) aggregate or case-specific data to the regional trauma system quality assurance program and the regional trauma advisory boards, (c) protected health information to a public health authority, as such terms are defined under the federal Health Insurance Portability and Accountability Act of 1996, as such act existed on January 1, 2008, and (d) protected health information, as defined under the federal Health Insurance Portability and Accountability Act of 1996, as such act existed on January 1, 2008, to an emergency medical service, to an emergency care provider, to a licensed health care facility, or to a center that will treat or has treated a specific patient.

A record may be shared with the emergency medical service, the emergency care provider, the licensed health care facility, or center that reported that specific record.

(2) Patient care quality assurance proceedings, records, and reports developed pursuant to this section and section 71-8248 are confidential and are not subject to discovery by subpoena or admissible as evidence in any civil action, except pursuant to a court order which provides for the protection of sensitive information of interested parties, including the department, pursuant to section 25-12,123.

Source: Laws 1997, LB 626, § 49; Laws 2007, LB185, § 46; Laws 2008, LB797, § 27; Laws 2020, LB1002, § 55.
Operative date November 14, 2020.

71-8251 Regional trauma advisory boards; established; members; expenses.

The department shall establish a regional trauma advisory board within each trauma care region. The department shall appoint members, to be comprised of a balance of hospital representatives and emergency care providers, local elected officials, consumers, local law enforcement representatives, and local government agencies involved in the delivery of emergency medical services

and trauma care recommended by the local emergency medical services providers and medical facilities located within the region. All members of the board may be reimbursed for expenses incurred in the performance of their duties as such members pursuant to sections 81-1174 to 81-1177.

Source: Laws 1997, LB 626, § 51; Laws 2020, LB381, § 74; Laws 2020, LB1002, § 56.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB381, section 74, with LB1002, section 56, to reflect all amendments.

Note: Changes made by LB1002 became operative November 14, 2020. Changes made by LB381 became operative January 1, 2021.

71-8253 Act; how construed.

(1) If there are conflicts between the Statewide Trauma System Act and the Emergency Medical Services Practice Act pertaining to emergency medical services, the Emergency Medical Services Practice Act shall control.

(2) Nothing in the Statewide Trauma System Act shall limit a patient’s right to choose the physician, hospital, facility, rehabilitation center, specialty level burn or pediatric trauma center, or other provider of health care services.

Source: Laws 1997, LB 626, § 53; Laws 2007, LB463, § 1305; Laws 2020, LB1002, § 57.

Operative date November 14, 2020.

Cross References

Emergency Medical Services Practice Act, see section 38-1201.

ARTICLE 86

BLIND AND VISUALLY IMPAIRED

Section

71-8604. Commission for the Blind and Visually Impaired; created; per diem; expenses.

71-8607. Commission; powers and duties.

71-8611. Vending facilities; license; priority status.

71-8604 Commission for the Blind and Visually Impaired; created; per diem; expenses.

(1) The Commission for the Blind and Visually Impaired is created. The governing board of the commission shall consist of five members appointed by the Governor with the approval of a majority of the members of the Legislature. All board members shall have reasonable knowledge or experience in issues related to blindness which may include, but is not limited to, reasonable knowledge or experience acquired through membership in consumer organizations of the blind. No board member or his or her immediate family shall be a current employee of the commission. At least three board members shall be blind persons: One member shall be a member or designee of the National Federation of the Blind of Nebraska; one member shall be a member or designee of the American Council of the Blind of Nebraska; and one member may be a member of another consumer organization of the blind.

(2) Board members shall be appointed for staggered terms with the initial members appointed for terms as follows: Two members for terms ending on December 31, 2001, and three members for terms ending December 31, 2003. Subsequent appointments shall be for terms of four years with no board

member appointed to more than two consecutive terms. Board members whose terms have expired shall continue to serve until their successors have been appointed. In the case of a vacancy, the Governor shall appoint a successor for the unexpired term. Board members may be removed for cause.

(3) A majority of the board members constitutes a quorum for the transaction of business. The board shall annually elect a chairperson from its membership.

(4) Board members shall receive a per diem of seventy dollars for each day spent in the performance of their official duties and shall be reimbursed for expenses incurred in the performance of their official duties as provided in sections 81-1174 to 81-1177. Aside from the provisions of this subsection, a board member shall not receive other compensation, perquisites, or allowances for the performance of official duties.

Source: Laws 2000, LB 352, § 4; Laws 2020, LB381, § 75.
Operative date January 1, 2021.

71-8607 Commission; powers and duties.

(1) The commission shall:

(a) Apply for, receive, and administer money from any state or federal agency to be used for purposes relating to blindness, including federal funds relating to vocational rehabilitation of blind persons as provided in subsection (1) of section 71-8610;

(b) Receive on behalf of the state any gifts, donations, or bequests from any source to be used in carrying out the purposes of the Commission for the Blind and Visually Impaired Act;

(c) Promote self-support of blind persons as provided in sections 71-8608, 71-8609, and 71-8611;

(d) Provide itinerant training of alternative skills of blindness, including, but not limited to, braille, the long white cane for independent travel, adaptive technology, and lifestyle maintenance;

(e) Establish, equip, and maintain a residential training center with qualified instructors for comprehensive prevocational training of eligible blind persons. The center shall also provide comprehensive independent living training as well as orientation and adjustment counseling for blind persons;

(f) Administer and operate a vending facility program in the state, in its capacity as the designated licensing agency pursuant to the federal Randolph-Sheppard Act, as the act existed on January 1, 2019, 20 U.S.C. 107 et seq., for the benefit of blind persons;

(g) Contract for the purchase of information services for blind persons; and

(h) Perform other duties necessary to fulfill the purposes of the Commission for the Blind and Visually Impaired Act.

(2) The commission may perform educational services relating to blindness and may cooperate and consult with other public and private agencies relating to educational issues.

Source: Laws 2000, LB 352, § 7; Laws 2019, LB220, § 1.

71-8611 Vending facilities; license; priority status.

For the purpose of providing blind persons with remunerative employment, enlarging the economic opportunities of blind persons, and stimulating blind

persons to greater efforts in striving to make themselves self-supporting, the commission shall administer and operate vending facilities programs pursuant to the federal Randolph-Sheppard Act, as the act existed on January 1, 2019, 20 U.S.C. 107 et seq. Blind persons licensed by the commission pursuant to its rules and regulations are authorized to operate vending facilities in any federally owned building or on any federally owned or controlled property, in any state-owned building or on any property owned or controlled by the state, or on any property owned or controlled by any county, city, or municipality with the approval of the local governing body, when, in the judgment of the director of the commission, such vending facilities may be properly and satisfactorily operated by blind persons. With respect to vending facilities in any state-owned building or on any property owned or controlled by the state, priority shall be given to blind persons, except that this shall not apply to the Game and Parks Commission or the University of Nebraska. If a blind person is selected to operate vending facilities in such building or on such property, he or she shall do so on a rent-free basis and offer products at prices comparable to similar products sold in similar buildings or on similar property.

Source: Laws 1961, c. 443, § 1, p. 1363; Laws 1973, LB 32, § 1; Laws 1976, LB 674, § 3; Laws 1996, LB 1044, § 929; R.S.1943, (1999), § 83-210.03; Laws 2000, LB 352, § 11; Laws 2004, LB 1005, § 134; Laws 2012, LB858, § 4; Laws 2019, LB220, § 2.

ARTICLE 87

PATIENT SAFETY IMPROVEMENT ACT

Section

71-8701. Act, how cited.

71-8722. Patient Safety Cash Fund; created; use; investment.

71-8701 Act, how cited.

Sections 71-8701 to 71-8722 shall be known and may be cited as the Patient Safety Improvement Act.

Source: Laws 2005, LB 361, § 1; Laws 2019, LB25, § 2.

71-8722 Patient Safety Cash Fund; created; use; investment.

The Patient Safety Cash Fund is created. The Patient Safety Cash Fund shall only be used to support the activities of a patient safety organization. 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.

Source: Laws 2019, LB25, § 3.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

ARTICLE 88

STEM CELL RESEARCH ACT

Section

71-8803. Stem Cell Research Advisory Committee; created; qualifications; terms; meetings; stipend; expenses.

71-8803 Stem Cell Research Advisory Committee; created; qualifications; terms; meetings; stipend; expenses.

(1) The Stem Cell Research Advisory Committee is created. The committee shall consist of the dean of every medical school in Nebraska that is accredited by the Liaison Committee on Medical Education or his or her designee and additional members appointed as follows: (a) The dean of every medical school in Nebraska shall nominate three scientists from outside Nebraska conducting human stem cell research with funding from the National Institutes of Health of the United States Department of Health and Human Services; and (b) the chief medical officer as designated in section 81-3115 shall select two of such scientists from each set of nominations to serve on the committee. Appointments by the chief medical officer pursuant to this subsection shall be approved by the Legislature. Members appointed by the chief medical officer shall serve for staggered terms of three years each and until their successors are appointed and qualified. Such members may be reappointed for additional three-year terms.

(2) The committee shall meet not less than twice each year.

(3) Members of the committee not employed by medical schools in Nebraska shall receive a stipend per meeting to be determined by the Division of Public Health of the Department of Health and Human Services based on standard consultation fees, and all members of the committee shall be reimbursed for expenses incurred in service on the committee pursuant to sections 81-1174 to 81-1177.

Source: Laws 2008, LB606, § 3; Laws 2020, LB381, § 76.
Operative date January 1, 2021.

CHAPTER 72

PUBLIC LANDS, BUILDINGS, AND FUNDS

Article.

- 2. School Lands and Funds. 72-201, 72-224.03.
- 8. Public Buildings. 72-804 to 72-806.
- 12. Investment of State Funds.
 - (a) Nebraska State Funds Investment Act. 72-1239 to 72-1243.
 - (d) Review of Nebraska Investment Council. 72-1277, 72-1278.
- 20. Niobrara River Corridor. 72-2007.
- 21. Governor's Residence. 72-2103.
- 22. Nebraska State Capitol Preservation and Restoration Act. 72-2201, 72-2215.

ARTICLE 2

SCHOOL LANDS AND FUNDS

Section

- 72-201. Board of Educational Lands and Funds; members; appointment; terms; compensation; expenses; duties; qualifications; organization; chairperson; meetings; secretary.
- 72-224.03. Condemnation proceedings; procedure; board; membership; appeal; award; filing; effect.

72-201 Board of Educational Lands and Funds; members; appointment; terms; compensation; expenses; duties; qualifications; organization; chairperson; meetings; secretary.

(1) The Board of Educational Lands and Funds shall consist of five members to be appointed by the Governor with the consent of a majority of the members elected to the Legislature. One member shall be appointed from each of the congressional districts as the districts were constituted on January 1, 1961, and a fifth member shall be appointed from the state at large. One member of the board shall be competent in the field of investments. The initial members shall be appointed to take office on October 1, 1955, and shall hold office for the following periods of time: The member from the first congressional district for one year; the member from the second congressional district for two years; the member from the third congressional district for three years; the member from the fourth congressional district for four years; and the member from the state at large for five years. As the terms of the members expire, the Governor shall appoint or reappoint a member of the board for a term of five years, except members appointed to fill vacancies whose tenures shall be the unexpired terms for which they are appointed. If the Legislature is not in session when such members, or some of them, are appointed by the Governor, such members shall take office and act as recess appointees until the Legislature next thereafter convenes. The compensation of the members shall be fifty dollars per day for each day's time actually engaged in the performance of the duties of their office. Each member shall be reimbursed for expenses incurred while upon business of the board as provided in sections 81-1174 to 81-1177. The board shall cause all school, university, agricultural college, and state college lands, owned by or the title to which may hereafter vest in the state, to be registered, leased, and sold as provided in sections 72-201 to 72-251 and shall have the

general management and control of such lands and make necessary rules not provided by law. The funds arising from these lands shall be disposed of in the manner provided by the Constitution of Nebraska, sections 72-201 to 72-251, and other laws of Nebraska not inconsistent herewith.

(2) No person shall be eligible to membership on the board who is actively engaged in the teaching profession, who holds or has any financial interest in a school land lease, who is a holder of or a candidate for any state office or a member of any state board or commission, or who has not resided in this state for at least three years.

(3) The board shall elect one of its members as chairperson of the Board of Educational Lands and Funds. In the absence of the chairperson, any member of the board may, upon motion duly carried, act in his or her behalf as such chairperson. It shall keep a record of all proceedings and orders made by it. No order shall be made except upon the concurrence of at least three members of the board. It shall make all orders pertaining to the handling of all lands and funds set apart for educational purposes.

(4) The board shall maintain an office in Lincoln and shall meet in its office not less than once each month.

(5) The board may appoint a secretary for the board. The compensation of the secretary shall be payable monthly, as fixed by the board.

Source: Laws 1899, c. 69, § 1, p. 300; R.S.1913, § 5845; C.S.1922, § 5181; C.S.1929, § 72-201; Laws 1935, c. 163, § 1, p. 594; Laws 1937, c. 162, § 1, p. 628; C.S.Supp.,1941, § 72-201; R.S.1943, § 72-201; Laws 1945, c. 175, § 1, p. 559; Laws 1951, c. 338, § 3, p. 117; Laws 1953, c. 252, § 1, p. 857; Laws 1955, c. 276, § 1, p. 874; Laws 1955, c. 277, § 1, p. 877; Laws 1961, c. 282, § 5, p. 822; Laws 1965, c. 434, § 1, p. 1383; Laws 1969, c. 589, § 1, p. 2438; Laws 1981, LB 204, § 141; Laws 1999, LB 779, § 12; Laws 2011, LB332, § 1; Laws 2014, LB967, § 3; Laws 2020, LB381, § 77.

Operative date January 1, 2021.

Cross References

Constitutional provisions:

Board of Educational Lands and Funds, duties, membership, see Article VII, section 6, Constitution of Nebraska.

Fees, see sections 25-1280 and 33-104.

Other provisions relating to the board, see Chapter 84, article 4.

State-owned geothermal resources, authority to lease, see section 66-1104.

72-224.03 Condemnation proceedings; procedure; board; membership; appeal; award; filing; effect.

Except as otherwise provided in section 72-222.02, any public body that has or hereafter shall be granted by the Legislature the authority to acquire educational lands for public use shall be required to condemn the interest of the state, as trustee for the public schools, in educational lands in the following manner:

(1) The proceedings shall be had before a board consisting of (a) the superintendent of a school district offering instruction in grades kindergarten through twelve, (b) a certified public accountant, and (c) a credentialed real property appraiser, all appointed by the Governor for a term of six years, except that of the initial appointees one shall serve for a term of two years, one for a term of four years, and one for a term of six years as designated by the

Governor. The members of the board shall each receive fifty dollars for each day actually engaged in the performance of official duties and shall be reimbursed for expenses as provided in sections 81-1174 to 81-1177 to be paid by the Board of Educational Lands and Funds;

(2) The condemnation proceedings shall be commenced by the filing of a plat and complete description of the lands to be acquired together with an application for that purpose with the secretary of the Board of Educational Lands and Funds. Notice of the pendency of such application and the date of hearing shall be given by serving a copy of the application, together with notice of the date of hearing, upon the Governor and the Attorney General. The date of hearing shall be not less than ten days from the date of the filing of the application;

(3) The condemner and the Board of Educational Lands and Funds may present evidence before the board of appraisers. The board shall have the power to administer oaths and subpoena witnesses at the request of either party or on its own motion;

(4) After hearing the evidence, the board of appraisers shall make the award and file same in the office of the Board of Educational Lands and Funds. Such award may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act; and

(5) Upon payment of the amount of the award by the condemner, it shall be the duty of the secretary of the Board of Educational Lands and Funds to transmit a certified copy of the award to the condemner for filing in the office of the register of deeds in the county or counties where the land is located. The filing of such certified copy of the award shall have the force and effect of a deed of conveyance of the real estate and shall constitute a transfer of the title thereto.

Source: Laws 1949, c. 213, § 1(3), p. 608; Laws 1951, c. 237, § 1, p. 843; Laws 1963, Spec. Sess., c. 17, § 3, p. 149; Laws 1967, c. 466, § 5, p. 1446; Laws 1969, c. 514, § 7, p. 2106; Laws 1979, LB 381, § 1; Laws 1981, LB 121, § 1; Laws 1981, LB 204, § 142; Laws 1988, LB 352, § 146; Laws 1990, LB 1153, § 56; Laws 1991, LB 203, § 3; Laws 1994, LB 1107, § 3; Laws 2006, LB 778, § 6; Laws 2020, LB381, § 78.

Operative date January 1, 2021.

Cross References

Administrative Procedure Act, see section 84-920.

**ARTICLE 8
PUBLIC BUILDINGS**

Section

72-804. New state building; code requirements.

72-805. Buildings constructed with state funds; code requirements.

72-806. Enforcement.

72-804 New state building; code requirements.

(1) Any new state building shall meet or exceed the requirements of the 2018 International Energy Conservation Code published by the International Code Council.

(2) Any new lighting, heating, cooling, ventilating, or water heating equipment or controls in a state-owned building and any new building envelope components installed in a state-owned building shall meet or exceed the requirements of the 2018 International Energy Conservation Code.

(3) The State Building Administrator of the Department of Administrative Services, in consultation with the Department of Environment and Energy, may specify:

- (a) A more recent edition of the International Energy Conservation Code;
- (b) Additional energy efficiency or renewable energy requirements for buildings; and
- (c) Waivers of specific requirements which are demonstrated through life-cycle cost analysis to not be in the state’s best interest. The agency receiving the funding shall be required to provide a life-cycle cost analysis to the State Building Administrator.

Source: Laws 1999, LB 755, § 1; Laws 2003, LB 643, § 3; Laws 2004, LB 888, § 1; Laws 2011, LB329, § 1; Laws 2019, LB302, § 92; Laws 2019, LB405, § 3.

72-805 Buildings constructed with state funds; code requirements.

The 2018 International Energy Conservation Code, published by the International Code Council, applies to all new buildings constructed in whole or in part with state funds after July 1, 2020. The Department of Environment and Energy shall review building plans and specifications necessary to determine whether a building will meet the requirements of this section. The department shall provide a copy of its review to the agency receiving funding. The agency receiving the funding shall verify that the building as constructed meets or exceeds the code. The verification shall be provided to the department. The Director of Environment and Energy may, in consultation with the State Building Administrator of the Department of Administrative Services, adopt and promulgate rules and regulations to carry out this section.

Source: Laws 1999, LB 755, § 2; Laws 2004, LB 888, § 2; Laws 2011, LB329, § 2; Laws 2019, LB302, § 93; Laws 2019, LB405, § 4.

72-806 Enforcement.

The enforcement provisions of Chapter 1 of the 2018 International Energy Conservation Code, published by the International Code Council, shall not apply to buildings subject to section 72-804.

Source: Laws 1999, LB 755, § 3; Laws 2003, LB 643, § 4; Laws 2004, LB 888, § 3; Laws 2011, LB329, § 3; Laws 2019, LB405, § 5.

ARTICLE 12

INVESTMENT OF STATE FUNDS

(a) NEBRASKA STATE FUNDS INVESTMENT ACT

Section

- 72-1239. Nebraska Investment Council; purpose; members; meetings; compensation; expenses.
- 72-1239.01. Council; duties and responsibilities.
- 72-1243. State investment officer; investment and reinvestment of funds; duties; council; analysis required; plan; contents.

Section

(d) REVIEW OF NEBRASKA INVESTMENT COUNCIL

72-1277. Legislative findings.

72-1278. Nebraska Investment Council; comprehensive review of council; contract.

(a) NEBRASKA STATE FUNDS INVESTMENT ACT

72-1239 Nebraska Investment Council; purpose; members; meetings; compensation; expenses.

The purpose of the council is to formulate and establish such policies as it may deem necessary and proper which shall govern the methods, practices, and procedures followed by the state investment officer for the investment or reinvestment of state funds and funds described in section 83-133 and the purchase, sale, or exchange of securities as provided by the Nebraska State Funds Investment Act. The council shall meet from time to time as directed by the Governor or the chairperson or as requested by the state investment officer. The members of the council, except the State Treasurer, the director of the Nebraska Public Employees Retirement Systems, and beginning January 1, 2017, each administrator of a retirement system provided for under the Class V School Employees Retirement Act, shall be paid seventy-five dollars per diem. The members shall be reimbursed for expenses incurred in connection with the performance of their duties as members as provided in sections 81-1174 to 81-1177.

Source: Laws 1969, c. 584, § 3, p. 2350; Laws 1981, LB 204, § 145; Laws 1985, LB 335, § 1; Laws 1991, LB 368, § 2; Laws 1996, LB 847, § 20; Laws 1997, LB 4, § 1; Laws 2005, LB 503, § 6; Laws 2016, LB447, § 3; Laws 2020, LB381, § 79.
Operative date January 1, 2021.

Cross References

Class V School Employees Retirement Act, see section 79-978.01.

72-1239.01 Council; duties and responsibilities.

(1)(a) The appointed members of the council shall have the responsibility for the investment management of the assets of the retirement systems administered by the Public Employees Retirement Board as provided in section 84-1503, the assets of the Nebraska educational savings plan trust created pursuant to sections 85-1801 to 85-1817, the assets of the achieving a better life experience program pursuant to sections 77-1401 to 77-1409, and beginning January 1, 2017, the assets of each retirement system provided for under the Class V School Employees Retirement Act. Except as provided in subsection (4) of this section, the appointed members shall be deemed fiduciaries with respect to the investment of the assets of the retirement systems, of the Nebraska educational savings plan trust, and of the achieving a better life experience program and shall be held to the standard of conduct of a fiduciary specified in subsection (3) of this section. The nonvoting, ex officio members of the council shall not be deemed fiduciaries.

(b) As fiduciaries, the appointed members of the council and the state investment officer shall discharge their duties with respect to the assets of the retirement systems, of the Nebraska educational savings plan trust, and of the achieving a better life experience program solely in the interests of the members and beneficiaries of the retirement systems or the interests of the partici-

pants and beneficiaries of the Nebraska educational savings plan trust and the achieving a better life experience program, as the case may be, for the exclusive purposes of providing benefits to members, members' beneficiaries, participants, and participants' beneficiaries and defraying reasonable expenses incurred within the limitations and according to the powers, duties, and purposes prescribed by law.

(2)(a) The appointed members of the council shall have the responsibility for the investment management of the assets of state funds. The appointed members shall be deemed fiduciaries with respect to the investment of the assets of state funds and shall be held to the standard of conduct of a fiduciary specified in subsection (3) of this section. The nonvoting, ex officio members of the council shall not be deemed fiduciaries.

(b) As fiduciaries, the appointed members of the council and the state investment officer shall discharge their duties with respect to the assets of state funds solely in the interests of the citizens of the state within the limitations and according to the powers, duties, and purposes prescribed by law.

(3) The appointed members of the council shall act with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims by diversifying the investments of the assets of the retirement systems, the Nebraska educational savings plan trust, the achieving a better life experience program, and state funds so as to minimize risk of large losses, unless in light of such circumstances it is clearly prudent not to do so. No assets of the retirement systems, the Nebraska educational savings plan trust, or the achieving a better life experience program shall be invested or reinvested if the sole or primary investment objective is for economic development or social purposes or objectives.

(4) Neither the appointed members of the council nor the state investment officer shall be deemed fiduciaries with respect to investments of the assets of a retirement system provided for under the Class V School Employees Retirement Act made by or on behalf of the board of education as defined in section 79-978 or the board of trustees provided for in section 79-980. Neither the council nor any member thereof nor the state investment officer shall be liable for the action or inaction of the board of education or the board of trustees with respect to the investment of the assets of a retirement system provided for under the Class V School Employees Retirement Act, the consequences of any such action or inaction of the board of education or the board of trustees, and any claims, suits, losses, damages, fees, and costs related to such action or inaction or consequences thereof.

Source: Laws 1996, LB 847, § 21; Laws 2002, LB 407, § 18; Laws 2003, LB 574, § 25; Laws 2015, LB591, § 11; Laws 2016, LB447, § 4; Laws 2019, LB610, § 6.

Cross References

Class V School Employees Retirement Act, see section 79-978.01.

72-1243 State investment officer; investment and reinvestment of funds; duties; council; analysis required; plan; contents.

(1) Except as otherwise specifically provided by law, the state investment officer shall direct the investment and reinvestment of money in all state funds

not currently needed and all funds described in section 83-133 and order the purchase, sale, or exchange of securities for such funds. He or she shall notify the State Treasurer of any payment, receipt, or delivery that may be required as a result of any investment decision, which notification shall be the authorization and direction for the State Treasurer to make such disbursement, receipt, or delivery from the appropriate fund.

(2) The council shall have an analysis made of the investment returns that have been achieved on the assets of each retirement system administered by the Public Employees Retirement Board as provided in section 84-1503 and, beginning January 1, 2017, on the assets of each retirement system provided for under the Class V School Employees Retirement Act. By March 31 of each year, the analysis shall be presented to the board and the Nebraska Retirement Systems Committee of the Legislature. The analysis shall be prepared by an independent organization which has demonstrated expertise to perform this type of analysis and for which there exists no conflict of interest in the analysis being provided. The analysis may be waived by the council for any retirement system with assets of less than one million dollars.

(3) By March 31 of each year prior to 2020, and by April 10 of each year beginning in 2020, the council shall prepare a written plan of action and shall present such plan to the Nebraska Retirement Systems Committee of the Legislature at a public hearing. The plan shall include, but not be limited to, the council's investment portfolios, investment strategies, the duties and limitations of the state investment officer, and an organizational structure of the council's office.

Source: Laws 1969, c. 584, § 7, p. 2351; Laws 1971, LB 53, § 7; Laws 1985, LB 335, § 2; Laws 1991, LB 549, § 21; Laws 1996, LB 847, § 24; Laws 2005, LB 503, § 7; Laws 2011, LB509, § 14; Laws 2016, LB447, § 5; Laws 2019, LB33, § 1.

Cross References

Class V School Employees Retirement Act, see section 79-978.01.

(d) REVIEW OF NEBRASKA INVESTMENT COUNCIL

72-1277 Legislative findings.

The Legislature finds that:

(1) The Nebraska Investment Council was created by the Legislature in Laws 1967, LB 335. Additional legislation was passed in Laws 1969, LB 1345, which provided for centralization of the investment of state funds and addressed types of authorized investments and since then the statutory framework of the council has been modified periodically by the Legislature;

(2) The laws of Nebraska provide that the appointed members of the council and the state investment officer are deemed fiduciaries with respect to investment of the assets (a) in the retirement systems, the achieving a better life experience program pursuant to sections 77-1401 to 77-1409, and the Nebraska educational savings plan trust and as fiduciaries are required to discharge their duties with respect to such assets solely in the best interest of the members and beneficiaries of such plans and (b) of other state funds solely in the best interest of the residents of Nebraska;

(3) As fiduciaries, the appointed members of the council and the officer must act with the care, skill, prudence, and diligence under the circumstances then

prevailing that a prudent person acting in like capacity and familiar with such matters would use in the conduct of an enterprise of like character with like aims by diversifying the investments of assets in the various plans so as to minimize the risk of large losses;

(4) The council managed over fifteen billion three hundred million dollars of assets as of September 30, 2007. Those assets have quadrupled since 1995. The assets managed by the council produced almost one billion five hundred million dollars in investment earnings in 2006 and almost seven billion dollars of investment earnings since December 31, 1995;

(5) The council has the responsibility of the management of portfolios for over thirty state entities. The financial markets and investment strategies that must be employed to achieve satisfactory returns have become more complex and the best practices of similar state government investment agencies have evolved since the creation of the council; and

(6) Pursuant to section 72-1249.02, the operating costs of the council are charged to the income of each fund managed by the council, and such charges are transferred to the State Investment Officer's Cash Fund. Management, custodial, and service costs that are a direct expense of state funds are paid from the income of such funds.

Source: Laws 2008, LB1147, § 17; Laws 2019, LB33, § 2.

72-1278 Nebraska Investment Council; comprehensive review of council; contract.

The Nebraska Investment Council shall enter into a contract with a qualified independent organization familiar with similar state investment offices to complete a comprehensive review of the current statutory, regulatory, and organizational situation of the council, review best practices of similar state investment offices, and make recommendations to the council, the Governor, and the Legislature for changes needed to ensure that the council has adequate authority to independently execute its fiduciary responsibilities to the members and beneficiaries of the retirement systems, the achieving a better life experience program pursuant to sections 77-1401 to 77-1409, and the Nebraska educational savings plan trust and the residents of Nebraska with regards to other state funds. The recommendations submitted to the Legislature shall be submitted electronically.

Source: Laws 2008, LB1147, § 18; Laws 2012, LB782, § 131; Laws 2019, LB33, § 3.

ARTICLE 20

NIORARA RIVER CORRIDOR

Section

72-2007. Niobrara Council; created; members; terms; meetings; expenses.

72-2007 Niobrara Council; created; members; terms; meetings; expenses.

(1) The Niobrara Council is created. The council membership shall include:

(a) A commissioner from each of the county boards of Brown, Cherry, Keya Paha, and Rock counties chosen by the county board of the respective county;

(b) A representative of the Middle Niobrara Natural Resources District and the Lower Niobrara Natural Resources District chosen by the board of the respective district;

(c) The secretary of the Game and Parks Commission or his or her designee;

(d) The regional director for the National Park Service or his or her designee and the regional director for the United States Fish and Wildlife Service or his or her designee. The members under this subdivision shall be nonvoting members unless and until the agencies represented by these members formally authorize such members to vote on all matters before the council by notifying the council and the Governor in writing;

(e) An individual from each of Brown, Cherry, Keya Paha, and Rock counties who resides in the Niobrara River drainage area and owns land in the Niobrara scenic river corridor chosen by the Governor from a list of at least three individuals, or fewer if there are not at least three qualified individuals, from each county submitted by the county board members on the council;

(f) A representative from a recreational business operating within the Niobrara scenic river corridor chosen by the Governor from a list of at least three individuals, or fewer if there are not at least three qualified individuals, submitted by the county board members on the council;

(g) A timber industry representative operating within the Niobrara scenic river corridor chosen by the Governor from a list of at least three individuals, or fewer if there are not at least three qualified individuals, submitted by the county board members on the council; and

(h) A representative of a recognized, nonprofit environmental, conservation, or wildlife organization chosen by the Governor from a list of at least three individuals, or fewer if there are not at least three qualified individuals, submitted by the county board members on the council.

The council members shall hold office for three-year terms and until a successor is appointed and qualified. The council members shall serve at the pleasure of the appointing board or the Governor.

(2) The council shall elect a chairperson, a vice-chairperson, a secretary, and a treasurer who shall jointly serve as the executive committee for the council. The council shall meet on a regular basis with a minimum of six meetings per year. Special meetings may be called by any member of the executive committee or at the request of a simple majority of the members of the council.

(3) A quorum shall be present at a meeting before any action may be taken by the council. A quorum shall be a majority of the members who are selected and serving and who vote on issues before the council. All actions of the council require a majority vote of the quorum present at any meeting, except that any vote to reject or adopt any zoning regulation or variance under section 72-2010 requires a vote of two-thirds of all the council members who are selected and serving and who vote on issues before the council.

(4) Members shall be reimbursed for expenses incurred in carrying out their duties on the council as provided in sections 81-1174 to 81-1177.

Source: Laws 2000, LB 1234, § 3; Laws 2001, LB 182, § 1; Laws 2015, LB310, § 1; Laws 2016, LB1038, § 15; Laws 2020, LB381, § 80; Laws 2020, LB858, § 18.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB381, section 80, with LB858, section 18, to reflect all amendments.

Note: Changes made by LB858 became operative August 7, 2020. Changes made by LB381 became operative January 1, 2021.

ARTICLE 21
GOVERNOR'S RESIDENCE

Section

72-2103. Commission members; expenses.

72-2103 Commission members; expenses.

The members of the Governor's Residence Advisory Commission shall serve without compensation. The members shall be reimbursed for expenses as provided in sections 81-1174 to 81-1177.

Source: Laws 1998, LB 1129, § 30; Laws 2020, LB381, § 81.
Operative date January 1, 2021.

ARTICLE 22

NEBRASKA STATE CAPITOL PRESERVATION AND RESTORATION ACT

Section

72-2201. Act, how cited.

72-2215. Flags of Indian tribes; display in State Capitol; powers and duties.

72-2201 Act, how cited.

Sections 72-2201 to 72-2215 shall be known and may be cited as the Nebraska State Capitol Preservation and Restoration Act.

Source: Laws 2004, LB 439, § 1; Laws 2005, LB 684, § 1; Laws 2020, LB848, § 10.
Operative date November 14, 2020.

72-2215 Flags of Indian tribes; display in State Capitol; powers and duties.

(1)(a) The Clerk of the Legislature shall cause to be displayed within the Warner Legislative Chamber flags representing the four federally recognized tribes with headquarters in Nebraska: the Omaha Tribe of Nebraska, the Ponca Tribe of Nebraska, the Santee Sioux Nation, and the Winnebago Tribe of Nebraska.

(b) The Commission on Indian Affairs shall obtain such flags, as well as poles and bases, through donations from the tribes. The Commission on Indian Affairs shall be responsible for replacing such flags, poles, and bases.

(c) The Clerk of the Legislature shall approve placement locations within the Warner Legislative Chamber. The size, proportion, and placement of such flags shall be similar to that of the flag of the United States and the flag of the State of Nebraska.

(2)(a) The State Capitol Administrator shall cause to be displayed in the Memorial Chamber on the fourteenth floor of the State Capitol the flags of any Indian tribes with historic and regional connections to Nebraska.

(b) The Commission on Indian Affairs shall designate the tribes with historic and regional connections to Nebraska and the flags to be displayed under subdivision (2)(a) of this section. The Commission on Indian Affairs shall obtain such flags, as well as poles and bases, through donations from the tribes. The Commission on Indian Affairs shall be responsible for replacing such flags, poles, and bases.

NEBRASKA STATE CAPITOL PRESERVATION AND RESTORATION § 72-2215

(c) The Nebraska Capitol Commission shall approve placement locations in the Memorial Chamber.

Source: Laws 2020, LB848, § 11.
Operative date November 14, 2020.



CHAPTER 75

PUBLIC SERVICE COMMISSION

Article.

1. Organization and Composition, Regulatory Scope, and Procedure. 75-104 to 75-161.
3. Motor Carriers.
 - (a) Intrastate Motor Carriers. 75-301 to 75-311.
 - (e) Safety Regulations. 75-362 to 75-369.03.
 - (j) Division of Motor Carrier Services. 75-386.
 - (l) Unified Carrier Registration Plan and Agreement. 75-392 to 75-3,100.
11. 211 Information and Referral Network. 75-1101.

ARTICLE 1

ORGANIZATION AND COMPOSITION, REGULATORY SCOPE, AND PROCEDURE

Section

- | | |
|------------|---|
| 75-104. | Commissioners; salary; commissioners and employees; expenses; when allowed. |
| 75-109.01. | Jurisdiction. |
| 75-118. | Commission; duties. |
| 75-124. | Rates; publication. |
| 75-156. | Civil penalty; procedure; order; appeal. |
| 75-161. | Special party buses; buses providing charter services; distinguishing signs or other indicia. |

75-104 Commissioners; salary; commissioners and employees; expenses; when allowed.

(1) Until January 4, 2007, the annual salary of each commissioner shall be fifty thousand dollars. Commencing January 4, 2007, the annual salary of each commissioner shall be seventy-five thousand dollars.

(2) Each commissioner shall be entitled to receive from the state his or her mileage expenses incurred while traveling in the line of duty to and from his or her residence to the office of the Public Service Commission in Lincoln pursuant to the following conditions:

(a) The Public Service Commission has adopted and promulgated rules and regulations establishing guidelines for allowable reimbursement of such mileage expenses, except that such mileage rate shall not exceed the mileage rate established by the Department of Administrative Services pursuant to section 81-1176;

(b) The request for such reimbursement falls within such guidelines; and

(c) The total amounts authorized for such reimbursement of mileage expenses in any fiscal year does not cause the total expenses to exceed the total funds appropriated to the program established for commissioners' expenses. In addition thereto, the commissioners, executive director, clerks, and other employees of the commission shall be reimbursed for expenses, including the cost of transportation while traveling on the business of the commission, to be paid in the same manner as other requests for payment or reimbursement from the

state. In computing the cost of transportation for the commissioners, executive director, clerks, and other employees, no mileage or other traveling expense shall be requested or allowed unless sections 81-1174 to 81-1177 are strictly complied with.

Source: Laws 1963, c. 425, art. I, § 4, p. 1355; Laws 1967, c. 477, § 1, p. 1473; Laws 1969, c. 603, § 1, p. 2464; Laws 1972, LB 1389, § 1; Laws 1975, LB 311, § 1; Laws 1980, LB 872, § 1; Laws 1984, LB 826, § 2; Laws 1986, LB 43, § 3; Laws 1988, LB 864, § 11; Laws 1990, LB 503, § 1; Laws 1994, LB 414, § 27; Laws 1994, LB 872, § 16; Laws 1995, LB 16, § 1; Laws 2000, LB 956, § 1; Laws 2006, LB 817, § 1; Laws 2020, LB381, § 82.
Operative date January 1, 2021.

75-109.01 Jurisdiction.

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, licensure, and safety pursuant to sections 75-301 to 75-343, 75-369.03, 75-370, and 75-371;
- (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 86-579;
- (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.

Source: Laws 2002, LB 1105, § 482; Laws 2003, LB 790, § 63; Laws 2006, LB 1069, § 1; Laws 2006, LB 1249, § 12; Laws 2011, First Spec. Sess., LB1, § 14; Laws 2015, LB629, § 1; Laws 2015, LB461, § 1; Laws 2020, LB461, § 1; Laws 2020, LB992, § 10.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB461, section 1, with LB992, section 10, to reflect all amendments.

Note: Changes made by LB992 became operative November 14, 2020. Changes made by LB461 became operative January 1, 2021.

Cross References

Automatic Dialing-Announcing Devices Act, see section 86-236.

Emergency Telephone Communications Systems Act, see section 86-420.

Enhanced Wireless 911 Services Act, see section 86-442.

Grain Dealer Act, see section 75-901.

Grain Warehouse Act, see section 88-525.

Intrastate Pay-Per-Call Regulation Act, see section 86-258.

Major Oil Pipeline Siting Act, see section 57-1401.

Nebraska Telecommunications Regulation Act, see section 86-101.

Nebraska Telecommunications Universal Service Fund Act, see section 86-316.

Nebraska Uniform Standards for Modular Housing Units Act, see section 71-1555.

State Natural Gas Regulation Act, see section 66-1801.

Telecommunications Relay System Act, see section 86-301.

Telephone Consumer Slamming Prevention Act, see section 86-201.

Uniform Standard Code for Manufactured Homes and Recreational Vehicles, see section 71-4601.

Water Service Regulation Act, see section 75-1001.

75-118 Commission; duties.

The commission shall:

(1) Until July 1, 2021, fix all necessary rates, charges, and regulations governing and regulating the transportation, storage, or handling of household goods by any common carrier in Nebraska intrastate commerce;

(2) Fix all necessary rates, charges, and regulations governing and regulating the transportation of passengers by any common carrier in Nebraska intrastate commerce;

(3) Until July 1, 2021, make all necessary classifications of household goods that may be transported, stored, or handled by any common carrier in Nebraska intrastate commerce, such classifications applying to and being the same for all common carriers;

(4) Authorize the transportation of (a) household goods under a license issued pursuant to section 75-304.03 or (b) employees of a railroad carrier under a license issued pursuant to section 75-304.04;

(5) Prevent and correct the unjust discriminations set forth in section 75-126;

(6) Enforce all statutes and commission regulations pertaining to rates and, if necessary, institute actions in the appropriate court of any county in which the common carrier involved operates except actions instituted pursuant to sections 75-140 and 75-156 to 75-158. All suits shall be brought and penalties recovered in the name of the state by or under the direction of the Attorney General; and

(7) Enforce the Major Oil Pipeline Siting Act and the State Natural Gas Regulation Act.

Source: Laws 1963, c. 425, art. I, § 18, p. 1360; Laws 1989, LB 78, § 8; Laws 1994, LB 414, § 36; Laws 1995, LB 424, § 10; Laws 2003, LB 790, § 66; Laws 2011, First Spec. Sess., LB1, § 17; Laws 2020, LB461, § 2.

Operative date January 1, 2021.

Cross References

Major Oil Pipeline Siting Act, see section 57-1401.

State Natural Gas Regulation Act, see section 66-1801.

75-124 Rates; publication.

The commission may compile and reproduce tariffs containing the schedules of rates and charges for transportation of persons and, until July 1, 2021, household goods. The commission may make a charge for copies of such tariffs to cover the cost of reproducing, supplementing, and mailing the same. Every common carrier shall reproduce, keep for public inspection, and file with the commission in the manner prescribed by the commission, schedules showing the rates, fares, and charges for the transportation of passengers and, until July 1, 2021, household goods, which have been fixed and established as provided in Chapter 75, articles 1 and 3, and which are in force at the time with respect to such common carrier.

Source: Laws 1963, c. 425, art. I, § 24, p. 1363; Laws 1995, LB 424, § 11; Laws 2020, LB461, § 3.
Operative date January 1, 2021.

75-156 Civil penalty; procedure; order; appeal.

(1) In addition to other penalties and relief provided by law, the Public Service Commission may, upon a finding that the violation is proven by clear and convincing evidence, assess a civil penalty of up to ten thousand dollars per day against any person, motor carrier, regulated motor carrier, common carrier, contract carrier, licensee, grain dealer, or grain warehouseman for each violation of (a) any provision of the laws of this state within the jurisdiction of the commission as enumerated in section 75-109.01, (b) any term, condition, or limitation of any certificate, permit, license, or authority issued by the commission pursuant to the laws of this state within the jurisdiction of the commission as enumerated in section 75-109.01, or (c) any rule, regulation, or order of the commission issued under authority delegated to the commission pursuant to the laws of this state within the jurisdiction of the commission as enumerated in section 75-109.01.

(2) In addition to other penalties and relief provided by law, the Public Service Commission may, upon a finding that the violation is proven by clear and convincing evidence, assess a civil penalty not less than one hundred dollars and not more than one thousand dollars against any jurisdictional utility for each violation of (a) any provision of the State Natural Gas Regulation Act, (b) any rule, regulation, order, or lawful requirement issued by the commission pursuant to the act, (c) any final judgment or decree made by any court upon appeal from any order of the commission, or (d) any term, condition, or limitation of any certificate issued by the commission issued under authority delegated to the commission pursuant to the act. The amount of the civil penalty assessed in each case shall be based on the severity of the violation charged. The commission may compromise or mitigate any penalty prior to hearing if all parties agree. In determining the amount of the penalty, the commission shall consider the appropriateness of the penalty in light of the gravity of the violation and the good faith of the violator in attempting to achieve compliance after notification of the violation is given.

(3) In addition to other penalties and relief provided by law, the Public Service Commission may, upon a finding that the violation is proven by clear

and convincing evidence, assess a civil penalty of up to ten thousand dollars per day against any wireless carrier for each violation of the Enhanced Wireless 911 Services Act or any rule, regulation, or order of the commission issued under authority delegated to the commission pursuant to the act.

(4) In addition to other penalties and relief provided by law, the Public Service Commission may, upon a finding that the violation is proven by clear and convincing evidence, assess a civil penalty of up to one thousand dollars against any person for each violation of the Nebraska Uniform Standards for Modular Housing Units Act or the Uniform Standard Code for Manufactured Homes and Recreational Vehicles or any rule, regulation, or order of the commission issued under the authority delegated to the commission pursuant to either act. Each such violation shall constitute a separate violation with respect to each modular housing unit, manufactured home, or recreational vehicle, except that the maximum penalty shall not exceed one million dollars for any related series of violations occurring within one year from the date of the first violation.

(5) The civil penalty assessed under this section shall not exceed two million dollars per year for each violation except as provided in subsection (4) of this section. The amount of the civil penalty assessed in each case shall be based on the severity of the violation charged. The commission may compromise or mitigate any penalty prior to hearing if all parties agree. In determining the amount of the penalty, the commission shall consider the appropriateness of the penalty in light of the gravity of the violation and the good faith of the violator in attempting to achieve compliance after notification of the violation is given.

(6) Upon notice and hearing in accordance with this section and section 75-157, the commission may enter an order assessing a civil penalty of up to one hundred dollars against any person, firm, partnership, limited liability company, corporation, cooperative, or association for failure to file an annual report or pay the fee as required by section 75-116 and as prescribed by commission rules and regulations or for failure to register as required by section 86-125 and as prescribed by commission rules and regulations. Each day during which the violation continues after the commission has issued an order finding that a violation has occurred constitutes a separate offense. Any party aggrieved by an order of the commission under this section may appeal. The appeal shall be in accordance with section 75-136.

(7) When any person or party is accused of any violation listed in this section, the commission shall notify such person or party in writing (a) setting forth the date, facts, and nature of each act or omission upon which each charge of a violation is based, (b) specifically identifying the particular statute, certificate, permit, rule, regulation, or order purportedly violated, (c) that a hearing will be held and the time, date, and place of the hearing, (d) that in addition to the civil penalty, the commission may enforce additional penalties and relief as provided by law, and (e) that upon failure to pay any civil penalty determined by the commission, the penalty may be collected by civil action in the district court of Lancaster County.

Source: Laws 1995, LB 424, § 18; Laws 1996, LB 1218, § 41; Laws 2000, LB 1285, § 9; Laws 2002, LB 1105, § 493; Laws 2002, LB 1211, § 10; Laws 2003, LB 187, § 22; Laws 2003, LB 735, § 1; Laws

2003, LB 790, § 73; Laws 2005, LB 319, § 3; Laws 2008, LB755, § 3; Laws 2013, LB545, § 8; Laws 2020, LB461, § 4.
Operative date January 1, 2021.

Cross References

Enhanced Wireless 911 Services Act, see section 86-442.
Nebraska Uniform Standards for Modular Housing Units Act, see section 71-1555.
State Natural Gas Regulation Act, see section 66-1801.
Uniform Standard Code for Manufactured Homes and Recreational Vehicles, see section 71-4601.

75-161 Special party buses; buses providing charter services; distinguishing signs or other indicia.

The Public Service Commission shall, in consultation with the Nebraska Liquor Control Commission, adopt and promulgate rules and regulations for signs or other indicia distinguishing between buses providing special party services and buses providing charter services.

Source: Laws 2020, LB734, § 11.
Effective date November 14, 2020.

**ARTICLE 3
MOTOR CARRIERS**

(a) INTRASTATE MOTOR CARRIERS

Section

- 75-301. Motor carriers; regulation; legislative policy.
- 75-302. Terms, defined.
- 75-303. Motor carriers; scope of law.
- 75-304.02. Repealed. Laws 2020, LB461, § 15.
- 75-304.03. Mover of household goods; license; application; fee; issuance; conditions; renewal; fee; failure to comply; effect; commission; authority.
- 75-304.04. Transportation of railroad carrier employees; license; application; fee; issuance; conditions; renewal; fee; failure to comply; effect; commission; authority.
- 75-307. Insurance and bond requirements; subrogation; applicability of section.
- 75-308. Tariff; publication; unlawful practices.
- 75-311. Certificates; permits; designation of authority; issuance; review by commission; effect.

(e) SAFETY REGULATIONS

- 75-362. Federal regulations; terms, defined.
- 75-363. Federal motor carrier safety regulations; provisions adopted; exceptions.
- 75-364. Additional federal motor carrier regulations; provisions adopted.
- 75-366. Enforcement powers.
- 75-369.03. Violations; civil penalty; referral to federal agency or Public Service Commission; when.

(j) DIVISION OF MOTOR CARRIER SERVICES

- 75-386. Division of Motor Carrier Services; duties.

(l) UNIFIED CARRIER REGISTRATION PLAN AND AGREEMENT

- 75-392. Terms, defined.
- 75-393. Unified carrier registration plan and agreement; director; powers.
- 75-398. Violations; penalty.
- 75-399. Sections not applicable to intrastate commerce.
- 75-3,100. Registration; suspend, revoke, cancel, or refuse to issue or renew; conditions; notice; hearing; petition; reinstatement, issuance, or renewal; fee.

(a) INTRASTATE MOTOR CARRIERS

75-301 Motor carriers; regulation; legislative policy.

(1) It is the policy of the Legislature to comply with the laws of the United States, to promote uniformity of regulation, to prevent motor vehicle accidents, deaths, and injuries, to protect the public safety, to reduce redundant regulation, to promote financial responsibility on the part of all motor carriers operating in and through the state, and to foster the development, coordination, and preservation of a safe, sound, adequate, and productive motor carrier system which is vital to the economy of the state.

(2) It is the policy of the Legislature to (a) regulate transportation by motor carriers of passengers and household goods in intrastate commerce upon the public highways of Nebraska in such manner as to recognize and preserve the inherent advantages of and foster sound economic conditions in such transportation and among such carriers, in the public interest, (b) authorize upon the public highways of Nebraska the transportation in intrastate commerce of (i) household goods by motor carriers under licenses issued pursuant to section 75-304.03 and (ii) employees of railroad carriers engaged in interstate commerce to or from their work locations under licenses issued pursuant to section 75-304.04, (c) promote adequate economical and efficient service by motor carriers and reasonable charges therefor without unjust discrimination, undue preferences or advantages, and unfair or destructive competitive practices, (d) improve the relations between and coordinate transportation by and regulation of such motor carriers and other carriers, (e) develop and preserve a highway transportation system properly adapted to the needs of the commerce of Nebraska, (f) cooperate with the several states and the duly authorized officials thereof, and (g) cooperate with the United States Government in the administration and enforcement of the unified carrier registration plan and agreement.

The commission, the Division of Motor Carrier Services, and the carrier enforcement division shall enforce all provisions of section 75-126 and Chapter 75, article 3, so as to promote, encourage, and ensure a safe, dependable, responsive, and adequate transportation system for the public as a whole.

Source: Laws 1963, c. 425, art. III, § 1, p. 1374; Laws 1989, LB 78, § 14; Laws 1995, LB 424, § 21; Laws 1996, LB 1218, § 42; Laws 2009, LB331, § 14; Laws 2020, LB461, § 5.

Operative date January 1, 2021.

75-302 Terms, defined.

For purposes of sections 75-301 to 75-343 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, until July 1, 2021, 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. Beginning July 1, 2021, common carrier does not include a motor carrier operating under a license issued pursuant to section 75-304.03;

(7) Contract carrier means any motor carrier which transports passengers or, until July 1, 2021, 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. Beginning on January 1, 2021, contract carrier does not include a motor carrier operating under a license issued pursuant to section 75-304.04;

(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) License means a license issued to a motor carrier engaged in the for-hire, intrastate transportation of (a) household goods under section 75-304.03 or (b) employees of a railroad carrier engaged in interstate commerce to or from their work locations under section 75-304.04;

(13) 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;

(14) 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;

(15) 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;

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

(17) 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;

(18) 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;

(19) 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, until July 1, 2021, household goods, over any public highway in this state. Beginning July 1, 2021, regulated motor carrier does not include a motor carrier operating under a license issued pursuant to section 75-304.03. Beginning on January 1, 2021, regulated motor carrier does not include a motor carrier operating under a license issued pursuant to section 75-304.04;

(20) 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;

(21) 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;

(22) 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

(23) Transportation network company has the definition found in section 75-323. A transportation network company shall not own, control, operate, or manage drivers' personal vehicles.

Source: Laws 1963, c. 425, art. III, § 2, p. 1375; Laws 1969, c. 606, § 1, p. 2467; Laws 1972, LB 1370, § 1; Laws 1989, LB 78, § 18; Laws 1990, LB 980, § 25; Laws 1993, LB 121, § 464; Laws 1993, LB 412, § 2; Laws 1995, LB 424, § 22; Laws 1996, LB 1218, § 43; Laws 1999, LB 594, § 66; Laws 2006, LB 1069, § 3; Laws 2007, LB358, § 12; Laws 2011, LB112, § 1; Laws 2013, LB265, § 45; Laws 2015, LB629, § 23; Laws 2020, LB461, § 6.
Operative date January 1, 2021.

Cross References

Child Care Licensing Act, see section 71-1908.

75-303 Motor carriers; scope of law.

Sections 75-301 to 75-322 shall apply to transportation by a motor carrier or the transportation of passengers and, until July 1, 2021, household goods, by a regulated motor carrier for hire in intrastate commerce except for the following:

(1) A motor carrier for hire in the transportation of school children and teachers to and from school;

(2) A motor carrier for hire operated in connection with a part of a streetcar system;

(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 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;

(4) An ambulance, ambulance owner, hearse, or automobile used exclusively as an incident to conducting a funeral;

(5) A motor carrier exempt by subdivision (1) of this section which hauls for hire (a) persons of a religious, fraternal, educational, or charitable organization, (b) pupils of a school to athletic events, (c) players of American Legion baseball teams when the point of origin or termination is within five miles of the domicile of the carrier, and (d) the elderly as defined in section 13-1203 and their spouses and dependents under a contract with a municipality or county authorized in section 13-1208;

(6) A motor carrier operated by a city and engaged in the transportation of passengers, and such exempt operations shall be no broader than those authorized in intrastate commerce at the time the city or other political subdivision assumed ownership of the operation;

(7) A motor vehicle owned and operated by a nonprofit organization which is exempt from payment of federal income taxes, as provided by section 501(c)(4), Internal Revenue Code, transporting solely persons over age sixty, persons who are spouses and dependents of persons over age sixty, and handicapped persons;

(8) A motor carrier engaged in the transportation of passengers operated by a transit authority or regional metropolitan transit authority established under and acting pursuant to the laws of the State of Nebraska;

(9) Except as provided in section 75-304.03, a motor carrier engaged in the transportation of household goods;

(10) Except as provided in section 75-304.04, a motor carrier engaged in the transportation of employees of a railroad carrier engaged in interstate commerce to or from their work locations;

(11) A motor carrier operated by a municipality or county, as authorized in section 13-1208, in the transportation of elderly persons;

(12) A motor vehicle having a seating capacity of twenty or less which is operated by a governmental subdivision or a qualified public-purpose organization as defined in section 13-1203 engaged in the transportation of passengers in the state;

(13) A motor vehicle owned and operated by a nonprofit entity organized for the purpose of furnishing electric service;

(14) A motor carrier engaged in attended services under contract or subcontract with the Department of Health and Human Services or with any agency organized under the Nebraska Community Aging Services Act;

(15) A motor carrier engaged in residential care transportation services if the motor carrier complies with the requirements of the Department of Health and Human Services adopted, promulgated, and enforced to protect the safety and well-being of the passengers, including insurance, training, and age requirements;

(16) A motor carrier engaged in supported transportation services if the motor carrier complies with the requirements of the Department of Health and Human Services adopted, promulgated, and enforced to protect the safety and well-being of the passengers, including insurance, training, and age requirements; and

(17) A motor carrier engaged in licensed care transportation services if the motor carrier files a certificate with the commission that such provider meets the minimum driver standards, insurance requirements, and equipment standards prescribed by the commission. Insurance requirements established by the commission shall be consistent with the insurance requirements established by the Department of Health and Human Services for attended services, residential care transportation services, and supported transportation services.

Source: Laws 1963, c. 425, art. III, § 3, p. 1376; Laws 1969, c. 606, § 2, p. 2468; Laws 1972, LB 1178, § 1; Laws 1973, LB 54, § 1; Laws 1973, LB 70, § 1; Laws 1973, LB 345, § 2; Laws 1974, LB 762, § 1; Laws 1981, LB 85, § 2; Laws 1981, LB 144, § 8; Laws 1983, LB 98, § 1; Laws 1989, LB 78, § 19; Laws 1993, LB 412, § 3; Laws 1993, LB 413, § 3; Laws 1995, LB 424, § 23; Laws 1996, LB 1218, § 44; Laws 1999, LB 594, § 67; Laws 2011, LB112, § 2; Laws 2019, LB492, § 41; Laws 2020, LB461, § 7.
Operative date January 1, 2021.

Cross References

Nebraska Community Aging Services Act, see section 81-2201.

75-304.02 Repealed. Laws 2020, LB461, § 15.

Operative date July 1, 2021.

75-304.03 Mover of household goods; license; application; fee; issuance; conditions; renewal; fee; failure to comply; effect; commission; authority.

(1) Beginning July 1, 2021, any mover of household goods operating in this state and engaged in the intrastate transportation for hire of household goods shall apply to the commission for a license prior to transporting household goods in intrastate commerce. A license shall be issued by the commission to any qualified applicant upon payment of a license fee of two hundred fifty dollars and receipt of a completed application in which the principal place of business of the applicant in the State of Nebraska is identified and the applicant agrees and affirms to perform the service in conformance with applicable sections 75-301 to 75-322 and the rules and regulations of the commission adopted and promulgated under such sections. Otherwise the application shall be denied. Applications for initial and renewal licenses shall be on forms prescribed by the commission. A license issued under this section shall be valid for one year and may be renewed annually for a fee of two hundred fifty dollars. A license may be suspended or revoked by the commission after notice and hearing for failure to comply with applicable sections 75-101 to 75-801, any rule or regulation adopted and promulgated under such sections, or any lawful order of the commission.

(2) Any person who applies for a license pursuant to this section shall comply with the requirements of section 75-307. The commission shall have no authority to regulate the rates of any motor carrier who is issued a license under this section.

Source: Laws 2020, LB461, § 8.

Operative date January 1, 2021.

75-304.04 Transportation of railroad carrier employees; license; application; fee; issuance; conditions; renewal; fee; failure to comply; effect; commission; authority.

(1) Any motor carrier operating in this state engaged in the intrastate transportation for hire of employees of a railroad carrier engaged in interstate commerce to or from their work locations shall apply to the commission for a license prior to transporting such employees in intrastate commerce. A license shall be issued by the commission to any qualified applicant upon payment of a license fee of two hundred fifty dollars and receipt of a completed application in which the principal place of business of the applicant in the State of Nebraska is identified and the applicant agrees and affirms to perform the service in conformance with section 75-307 and the rules and regulations adopted and promulgated by the commission relating to driver qualifications, equipment, operating standards, and recordkeeping. Otherwise the application shall be denied. Applications for initial and renewal licenses shall be on forms prescribed by the commission. A license issued under this section shall be valid for one year and may be renewed annually for a fee of two hundred fifty dollars. A license may be suspended or revoked by the commission after notice and hearing for failure to comply with section 75-307, and any rule or regulation adopted and promulgated under this section, or any lawful order of the commission.

(2) Any person who applies for a license pursuant to this section shall comply with the requirements of section 75-307. The commission shall have no authority to regulate the rates of any motor carrier who is issued a license under this section.

Source: Laws 2020, LB461, § 9.
Operative date January 1, 2021.

75-307 Insurance and bond requirements; subrogation; applicability of section.

(1) Certificated intrastate motor carriers, including common and contract carriers, any motor carrier transporting household goods under a license issued pursuant to section 75-304.03, and any motor carrier transporting employees of a railroad carrier under a license issued pursuant to section 75-304.04 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, permit, or license or for loss or damage to property of others. No certificate or permit shall be issued to a common or contract carrier, no license shall be issued to a motor carrier transporting household goods under section 75-304.03 or employees of a railroad carrier under section 75-304.04, nor shall such certificate, permit, or license 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, any motor carrier transporting household goods under a license issued pursuant to section 75-304.03, and any motor carrier transporting employees of a railroad carrier under a license issued pursuant to section 75-304.04 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 those transporting household goods under section 75-309 or under a license issued pursuant to section 75-304.03 to carry cargo insurance.

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

Source: Laws 1963, c. 425, art. III, § 7, p. 1379; Laws 1989, LB 78, § 23; Laws 1990, LB 980, § 26; Laws 1995, LB 424, § 30; Laws 2007, LB358, § 13; Laws 2015, LB629, § 27; Laws 2020, LB461, § 10.
Operative date January 1, 2021.

75-308 Tariff; publication; unlawful practices.

It is unlawful for a regulated motor carrier to engage in the transportation of passengers or, until July 1, 2021, household goods, in intrastate commerce unless the motor carrier has filed, published, and kept open for inspection its tariff schedule as provided in section 75-124 in the manner prescribed by the commission pursuant to such section. Until July 1, 2021, no regulated motor carrier shall engage in the transportation of household goods in intrastate commerce unless it has obtained a copy of the most current applicable tariff, or a tariff prepared by a tariff publishing bureau or an individual, which conforms with the rates and charges prescribed by the commission.

Source: Laws 1963, c. 425, art. III, § 8, p. 1380; Laws 1983, LB 309, § 1; Laws 1995, LB 424, § 34; Laws 2020, LB461, § 11.
Operative date January 1, 2021.

75-311 Certificates; permits; designation of authority; issuance; review by commission; effect.

(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, 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) A designation of authority shall be issued to any regulated motor carrier holding a certificate under subsection (1) of this section or a permit under subsection (2) of this section authorizing such carrier to provide medicaid nonemergency medical transportation services pursuant to a contract with (i) the Department of Health and Human Services, (ii) a medicaid-managed care organization under contract with the department, or (iii) another agent working on the department's behalf as provided under section 75-303.01, if it is found after notice and hearing from the application or from any hearing held on the

application that the authorization is or will be required by the present or future convenience and necessity to serve the distinct needs of medicaid clients. In determining whether the authorization is or will be required by the present or future convenience and necessity to serve the distinct needs of medicaid clients, the commission shall consult with the Director of Medicaid and Long-Term Care of the Division of Medicaid and Long-Term Care of the department or his or her designee.

(4) Until July 1, 2021, 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.

(5) Until July 1, 2021, 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.

(6) This section shall not apply to transportation network companies holding a permit under section 75-324 or operations pursuant to a contract authorized by sections 75-303.02 and 75-303.03.

Source: Laws 1963, c. 425, art. III, § 11, p. 1381; Laws 1969, c. 606, § 6, p. 2471; Laws 1972, LB 1370, § 2; Laws 1974, LB 438, § 2; Laws 1989, LB 78, § 25; Laws 1990, LB 980, § 27; Laws 1993, LB 412, § 10; Laws 1994, LB 414, § 74; Laws 1995, LB 424, § 38; Laws 1996, LB 1218, § 50; Laws 2011, LB112, § 3; Laws 2015, LB629, § 30; Laws 2017, LB263, § 87; Laws 2020, LB461, § 12.
Operative date January 1, 2021.

(e) SAFETY REGULATIONS

75-362 Federal regulations; terms, defined.

For purposes of sections 75-362 to 75-369.07, unless the context otherwise requires:

(1) Accident means:

(a) Except as provided in subdivision (b) of this subdivision, an occurrence involving a commercial motor vehicle operating on a highway in interstate or intrastate commerce which results in:

(i) A fatality;

(ii) Bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or

(iii) One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicles to be transported away from the scene by a tow truck or other motor vehicle.

(b) The term accident does not include:

(i) An occurrence involving only boarding and alighting from a stationary motor vehicle; or

(ii) An occurrence involving only the loading or unloading of cargo;

(2) Bulk packaging means a packaging, other than a vessel or a barge, including a transport vehicle or freight container, in which hazardous materials are loaded with no intermediate form of containment. A large packaging in which hazardous materials are loaded with an intermediate form of containment, such as one or more articles or inner packagings, is also a bulk packaging. Additionally, a bulk packaging has:

(a) A maximum capacity greater than one hundred nineteen gallons as a receptacle for a liquid;

(b) A maximum net mass greater than eight hundred eighty-two pounds and a maximum capacity greater than one hundred nineteen gallons as a receptacle for a solid; or

(c) A water capacity greater than one thousand pounds as a receptacle for a gas as defined in 49 C.F.R. 173.115;

(3) Cargo tank means a bulk packaging that:

(a) Is a tank intended primarily for the carriage of liquids or gases and includes appurtenances, reinforcements, fittings, and closures;

(b) Is permanently attached to or forms a part of a motor vehicle or is not permanently attached to a motor vehicle but which, by reason of its size, construction, or attachment to a motor vehicle, is loaded or unloaded without being removed from the motor vehicle; and

(c) Is not fabricated under a specification for cylinders, intermediate bulk containers, multi-unit tank-car tanks, portable tanks, or tank cars;

(4) Cargo tank motor vehicle means a motor vehicle with one or more cargo tanks permanently attached to or forming an integral part of the motor vehicle;

(5) Commercial enterprise means any business activity relating to or based upon the production, distribution, or consumption of goods or services;

(6) Commercial motor vehicle means any self-propelled or towed motor vehicle used on a highway in interstate commerce or intrastate commerce to transport passengers or property when the vehicle:

(a) Has a gross vehicle weight rating or gross combination weight rating or gross vehicle weight or gross combination weight of ten thousand one pounds or more, whichever is greater;

(b) Is designed or used to transport more than eight passengers, including the driver, for compensation;

(c) Is designed or used to transport more than fifteen passengers, including the driver, and is not used to transport passengers for compensation; or

(d) Is used in transporting material found to be hazardous and such material is transported in a quantity requiring placarding pursuant to section 75-364;

(7) Compliance review means an onsite examination of motor carrier operations, such as drivers' hours of service, maintenance and inspection, driver qualification, commercial driver's license requirements, financial responsibility, accidents, hazardous materials, and other safety and transportation records to determine whether a motor carrier meets the safety fitness standard. A compliance review may be conducted in response to a request to change a safety

rating, to investigate potential violations of safety regulations by motor carriers, or to investigate complaints or other evidence of safety violations. The compliance review may result in the initiation of an enforcement action with penalties;

(8)(a) Covered farm vehicle means a motor vehicle, including an articulated motor vehicle:

(i) That:

(A) Is traveling in the state in which the vehicle is registered or another state;

(B) Is operated by:

(I) A farm owner or operator;

(II) A ranch owner or operator; or

(III) An employee or family member of an individual specified in subdivision (8)(a)(i)(B)(I) or (8)(a)(i)(B)(II) of this section;

(C) Is transporting to or from a farm or ranch:

(I) Agricultural commodities;

(II) Livestock; or

(III) Machinery or supplies;

(D) Except as provided in subdivision (8)(b) of this section, is not used in the operations of a for-hire motor carrier; and

(E) Is equipped with a special license plate or other designation by the state in which the vehicle is registered to allow for identification of the vehicle as a farm vehicle by law enforcement personnel; and

(ii) That has a gross vehicle weight rating or gross vehicle weight, whichever is greater, that is:

(A) Less than twenty-six thousand one pounds; or

(B) Twenty-six thousand one pounds or more and is traveling within the state or within one hundred fifty air miles of the farm or ranch with respect to which the vehicle is being operated.

(b) Covered farm vehicle includes a motor vehicle that meets the requirements of subdivision (8)(a) of this section, except for subdivision (8)(a)(i)(D) of this section, and:

(i) Is operated pursuant to a crop share farm lease agreement;

(ii) Is owned by a tenant with respect to that agreement; and

(iii) Is transporting the landlord's portion of the crops under that agreement.

(c) Covered farm vehicle does not include:

(i) A combination of truck-tractor and semitrailer which is operated by a person under eighteen years of age; or

(ii) A combination of truck-tractor and semitrailer which 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 combination to be placarded under 49 C.F.R. part 172, subpart F;

(9) Disabling damage means damage which precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs.

(a) Inclusions: Damage to motor vehicles that could have been driven but would have been further damaged if so driven.

(b) Exclusions:

(i) Damage which can be remedied temporarily at the scene of the accident without special tools or parts;

(ii) Tire disablement without other damage even if no spare tire is available;

(iii) Headlight or taillight damage; and

(iv) Damage to turnsignals, horn, or windshield wipers which makes them inoperative;

(10) Driver means any person who operates any commercial motor vehicle;

(11) Elevated temperature material means a material which, when offered for transportation or transported in a bulk packaging:

(a) Is in a liquid phase and at a temperature at or above two hundred twelve degrees Fahrenheit;

(b) Is in a liquid phase with a flash point at or above one hundred degrees Fahrenheit that is intentionally heated and offered for transportation or transported at or above its flash point; or

(c) Is in a solid phase and at a temperature at or above four hundred sixty-four degrees Fahrenheit;

(12) Employee means any individual, other than an employer, who is employed by an employer and who in the course of his or her employment directly affects commercial motor vehicle safety. Such term includes a driver of a commercial motor vehicle, including an independent contractor while in the course of operating a commercial motor vehicle, a mechanic, and a freight handler. Such term does not include an employee of the United States, any state, any political subdivision of a state, or any agency established under a compact between states and approved by the Congress of the United States who is acting within the course of such employment;

(13) Employer means any person engaged in a business affecting commerce who owns or leases a commercial motor vehicle in connection with that business or assigns employees to operate it. Such term does not include the United States, any state, any political subdivision of a state, or an agency established under a compact between states approved by the Congress of the United States;

(14) Exempt motor carrier means a person engaged in transportation exempt from economic regulation under 49 U.S.C. 13506. An exempt motor carrier is subject to the safety regulations adopted in sections 75-362 to 75-369.07;

(15) Farm vehicle driver means a person who drives only a commercial motor vehicle that is controlled and operated by a farmer as a private motor carrier of property;

(16) Farmer means any person who operates a farm or is directly involved in the cultivation of land, crops, or livestock which:

(a) Are owned by that person; or

(b) Are under the direct control of that person;

(17) Fatality means any injury which results in the death of a person at the time of the motor vehicle accident or within thirty days after the accident;

(18) Fertilizer and agricultural chemical application and distribution equipment means:

(a) Self-propelled or towed equipment, designed and used exclusively to apply commercial fertilizer, as that term is defined in section 81-2,162.02, chemicals, or related products to agricultural soil and crops; or

(b) Towed equipment designed and used exclusively to carry commercial fertilizer, as that term is defined in section 81-2,162.02, chemicals, or related products for use on agricultural soil and crops, which are equipped with implement or floatation tires;

(19) For-hire motor carrier means a person engaged in the transportation of goods or passengers for compensation;

(20) Gross combination weight means the sum of the empty weight of a motor vehicle plus the total weight of any load carried thereon and the empty weight of the towed unit or units plus the total weight of any load carried on such towed unit or units;

(21) Gross combination weight rating means the greater of (a) a value specified by the manufacturer of the power unit, if such value is displayed on the Federal Motor Vehicle Safety Standard certification label required by the National Highway Traffic Safety Administration, or (b) the sum of the gross vehicle weight ratings or the gross vehicle weights of the power unit and the towed unit or units, or any combination thereof, that produces the highest value. Gross combination weight rating does not apply to a commercial motor vehicle if the power unit is not towing another vehicle;

(22) Gross vehicle weight means the sum of the empty weight of a motor vehicle plus the total weight of any load carried thereon;

(23) Gross vehicle weight rating means the value specified by the manufacturer as the loaded weight of a single motor vehicle. In the absence of such value specified by the manufacturer or the absence of any marking of such value on the vehicle, the gross vehicle weight rating shall be determined from the sum of the axle weight ratings of the vehicle or the sum of the tire weight ratings as marked on the sidewall of the tires, whichever is greater. In the absence of any tire sidewall marking, the tire weight ratings shall be determined for the specified tires from any of the publications of any of the organizations listed in 49 C.F.R. 571.119;

(24) Hazardous material means a substance or material that the Secretary of the United States Department of Transportation has determined is capable of posing an unreasonable risk to health, safety, and property when transported in commerce and has designated as hazardous under 49 U.S.C. 5103. The term includes hazardous substances, hazardous wastes, marine pollutants, elevated temperature materials, materials designated as hazardous in the Hazardous Materials Table, 49 C.F.R. 172.101, and materials that meet the defining criteria for hazard classes and divisions in 49 C.F.R. part 173;

(25) Hazardous substance means a material, including its mixtures and solutions, that is listed in 49 C.F.R. 172.101, Appendix A, List Of Hazardous Substances and Reportable Quantities, and is in a quantity, in one package, which equals or exceeds the reportable quantity listed in 49 C.F.R. 172.101, Appendix A. This definition does not apply to petroleum products that are lubricants or fuels or to mixtures or solutions of hazardous substances if in a concentration less than that shown in the table in 49 C.F.R. 171.8 under the

definition of hazardous substance based on the reportable quantity specified for the materials listed in 49 C.F.R. 172.101, Appendix A;

(26) Hazardous waste means any material that is subject to the hazardous waste manifest requirements of the United States Environmental Protection Agency specified in 40 C.F.R. 262;

(27) Highway means the entire width between the boundary limits of any street, road, avenue, boulevard, or way which is publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel;

(28) Interstate commerce means trade, traffic, or transportation provided in the furtherance of a commercial enterprise in the United States:

(a) Between a place in a state and a place outside of such state, including a place outside of the United States;

(b) Between two places in a state through another state or a place outside of the United States; or

(c) Between two places in a state as part of trade, traffic, or transportation originating or terminating outside the state or the United States;

(29) Intrastate commerce means any trade, traffic, or transportation provided in the furtherance of a commercial enterprise between any place in the State of Nebraska and any other place in Nebraska and not through any other state;

(30) Large packaging means a packaging that:

(a) Consists of an outer packaging that contains articles or inner packagings;

(b) Is designated for mechanical handling;

(c) Exceeds a net mass of four hundred kilograms or four hundred fifty liters (one hundred nineteen gallons) capacity;

(d) Has a volume of not more than three cubic meters; and

(e) Conforms to the requirements for the construction, testing, and marking of large packagings as specified in subparts P and Q of 49 C.F.R. part 178.

(31) Marine pollutant means a material which is listed in the Hazardous Materials Table, 49 C.F.R. 172.101, Appendix B, as a marine pollutant (see 49 C.F.R. 171.4 for applicability to marine pollutants) and, when in a solution or mixture of one or more marine pollutants, is packaged in a concentration which equals or exceeds:

(a) Ten percent by weight of the solution or mixture for materials listed in 49 C.F.R. 172.101, Appendix B; or

(b) One percent by weight of the solution or mixture for materials that are identified as severe marine pollutants in the Hazardous Materials Table, 49 C.F.R. 172.101, Appendix B;

(32) Motor carrier means a for-hire motor carrier or a private motor carrier. The term includes a motor carrier's agents, officers, and representatives as well as employees responsible for hiring, supervising, training, assigning, or dispatching of drivers and employees concerned with the installation, inspection, and maintenance of motor vehicle equipment or accessories. This definition includes the terms employer and exempt motor carrier;

(33) Motor vehicle means any vehicle, truck, truck-tractor, trailer, or semi-trailer propelled or drawn by mechanical power except (a) farm tractors, (b) vehicles which run only on rails or tracks, and (c) road and general-purpose construction and maintenance machinery which by design and function is

obviously not intended for use on a public highway, including, but not limited to, motor scrapers, earthmoving equipment, backhoes, trenchers, motor graders, compactors, tractors, bulldozers, bucket loaders, ditchdigging apparatus, asphalt spreaders, leveling graders, power shovels, and crawler tractors;

(34) Nonbulk packaging means a packaging which has:

(a) A maximum capacity of four hundred fifty liters (one hundred nineteen gallons) or less as a receptacle for a liquid;

(b) A maximum net mass of four hundred kilograms (eight hundred eighty-two pounds) or less and a maximum capacity of four hundred fifty liters (one hundred nineteen gallons) or less as a receptacle for a solid;

(c) A water capacity of four hundred fifty-four kilograms (one thousand pounds) or less as a receptacle for a gas as defined in 49 C.F.R. 173.115; or

(d) Regardless of the definition of bulk packaging, a maximum net mass of four hundred kilograms (eight hundred eighty-two pounds) or less for a bag or box conforming to the applicable requirements for specification packagings, including the maximum net mass limitations provided in subpart L of 49 C.F.R. 178;

(35) Out-of-service order means a declaration by an authorized enforcement officer of a federal, state, Canadian, Mexican, or local jurisdiction that a driver, a commercial motor vehicle, or a motor carrier operation is out of service pursuant to 49 C.F.R. 386.72, 392.5, 392.9a, 395.13, or 396.9, or compatible laws or the North American Uniform Out-of-Service Criteria;

(36) Packaging means a receptacle and any other components or materials necessary for the receptacle to perform its containment function in conformance with the minimum packing requirements of Title 49 of the Code of Federal Regulations. For radioactive materials packaging, see 49 C.F.R. 173.403;

(37) Person means any individual, partnership, association, corporation, business trust, or any other organized group of individuals;

(38) Planting and harvesting season means the period beginning on January 1 up to and including December 31 of each calendar year;

(39) Principal place of business means the single location designated by the motor carrier, normally its headquarters, for purposes of identification. The motor carrier must make records required by the regulations referred to in sections 75-362 to 75-369.07 available for inspection at this location within forty-eight hours, Saturdays, Sundays, and state or federal holidays excluded, after a request has been made by an officer of the Nebraska State Patrol;

(40) Private motor carrier means a person who provides transportation of property or passengers by commercial motor vehicle and is not a for-hire motor carrier;

(41) Safety audit means an examination of a motor carrier's operations to provide educational and technical assistance on drivers' hours of service, maintenance and inspection, driver qualification, commercial driver's license requirements, financial responsibility, accidents, hazardous materials, and other safety and transportation records to determine whether a motor carrier meets the safety fitness standard. The purpose of a safety audit is to gather critical safety data needed to make an assessment of the carrier's safety performance and basic safety management controls. Safety audits do not result in safety ratings; and

(42) Tank means a container, consisting of a shell and heads, that forms a pressure-tight vessel having openings designed to accept pressure-tight fittings or closures, but excludes any appurtenances, reinforcements, fittings, or closures.

Source: Laws 2006, LB 1007, § 14; Laws 2010, LB725, § 2; Laws 2010, LB805, § 12; Laws 2014, LB983, § 60; Laws 2016, LB311, § 23; Laws 2020, LB944, § 77.
Operative date November 14, 2020.

75-363 Federal motor carrier safety regulations; provisions adopted; exceptions.

(1) The parts, subparts, and sections of Title 49 of the Code of Federal Regulations listed below, as modified in this section, or any other parts, subparts, and sections referred to by such parts, subparts, and sections, in existence and effective as of January 1, 2020, are adopted as Nebraska law.

(2) Except as otherwise provided in this section, the regulations shall be applicable to:

(a) All motor carriers, drivers, and vehicles to which the federal regulations apply; and

(b) All motor carriers transporting persons or property in intrastate commerce to include:

(i) All vehicles of such motor carriers with a gross vehicle weight rating, gross combination weight rating, gross vehicle weight, or gross combination weight over ten thousand pounds;

(ii) All vehicles of such motor carriers designed or used to transport more than eight passengers, including the driver, for compensation, or designed or used to transport more than fifteen passengers, including the driver, and not used to transport passengers for compensation;

(iii) All vehicles of such motor carriers transporting hazardous materials required to be placarded pursuant to section 75-364; and

(iv) All drivers of such motor carriers if the drivers are operating a commercial motor vehicle as defined in section 60-465 which requires a commercial driver's license.

(3) The Legislature hereby adopts, as modified in this section, the following parts of Title 49 of the Code of Federal Regulations:

(a) Part 382 - CONTROLLED SUBSTANCES AND ALCOHOL USE AND TESTING;

(b) Part 385 - SAFETY FITNESS PROCEDURES;

(c) Part 386 - RULES OF PRACTICE FOR FMCSA PROCEEDINGS;

(d) Part 387 - MINIMUM LEVELS OF FINANCIAL RESPONSIBILITY FOR MOTOR CARRIERS;

(e) Part 390 - FEDERAL MOTOR CARRIER SAFETY REGULATIONS; GENERAL;

(f) Part 391 - QUALIFICATIONS OF DRIVERS AND LONGER COMBINATION VEHICLE (LCV) DRIVER INSTRUCTORS;

(g) Part 392 - DRIVING OF COMMERCIAL MOTOR VEHICLES;

(h) Part 393 - PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION;

(i) Part 395 - HOURS OF SERVICE OF DRIVERS;

(j) Part 396 - INSPECTION, REPAIR, AND MAINTENANCE;

(k) Part 397 - TRANSPORTATION OF HAZARDOUS MATERIALS; DRIVING AND PARKING RULES; and

(l) Part 398 - TRANSPORTATION OF MIGRANT WORKERS.

(4) The provisions of subpart E - Physical Qualifications And Examinations of 49 C.F.R. part 391 - QUALIFICATIONS OF DRIVERS AND LONGER COMBINATION VEHICLE (LCV) DRIVER INSTRUCTORS shall not apply to any driver subject to this section who: (a) Operates a commercial motor vehicle exclusively in intrastate commerce; and (b) holds, or has held, a commercial driver's license issued by this state prior to July 30, 1996.

(5) The regulations adopted in subsection (3) of this section shall not apply to farm trucks registered pursuant to section 60-3,146 with a gross weight of sixteen tons or less. The following parts and sections of 49 C.F.R. chapter III shall not apply to drivers of farm trucks registered pursuant to section 60-3,146 and operated solely in intrastate commerce:

(a) All of part 391;

(b) Section 395.8 of part 395; and

(c) Section 396.11 of part 396.

(6) The following parts and subparts of 49 C.F.R. chapter III shall not apply to the operation of covered farm vehicles:

(a) Part 382 - CONTROLLED SUBSTANCES AND ALCOHOL USE AND TESTING;

(b) Part 391, subpart E - Physical Qualifications and Examinations;

(c) Part 395 - HOURS OF SERVICE OF DRIVERS; and

(d) Part 396 - INSPECTION, REPAIR, AND MAINTENANCE.

(7) Part 393 - PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION and Part 396 - INSPECTION, REPAIR, AND MAINTENANCE shall not apply to fertilizer and agricultural chemical application and distribution equipment transported in units with a capacity of three thousand five hundred gallons or less.

(8) For purposes of this section, intrastate motor carriers shall not include any motor carrier or driver excepted from 49 C.F.R. chapter III by section 390.3(f) of part 390.

(9)(a) Part 395 - HOURS OF SERVICE OF DRIVERS shall apply to motor carriers and drivers who engage in intrastate commerce as defined in section 75-362, except that no motor carrier who engages in intrastate commerce shall permit or require any driver used by it to drive nor shall any driver drive:

(i) More than twelve hours following ten consecutive hours off duty; or

(ii) For any period after having been on duty sixteen hours following ten consecutive hours off duty.

(b) No motor carrier who engages in intrastate commerce shall permit or require a driver of a commercial motor vehicle, regardless of the number of motor carriers using the driver's services, to drive, nor shall any driver of a commercial motor vehicle drive, for any period after:

(i) Having been on duty seventy hours in any seven consecutive days if the employing motor carrier does not operate every day of the week; or

(ii) Having been on duty eighty hours in any period of eight consecutive days if the employing motor carrier operates motor vehicles every day of the week.

(10) Part 395 - HOURS OF SERVICE OF DRIVERS, as adopted in subsections (3) and (9) of this section, shall not apply to drivers transporting agricultural commodities or farm supplies for agricultural purposes during planting and harvesting season when:

(a) The transportation of such agricultural commodities is from the source of the commodities to a location within a one-hundred-fifty-air-mile radius of the source of the commodities;

(b) The transportation of such farm supplies is from a wholesale or retail distribution point of the farm supplies to a farm or other location where the farm supplies are intended to be used which is within a one-hundred-fifty-air-mile radius of the wholesale or retail distribution point; or

(c) The transportation of such farm supplies is from a wholesale distribution point of the farm supplies to a retail distribution point of the farm supplies which is within a one-hundred-fifty-air-mile radius of the wholesale distribution point.

(11) 49 C.F.R. 390.21 - Marking of self-propelled CMVs and intermodal equipment shall not apply to farm trucks and farm truck-tractors registered pursuant to section 60-3,146 and operated solely in intrastate commerce.

(12) 49 C.F.R. 392.9a - Operating authority shall not apply to Nebraska motor carriers operating commercial motor vehicles solely in intrastate commerce.

(13) No motor carrier shall permit or require a driver of a commercial motor vehicle to violate, and no driver of a commercial motor vehicle shall violate, any out-of-service order.

Source: Laws 1986, LB 301, § 1; Laws 1987, LB 224, § 23; Laws 1988, LB 884, § 1; Laws 1989, LB 285, § 140; Laws 1990, LB 980, § 29; Laws 1991, LB 854, § 3; Laws 1993, LB 410, § 1; Laws 1994, LB 1061, § 5; Laws 1995, LB 461, § 1; Laws 1996, LB 938, § 4; Laws 1997, LB 722, § 1; Laws 1998, LB 1056, § 8; Laws 1999, LB 161, § 1; Laws 1999, LB 704, § 49; Laws 2000, LB 1361, § 11; Laws 2001, LB 375, § 1; Laws 2002, LB 499, § 5; Laws 2003, LB 480, § 2; Laws 2004, LB 878, § 1; Laws 2005, LB 83, § 1; Laws 2005, LB 274, § 271; Laws 2006, LB 1007, § 13; Laws 2007, LB239, § 8; Laws 2008, LB756, § 28; Laws 2008, LB845, § 1; Laws 2009, LB48, § 1; Laws 2009, LB331, § 15; Laws 2010, LB725, § 3; Laws 2010, LB805, § 13; Laws 2011, LB178, § 21; Laws 2011, LB212, § 7; Laws 2012, LB751, § 49; Laws 2013, LB35, § 6; Laws 2014, LB983, § 61; Laws 2015, LB313, § 7; Laws 2016, LB929, § 11; Laws 2017, LB263, § 88; Laws 2018, LB909, § 121; Laws 2019, LB79, § 22; Laws 2020, LB944, § 78.

Operative date November 14, 2020.

Cross References

Violation of section, penalty, see section 75-367.

75-364 Additional federal motor carrier regulations; provisions adopted.

The parts, subparts, and sections of Title 49 of the Code of Federal Regulations listed below, or any other parts, subparts, and sections referred to by such parts, subparts, and sections, in existence and effective as of January 1, 2020, are adopted as part of Nebraska law and shall be applicable to all motor carriers whether engaged in interstate or intrastate commerce, drivers of such motor carriers, and vehicles of such motor carriers:

- (1) Part 107 - HAZARDOUS MATERIALS PROGRAM PROCEDURES, subpart F - Registration of Cargo Tank and Cargo Tank Motor Vehicle Manufacturers, Assemblers, Repairers, Inspectors, Testers, and Design Certifying Engineers;
- (2) Part 107 - HAZARDOUS MATERIALS PROGRAM PROCEDURES, subpart G - Registration of Persons Who Offer or Transport Hazardous Materials;
- (3) Part 171 - GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS;
- (4) Part 172 - HAZARDOUS MATERIALS TABLE, SPECIAL PROVISIONS, HAZARDOUS MATERIALS COMMUNICATIONS, EMERGENCY RESPONSE INFORMATION, TRAINING REQUIREMENTS, AND SECURITY PLANS;
- (5) Part 173 - SHIPPERS - GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS;
- (6) Part 177 - CARRIAGE BY PUBLIC HIGHWAY;
- (7) Part 178 - SPECIFICATIONS FOR PACKAGINGS; and
- (8) Part 180 - CONTINUING QUALIFICATION AND MAINTENANCE OF PACKAGINGS.

Source: Laws 1986, LB 301, § 2; Laws 1987, LB 538, § 1; Laws 1988, LB 884, § 2; Laws 1990, LB 980, § 30; Laws 1991, LB 854, § 4; Laws 1993, LB 410, § 2; Laws 1994, LB 1061, § 6; Laws 1995, LB 461, § 2; Laws 1996, LB 938, § 5; Laws 1997, LB 722, § 2; Laws 1998, LB 1056, § 9; Laws 1999, LB 161, § 2; Laws 2000, LB 1361, § 12; Laws 2001, LB 375, § 2; Laws 2002, LB 499, § 6; Laws 2003, LB 480, § 3; Laws 2004, LB 878, § 2; Laws 2005, LB 83, § 2; Laws 2006, LB 1007, § 15; Laws 2007, LB239, § 9; Laws 2008, LB756, § 29; Laws 2009, LB48, § 2; Laws 2009, LB331, § 16; Laws 2010, LB805, § 14; Laws 2011, LB178, § 22; Laws 2011, LB212, § 8; Laws 2012, LB751, § 50; Laws 2013, LB35, § 7; Laws 2014, LB983, § 62; Laws 2015, LB313, § 8; Laws 2016, LB929, § 12; Laws 2017, LB263, § 89; Laws 2018, LB909, § 122; Laws 2019, LB79, § 23; Laws 2020, LB944, § 79.

Operative date November 14, 2020.

75-366 Enforcement powers.

For the purpose of enforcing Chapter 75, article 3, any officer of the Nebraska State Patrol may, upon demand, inspect the accounts, records, and equipment of any motor carrier or shipper. Any officer of the Nebraska State Patrol shall have the authority to enforce the federal motor carrier safety regulations, as such regulations existed on January 1, 2020, and federal hazardous materials regulations, as such regulations existed on January 1, 2020, and is authorized to enter upon, inspect, and examine any and all lands, buildings, and equipment of any motor carrier, any shipper, and any other person subject to the federal Interstate Commerce Act, the federal Department

of Transportation Act, and other related federal laws and to inspect and copy any and all accounts, books, records, memoranda, correspondence, and other documents of a motor carrier, a shipper, and any other person subject to Chapter 75, article 3, for the purposes of enforcing Chapter 75, article 3. To promote uniformity of enforcement, the carrier enforcement division of the Nebraska State Patrol shall cooperate and consult with the Public Service Commission and the Division of Motor Carrier Services.

Source: Laws 1986, LB 301, § 4; Laws 1987, LB 538, § 2; Laws 1990, LB 980, § 31; Laws 1995, LB 424, § 48; Laws 1996, LB 1218, § 60; Laws 2002, LB 93, § 18; Laws 2003, LB 480, § 4; Laws 2012, LB751, § 51; Laws 2013, LB35, § 8; Laws 2014, LB983, § 63; Laws 2015, LB313, § 9; Laws 2016, LB929, § 13; Laws 2017, LB263, § 90; Laws 2018, LB909, § 123; Laws 2019, LB79, § 24; Laws 2020, LB944, § 80.
Operative date November 14, 2020.

75-369.03 Violations; civil penalty; referral to federal agency or Public Service Commission; when.

(1) The Superintendent of Law Enforcement and Public Safety may issue an order imposing a civil penalty against a motor carrier transporting persons or property in interstate commerce for a violation of sections 75-392 to 75-3,100 or against a motor carrier transporting persons or property in intrastate commerce for a violation or violations of section 75-363 or 75-364 based upon an inspection conducted pursuant to section 75-366 in an amount which shall not exceed eight hundred dollars for any single violation in any proceeding or series of related proceedings against any person or motor carrier as defined in 49 C.F.R. 390.5 as adopted in section 75-363.

(2) The superintendent shall issue an order imposing a civil penalty in an amount not to exceed sixteen thousand four hundred fifty-three dollars against a motor carrier transporting persons or property in interstate commerce for a violation of subdivision (2)(e) of section 60-4,162 based upon a conviction of such a violation.

(3) The superintendent shall issue an order imposing a civil penalty against a driver operating a commercial motor vehicle, as defined in section 60-465, that requires a commercial driver's license or CLP-commercial learner's permit, in violation of an out-of-service order. The civil penalty shall be in an amount not less than three thousand one hundred seventy-four dollars for a first violation and not less than six thousand three hundred forty-eight dollars for a second or subsequent violation.

(4) The superintendent shall issue an order imposing a civil penalty against a motor carrier who knowingly allows, requires, permits, or authorizes the operation of a commercial motor vehicle, as defined in section 60-465, that requires a commercial driver's license or CLP-commercial learner's permit, in violation of an out-of-service order. The civil penalty shall be not less than five thousand seven hundred thirty-two dollars but not more than thirty-one thousand seven hundred thirty-seven dollars per violation.

(5) Upon the discovery of any violation by a motor carrier transporting persons or property in interstate commerce of section 75-307, 75-363, or 75-364 or sections 75-392 to 75-3,100 based upon an inspection conducted pursuant to section 75-366, the superintendent shall immediately refer such

violation to the appropriate federal agency for disposition, and upon the discovery of any violation by a motor carrier transporting persons or property in intrastate commerce of section 75-307 based upon such inspection, the superintendent shall refer such violation to the Public Service Commission for disposition.

Source: Laws 1994, LB 358, § 3; Laws 1996, LB 1218, § 62; Laws 2002, LB 499, § 7; Laws 2006, LB 1007, § 20; Laws 2007, LB358, § 14; Laws 2008, LB845, § 2; Laws 2009, LB331, § 17; Laws 2014, LB983, § 64; Laws 2017, LB263, § 91; Laws 2018, LB909, § 124; Laws 2020, LB944, § 81.

Operative date November 14, 2020.

(j) DIVISION OF MOTOR CARRIER SERVICES

75-386 Division of Motor Carrier Services; duties.

The Division of Motor Carrier Services shall:

(1) Foster, promote, and preserve the motor carrier industry of the State of Nebraska;

(2) Protect and promote the public health and welfare of the citizens of the state by ensuring that the motor carrier industry is operated in an efficient and safe manner;

(3) Promote and provide for efficient and uniform governmental oversight of the motor carrier industry;

(4) Promote financial responsibility on the part of motor carriers operating in and through the State of Nebraska;

(5) Administer all provisions of the International Fuel Tax Agreement Act, the International Registration Plan Act, and the unified carrier registration plan and agreement pursuant to sections 75-392 to 75-3,100;

(6) Provide for the issuance of certificates of title to apportioned registered motor vehicles as provided for by subsection (6) of section 60-144; and

(7) Carry out such other duties and responsibilities as directed by the Legislature.

Source: Laws 1996, LB 1218, § 2; Laws 2003, LB 563, § 41; Laws 2005, LB 276, § 110; Laws 2005, LB 284, § 4; Laws 2007, LB358, § 17; Laws 2009, LB331, § 18; Laws 2020, LB944, § 82.

Operative date November 14, 2020.

Cross References

International Fuel Tax Agreement Act, see section 66-1401.

International Registration Plan Act, see section 60-3,192.

(l) UNIFIED CARRIER REGISTRATION PLAN AND AGREEMENT

75-392 Terms, defined.

For purposes of sections 75-392 to 75-3,100:

(1) Director means the Director of Motor Vehicles;

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

(3) Unified carrier registration plan and agreement means the plan and agreement established and authorized pursuant to 49 U.S.C. 14504a, as such section existed on January 1, 2020.

Source: Laws 2007, LB358, § 1; Laws 2014, LB776, § 7; Laws 2016, LB929, § 14; Laws 2017, LB263, § 92; Laws 2018, LB909, § 125; Laws 2019, LB79, § 25; Laws 2020, LB944, § 83.
Operative date November 14, 2020.

75-393 Unified carrier registration plan and agreement; director; powers.

The director may participate in the unified carrier registration plan and agreement pursuant to the Unified Carrier Registration Act of 2005, 49 U.S.C. 13908, as the act existed on January 1, 2020, and may file on behalf of this state the plan required by such plan and agreement for enforcement of the act in this state.

Source: Laws 2007, LB358, § 2; Laws 2009, LB331, § 19; Laws 2011, LB212, § 9; Laws 2012, LB751, § 52; Laws 2013, LB35, § 9; Laws 2014, LB776, § 8; Laws 2015, LB313, § 10; Laws 2016, LB929, § 15; Laws 2017, LB263, § 93; Laws 2018, LB909, § 126; Laws 2019, LB79, § 26; Laws 2020, LB944, § 84.
Operative date November 14, 2020.

75-398 Violations; penalty.

Any foreign or domestic motor carrier, private carrier, leasing company, broker, or freight forwarder operating any motor vehicle in violation of sections 75-392 to 75-3,100, any rule or regulation adopted and promulgated pursuant to such sections, or any order of the division issued pursuant to such sections is guilty of a Class IV misdemeanor and shall also be subject to section 75-369.03. Each day of the violation constitutes a separate offense.

Source: Laws 2007, LB358, § 7; Laws 2009, LB331, § 23; Laws 2020, LB944, § 85.
Operative date November 14, 2020.

75-399 Sections not applicable to intrastate commerce.

Sections 75-392 to 75-3,100 do not apply to a foreign or domestic motor carrier, private carrier, leasing company, broker, or freight forwarder, including a transporter of waste or recyclable materials, engaged exclusively in intrastate commerce.

Source: Laws 2007, LB358, § 8; Laws 2020, LB944, § 86.
Operative date November 14, 2020.

75-3,100 Registration; suspend, revoke, cancel, or refuse to issue or renew; conditions; notice; hearing; petition; reinstatement, issuance, or renewal; fee.

(1) The director may suspend, revoke, cancel, or refuse to issue or renew a registration pursuant to the unified carrier registration plan and agreement:

(a) If the applicant or registrant has had his or her license issued under the International Fuel Tax Agreement Act revoked or the director refused to issue or refused to renew such license;

(b) If the applicant's or registrant's registration certificate issued pursuant to the International Registration Plan Act has been suspended, revoked, or canceled or the director refused to issue or renew such certificate; or

(c) If the applicant or registrant is in violation of sections 75-392 to 75-3,100.

(2) Prior to taking any action pursuant to subsection (1) of this section, the director shall notify and advise the applicant or registrant of the proposed action and the reasons for such action in writing, by regular United States mail, to the last-known business address as shown on the application for the registration or renewal. The notice shall also include an advisement of the procedures in subsection (3) of this section.

(3) The applicant or registrant may, within thirty days after the mailing of the notice, petition the director in writing for a hearing to contest the proposed action. The hearing shall be commenced in accordance with the Administrative Procedure Act. If a petition is filed, the director shall, within twenty days after receipt of the petition, set a hearing date at which the applicant or registrant may show cause why the proposed action should not be taken. The director shall give the applicant or registrant reasonable notice of the time and place of the hearing. If the director's decision is adverse to the applicant or registrant, such person may appeal the decision in accordance with the Administrative Procedure Act.

(4) The filing of the petition shall stay any action by the director until a hearing is held and a final decision and order is issued.

(5) If no petition is filed at the expiration of thirty days after the date on which the notification was mailed, the director may take the proposed action described in the notice.

(6) If, in the judgment of the director, the applicant or registrant has complied with or is no longer in violation of the provisions for which the director took action under this section, the director may reinstate the registration without delay. An applicant for reinstatement, issuance, or renewal of a registration within three years after the date of suspension, revocation, cancellation, or refusal to issue or renew shall submit a fee of one hundred dollars to the director. The director shall remit the fee to the State Treasurer for credit to the Highway Cash Fund.

Source: Laws 2020, LB944, § 87.

Operative date November 14, 2020.

Cross References

Administrative Procedure Act, see section 84-920.

International Fuel Tax Agreement Act, see section 66-1401.

International Registration Plan Act, see section 60-3,192.

ARTICLE 11

211 INFORMATION AND REFERRAL NETWORK

Section

75-1101. 211 Information and Referral Network; Public Service Commission; award grant; application; eligibility; use; 211 Cash Fund; created; use; investment.

75-1101 211 Information and Referral Network; Public Service Commission; award grant; application; eligibility; use; 211 Cash Fund; created; use; investment.

(1) For purposes of this section, 211 Information and Referral Network means a statewide information and referral network providing information to the public regarding disaster and emergency response and health and human services provided by public and private entities throughout the state.

(2) The Public Service Commission shall award a grant annually to a 211 Information and Referral Network which submits an application and meets the requirements of this section. The amount of each grant shall be three hundred thousand dollars.

(3) To be eligible for a grant, the 211 Information and Referral Network shall update the information and referral services on the network at least annually, shall geographically index the services to provide information on a county-by-county basis, and shall be accredited as meeting the standards for service delivery and quality by the Alliance of Information and Referral Systems or a similar organization approved by the commission.

(4) The grant may be used to establish a web site which includes links to providers of health and human services, the name, address, and telephone number of any organization listed on the web site, a description of the type of services provided by the organization, and other information to educate the public about the health and human services available on a geographic basis. The grant may also be used to provide access to the network twenty-four hours per day, seven days per week, through telephone access and web site access.

(5) There is hereby created the 211 Cash Fund. The fund shall be used solely for the purpose of providing grants pursuant to this section and associated administrative costs. All money received by the Public Service Commission for such grants shall be remitted to the State Treasurer for credit to such fund. 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.

Source: Laws 2019, LB641, § 1.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

CHAPTER 76

REAL PROPERTY

Article.

2. Conveyances.
 - (q) Real Estate Closing Agents. 76-2,121.
8. Condominium Law.
 - (a) Condominium Property Act. 76-808, 76-816.
 - (c) Nebraska Condominium Act.
 - Creation, Alteration, and Termination of Condominiums. 76-842 to 76-857.
 - Management of Condominium. 76-859 to 76-870.
 - Protection of Condominium Purchasers. 76-884, 76-890.
14. Landlord and Tenant.
 - (a) Uniform Residential Landlord and Tenant Act. 76-1416, 76-1431.
15. Agricultural Lands, Special Provisions.
 - (d) Reports on Farming or Ranching. 76-1522.
22. Real Property Appraiser Act. 76-2202 to 76-2247.01.
23. One-Call Notification System. 76-2301 to 76-2332.
26. Uniform Environmental Covenants Act. 76-2602, 76-2608.
32. Nebraska Appraisal Management Company Registration Act. 76-3202 to 76-3216.
34. Nebraska Uniform Real Property Transfer on Death Act. 76-3413.
35. Radon Resistant New Construction Act. 76-3501 to 76-3507.

ARTICLE 2

CONVEYANCES

(q) REAL ESTATE CLOSING AGENTS

Section

76-2,121. Real estate closing agents; terms, defined.

(q) REAL ESTATE CLOSING AGENTS

76-2,121 Real estate closing agents; terms, defined.

For purposes of sections 76-2,121 to 76-2,123:

- (1) Federally insured financial institution shall mean an institution in which the monetary deposits are insured by the Federal Deposit Insurance Corporation or National Credit Union Administration;
- (2) Good funds shall mean: (a) Lawful money of the United States; (b) wired funds when unconditionally held by the real estate closing agent or employee; (c) cashier's checks, certified checks, bank money orders, or teller's checks issued by a federally insured financial institution and unconditionally held by the real estate closing agent or employee; or (d) United States treasury checks, federal reserve bank checks, federal home loan bank checks, State of Nebraska warrants, and warrants of a city of the metropolitan or primary class;
- (3) Real estate closing agent shall mean a person who collects and disburses funds on behalf of another in closing a real estate transaction but shall not include a seller or buyer closing a real estate transaction on his or her own behalf or a lender closing a real estate loan transaction; and
- (4) Regulating entity shall mean the:
 - (a) Department of Insurance;

- (b) Supreme Court;
- (c) State Real Estate Commission;
- (d) Department of Banking and Finance;
- (e) Federal Deposit Insurance Corporation;
- (f) Office of the Comptroller of the Currency;
- (g) Consumer Financial Protection Bureau;
- (h) Federal Farm Credit Administration; or
- (i) National Credit Union Administration.

Source: Laws 1994, LB 1275, § 1; Laws 1999, LB 248, § 1; Laws 2019, LB258, § 16.

**ARTICLE 8
CONDOMINIUM LAW**

(a) CONDOMINIUM PROPERTY ACT

Section

- 76-808. Co-owner; use of common elements; responsibility for maintenance, repair, and replacement.
- 76-816. Board of administrators; records; examination; condominium statement; filing with register of deeds.

(c) NEBRASKA CONDOMINIUM ACT

CREATION, ALTERATION, AND TERMINATION OF CONDOMINIUMS

- 76-842. Declaration; contents.
- 76-844. Allocation of common elements, expenses, and votes; how made.
- 76-854. Amendment to declaration; procedure.
- 76-857. Corporation, unincorporated association, master association, executive board; powers authorized.

MANAGEMENT OF CONDOMINIUM

- 76-859. Unit owners association; organization.
- 76-860. Unit owners association; powers.
- 76-861. Executive board; members and officers; powers and duties; condominium statement; filing with register of deeds.
- 76-867. Quorums.
- 76-869. Tort and contract liability.
- 76-870. Encumbrance or conveyance of common elements; procedure.

PROTECTION OF CONDOMINIUM PURCHASERS

- 76-884. Resale of unit; information required.
- 76-890. Warranties; statute of limitations; judicial proceedings; notice; effect; strict compliance; required.

(a) CONDOMINIUM PROPERTY ACT

76-808 Co-owner; use of common elements; responsibility for maintenance, repair, and replacement.

(1) Each co-owner may use the elements held in common in accordance with the purpose for which they are intended, without hindering or encroaching upon the lawful rights of the other co-owners.

(2) The association of co-owners and board of administrators, or other administrative body governing the condominium, is responsible for maintenance, repair, and replacement of the common elements. Each co-owner of an apartment is responsible for maintenance, repair, and replacement of such co-owner's apartment.

Source: Laws 1963, c. 429, § 8, p. 1439; Laws 2019, LB42, § 1.

76-816 Board of administrators; records; examination; condominium statement; filing with register of deeds.

(1) The board of administrators or other administrative body specified in the bylaws shall keep or cause to be kept a book with a detailed account, in chronological order, of the receipts and expenditures affecting the condominium property regime and its administration and specifying the maintenance and repair expenses of the common elements and all other expenses incurred. Both the book and the vouchers accrediting the entries made thereupon shall be available for examination by any co-owner or any prospective purchaser at convenient hours on working days that shall be set and announced for general knowledge. Any prospective purchaser must be designated as such by a co-owner in writing. For condominiums created in this state before January 1, 1984, the provision on the records of the administrative body or association in section 76-876 shall apply to the extent necessary in construing the provisions of sections 76-827, 76-829 to 76-831, 76-840, 76-841, 76-869, 76-874, 76-876, 76-884, and 76-891.01, and subdivisions (a)(1) to (a)(6) and (a)(11) to (a)(16) of section 76-860 which apply to events and circumstances which occur after January 1, 1984.

(2) The association of co-owners and board of administrators, or other administrative body governing the condominium property regime, and its common elements, shall file with the register of deeds of the county in which the condominium is located a condominium statement listing the name of such board or other administrative body and the names and addresses of the current officers of such board or other administrative body. Such filing shall be made every year on or before December 31. The receipt of any legal notice by or service of process on such officer personally or at such officer's filed address shall constitute notice to the board or other administrative body administering the condominium and its common elements. If the board or other administrative body fails to make the filing required by this subsection, the posting of the legal notice or process at the entrance, main office, or other prominent location in the common area of the condominium shall constitute notice to the board or other administrative body until such filing is made.

Source: Laws 1963, c. 429, § 16, p. 1442; Laws 1974, LB 730, § 9; Laws 1983, LB 433, § 77; Laws 1993, LB 478, § 6; Laws 2019, LB42, § 2.

(c) NEBRASKA CONDOMINIUM ACT

CREATION, ALTERATION, AND TERMINATION OF CONDOMINIUMS

76-842 Declaration; contents.

(a) The declaration for a condominium must contain:

(1) the name of the condominium, which must include the word condominium or be followed by the words a condominium, and the name of the association;

(2) the name of every county in which any part of the condominium is situated;

(3) a legally sufficient description of the real estate included in the condominium;

(4) a statement of the anticipated number of units which the declarant reserves the right to create, subject to an amendment of the declaration to add more units pursuant to the Nebraska Condominium Act;

(5) a description of the boundaries of each unit created by the declaration, including the unit's identifying number;

(6) a description of any limited common elements, other than those specified in subdivision (b)(8) of section 76-846;

(7) a general description of any development rights and other special declarant rights defined in subdivision (23) of section 76-827 reserved by the declarant;

(8) an allocation to each unit of the allocated interests in the manner described in section 76-844;

(9) any restrictions on use, occupancy, and alienation of the units;

(10) for a condominium project with more than fifteen units, exclusive of common area, a plan prepared by a licensed engineer or architect for the preventive maintenance of the condominium and all common elements therein, including, but not limited to, depreciation studies and reserve analyses, an annually updated five-year capital plan, and minimum financial reserves based on the reserve analyses; and

(11) all matters required by sections 76-843 to 76-846, 76-852, and 76-853, and subsection (d) of section 76-861.

(b) Except as otherwise provided in section 76-856, the declaration may contain any other matters the declarant deems appropriate.

Source: Laws 1983, LB 433, § 18; Laws 2013, LB442, § 3; Laws 2020, LB808, § 41.

Operative date November 14, 2020.

76-844 Allocation of common elements, expenses, and votes; how made.

(a) The declaration shall allocate a fraction or percentage of undivided interests in the common elements and in the common expenses of the association, and a portion of the votes in the association, to each unit and state the formulas used to establish those allocations.

(b) If units may be added to or withdrawn from the condominium, the declaration must state the formulas to be used to reallocate the allocated interests among all units included in the condominium after the addition or withdrawal.

(c) The declaration may provide: (i) that different allocations of votes shall be made to the units on particular matters specified in the declaration; (ii) for cumulative voting only for the purpose of electing members of the executive board; and (iii) for class voting on specified issues affecting the class if necessary to protect valid interests of the class. A declarant may not utilize cumulative or class voting for the purpose of evading any limitation imposed on declarants by the Nebraska Condominium Act, nor may units constitute a class because they are owned by a declarant.

(d) Except for minor variations due to rounding, the sum of the undivided interests in the common elements and common expense liabilities allocated at any time to all the units must equal one if stated as fractions or one hundred percent if stated as percentages. In the event of discrepancy between an

allocated interest and the result derived from application of the pertinent formula, the allocated interest prevails.

(e) The common elements are not subject to partition, and any purported conveyance, encumbrance, judicial sale, or other voluntary or involuntary transfer of an undivided interest in the common elements made without the unit to which that interest is allocated, is void.

Source: Laws 1983, LB 433, § 20; Laws 2020, LB808, § 42.
Operative date November 14, 2020.

76-854 Amendment to declaration; procedure.

(a) Except in cases of amendments that may be executed by (1) a declarant under subsection (f) of section 76-846 or under section 76-847, (2) the association under section 76-831 or 76-850, subsection (d) of section 76-843, subsection (c) of section 76-845, or subsection (a) of section 76-849, or (3) certain unit owners under subsection (b) of section 76-845, subsection (a) of section 76-849, subsection (b) of section 76-850, or subsection (b) of section 76-855, and except as limited by subsection (d) of this section, the declaration, including the plats and plans, may be amended only by vote or agreement of unit owners of units to which at least sixty-seven percent of the votes in the association are allocated or any larger majority the declaration specifies up to eighty percent of the votes in the association exclusive of the declarant. The declaration may specify a smaller number only if all of the units are restricted exclusively to nonresidential use.

(b) No action to challenge the validity of an amendment adopted by the association pursuant to this section may be brought more than one year after the amendment is recorded.

(c) Every amendment to the declaration must be recorded in every county in which any portion of the condominium is located and is effective only upon recordation.

(d) Except to the extent expressly permitted or required by other provisions of the Nebraska Condominium Act, no amendment may create or increase special declarant rights, increase the number of units, or change the boundaries of any unit, the allocated interests of a unit, or the uses to which any unit is restricted in the absence of the unanimous consent of the unit owners. In addition, no amendment may change the boundaries of any unit, increase the allocated interests of any unit, or change the uses to which any unit is restricted, without the consent of the owner of the unit.

(e) Amendments to the declaration required by the act to be recorded by the association shall be prepared, executed, recorded, and certified on behalf of the association by any officer of the association designated for that purpose or, in the absence of designation, by the president of the association.

Source: Laws 1983, LB 433, § 30; Laws 1984, LB 1105, § 5; Laws 1993, LB 478, § 15; Laws 2020, LB808, § 43.
Operative date November 14, 2020.

76-857 Corporation, unincorporated association, master association, executive board; powers authorized.

(a) If the declaration for a condominium provides that any of the powers described in section 76-860 are to be exercised by or may be delegated to a

profit or nonprofit corporation, or unincorporated association, which exercises those or other powers on behalf of one or more condominiums or for the benefit of the unit owners of one or more condominiums, all provisions of the Nebraska Condominium Act applicable to unit owners associations apply to any such corporation or unincorporated association, except as modified by this section. However, in no case shall the declaration provide that the power to institute or intervene as a plaintiff in litigation or administrative proceedings, other than litigation or administrative proceedings to enforce covenants, by-laws, or rules against unit owners or the unit owners association, be delegated to or exercised by any party other than the unit owners or the declarant.

(b) Unless a master association is acting in the capacity of an association described in section 76-859, it may exercise the powers set forth in subdivision (a)(2) of section 76-860 only to the extent expressly permitted in the declarations of condominiums which are part of the master association or expressly described in the delegations of power from those condominiums to the master association.

(c) If the declaration of any condominium provides that the executive board may delegate certain powers to a master association, the members of the executive board have no liability for the acts or omissions of the master association with respect to those powers following delegation.

(d) The rights and responsibilities of unit owners with respect to the unit owners association set forth in sections 76-861, 76-866 to 76-868, and 76-870 apply in the conduct of the affairs of a master association only to those persons who elect the board of a master association, whether or not those persons are otherwise unit owners within the meaning of the act.

(e) Notwithstanding the provisions of subsection (f) of section 76-861 with respect to the election of the executive board of an association, by all unit owners after the period of declarant control ends, and even if a master association is also an association described in section 76-859, the articles of incorporation or other instrument creating the master association and the declaration of each condominium the powers of which are assigned by the declaration or delegated to the master association may provide that the executive board of the master association must be elected after the period of declarant control in any of the following ways:

(1) All unit owners of all condominiums subject to the master association may elect all members of that executive board.

(2) All members of the executive boards of all condominiums subject to the master association may elect all members of that executive board.

(3) All unit owners of each condominium subject to the master association may elect specified members of that executive board.

(4) All members of the executive board of each condominium subject to the master association may elect specified members of that executive board.

Source: Laws 1983, LB 433, § 33; Laws 1984, LB 1105, § 6; Laws 2020, LB808, § 44.

Operative date November 14, 2020.

MANAGEMENT OF CONDOMINIUM

76-859 Unit owners association; organization.

A unit owners association must be organized no later than the date the units in the condominium equal to one-half of the total number of units plus one are conveyed. The membership of the association at all times shall consist exclusively of all the unit owners or, following termination of the condominium, of all former unit owners entitled to distributions of proceeds under section 76-855 or their heirs, successors, or assigns. The association shall be organized as a profit or nonprofit corporation or as an unincorporated association.

Source: Laws 1983, LB 433, § 35; Laws 2020, LB808, § 45.
Operative date November 14, 2020.

76-860 Unit owners association; powers.

(a) Except as provided in subsection (b) of this section and subject to the provisions of the declaration, the association, even if unincorporated, may:

- (1) Adopt and amend bylaws and rules and regulations;
- (2) Adopt and amend budgets for revenue, expenditures, and reserves and collect assessments for common expenses from unit owners;
- (3) Hire and discharge managing agents and other employees, agents, and independent contractors;
- (4) Institute or intervene as a plaintiff in litigation or administrative proceedings, other than litigation or administrative proceedings to enforce covenants, bylaws, or rules against unit owners or the unit owners association, in its own name on behalf of itself or two or more unit owners on matters affecting the condominium upon the affirmative vote of at least eighty percent of the votes in the association exclusive of the declarant;
- (5) Make contracts and incur liabilities;
- (6) Regulate the use, maintenance, repair, replacement, and modification of common elements;
- (7) Cause additional improvements to be made as a part of the common elements;
- (8) Acquire, hold, encumber, and convey in its own name any right, title, or interest to real or personal property, but common elements may be encumbered, conveyed, or subjected to a security interest only pursuant to section 76-870;
- (9) Grant easements, leases, licenses, and concessions through or over the common elements;
- (10) Impose and receive any payments, fees, or charges for the use, rental, or operation of the common elements, other than limited common elements described in subdivisions (2) and (4) of section 76-839, and for services provided to unit owners;
- (11) Impose charges for late payment of assessments and, after notice and opportunity to be heard, levy reasonable fines for violations of the declaration, bylaws, and rules and regulations for the association;
- (12) Impose reasonable charges for the preparation and recordation of amendments to the declaration, resale statements required by section 76-884, or statements of unpaid assessments;
- (13) Provide for the indemnification of its officers and executive board and maintain directors' and officers' liability insurance;

(14) Assign its right to future income, including the right to receive common expense assessments, but only to the extent the declaration expressly so provides;

(15) Exercise any other powers conferred by the declaration or bylaws;

(16) Exercise all other powers that may be exercised in this state by legal entities of the same type as the association; and

(17) Exercise any other powers necessary and proper for the governance and operation of the association.

(b) The declaration may not impose limitations on the power of the association to deal with the declarant which are more restrictive than the limitations imposed on the power of the association to deal with other persons.

Source: Laws 1983, LB 433, § 36; Laws 1984, LB 1105, § 7; Laws 2020, LB808, § 46.

Operative date November 14, 2020.

76-861 Executive board; members and officers; powers and duties; condominium statement; filing with register of deeds.

(a) Except as provided in the declaration, the bylaws, subsection (b) of this section, or other provisions of the Nebraska Condominium Act, the executive board may act in all instances on behalf of the association. In the performance of their duties, the officers and members of the executive board are required to exercise ordinary and reasonable care.

(b) The executive board may not act on behalf of the association to commence litigation on behalf of the unit owners or the unit owners association, to amend the declaration pursuant to section 76-854, to terminate the condominium pursuant to section 76-855, or to elect members of the executive board or determine the qualifications, powers and duties, or terms of office of executive board members pursuant to subsection (f) of this section, but the executive board may fill vacancies in its membership for the unexpired portion of any term.

(c) Within thirty days after adoption of any proposed budget for the condominium, the executive board shall provide a summary of the budget to all the unit owners, and shall set a date for a meeting of the unit owners to consider ratification of the budget not less than fourteen nor more than thirty days after mailing of the summary. Unless at that meeting a majority of all votes in the association or any larger vote specified in the declaration reject the budget, the budget is ratified, whether or not a quorum is present. In the event the proposed budget is rejected, the periodic budget last ratified by the unit owners shall be continued until such time as the unit owners ratify a subsequent budget proposed by the executive board.

(d) Subject to subsection (e) of this section, the declaration may provide for a period of declarant control of the association, during which period a declarant, or persons designated by him or her, may appoint and remove the officers and members of the executive board. Regardless of the period provided in the declaration, a period of declarant control terminates no later than the earlier of: (i) Sixty days after conveyance of ninety percent of the units which may be created to unit owners other than a declarant; or (ii) two years after all declarants have ceased to offer units for sale in the ordinary course of business. A declarant may voluntarily surrender the right to appoint and remove officers

and members of the executive board before termination of that period, but in that event he or she may require, for the duration of the period of declarant control, that specified actions of the association or executive board, as described in a recorded instrument executed by the declarant, be approved by the declarant before they become effective. Successor boards following declarant control may not discriminate nor act arbitrarily with respect to units still owned by a declarant or a successor declarant.

(e) Not later than sixty days after conveyance of fifty percent of the units which may be created to unit owners other than a declarant, at least one member and not less than twenty-five percent of the members of the executive board shall be elected exclusively by unit owners other than the declarant.

(f) Not later than the termination of any period of declarant control, the unit owners shall elect an executive board of at least three members, at least a majority of whom must be unit owners. The executive board shall elect the officers. The executive board members and officers shall take office upon election.

(g) Notwithstanding any provision of the declaration or bylaws to the contrary, the unit owners, by a two-thirds vote of all persons present and entitled to vote at any meeting of the unit owners at which a quorum is present, may remove any member of the executive board with or without cause, other than a member appointed by the declarant.

(h) The association shall file with the register of deeds of the county in which the condominium is located a condominium statement listing the name of the association and the names and addresses of the current officers of the association. Such filing shall be made every year on or before December 31. The receipt of any legal notice by or service of process on such officer personally or at such officer's filed address shall constitute notice to the association. If the association fails to make the filing required by this subsection, the posting of the legal notice or process at the entrance, main office, or other prominent location in the common area of the condominium shall constitute notice to the association until such filing is made.

Source: Laws 1983, LB 433, § 37; Laws 2019, LB42, § 3; Laws 2020, LB808, § 47.

Operative date November 14, 2020.

76-867 Quorums.

(a) Unless the bylaws provide otherwise, a quorum is present throughout any meeting of the association if persons entitled to cast thirty-five percent of the votes which may be cast for election of the executive board are present in person or by proxy at the beginning of the meeting.

(b) Unless the bylaws specify a larger percentage, a quorum is deemed present throughout any meeting of the executive board if persons entitled to cast fifty percent of the votes on that board are present at the beginning of the meeting.

Source: Laws 1983, LB 433, § 43; Laws 2020, LB808, § 48.

Operative date November 14, 2020.

76-869 Tort and contract liability.

(a) Neither the association nor any unit owner except the declarant is liable for that declarant's torts in connection with any part of the condominium which that declarant has the responsibility to maintain. Otherwise, an action alleging a wrong done by the association must be brought against the association and not against any unit owner. If the wrong occurred during any period of declarant control and the association gives the declarant reasonable notice of and an opportunity to defend against the action, the declarant who then controlled the association is liable to the association or to any unit owner only for costs the association would not have incurred but for a breach of contract or other negligent act or omission by the declarant. A unit owner is not precluded from bringing an action contemplated by this section because he or she is a unit owner or a member or officer of the association. Liens resulting from judgments against the association are governed by section 76-875.

(b) The declarant shall not be liable for any action, loss, or cost pursuant to this section if at the time the loss occurred, insurance required by section 76-871 was in place.

Source: Laws 1983, LB 433, § 45; Laws 2020, LB808, § 49.
Operative date November 14, 2020.

76-870 Encumbrance or conveyance of common elements; procedure.

(a) Portions of the common elements may be encumbered or conveyed or otherwise subjected to a security interest by the association if persons entitled to cast at least sixty-seven percent of the votes in the association, including sixty-seven percent of the votes allocated to units not owned by a declarant, or any larger percentage the declaration specifies, agree to that action; but all the owners of units to which any limited common element is allocated must agree to encumber or convey that limited common element or subject it to a security interest. The declaration may specify a smaller percentage only if all of the units are restricted exclusively to nonresidential uses. Proceeds of the sale are an asset of the association.

(b) An agreement to encumber or convey common elements or subject them to a security interest must be evidenced by the execution of an agreement, or ratifications thereof, in the same manner as a deed, by the requisite number of unit owners. The agreement must specify a date after which the agreement will be void unless recorded before that date. The agreement and all ratifications thereof must be recorded in every county in which a portion of the condominium is situated and is effective only upon recordation.

(c) The association, on behalf of the unit owners, may contract to encumber or convey common elements or subject them to a security interest, but the contract is not enforceable against the association until approved pursuant to subsections (a) and (b) of this section. Thereafter, the association has all powers necessary and appropriate to effect the conveyance or encumbrance, including the power to execute deeds or other instruments.

(d) Any purported conveyance, encumbrance, judicial sale, or other voluntary transfer of common elements, unless made pursuant to this section, is void.

(e) A conveyance or an encumbrance of common elements pursuant to this section does not deprive any unit of its rights of access and support.

(f) Unless the declaration otherwise provides, a conveyance or an encumbrance of common elements pursuant to this section does not affect the priority or validity of preexisting encumbrances.

Source: Laws 1983, LB 433, § 46; Laws 1984, LB 1105, § 11; Laws 2020, LB808, § 50.
Operative date November 14, 2020.

PROTECTION OF CONDOMINIUM PURCHASERS

76-884 Resale of unit; information required.

(a) Except in the case of a sale where delivery of a public-offering statement is required or unless exempt under subsection (b) of section 76-878, the unit owner and any other person in the business of selling real estate who offers a unit to a purchaser shall furnish to a purchaser before conveyance a copy of the declaration other than the plats and plans, the bylaws, the rules or regulations of the association, and the following information:

- (1) a statement setting forth the amount of the monthly common expense assessment and any unpaid common expense or special assessment currently due and payable from the selling unit owner;
- (2) any other fees payable by unit owners;
- (3) the most recent regularly prepared balance sheet and income and expense statement, if any, of the association;
- (4) the current operating budget of the association, if any;
- (5) a statement that a copy of any insurance policy provided for the benefit of unit owners is available from the association upon request;
- (6) a statement of the remaining term of any leasehold estate affecting the condominium and the provisions governing any extension or renewal thereof; and
- (7) a disclosure of any threatened or pending litigation involving the unit or the association.

(b) The association, within ten days after a request by a unit owner, shall furnish in writing the information necessary to enable the unit owner to comply with this section. A unit owner providing information pursuant to subsection (a) of this section is not liable to the purchaser for any erroneous information provided by the association and included in the certificate.

(c) A purchaser is not liable for any unpaid assessment or fee greater than the amount set forth in the information prepared by the association. The unit owner or any other person in the business of selling real estate who offers a unit to a purchaser is not liable to a purchaser for the failure or delay of the association to provide such information in a timely manner.

Source: Laws 1983, LB 433, § 60; Laws 1984, LB 1105, § 18; Laws 2020, LB808, § 51.
Operative date November 14, 2020.

76-890 Warranties; statute of limitations; judicial proceedings; notice; effect; strict compliance; required.

(a) A judicial proceeding for breach of any obligation arising under section 76-887 or 76-888 must be commenced within two years after the cause of

action accrues, but the parties may agree to reduce the period of limitation to not less than one year. With respect to a unit that may be occupied for residential use, an agreement to reduce the period of limitation must be evidenced by an instrument executed by the purchaser. Prior to commencing any judicial proceeding under this section, the person seeking to commence the judicial proceeding must (1) provide written notice of the proposed proceeding and the specific alleged defect or defects to the prospective defendant or defendants and (2) give the prospective defendant or defendants at least three months to cure the alleged defect or defects. If the defect or defects are such that they cannot reasonably be cured within three months, the cure period shall extend as long as the prospective defendant has commenced and is diligently proceeding with repairs. Providing the notice in this section in a manner reasonably understood to inform the prospective defendant of the specific alleged defect or defects shall toll any applicable statute of limitations until the alleged defect or defects are cured. Any proceeding commenced without strict compliance with this section is subject to dismissal for such noncompliance.

(b) Subject to subsection (c) of this section, a cause of action for breach of warranty, regardless of the purchaser's lack of knowledge of the breach, accrues:

(1) as to a unit, at the time the purchaser to whom the warranty is first made enters into possession if a possessory interest was conveyed or at the time of acceptance of the instrument of conveyance if a nonpossessory interest was conveyed; and

(2) as to each common element, at the time the common element is completed or, if later, (i) as to a common element that may be added to the condominium or portion thereof, at the time the first unit therein is conveyed to a bona fide purchaser, or (ii) as to a common element within any other portion of the condominium, at the time the first unit in the condominium is conveyed to a bona fide purchaser.

(c) If a warranty explicitly extends to future performance or duration of any improvement or component of the condominium, the cause of action accrues at the time the breach is discovered or at the end of the period for which the warranty explicitly extends, whichever is earlier.

Source: Laws 1983, LB 433, § 66; Laws 1984, LB 1105, § 21; Laws 2020, LB808, § 52.

Operative date November 14, 2020.

ARTICLE 14

LANDLORD AND TENANT

(a) UNIFORM RESIDENTIAL LANDLORD AND TENANT ACT

Section

76-1416. Security deposits; prepaid rent.

76-1431. Noncompliance; failure to pay rent; effect; violent criminal activity upon premises; landlord; powers.

(a) UNIFORM RESIDENTIAL LANDLORD AND TENANT ACT

76-1416 Security deposits; prepaid rent.

(1) A landlord may not demand or receive security, however denominated, in an amount or value in excess of one month's periodic rent, except that a pet

deposit not in excess of one-fourth of one month's periodic rent may be demanded or received when appropriate, but this subsection shall not be applicable to housing agencies organized or existing under the Nebraska Housing Agency Act.

(2) Upon termination of the tenancy, property or money held by the landlord as prepaid rent and security may be applied to the payment of rent and the amount of damages which the landlord has suffered by reason of the tenant's noncompliance with the rental agreement or section 76-1421. The balance, if any, and a written itemization shall be delivered or mailed to the tenant within fourteen days after the date of termination of the tenancy. If no mailing address or instructions are provided by the tenant to the landlord, the landlord shall mail, by first-class mail, the balance of the security deposit to be returned, if any, and a written itemization of the amount of the security deposit not returned to the tenant's last-known mailing address. If the mailing is returned as undeliverable, or if the returned balance of the security deposit remains outstanding thirty days after the date of the mailing, the landlord shall, not later than sixty days after the date of the mailing, remit the outstanding balance of the security deposit to the State Treasurer for disposition pursuant to the Uniform Disposition of Unclaimed Property Act.

(3) If the landlord fails to comply with subsection (2) of this section, the tenant may recover the property and money due him or her, court costs, and reasonable attorney's fees. In addition, if the landlord's failure to comply with subsection (2) of this section is willful and not in good faith, the tenant may recover an amount equal to one month's periodic rent or two times the amount of the security deposit, whichever is less, as liquidated damages.

(4) This section does not preclude the landlord or tenant from recovering other damages to which he or she may be entitled under the Uniform Residential Landlord and Tenant Act. However, a tenant shall not be liable for damages directly related to the tenant's removal from the premises by order of any governmental entity as a result of the premises not being fit for habitation due to the negligence or neglect of the landlord.

(5) The holder of the landlord's interest in the premises at the time of the termination of the tenancy is bound by this section.

Source: Laws 1974, LB 293, § 16; Laws 1999, LB 105, § 99; Laws 2001, LB 7, § 12; Laws 2019, LB433, § 1.

Cross References

Nebraska Housing Agency Act, see section 71-1572.

Uniform Disposition of Unclaimed Property Act, see section 69-1329.

76-1431 Noncompliance; failure to pay rent; effect; violent criminal activity upon premises; landlord; powers.

(1) Except as provided in the Uniform Residential Landlord and Tenant Act, if there is a noncompliance with section 76-1421 materially affecting health and safety or a material noncompliance by the tenant with the rental agreement or any separate agreement, the landlord may deliver a written notice to the tenant specifying the acts and omissions constituting the breach and that the rental agreement will terminate upon a date not less than thirty days after receipt of the notice if the breach is not remedied in fourteen days, and the rental agreement shall terminate as provided in the notice subject to the following. If the breach is remediable by repairs or the payment of damages or otherwise

and the tenant adequately remedies the breach prior to the date specified in the notice, the rental agreement will not terminate. If substantially the same act or omission which constituted a prior noncompliance of which notice was given recurs within six months, the landlord may terminate the rental agreement upon at least fourteen days' written notice specifying the breach and the date of termination of the rental agreement.

(2) If rent is unpaid when due and the tenant fails to pay rent within seven calendar days after written notice by the landlord of nonpayment and his or her intention to terminate the rental agreement if the rent is not paid within that period of time, the landlord may terminate the rental agreement.

(3) Except as provided in the Uniform Residential Landlord and Tenant Act, the landlord may recover damages and obtain injunctive relief for any noncompliance by the tenant with the rental agreement or section 76-1421. If the tenant's noncompliance is willful, the landlord may recover reasonable attorney's fees.

(4) Notwithstanding subsections (1) and (2) of this section or section 25-21,221, a landlord may, after five days' written notice of termination of the rental agreement and without the right of the tenant to cure the default, file suit and have judgment against any tenant or occupant for recovery of possession of the premises if the tenant, occupant, member of the tenant's household, guest, or other person who is under the tenant's control or who is present upon the premises with the tenant's consent, engages in any violent criminal activity on the premises, the illegal sale of any controlled substance on the premises, or any other activity that threatens the health or safety of other tenants, the landlord, or the landlord's employees or agents. Such activity shall include, but not be limited to, any of the following activities of the tenant, occupant, member of the tenant's household, guest, or other person who is under the tenant's control or who is present upon the premises with the tenant's consent: (a) Physical assault or the threat of physical assault; (b) illegal use of a firearm or other weapon or the threat of illegal use of a firearm or other weapon; (c) possession of a controlled substance if the tenant knew or should have known of the possession, unless such controlled substance was obtained directly from or pursuant to a medical order issued by a practitioner legally authorized to prescribe while acting in the course of his or her professional practice; or (d) any other activity or threatened activity which would otherwise threaten the health or safety of any person or involving threatened, imminent, or actual damage to the property.

(5) Subsection (4) of this section does not apply to a tenant if the violent criminal activity, illegal sale of any controlled substance, or other activity that threatens the health or safety of other tenants, the landlord, or the landlord's employees or agents, as set forth in subsection (4) of this section, is conducted by a person on the premises other than the tenant and the tenant takes at least one of the following measures against the person engaging in such activity:

(a) The tenant seeks a protective order, restraining order, or other similar relief which would apply to the person conducting such activity; or

(b) The tenant reports such activity to a law enforcement agency in an effort to initiate a criminal action against the person conducting the activity.

Source: Laws 1974, LB 293, § 31; Laws 2001, LB 7, § 18; Laws 2016, LB221, § 4; Laws 2019, LB433, § 2.

ARTICLE 15
AGRICULTURAL LANDS, SPECIAL PROVISIONS

(d) REPORTS ON FARMING OR RANCHING

Section

76-1522. Repealed. Laws 2020, LB910, § 49.

(d) REPORTS ON FARMING OR RANCHING

76-1522 Repealed. Laws 2020, LB910, § 49.

Operative date July 1, 2021.

ARTICLE 22
REAL PROPERTY APPRAISER ACT

Section

- 76-2202. Legislative findings.
- 76-2204. Appraisal, defined.
- 76-2205.01. Repealed. Laws 2020, LB808, § 101.
- 76-2205.02. Appraisal review, defined.
- 76-2207.01. Assignment, defined.
- 76-2207.17. Assignment results, defined.
- 76-2207.22. Client, defined.
- 76-2207.26. Credential holder, defined.
- 76-2207.27. Education provider, defined.
- 76-2207.30. Financial Institutions Reform, Recovery, and Enforcement Act of 1989, defined.
- 76-2212.03. Jurisdiction of practice, defined.
- 76-2215. Real property appraisal practice, defined.
- 76-2216. Real property appraiser, defined.
- 76-2216.02. Report, defined.
- 76-2216.03. Repealed. Laws 2020, LB808, § 101.
- 76-2218.02. Uniform Standards of Professional Appraisal Practice, defined.
- 76-2219.01. Valuation services, defined.
- 76-2219.02. Workfile, defined.
- 76-2220. Proper credentialing required; violation of act; cease and desist order.
- 76-2221. Act; exemptions.
- 76-2222. Real Property Appraiser Board; created; members; terms; compensation; expenses.
- 76-2223. Real Property Appraiser Board; powers and duties; rules and regulations.
- 76-2227. Credentials; application; requirements.
- 76-2228.01. Trainee real property appraiser; applicant; qualifications; fingerprints; national criminal history record check; upgraded credential; requirements; scope of practice.
- 76-2228.02. Trainee real property appraiser; direct supervision; supervisory real property appraiser; qualifications; disciplinary action; effect; appraisal experience log.
- 76-2230. Credential as a licensed residential real property appraiser; applicant; qualifications; fingerprints; national criminal history record check; upgraded credential; requirements; scope of practice.
- 76-2231.01. Credential as a certified residential real property appraiser; applicant; qualifications; fingerprints; national criminal history record check; upgraded credential; requirements; scope of practice.
- 76-2232. Credential as a certified general real property appraiser; applicant; qualifications; fingerprints; national criminal history record check; scope of practice.
- 76-2233. Reciprocity; credential; issuance; when; applicant; duties; fingerprints; national criminal history record check; verification of status.

§ 76-2202**REAL PROPERTY**

Section

- 76-2233.01. Nonresident; temporary credential; issuance; when; investigation of violations.
- 76-2233.02. Credential; expiration; renewal; fees; random fingerprint audit program.
- 76-2233.03. Credential; inactive status; application; prohibited acts; reinstatement; expiration; reapplication.
- 76-2236. Continuing education; requirements.
- 76-2238. Disciplinary action; denial of application; grounds.
- 76-2239. Investigations; authorized; disciplinary action; cease and desist order; complaint; procedure; hearing.
- 76-2243. Professional corporation; real property appraisal practice.
- 76-2245. Action for compensation; conditions.
- 76-2246. Appraisal without credentials; penalty.
- 76-2247.01. Services; authorized; standards applicable.

76-2202 Legislative findings.

The Legislature finds that as a result of the enactment of the Dodd-Frank Wall Street Reform and Consumer Protection Act and the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Nebraska's laws providing for regulation of real property appraisers require restructuring and updating in order to comply with such acts. Compliance with the acts is necessary to ensure an adequate number of real property appraisers in Nebraska to conduct appraisals of real estate involved in federally related transactions as defined in such acts.

Source: Laws 1990, LB 1153, § 2; Laws 1991, LB 203, § 7; Laws 1994, LB 1107, § 7; Laws 2006, LB 778, § 14; Laws 2010, LB931, § 1; Laws 2012, LB714, § 1; Laws 2014, LB717, § 2; Laws 2015, LB139, § 2; Laws 2016, LB731, § 1; Laws 2018, LB741, § 2; Laws 2020, LB808, § 53.
Operative date August 16, 2020.

76-2204 Appraisal, defined.

Appraisal means (1) as a noun, an opinion of value or the act or process of developing an opinion of value or (2) as an adjective, pertaining to appraising and related functions such as real property appraisal practice. An appraisal is numerically expressed as a specific amount, as a range of numbers, or as a relationship to a previous value opinion or numerical benchmark.

Source: Laws 1990, LB 1153, § 4; Laws 2001, LB 162, § 3; Laws 2006, LB 778, § 16; Laws 2015, LB139, § 4; Laws 2020, LB808, § 54.
Operative date August 16, 2020.

76-2205.01 Repealed. Laws 2020, LB808, § 101.

Operative date August 16, 2020.

76-2205.02 Appraisal review, defined.

Appraisal review means (1) as a noun, the act or process of developing an opinion about the quality of a real property appraiser's work that was performed as part of real property appraisal practice or (2) as an adjective, of or pertaining to an opinion about the quality of another real property appraiser's work that was performed as part of real property appraisal practice.

Source: Laws 2015, LB139, § 7; Laws 2018, LB741, § 4; Laws 2020, LB808, § 55.
Operative date August 16, 2020.

76-2207.01 Assignment, defined.

Assignment means a valuation service that is performed by a real property appraiser as a consequence of an agreement with a client.

Source: Laws 2015, LB139, § 9; Laws 2018, LB741, § 5; Laws 2020, LB808, § 56.
Operative date August 16, 2020.

76-2207.17 Assignment results, defined.

Assignment results means the opinions or conclusions, not limited to value, developed by a real property appraiser when performing valuation services specific to real property appraisal practice.

Source: Laws 2018, LB741, § 6; Laws 2020, LB808, § 57.
Operative date August 16, 2020.

76-2207.22 Client, defined.

Client means the person or persons who engage a real property appraiser by employment or contract in a specific assignment whether directly or through an agent.

Source: Laws 2015, LB139, § 14; R.S.Supp.,2016, § 76-2207.06; Laws 2018, LB741, § 11; Laws 2020, LB808, § 58.
Operative date August 16, 2020.

76-2207.26 Credential holder, defined.

Credential holder means (1) any person who holds a valid credential as a trainee real property appraiser, licensed real property appraiser, certified residential real property appraiser, or certified general real property appraiser and (2) any person who holds a temporary credential to engage in real property appraisal practice within this state.

Source: Laws 2015, LB139, § 18; R.S.Supp.,2016, § 76-2207.10; Laws 2018, LB741, § 15; Laws 2020, LB808, § 59.
Operative date August 16, 2020.

76-2207.27 Education provider, defined.

Education provider means: Any real property appraisal or real-estate-related organization; proprietary school; accredited degree-awarding community college, college, or university; state or federal agency; or such other provider that may be approved by the board that provides real property appraiser training or education.

Source: Laws 2015, LB139, § 19; R.S.Supp.,2016, § 76-2207.11; Laws 2018, LB741, § 16; Laws 2019, LB77, § 1; Laws 2020, LB808, § 60.
Operative date August 16, 2020.

76-2207.30 Financial Institutions Reform, Recovery, and Enforcement Act of 1989, defined.

Financial Institutions Reform, Recovery, and Enforcement Act of 1989 means the act as it existed on January 1, 2020.

Source: Laws 2014, LB717, § 8; R.S.Supp.,2014, § 76-2212.02; Laws 2015, LB139, § 22; Laws 2016, LB731, § 3; R.S.Supp.,2016, § 76-2207.14; Laws 2018, LB741, § 19; Laws 2019, LB77, § 2; Laws 2020, LB808, § 61.
Operative date August 16, 2020.

76-2212.03 Jurisdiction of practice, defined.

Jurisdiction of practice means any jurisdiction in which an appraiser devotes his or her time engaged in real property appraisal practice.

Source: Laws 2014, LB717, § 9; Laws 2015, LB139, § 25; Laws 2020, LB808, § 62.
Operative date August 16, 2020.

76-2215 Real property appraisal practice, defined.

Real property appraisal practice means any act or process performed by a real property appraiser involved in developing and reporting an analysis, opinion, or conclusion relating to the specified interests in or aspects of identified real estate or real property or an appraisal review. Real property appraisal practice includes, but is not limited to, evaluation assignments, valuation assignments, and appraisal review assignments.

Source: Laws 1990, LB 1153, § 15; Laws 2001, LB 162, § 7; Laws 2006, LB 778, § 33; Laws 2015, LB139, § 29; Laws 2018, LB741, § 22; Laws 2020, LB808, § 63.
Operative date August 16, 2020.

76-2216 Real property appraiser, defined.

Real property appraiser means a person who is a credential holder.

Source: Laws 1990, LB 1153, § 16; Laws 2001, LB 162, § 8; Laws 2006, LB 778, § 34; Laws 2010, LB931, § 5; Laws 2015, LB139, § 30; Laws 2020, LB808, § 64.
Operative date August 16, 2020.

76-2216.02 Report, defined.

Report means any communication, written, oral, or by electronic means, of assignment results transmitted to the client or a party authorized by the client upon completion of an assignment. Testimony related to assignment results is deemed to be an oral report.

Source: Laws 1990, LB 1153, § 6; Laws 2006, LB 778, § 19; Laws 2010, LB931, § 2; R.S.Supp.,2014, § 76-2206; Laws 2015, LB139, § 32; Laws 2018, LB741, § 23; Laws 2020, LB808, § 65.
Operative date August 16, 2020.

76-2216.03 Repealed. Laws 2020, LB808, § 101.

Operative date August 16, 2020.

76-2218.02 Uniform Standards of Professional Appraisal Practice, defined.

Uniform Standards of Professional Appraisal Practice means the standards adopted and promulgated by The Appraisal Foundation as the standards existed on January 1, 2020.

Source: Laws 2001, LB 162, § 11; R.S.1943, (2003), § 76-2218.01; Laws 2006, LB 778, § 31; Laws 2007, LB186, § 5; Laws 2008, LB1011, § 2; Laws 2010, LB931, § 4; Laws 2012, LB714, § 2; Laws 2014, LB717, § 10; R.S.Supp.,2014, § 76-2213.01; Laws 2015, LB139, § 36; Laws 2016, LB731, § 6; Laws 2018, LB741, § 24; Laws 2020, LB808, § 66.
Operative date August 16, 2020.

76-2219.01 Valuation services, defined.

Valuation services means services pertaining to an aspect of property value, including a service performed by real property appraisers.

Source: Laws 2015, LB139, § 38; Laws 2018, LB741, § 25; Laws 2020, LB808, § 67.
Operative date August 16, 2020.

76-2219.02 Workfile, defined.

Workfile means data, information, and documentation necessary to support a real property appraiser's opinions and conclusions, and to show compliance with the Uniform Standards of Professional Appraisal Practice.

Source: Laws 2015, LB139, § 39; Laws 2020, LB808, § 68.
Operative date August 16, 2020.

76-2220 Proper credentialing required; violation of act; cease and desist order.

(1) Except as provided in section 76-2221, it shall be unlawful for anyone to act as a real property appraiser in this state without first obtaining proper credentialing as required under the Real Property Appraiser Act.

(2) Except as provided in section 76-2221, any person who, directly or indirectly for another, offers, attempts, agrees to engage, or engages in real property appraisal practice, or who advertises or holds himself or herself out to the general public as a real property appraiser, shall be deemed a real property appraiser within the meaning of the Real Property Appraiser Act, and such action shall constitute sufficient contact with this state for the exercise of personal jurisdiction over such person in any action arising out of such act. Committing a single act described in this section by a person required to be credentialed under the Real Property Appraiser Act and not so credentialed shall constitute a violation of the act for which the board may impose sanctions pursuant to this section for the protection of the public health, safety, or welfare.

(3) The board may issue a cease and desist order against any person who violates this section. Such order shall be final ten days after issuance unless such person requests a hearing pursuant to section 76-2240. The board may, through the Attorney General, obtain an order from the district court for the enforcement of the cease and desist order.

Source: Laws 1990, LB 1153, § 20; Laws 1991, LB 203, § 21; Laws 1994, LB 1107, § 16; Laws 2001, LB 162, § 12; Laws 2006, LB 778,

§ 40; Laws 2015, LB139, § 40; Laws 2018, LB741, § 26; Laws 2020, LB808, § 69.

Operative date August 16, 2020.

76-2221 Act; exemptions.

The Real Property Appraiser Act shall not apply to:

(1) Any real property appraiser who is a salaried employee of (a) the federal government, (b) any agency of the state government or a political subdivision which appraises real estate, (c) any insurance company authorized to do business in this state, or (d) any bank, savings bank, savings and loan association, building and loan association, credit union, or small loan company licensed by this state or supervised or regulated by or through federal enactments covering financial institutions, except that any employee of the entities listed in subdivisions (a) through (d) of this subdivision who signs a report as a credentialed real property appraiser shall be subject to the act and the Uniform Standards of Professional Appraisal Practice. Any salaried employee of the entities listed in subdivisions (a) through (d) of this subdivision who is a credentialed real property appraiser and who does not sign a report as a credentialed real property appraiser shall include the following disclosure prominently with such report: This opinion of value may not meet the minimum standards contained in the Uniform Standards of Professional Appraisal Practice and is not governed by the Real Property Appraiser Act;

(2) A person referred to in subsection (1) of section 81-885.16;

(3) Any person who provides assistance (a) in obtaining the data upon which assignment results are based, (b) in the physical preparation of a report, such as taking photographs, preparing charts, maps, or graphs, or typing or printing the report, or (c) that does not directly involve the exercise of judgment in arriving at the assignment results set forth in the report;

(4) Any owner of real estate, employee of the owner, or attorney licensed to practice law in this state representing the owner who renders an estimate or opinion of value of the real estate or any interest in the real estate when such estimate or opinion is for the purpose of real estate taxation, or any other person who renders such an estimate or opinion of value when that estimate or opinion requires a specialized knowledge that a real property appraiser would not have, except that a real property appraiser or a person licensed under the Nebraska Real Estate License Act is not exempt under this subdivision;

(5) Any owner of real estate, employee of the owner, or attorney licensed to practice law in this state representing the owner who renders an estimate or opinion of value of real estate or any interest in real estate or damages thereto when such estimate or opinion is offered as testimony in any condemnation proceeding, or any other person who renders such an estimate or opinion when that estimate or opinion requires a specialized knowledge that a real property appraiser would not have, except that a real property appraiser or a person licensed under the Nebraska Real Estate License Act is not exempt under this subdivision;

(6) Any owner of real estate, employee of the owner, or attorney licensed to practice law in this state representing the owner who renders an estimate or opinion of value of the real estate or any interest in the real estate when such estimate or opinion is offered in connection with a legal matter involving real property;

(7) Any person appointed by a county board of equalization to act as a referee pursuant to section 77-1502.01, except that any person who also practices as an independent real property appraiser for others shall be subject to the Real Property Appraiser Act and shall be credentialed prior to engaging in such other real property appraisal practice. Any real property appraiser appointed to act as a referee pursuant to section 77-1502.01 and who prepares a report for the county board of equalization shall not sign such report as a credentialed real property appraiser and shall include the following disclosure prominently with such report: This opinion of value may not meet the minimum standards contained in the Uniform Standards of Professional Appraisal Practice and is not governed by the Real Property Appraiser Act;

(8) Any person who is appointed to serve as an appraiser pursuant to section 76-706, except that if such person is a credential holder, he or she shall (a) be subject to the scope of practice applicable to his or her classification of credential and (b) comply with the Uniform Standards of Professional Appraisal Practice, excluding standards 1 through 10; or

(9) Any person, including an independent contractor, retained by a county to assist in the appraisal of real property as performed by the county assessor of such county subject to the standards established by the Tax Commissioner pursuant to section 77-1301.01. A person so retained shall be under the direction and responsibility of the county assessor.

Source: Laws 1990, LB 1153, § 21; Laws 1991, LB 203, § 22; Laws 1994, LB 1107, § 17; Laws 1999, LB 618, § 5; Laws 2001, LB 162, § 13; Laws 2003, LB 131, § 35; Laws 2005, LB 676, § 1; Laws 2006, LB 778, § 41; Laws 2008, LB1011, § 4; Laws 2010, LB931, § 6; Laws 2015, LB139, § 41; Laws 2016, LB729, § 2; Laws 2016, LB731, § 7; Laws 2018, LB741, § 27; Laws 2020, LB808, § 70.

Operative date August 16, 2020.

Cross References

Nebraska Real Estate License Act, see section 81-885.

76-2222 Real Property Appraiser Board; created; members; terms; compensation; expenses.

(1) The Real Property Appraiser Board is hereby created. The board shall consist of five members. One member who is a certified real property appraiser shall be selected from each of the three congressional districts, and two members shall be selected at large. The two members selected at large shall include one representative of financial institutions and one licensed real estate broker. The Governor shall appoint the members of the board.

(2) The term of each member of the board shall be five years. Upon the expiration of his or her term, a member of the board shall continue to hold office until the appointment and qualification of his or her successor. No person shall serve as a member of the board for consecutive terms. Any vacancy shall be filled in the same manner as the original appointment. The Governor may remove a member for cause.

(3) The members of the board shall elect a chairperson during the first meeting of each year from among the members.

(4) Three members of the board, at least two of whom are real property appraisers, shall constitute a quorum.

(5) Each member of the board shall receive a per diem of one hundred dollars per day (a) for each scheduled meeting of the board or a committee of the board at which the member is present and (b) actually spent in traveling to and from and attending meetings and conferences of the Association of Appraiser Regulatory Officials and its committees and subcommittees or of The Appraisal Foundation and its committees and subcommittees, board committee meetings, or other business as authorized by the board.

(6) Each member of the board shall be reimbursed for expenses incident to the performance of his or her duties under the Real Property Appraiser Act and Nebraska Appraisal Management Company Registration Act as provided in sections 81-1174 to 81-1177.

Source: Laws 1990, LB 1153, § 22; Laws 1991, LB 203, § 23; Laws 1994, LB 1107, § 18; Laws 2001, LB 162, § 14; Laws 2006, LB 778, § 42; Laws 2008, LB1011, § 5; Laws 2015, LB139, § 42; Laws 2016, LB731, § 8; Laws 2018, LB741, § 28; Laws 2019, LB77, § 3; Laws 2020, LB381, § 83.
Operative date January 1, 2021.

Cross References

Nebraska Appraisal Management Company Registration Act, see section 76-3201.

76-2223 Real Property Appraiser Board; powers and duties; rules and regulations.

(1) The Real Property Appraiser Board shall administer and enforce the Real Property Appraiser Act and may:

(a) Receive applications for credentialing under the act, process such applications and regulate the issuance of credentials to qualified applicants, and maintain a directory of the names and addresses of persons who receive credentials under the act;

(b) Hold meetings, public hearings, informal conferences, and administrative hearings, prepare or cause to be prepared specifications for all real property appraiser classifications, solicit bids and enter into contracts with one or more testing services, and administer or contract for the administration of examinations approved by the Appraiser Qualifications Board in such places and at such times as deemed appropriate;

(c) Develop the specifications for credentialing examinations, including timing, location, and security necessary to maintain the integrity of the examinations;

(d) Review the procedures and criteria of a contracted testing service to ensure that the testing meets with the approval of the Appraiser Qualifications Board;

(e) Collect all fees required or permitted by the act. The Real Property Appraiser Board shall remit all such receipts to the State Treasurer for credit to the Real Property Appraiser Fund. In addition, the board may collect and transmit to the appropriate federal authority any fees established under the Financial Institutions Reform, Recovery, and Enforcement Act of 1989;

(f) Establish appropriate administrative procedures for disciplinary proceedings conducted pursuant to the Real Property Appraiser Act;

(g) Issue subpoenas to compel the attendance of witnesses and the production of books, documents, records, and other papers, administer oaths, and take testimony and require submission of and receive evidence concerning all matters within its jurisdiction. In case of disobedience of a subpoena, the Real Property Appraiser Board may make application to the district court of Lancaster County to require the attendance and testimony of witnesses and the production of documentary evidence. If any person fails to obey an order of the court, he or she may be punished by the court as for contempt thereof;

(h) Deny an application or censure, suspend, or revoke a credential if it finds that the applicant or credential holder has committed any of the acts or omissions set forth in section 76-2238 or otherwise violated the act. Any disciplinary matter may be resolved through informal disposition pursuant to section 84-913;

(i) Take appropriate disciplinary action against a credential holder if the Real Property Appraiser Board determines that a credential holder has violated any provision of the act or the Uniform Standards of Professional Appraisal Practice;

(j) Enter into consent decrees and issue cease and desist orders upon a determination that a violation of the act has occurred;

(k) Promote research and conduct studies relating to the profession of real property appraisal, sponsor real property appraisal educational activities, and incur, collect fees for, and pay the necessary expenses in connection with activities which shall be open to all credential holders;

(l) Establish and adopt minimum standards for appraisals as required under section 76-2237;

(m) Adopt and promulgate rules and regulations to carry out the act. The rules and regulations may include provisions establishing minimum standards for education providers, courses, and instructors. The rules and regulations shall be adopted and promulgated pursuant to the Administrative Procedure Act; and

(n) Do all other things necessary to carry out the Real Property Appraiser Act.

(2) The Real Property Appraiser Board shall also administer and enforce the Nebraska Appraisal Management Company Registration Act.

Source: Laws 1990, LB 1153, § 23; Laws 1991, LB 203, § 24; Laws 1994, LB 1107, § 19; Laws 2001, LB 162, § 15; Laws 2006, LB 778, § 43; Laws 2007, LB186, § 8; Laws 2008, LB1011, § 6; Laws 2010, LB931, § 7; Laws 2011, LB410, § 21; Laws 2012, LB714, § 3; Laws 2014, LB717, § 13; Laws 2015, LB139, § 43; Laws 2020, LB808, § 71.

Operative date August 16, 2020.

Cross References

Administrative Procedure Act, see section 84-920.

Nebraska Appraisal Management Company Registration Act, see section 76-3201.

76-2227 Credentials; application; requirements.

(1) Applications for initial credentials, upgrade of credentials, credentials through reciprocity, temporary credentials, and renewal of credentials, including authorization to take the appropriate examination, shall be made in writing to the board on forms approved by the board. The payment of the appropriate

fee in an amount established by the board pursuant to section 76-2241 shall accompany all applications.

(2) Applications for credentials shall include the applicant's social security number and such other information as the board may require.

(3) At the time of filing an application for a credential, the applicant shall sign a pledge that he or she has read and will comply with the Uniform Standards of Professional Appraisal Practice. Each applicant shall also certify that he or she understands the types of misconduct for which disciplinary proceedings may be initiated.

(4) To qualify for an initial credential, an upgrade of a credential, a credential through reciprocity, a temporary credential, or a renewal of a credential, an applicant shall:

(a) Certify that disciplinary proceedings are not pending against him or her in any jurisdiction or state the nature of any pending disciplinary proceedings;

(b) Certify that he or she has not surrendered an appraiser credential, or any other registration, license, or certification, issued by any other regulatory agency or held in any other jurisdiction, in lieu of disciplinary action pending or threatened within the five-year period immediately preceding the date of application;

(c) Certify that his or her appraiser credential, or any other registration, license, or certification, issued by any other regulatory agency or held in any other jurisdiction, has not been revoked or suspended within the five-year period immediately preceding the date of application;

(d) Not have been convicted of, including a conviction based upon a plea of guilty or nolo contendere:

(i) Any felony or, if so convicted, has had his or her civil rights restored;

(ii) Any crime of fraud, dishonesty, breach of trust, money laundering, misrepresentation, or deceit involving real estate, financial services, or in the making of an appraisal within the five-year period immediately preceding the date of application; or

(iii) Any other crime which is related to the qualifications, functions, or duties of a real property appraiser within the five-year period immediately preceding the date of application;

(e) Certify that no civil judicial actions, including dismissal with settlement, in connection with real estate, financial services, or in the making of an appraisal have been brought against him or her within the five-year period immediately preceding the date of application;

(f) Demonstrate character and general fitness such as to command the confidence and trust of the public; and

(g) Not possess a background that would call into question public trust or a credential holder's fitness for credentialing.

(5) Credentials shall be issued only to persons who have a good reputation for honesty, trustworthiness, integrity, and competence to perform real property appraisal practice assignments in such manner as to safeguard the interest of the public and only after satisfactory proof of such qualification has been presented to the board upon request and a completed application has been approved.

(6) No credential shall be issued to a person other than an individual.

Source: Laws 1990, LB 1153, § 27; Laws 1991, LB 203, § 28; Laws 1993, LB 121, § 490; Laws 1994, LB 1107, § 23; Laws 2001, LB 162, § 18; Laws 2006, LB 778, § 47; Laws 2007, LB186, § 10; Laws 2014, LB717, § 14; Laws 2015, LB139, § 44; Laws 2016, LB731, § 9; Laws 2018, LB741, § 29; Laws 2020, LB808, § 72.
Operative date August 16, 2020.

76-2228.01 Trainee real property appraiser; applicant; qualifications; fingerprints; national criminal history record check; upgraded credential; requirements; scope of practice.

(1) To qualify for a credential as a trainee real property appraiser, an applicant shall:

- (a) Be at least nineteen years of age;
- (b) Hold a high school diploma or a certificate of high school equivalency or have education acceptable to the Real Property Appraiser Board;
- (c)(i) Have successfully completed and passed examination for no fewer than seventy-five class hours in Real Property Appraiser Board-approved qualifying education courses conducted by education providers as prescribed by rules and regulations of the Real Property Appraiser Board and completed the fifteen-hour National Uniform Standards of Professional Appraisal Practice Course. Each course shall include a proctored, closed-book examination pertinent to the material presented. Except for the fifteen-hour National Uniform Standards of Professional Appraisal Practice Course, which shall be completed within the two-year period immediately preceding submission of the application, all class hours shall be completed within the five-year period immediately preceding submission of the application; or
- (ii) Hold a bachelor's degree or higher in real estate from an accredited degree-awarding college or university that has had all or part of its curriculum approved by the Appraiser Qualifications Board as required core curriculum or the equivalent as determined by the Appraiser Qualifications Board. The degree shall be conferred within the five-year period immediately preceding submission of the application. If the degree in real estate or equivalent as approved by the Appraiser Qualifications Board does not satisfy all required qualifying education for credentialing, the remaining class hours shall be completed in Real Property Appraiser Board-approved qualifying education pursuant to subdivision (c)(i) of this subsection;
- (d) As prescribed by rules and regulations of the Real Property Appraiser Board, successfully complete a Real Property Appraiser Board-approved supervisory real property appraiser and trainee course within one year immediately preceding the date of application; and
- (e) Submit two copies of legible ink-rolled fingerprint cards or equivalent electronic fingerprint submissions to the Real Property Appraiser Board for delivery to the Nebraska State Patrol in a form approved by both the Nebraska State Patrol and the Federal Bureau of Investigation. A fingerprint-based national criminal history record check shall be conducted through the Nebraska State Patrol and the Federal Bureau of Investigation with such record check to be carried out by the Real Property Appraiser Board.

(2) Prior to engaging in real property appraisal practice, a trainee real property appraiser shall submit a written request for supervisory real property appraiser approval on a form approved by the board. The request for supervisory real property appraiser approval may be made at the time of application or any time after approval as a trainee real property appraiser.

(3) To qualify for an upgraded credential, a trainee real property appraiser shall satisfy the appropriate requirements as follows:

(a) Submit two copies of legible ink-rolled fingerprint cards or equivalent electronic fingerprint submissions to the Real Property Appraiser Board for delivery to the Nebraska State Patrol in a form approved by both the Nebraska State Patrol and the Federal Bureau of Investigation. A fingerprint-based national criminal history record check shall be conducted through the Nebraska State Patrol and the Federal Bureau of Investigation with such record check to be carried out by the Real Property Appraiser Board; and

(b) Within the twelve months following approval of the applicant's education and experience by the Real Property Appraiser Board for an upgraded credential, pass an appropriate examination approved by the Appraiser Qualifications Board for that upgraded credential, prescribed by rules and regulations of the Real Property Appraiser Board, and administered by a contracted testing service.

(4) To qualify for a credential as a licensed residential real property appraiser, a trainee real property appraiser shall:

(a) Successfully complete and pass proctored, closed-book examinations for no fewer than seventy-five additional class hours in board-approved qualifying education courses conducted by education providers as prescribed by rules and regulations of the board, or hold a bachelor's degree in real estate from an accredited degree-awarding college or university or equivalent pursuant to subdivision (1)(c)(ii) of section 76-2230; and

(b) Meet the experience requirements pursuant to subdivision (1)(d) of section 76-2230.

(5) To qualify for a credential as a certified residential real property appraiser, a trainee real property appraiser shall:

(a) Meet the postsecondary educational requirements pursuant to subdivisions (1)(b) and (c) of section 76-2231.01;

(b) Successfully complete and pass proctored, closed-book examinations for no fewer than one hundred twenty-five additional class hours in board-approved qualifying education courses conducted by education providers as prescribed by rules and regulations of the board, or hold a bachelor's degree in real estate from an accredited degree-awarding college or university or equivalent pursuant to subdivision (1)(d)(ii) of section 76-2231.01; and

(c) Meet the experience requirements pursuant to subdivision (1)(e) of section 76-2231.01.

(6) To qualify for a credential as a certified general real property appraiser, a trainee real property appraiser shall:

(a) Meet the postsecondary educational requirements pursuant to subdivisions (1)(b) and (c) of section 76-2232;

(b) Successfully complete and pass proctored, closed-book examinations for no fewer than two hundred twenty-five additional class hours in board-ap-

proved qualifying education courses conducted by education providers as prescribed by rules and regulations of the board, or hold a bachelor's degree in real estate from an accredited degree-awarding college or university or equivalent pursuant to subdivision (1)(d)(ii) of section 76-2232; and

(c) Meet the experience requirements pursuant to subdivision (1)(e) of section 76-2232.

(7) The scope of practice for the trainee real property appraiser shall be limited to real property appraisal practice assignments that the supervisory certified real property appraiser is permitted to engage in by his or her current credential and that the supervisory real property appraiser is competent to engage in.

Source: Laws 2006, LB 778, § 49; Laws 2007, LB186, § 12; Laws 2010, LB931, § 10; Laws 2012, LB714, § 4; Laws 2014, LB717, § 15; Laws 2015, LB139, § 47; Laws 2016, LB731, § 11; Laws 2019, LB77, § 4; Laws 2020, LB808, § 73.

Operative date August 16, 2020.

76-2228.02 Trainee real property appraiser; direct supervision; supervisory real property appraiser; qualifications; disciplinary action; effect; appraisal experience log.

(1) Each trainee real property appraiser's experience shall be subject to direct supervision by a supervisory real property appraiser. To qualify as a supervisory real property appraiser, a real property appraiser shall:

(a) Be a certified residential real property appraiser or certified general real property appraiser in good standing;

(b) Have held a certified real property appraiser credential in this state, or the equivalent in any other jurisdiction, for a minimum of three years immediately preceding the date of the written request for approval as supervisory real property appraiser;

(c) Have not successfully completed disciplinary action by the board or any other jurisdiction, which action limited the real property appraiser's legal eligibility to engage in real property appraisal practice within three years immediately preceding the date the written request for approval as supervisory real property appraiser is submitted by the applicant or trainee real property appraiser on a form approved by the board;

(d) As prescribed by rules and regulations of the board, have successfully completed a board-approved supervisory real property appraiser and trainee course preceding the date the written request for approval as supervisory real property appraiser is submitted by the applicant or trainee real property appraiser on a form approved by the board; and

(e) Certify that he or she understands his or her responsibilities and obligations under the Real Property Appraiser Act as a supervisory real property appraiser and applies his or her signature to the written request for approval as supervisory real property appraiser submitted by the applicant or trainee real property appraiser.

(2) The supervisory real property appraiser shall be responsible for the training and direct supervision of the trainee real property appraiser's experience by:

(a) Accepting responsibility for the report by applying his or her signature and certifying that the report is in compliance with the Uniform Standards of Professional Appraisal Practice;

(b) Reviewing the trainee real property appraiser reports; and

(c) Personally inspecting each appraised property with the trainee real property appraiser as is consistent with his or her scope of practice until the supervisory real property appraiser determines that the trainee real property appraiser is competent in accordance with the competency rule of the Uniform Standards of Professional Appraisal Practice.

(3) A certified real property appraiser disciplined by the board or any other appraiser regulatory agency in another jurisdiction, which discipline may or may not have limited the real property appraiser's legal eligibility to engage in real property appraisal practice, shall not be eligible as a supervisory real property appraiser as of the date disciplinary action was imposed against the appraiser by the board or any other appraiser regulatory agency. The certified real property appraiser shall be considered to be in good standing and eligible as a supervisory real property appraiser upon the successful completion of disciplinary action that does not limit the real property appraiser's legal eligibility to engage in real property appraisal practice, or three years after the successful completion of disciplinary action that limits the real property appraiser's legal eligibility to engage in real property appraisal practice.

(4) The trainee real property appraiser may have more than one supervisory real property appraiser, but a supervisory real property appraiser may not supervise more than three trainee real property appraisers at one time.

(5) As prescribed by rules and regulations of the board, an appraisal experience log shall be maintained jointly by the supervisory real property appraiser and the trainee real property appraiser.

Source: Laws 2014, LB717, § 16; Laws 2015, LB139, § 48; Laws 2018, LB17, § 1; Laws 2019, LB77, § 5; Laws 2020, LB808, § 74.
Operative date August 16, 2020.

76-2230 Credential as a licensed residential real property appraiser; applicant; qualifications; fingerprints; national criminal history record check; up-graded credential; requirements; scope of practice.

(1) To qualify for a credential as a licensed residential real property appraiser, an applicant shall:

(a) Be at least nineteen years of age;

(b) Hold a high school diploma or a certificate of high school equivalency or have education acceptable to the Real Property Appraiser Board;

(c)(i) Have successfully completed and passed examination for no fewer than one hundred fifty class hours in Real Property Appraiser Board-approved qualifying education courses conducted by education providers as prescribed by rules and regulations of the Real Property Appraiser Board and completed the fifteen-hour National Uniform Standards of Professional Appraisal Practice Course. Each course shall include a proctored, closed-book examination pertinent to the material presented; or

(ii) Hold a bachelor's degree or higher in real estate from an accredited degree-awarding college or university that has had all or part of its curriculum approved by the Appraiser Qualifications Board as required core curriculum or

the equivalent as determined by the Appraiser Qualifications Board. If the degree in real estate or equivalent as approved by the Appraiser Qualifications Board does not satisfy all required qualifying education for credentialing, the remaining class hours shall be completed in Real Property Appraiser Board-approved qualifying education pursuant to subdivision (c)(i) of this subsection;

(d) Have no fewer than one thousand hours of experience as prescribed by rules and regulations of the Real Property Appraiser Board. The required experience shall be acceptable to the Real Property Appraiser Board and subject to review and determination as to conformity with the Uniform Standards of Professional Appraisal Practice. The experience shall have occurred during a period of no fewer than six months;

(e) Submit two copies of legible ink-rolled fingerprint cards or equivalent electronic fingerprint submissions to the Real Property Appraiser Board for delivery to the Nebraska State Patrol in a form approved by both the Nebraska State Patrol and the Federal Bureau of Investigation. A fingerprint-based national criminal history record check shall be conducted through the Nebraska State Patrol and the Federal Bureau of Investigation with such record check to be carried out by the Real Property Appraiser Board; and

(f) Within the twelve months following approval of the applicant's education and experience by the Real Property Appraiser Board, pass a licensed residential real property appraiser examination, certified residential real property appraiser examination, or certified general real property appraiser examination, approved by the Appraiser Qualifications Board, prescribed by rules and regulations of the Real Property Appraiser Board, and administered by a contracted testing service.

(2) To qualify for an upgraded credential, a licensed residential real property appraiser shall satisfy the appropriate requirements as follows:

(a) Submit two copies of legible ink-rolled fingerprint cards or equivalent electronic fingerprint submissions to the Real Property Appraiser Board for delivery to the Nebraska State Patrol in a form approved by both the Nebraska State Patrol and the Federal Bureau of Investigation. A fingerprint-based national criminal history record check shall be conducted through the Nebraska State Patrol and the Federal Bureau of Investigation with such record check to be carried out by the Real Property Appraiser Board; and

(b) Within the twelve months following approval of the applicant's education and experience by the Real Property Appraiser Board for an upgraded credential, pass an appropriate examination approved by the Appraiser Qualifications Board for that upgraded credential, prescribed by rules and regulations of the Real Property Appraiser Board, and administered by a contracted testing service.

(3) To qualify for a credential as a certified residential real property appraiser, a licensed residential real property appraiser shall:

(a)(i) Meet the postsecondary educational requirements pursuant to subdivisions (1)(b) and (c) of section 76-2231.01; or

(ii)(A) Have held a credential as a licensed residential real property appraiser for a minimum of five years; and

(B) Not have been subject to a nonappealable disciplinary action by the board or any other jurisdiction, which action limited the real property appraiser's legal eligibility to engage in real property appraisal practice within five years

immediately preceding the date of application for the certified residential real property appraiser credential;

(b) Successfully complete and pass proctored, closed-book examinations for no fewer than fifty additional class hours in board-approved qualifying education courses conducted by education providers as prescribed by rules and regulations of the board, or hold a bachelor's degree in real estate from an accredited degree-awarding college or university or equivalent pursuant to subdivision (1)(d)(ii) of section 76-2231.01; and

(c) Meet the experience requirements pursuant to subdivision (1)(e) of section 76-2231.01.

(4) To qualify for a credential as a certified general real property appraiser, a licensed residential real property appraiser shall:

(a) Meet the postsecondary educational requirements pursuant to subdivisions (1)(b) and (c) of section 76-2232;

(b) Successfully complete and pass proctored, closed-book examinations for no fewer than one hundred fifty additional class hours in board-approved qualifying education courses conducted by education providers as prescribed by rules and regulations of the board, or hold a bachelor's degree in real estate from an accredited degree-awarding college or university or equivalent pursuant to subdivision (1)(d)(ii) of section 76-2232; and

(c) Meet the experience requirements pursuant to subdivision (1)(e) of section 76-2232.

(5) An appraiser holding a valid licensed residential real property appraiser credential shall satisfy the requirements for the trainee real property appraiser credential for a downgraded credential.

(6) The scope of practice for a licensed residential real property appraiser shall be limited to real property appraisal practice concerning noncomplex residential real property or real estate having no more than four units, if any, with a transaction value of less than one million dollars and complex residential real property or real estate having no more than four units, if any, with a transaction value of less than two hundred fifty thousand dollars. The appraisal of subdivisions for which a development analysis or appraisal is necessary is not included in the scope of practice for a licensed residential real property appraiser.

Source: Laws 1990, LB 1153, § 30; Laws 1991, LB 203, § 33; Laws 1994, LB 1107, § 28; Laws 1997, LB 29, § 1; Laws 1997, LB 752, § 205; Laws 2001, LB 162, § 22; Laws 2006, LB 778, § 52; Laws 2007, LB186, § 15; Laws 2008, LB1011, § 10; Laws 2010, LB931, § 13; Laws 2012, LB714, § 6; Laws 2014, LB717, § 17; Laws 2015, LB139, § 49; Laws 2016, LB731, § 12; Laws 2019, LB77, § 6; Laws 2020, LB808, § 75.

Operative date August 16, 2020.

76-2231.01 Credential as a certified residential real property appraiser; applicant; qualifications; fingerprints; national criminal history record check; upgraded credential; requirements; scope of practice.

(1) To qualify for a credential as a certified residential real property appraiser, an applicant shall:

(a) Be at least nineteen years of age;

(b)(i) Hold a bachelor's degree, or higher, from an accredited degree-awarding college or university;

(ii) Hold an associate's degree from an accredited degree-awarding community college, college, or university in the study of business administration, accounting, finance, economics, or real estate;

(iii) Successfully complete thirty semester hours of college-level education from an accredited degree-awarding community college, college, or university that includes:

(A) Three semester hours in each of the following: English composition; microeconomics; macroeconomics; finance; algebra, geometry, or higher mathematics; statistics; computer science; and business law or real estate law; and

(B) Three semester hours each in two elective courses in any of the topics listed in subdivision (b)(iii)(A) of this subsection, or in accounting, geography, agricultural economics, business management, or real estate;

(iv) Successfully complete thirty semester hours of the College-Level Examination Program from an accredited degree-awarding community college, college, or university that includes three semester hours in each of the following subject matter areas: College algebra; college composition; college composition modular; college mathematics; principles of macroeconomics; principles of microeconomics; introductory business law; and information systems; or

(v) Successfully complete any combination of subdivisions (b)(iii) and (iv) of this subsection that ensures coverage of all topics and hours identified in subdivision (b)(iii) of this subsection;

(c) Have his or her education evaluated for equivalency by one of the following if the college degree is from a foreign country:

(i) An accredited degree-awarding college or university;

(ii) A foreign degree credential evaluation service company that is a member of the National Association of Credential Evaluation Services; or

(iii) A foreign degree credential evaluation service company that provides equivalency evaluation reports accepted by an accredited degree-awarding college or university;

(d)(i) Have successfully completed and passed examination for no fewer than two hundred class hours in Real Property Appraiser Board-approved qualifying education courses conducted by education providers as prescribed by rules and regulations of the Real Property Appraiser Board and completed the fifteen-hour National Uniform Standards of Professional Appraisal Practice Course. Each course shall include a proctored, closed-book examination pertinent to the material presented; or

(ii) Hold a bachelor's degree or higher in real estate from an accredited degree-awarding college or university that has had all or part of its curriculum approved by the Appraiser Qualifications Board as required core curriculum or the equivalent as determined by the Appraiser Qualifications Board. If the degree in real estate or equivalent as approved by the Appraiser Qualifications Board does not satisfy all required qualifying education for credentialing, the remaining class hours shall be completed in Real Property Appraiser Board-approved qualifying education pursuant to subdivision (d)(i) of this subsection;

(e) Have no fewer than one thousand five hundred hours of experience as prescribed by rules and regulations of the Real Property Appraiser Board. The required experience shall be acceptable to the Real Property Appraiser Board and subject to review and determination as to conformity with the Uniform Standards of Professional Appraisal Practice. The experience shall have occurred during a period of no fewer than twelve months;

(f) Submit two copies of legible ink-rolled fingerprint cards or equivalent electronic fingerprint submissions to the Real Property Appraiser Board for delivery to the Nebraska State Patrol in a form approved by both the Nebraska State Patrol and the Federal Bureau of Investigation. A fingerprint-based national criminal history record check shall be conducted through the Nebraska State Patrol and the Federal Bureau of Investigation with such record check to be carried out by the Real Property Appraiser Board; and

(g) Within the twelve months following approval of the applicant's education and experience by the Real Property Appraiser Board, pass a certified residential real property appraiser examination or certified general real property appraiser examination, approved by the Appraiser Qualifications Board, prescribed by rules and regulations of the Real Property Appraiser Board, and administered by a contracted testing service.

(2) To qualify for an upgraded credential, a certified residential real property appraiser shall satisfy the following requirements:

(a) Submit two copies of legible ink-rolled fingerprint cards or equivalent electronic fingerprint submissions to the Real Property Appraiser Board for delivery to the Nebraska State Patrol in a form approved by both the Nebraska State Patrol and the Federal Bureau of Investigation. A fingerprint-based national criminal history record check shall be conducted through the Nebraska State Patrol and the Federal Bureau of Investigation with such record check to be carried out by the Real Property Appraiser Board; and

(b) Within the twelve months following approval of the applicant's education and experience by the Real Property Appraiser Board for an upgrade to a certified general real property appraiser credential, pass a certified general real property appraiser examination approved by the Appraiser Qualifications Board, prescribed by rules and regulations of the Real Property Appraiser Board, and administered by a contracted testing service.

(3) To qualify for a credential as a certified general real property appraiser, a certified residential real property appraiser shall:

(a) Meet the postsecondary educational requirements pursuant to subdivisions (1)(b) and (c) of section 76-2232;

(b) Successfully complete and pass proctored, closed-book examinations for no fewer than one hundred additional class hours in board-approved qualifying education courses conducted by education providers as prescribed by rules and regulations of the board, or hold a bachelor's degree in real estate from an accredited degree-awarding college or university or equivalent pursuant to subdivision (1)(d)(ii) of section 76-2232; and

(c) Meet the experience requirements pursuant to subdivision (1)(e) of section 76-2232.

(4) A certified residential real property appraiser shall satisfy the requirements for the trainee real property appraiser credential and licensed residential real property appraiser credential for a downgraded credential. If requested,

evidence acceptable to the Real Property Appraiser Board concerning the experience shall be presented along with an application in the form of written reports or file memoranda.

(5) The scope of practice for a certified residential real property appraiser shall be limited to real property appraisal practice concerning residential real property or real estate having no more than four residential units, if any, without regard to transaction value or complexity. The appraisal of subdivisions for which a development analysis or appraisal is necessary is not included in the scope of practice for a certified residential real property appraiser.

Source: Laws 1994, LB 1107, § 29; Laws 1997, LB 29, § 2; Laws 1997, LB 752, § 206; Laws 2001, LB 162, § 23; Laws 2006, LB 778, § 53; Laws 2007, LB186, § 16; Laws 2008, LB1011, § 11; Laws 2010, LB931, § 14; Laws 2012, LB714, § 7; Laws 2014, LB717, § 18; Laws 2015, LB139, § 50; Laws 2016, LB731, § 13; Laws 2019, LB77, § 7; Laws 2020, LB808, § 76.

Operative date August 16, 2020.

76-2232 Credential as a certified general real property appraiser; applicant; qualifications; fingerprints; national criminal history record check; scope of practice.

(1) To qualify for a credential as a certified general real property appraiser, an applicant shall:

- (a) Be at least nineteen years of age;
- (b) Hold a bachelor's degree, or higher, from an accredited degree-awarding college or university;
- (c) Have his or her education evaluated for equivalency by one of the following if the college degree is from a foreign country:
 - (i) An accredited degree-awarding college or university;
 - (ii) A foreign degree credential evaluation service company that is a member of the National Association of Credential Evaluation Services; or
 - (iii) A foreign degree credential evaluation service company that provides equivalency evaluation reports accepted by an accredited degree-awarding college or university;
- (d)
 - (i) Have successfully completed and passed examination for no fewer than three hundred class hours in Real Property Appraiser Board-approved qualifying education courses conducted by education providers as prescribed by rules and regulations of the Real Property Appraiser Board and completed the fifteen-hour National Uniform Standards of Professional Appraisal Practice Course. Each course shall include a proctored, closed-book examination pertinent to the material presented; or
 - (ii) Hold a bachelor's degree or higher in real estate from an accredited degree-awarding college or university that has had all or part of its curriculum approved by the Appraiser Qualifications Board as required core curriculum or the equivalent as determined by the Appraiser Qualifications Board. If the degree in real estate or equivalent as approved by the Appraiser Qualifications Board does not satisfy all required qualifying education for credentialing, the remaining class hours shall be completed in Real Property Appraiser Board-approved qualifying education pursuant to subdivision (d)(i) of this subsection;

(e) Have no fewer than three thousand hours of experience, of which one thousand five hundred hours shall be in nonresidential appraisal work, as prescribed by rules and regulations of the Real Property Appraiser Board. The required experience shall be acceptable to the Real Property Appraiser Board and subject to review and determination as to conformity with the Uniform Standards of Professional Appraisal Practice. The experience shall have occurred during a period of no fewer than eighteen months;

(f) Submit two copies of legible ink-rolled fingerprint cards or equivalent electronic fingerprint submissions to the Real Property Appraiser Board for delivery to the Nebraska State Patrol in a form approved by both the Nebraska State Patrol and the Federal Bureau of Investigation. A fingerprint-based national criminal history record check shall be conducted through the Nebraska State Patrol and the Federal Bureau of Investigation with such record check to be carried out by the Real Property Appraiser Board; and

(g) Within the twelve months following approval of the applicant's education and experience by the Real Property Appraiser Board, pass a certified general real property appraiser examination, approved by the Appraiser Qualifications Board, prescribed by rules and regulations of the Real Property Appraiser Board, and administered by a contracted testing service.

(2) A certified general real property appraiser shall satisfy the requirements for the trainee real property appraiser credential, licensed residential real property appraiser credential, and certified residential real property appraiser credential for a downgraded credential. If requested, evidence acceptable to the Real Property Appraiser Board concerning the experience shall be presented along with an application in the form of written reports or file memoranda.

(3) The scope of practice for the certified general real property appraiser shall include real property appraisal practice concerning all types of real property or real estate that appraiser is competent to engage in.

Source: Laws 1990, LB 1153, § 32; Laws 1991, LB 203, § 34; Laws 1994, LB 1107, § 30; Laws 1997, LB 29, § 3; Laws 1997, LB 752, § 207; Laws 2001, LB 162, § 24; Laws 2006, LB 778, § 54; Laws 2007, LB186, § 17; Laws 2008, LB1011, § 12; Laws 2010, LB931, § 15; Laws 2012, LB714, § 8; Laws 2014, LB717, § 19; Laws 2015, LB139, § 51; Laws 2016, LB731, § 14; Laws 2019, LB77, § 8; Laws 2020, LB808, § 77.

Operative date August 16, 2020.

76-2233 Reciprocity; credential; issuance; when; applicant; duties; fingerprints; national criminal history record check; verification of status.

(1) A person currently credentialed to engage in real property appraisal practice concerning real estate and real property under the laws of another jurisdiction may qualify for a credential through reciprocity as a licensed residential real property appraiser, a certified residential real property appraiser, or a certified general real property appraiser by complying with all of the provisions of the Real Property Appraiser Act relating to the appropriate classification of credentialing.

(2) An applicant under this section may qualify for a credential if, in the determination of the board:

(a) The requirements for credentialing in the applicant's jurisdiction of practice specified in an application for credentialing meet or exceed the minimum requirements of the Real Property Appraiser Qualification Criteria as adopted and promulgated by the Appraiser Qualifications Board of The Appraisal Foundation; and

(b) The regulatory program of the applicant's jurisdiction of practice specified in an application for credentialing is determined to be effective in accordance with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 by the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

(3) The status of an applicant's jurisdiction of practice specified in an application for credentialing through reciprocity shall be verified through the most recent Compliance Review Report issued by the Appraisal Subcommittee of the Federal Financial Institutions Examination Council. In the case that findings pertaining to the adoption or implementation of the Real Property Appraiser Qualification Criteria indicate that one or more credentialing requirements do not meet or exceed the Real Property Appraiser Qualification Criteria as promulgated by the Appraiser Qualifications Board of The Appraisal Foundation, the board may request evidence from the jurisdiction of practice or the Appraisal Subcommittee of the Federal Financial Institutions Examination Council showing that progress has been made to mitigate the findings in the Compliance Review Report.

(4) To qualify for a credential through reciprocity, the applicant shall:

(a) Submit two copies of legible ink-rolled fingerprint cards or equivalent electronic fingerprint submissions to the board for delivery to the Nebraska State Patrol in a form approved by both the Nebraska State Patrol and the Federal Bureau of Investigation. A fingerprint-based national criminal history record check shall be conducted through the Nebraska State Patrol and the Federal Bureau of Investigation with such record check to be carried out by the board;

(b) Submit an irrevocable consent that service of process upon him or her may be made by delivery of the process to the director of the board if the plaintiff cannot, in the exercise of due diligence, effect personal service upon the applicant in an action against the applicant in a court of this state arising out of the applicant's activities as a real property appraiser in this state; and

(c) Comply with such other terms and conditions as may be determined by the board.

(5) The credential status of an applicant under this section, including current standing and any disciplinary action imposed against his or her credentials, shall be verified through the National Registry of the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

Source: Laws 1990, LB 1153, § 33; Laws 1991, LB 203, § 35; Laws 1994, LB 1107, § 31; Laws 1997, LB 752, § 208; Laws 2001, LB 162, § 25; Laws 2006, LB 778, § 55; Laws 2007, LB186, § 18; Laws 2008, LB1011, § 13; Laws 2010, LB931, § 16; Laws 2014, LB717, § 20; Laws 2015, LB139, § 52; Laws 2016, LB731, § 15; Laws 2018, LB741, § 30; Laws 2020, LB808, § 78.

Operative date August 16, 2020.

76-2233.01 Nonresident; temporary credential; issuance; when; investigation of violations.

(1) A nonresident currently credentialed to engage in real property appraisal practice concerning real estate and real property under the laws of another jurisdiction may obtain a temporary credential as a licensed residential real property appraiser, a certified residential real property appraiser, or a certified general real property appraiser to engage in real property appraisal practice in this state.

(2) To qualify for the issuance of a temporary credential, an applicant shall:

(a) Submit an application on a form approved by the board;

(b) Submit a letter of engagement or a contract indicating the location of the real property appraisal practice assignment and completion date;

(c) Submit an irrevocable consent that service of process upon him or her may be made by delivery of the process to the director of the board if the plaintiff cannot, in the exercise of due diligence, effect personal service upon the applicant in an action against the applicant in a court of this state arising out of the applicant's activities in this state; and

(d) Pay the appropriate application fee in an amount established by the board pursuant to section 76-2241.

(3) The credential status of an applicant under this section, including current standing and any disciplinary action imposed against his or her credentials, shall be verified through the National Registry of the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

(4) Application for a temporary credential is valid for one year from the date application is made to the board or upon the expiration of the assignment specified in the letter of engagement, whichever occurs first.

(5) A temporary credential issued under this section shall be expressly limited to a grant of authority to engage in real property appraisal practice required for an assignment in this state. Each temporary credential shall expire upon the completion of the assignment or upon the expiration of a period of six months from the date of issuance, whichever occurs first. A temporary credential may be renewed for one additional six-month period.

(6) Any person issued a temporary credential to engage in real property appraisal practice in this state shall comply with all of the provisions of the Real Property Appraiser Act relating to the appropriate classification of credentialing. The board may, upon its own motion, and shall, upon the written complaint of any aggrieved person, cause an investigation to be made with respect to an alleged violation of the act by a person who is engaged in, or who has engaged in, real property appraisal practice as a temporary credential holder, and that person shall be deemed a real property appraiser within the meaning of the act.

Source: Laws 1991, LB 203, § 36; Laws 1994, LB 1107, § 32; Laws 1997, LB 752, § 209; Laws 2001, LB 162, § 26; Laws 2006, LB 778, § 56; Laws 2007, LB186, § 19; Laws 2010, LB931, § 17; Laws 2015, LB139, § 53; Laws 2016, LB731, § 16; Laws 2020, LB808, § 79.

Operative date August 16, 2020.

76-2233.02 Credential; expiration; renewal; fees; random fingerprint audit program.

(1) A credential issued under the Real Property Appraiser Act other than a temporary credential shall remain in effect until December 31 of the designated year unless surrendered, revoked, suspended, or canceled prior to such date. To renew a valid credential, the credential holder shall file an application on a form approved by the board and pay the appropriate renewal fee in an amount established by the board pursuant to section 76-2241. The credential holder shall also pay the criminal history record check fee in an amount established by the board pursuant to section 76-2241 for maintenance of the random fingerprint audit program to the board not later than November 30 of the designated year. A credential may be renewed for one year or two years. In every second year of the two-year continuing education period, as specified in section 76-2236, evidence of completion of continuing education requirements shall accompany renewal application or be on file with the board prior to renewal.

(2) The board shall establish a number of credential holders to be selected at random to submit, along with the application for renewal, two copies of legible ink-rolled fingerprint cards or equivalent electronic fingerprint submissions to the board for delivery to the Nebraska State Patrol in a form approved by both the Nebraska State Patrol and the Federal Bureau of Investigation. A fingerprint-based national criminal history record check shall be conducted through the Nebraska State Patrol and the Federal Bureau of Investigation with such record check to be carried out by the board.

(3) If a credential holder fails to apply and meet the requirements for renewal by November 30 of the designated year, such credential holder may obtain a renewal of such credential by satisfying all of the requirements for renewal and paying the appropriate late processing fee in an amount established by the board pursuant to section 76-2241 if such late renewal takes place prior to July 1 of the following year. A credential holder selected at random to submit fingerprint cards or equivalent electronic fingerprints that has applied and met all other requirements for renewal prior to November 30 of the designated year shall not pay a late processing fee if fingerprint cards or equivalent electronic fingerprints are received prior to November 30 of the designated year. If a credential holder that first obtained his or her credential at the current level on or after November 1 fails to apply and meet the requirements for renewal by December 31 of the designated year, such credential holder may obtain a renewal of such credential by satisfying all the requirements for renewal and paying a late processing fee if such late renewal takes place prior to July 1 of the following year. The board may refuse to renew any credential if the credential holder has continued to, directly or indirectly for another, offer, attempt, agree to engage in, or engage in real property appraisal practice in this state following the expiration of his or her credential. If a credential is not renewed prior to July 1, a credential holder shall reapply for credentialing and meet the current requirements in place at the time of application, except as provided in section 76-2233.03.

Source: Laws 1991, LB 203, § 37; Laws 1994, LB 1107, § 33; Laws 2001, LB 162, § 27; Laws 2006, LB 778, § 57; Laws 2010, LB931, § 18; Laws 2014, LB717, § 21; Laws 2015, LB139, § 54; Laws 2020, LB808, § 80.

Operative date August 16, 2020.

76-2233.03 Credential; inactive status; application; prohibited acts; reinstatement; expiration; reapplication.

(1) A credential holder may request that his or her credential be placed on inactive status for a period not to exceed two years. Such requests shall be submitted to the board on an application form prescribed by the board. The payment of the appropriate fee in an amount established by the board pursuant to section 76-2241 shall accompany all applications for requests of inactive status.

(2) A credential holder whose credential is placed on inactive status shall not:

(a) Assume or use any title, designation, or abbreviation likely to create the impression that such person holds an active credential issued by the board; or

(b) Engage in real property appraisal practice or act as a credentialed real property appraiser.

(3) A credential holder whose credential is placed on inactive status may make a request to the board that such credential be reinstated to active status on an application form prescribed by the board. The payment of the appropriate fee in an amount established by the board pursuant to section 76-2241 shall accompany all applications for reinstatement of a credential.

(4) A credential holder's application for reinstatement shall include evidence that he or she has met the continuing education requirements as specified in section 76-2236 while the credential was on inactive status.

(5) If a credential holder's credential expires during the inactive period, an application for renewal of the credential shall accompany the application for reinstatement. All requirements for renewal specified in section 76-2233.02 shall be met, except for the requirement to pay a late processing fee for applications received after November 30 of the designated year.

(6) If a credential holder fails to reinstate his or her credential to active status prior to the completion of the two-year period, his or her credential will return to the status as if the credential was not placed on inactive status. If a credential holder's credential is expired at the completion of the two-year period, the credential holder shall reapply for credentialing and meet the current requirements in place at the time of application.

Source: Laws 2015, LB139, § 55; Laws 2018, LB741, § 31; Laws 2020, LB808, § 81.

Operative date August 16, 2020.

76-2236 Continuing education; requirements.

(1) Every credential holder shall furnish evidence to the board that he or she has satisfactorily completed no fewer than twenty-eight hours of approved continuing education activities in each two-year continuing education period. The continuing education period begins on January 1 of the next year for any credential holder who first obtained his or her credential at the current level on or after July 1. Hours of satisfactorily completed approved continuing education activities cannot be carried over from one two-year continuing education period to another. Evidence of successful completion of such continuing education activities for the two-year continuing education period, including passing examination if applicable, shall be submitted to the board in the manner prescribed by the board. No continuing education activity shall be less than two hours in duration. A person who holds a temporary credential does not have to

meet any continuing education requirements in the Real Property Appraiser Act.

(2) As prescribed by rules and regulations of the Real Property Appraiser Board and at least once every two years, the seven-hour National Uniform Standards of Professional Appraisal Practice Update Course as approved by the Appraiser Qualifications Board or the equivalent of the course as approved by the Real Property Appraiser Board, shall be included in the continuing education requirement of each credential holder. An instructor certified by the Appraiser Qualifications Board satisfies this requirement by successfully completing a seven-hour instructor recertification course and examination as approved by the Appraiser Qualifications Board.

(3) A continuing education activity conducted in another jurisdiction in which the activity is approved to meet the continuing education requirements for renewal of a credential in such other jurisdiction shall be accepted by the board if that jurisdiction has adopted and enforces standards for such continuing education activity that meet or exceed the standards established by the Real Property Appraiser Act and the rules and regulations of the board.

(4) The board may adopt a program of continuing education for individual credentials as long as the program is compliant with the Appraiser Qualifications Board's criteria specific to continuing education.

(5) No more than fourteen hours may be approved by the Real Property Appraiser Board as continuing education in each two-year continuing education period for participation, other than as a student, in appraisal educational processes and programs, which includes teaching, program development, authorship of textbooks, or similar activities that are determined by the board to be equivalent to obtaining continuing education. Evidence of participation shall be submitted to the board upon completion of the appraisal educational process or program. No preapproval will be granted for participation in appraisal educational processes or programs.

(6) Qualifying education, as approved by the board, successfully completed by a credential holder to fulfill the class-hour requirement to upgrade to a higher classification than his or her current classification, shall be approved by the board as continuing education.

(7) Qualifying education, as approved by the board, taken by a credential holder not to fulfill the class-hour requirement to upgrade to a higher classification, shall be approved by the board as continuing education if the credential holder completes the examination.

(8) A board-approved supervisory real property appraiser and trainee course successfully completed by a certified real property appraiser shall be approved by the board as continuing education no more than once during each two-year continuing education period.

(9) The Real Property Appraiser Board shall approve continuing education activities and instructors which it determines would protect the public by improving the competency of credential holders.

Source: Laws 1990, LB 1153, § 36; Laws 1991, LB 203, § 40; Laws 1994, LB 1107, § 37; Laws 1997, LB 29, § 4; Laws 2001, LB 162, § 28; Laws 2006, LB 778, § 58; Laws 2007, LB186, § 20; Laws 2010, LB931, § 19; Laws 2012, LB714, § 9; Laws 2014, LB717, § 22;

Laws 2015, LB139, § 56; Laws 2016, LB731, § 17; Laws 2018, LB741, § 32; Laws 2019, LB77, § 9; Laws 2020, LB808, § 82.
Operative date August 16, 2020.

76-2238 Disciplinary action; denial of application; grounds.

The following acts and omissions shall be considered grounds for disciplinary action or denial of an application by the board:

(1) Failure to meet the minimum qualifications for credentialing established by or pursuant to the Real Property Appraiser Act;

(2) Procuring or attempting to procure a credential under the act by knowingly making a false statement, submitting false information, or making a material misrepresentation in an application filed with the board or procuring or attempting to procure a credential through fraud or misrepresentation;

(3) Paying money or other valuable consideration other than the fees provided for by the act to any member or employee of the board to procure a credential;

(4) An act or omission involving real estate or real property appraisal practice which constitutes dishonesty, fraud, or misrepresentation with or without the intent to substantially benefit the credential holder or another person or with the intent to substantially injure another person;

(5) Failure to demonstrate character and general fitness such as to command the confidence and trust of the public;

(6) Conviction, including a conviction based upon a plea of guilty or nolo contendere, of any felony unless his or her civil rights have been restored;

(7) Entry of a final civil or criminal judgment, including dismissal with settlement, on grounds of fraud, dishonesty, breach of trust, money laundering, misrepresentation, or deceit involving real estate, financial services, or real property appraisal practice;

(8) Conviction, including a conviction based upon a plea of guilty or nolo contendere, of a crime which is related to the qualifications, functions, or duties of a real property appraiser;

(9) Performing valuation services as a credentialed real property appraiser under an assumed or fictitious name;

(10) Paying a finder's fee or a referral fee to any person in connection with a real property appraisal practice assignment, except that an intracompany payment for business development shall not be considered to be unethical or a violation of this subdivision;

(11) Making a false or misleading statement in that portion of a written report that deals with professional qualifications or in any testimony concerning professional qualifications;

(12) Any violation of the act or any rules and regulations adopted and promulgated pursuant to the act;

(13) Failure to maintain, or to make available for inspection and copying, records required by the board;

(14) Demonstrating negligence, incompetence, or unworthiness to act as a real property appraiser, whether of the same or of a different character as otherwise specified in this section;

(15) Suspension or revocation of an appraisal credential or a license in another regulated occupation, trade, or profession in this or any other jurisdiction or disciplinary action taken by another jurisdiction that limits the real property appraiser's ability to engage in real property appraisal practice;

(16) Failure to renew or surrendering an appraisal credential or any other registration, license, or certification issued by any other regulatory agency or held in any other jurisdiction in lieu of disciplinary action pending or threatened;

(17) Failure to report disciplinary action taken against an appraisal credential or any other registration, license, or certification issued by any other regulatory agency or held in any other jurisdiction within sixty days of receiving notice of such disciplinary action;

(18) Failure to comply with terms of a consent agreement or settlement agreement;

(19) Failure to submit or produce books, records, documents, workfiles, reports, or other materials requested by the board concerning any matter under investigation;

(20) Failure of an education provider to produce records, documents, reports, or other materials, including, but not limited to, required student attendance reports, to the board;

(21) Knowingly offering or attempting to offer a qualifying or continuing education course or activity as being approved by the board to a real property appraiser or an applicant, without first obtaining approval of the activity from the board, except for courses required by an accredited degree-awarding college or university for completion of a degree in real estate, if the college or university had its curriculum approved by the Appraiser Qualifications Board as qualifying education;

(22) Presentation to the Real Property Appraiser Board of any check which is returned to the State Treasurer unpaid, whether payment of fee is for an initial or renewal credential or for examination; and

(23) Failure to pass the examination.

Source: Laws 1990, LB 1153, § 38; Laws 1991, LB 203, § 42; Laws 1994, LB 1107, § 39; Laws 2001, LB 162, § 30; Laws 2006, LB 778, § 60; Laws 2010, LB931, § 21; Laws 2014, LB717, § 23; Laws 2015, LB139, § 59; Laws 2016, LB731, § 18; Laws 2018, LB741, § 34; Laws 2019, LB77, § 10; Laws 2020, LB808, § 83.

Operative date August 16, 2020.

76-2239 Investigations; authorized; disciplinary action; cease and desist order; complaint; procedure; hearing.

(1) The board may, upon its own motion, and shall, upon the written complaint of any aggrieved person, cause an investigation to be made with respect to an alleged violation of the Real Property Appraiser Act. The board may revoke or suspend the credential or otherwise discipline a credential holder, revoke or suspend a qualifying or continuing education course or activity, deny any application, or issue a cease and desist order for any violation of the Real Property Appraiser Act. Any disciplinary action taken against a credentialed real property appraiser, including any action that limits a credentialed real property appraiser's ability to engage in real property appraisal

practice, shall be reported to federal authorities as required by Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989. Upon receipt of information indicating that a person may have violated any provision of the Real Property Appraiser Act, the board shall make an investigation of the facts to determine whether or not there is evidence of a violation. If technical assistance is required, the board may contract with or use qualified persons.

(2)(a) If an investigation indicates that a person may have violated a provision of the act, the board may offer the person an opportunity to voluntarily and informally discuss the alleged violation before the board. The board may enter into consent agreements or negotiate settlements.

(b) If an investigation indicates that a person not holding a credential under the act has violated a provision of the act, the board may issue a cease and desist order or refer the investigation to the appropriate county attorney for the consideration of formal charges.

(c) If an investigation indicates that a credential holder has violated a provision of the act, a formal complaint shall be prepared by the board and served upon the credential holder. The complaint shall require the credential holder to file an answer within thirty days of the date of service. In responding to a complaint, the credential holder may admit the allegations of the complaint, deny the allegations of the complaint, or plead otherwise. Failure to make a timely response shall be deemed an admission of the allegations of the complaint. Upon receipt of an answer to the complaint, the director or chairperson of the board shall set a date, time, and place for an administrative hearing on the complaint. The date of the hearing shall not be less than thirty nor more than one hundred twenty days from the date that the answer is filed unless such date is extended for good cause.

Source: Laws 1990, LB 1153, § 39; Laws 1991, LB 203, § 43; Laws 1994, LB 1107, § 40; Laws 2001, LB 162, § 31; Laws 2006, LB 778, § 61; Laws 2015, LB139, § 60; Laws 2020, LB808, § 84.
Operative date August 16, 2020.

76-2243 Professional corporation; real property appraisal practice.

Nothing contained in the Real Property Appraiser Act shall be deemed to prohibit any credential holder under the act from engaging in real property appraisal practice as a professional corporation in accordance with the Nebraska Professional Corporation Act.

Source: Laws 1990, LB 1153, § 43; Laws 1991, LB 203, § 47; Laws 2001, LB 162, § 35; Laws 2006, LB 778, § 64; Laws 2015, LB139, § 63; Laws 2020, LB808, § 85.
Operative date August 16, 2020.

Cross References

Nebraska Professional Corporation Act, see section 21-2201.

76-2245 Action for compensation; conditions.

No person engaged in real property appraisal practice in this state or acting in the capacity of a real property appraiser in this state may bring or maintain any action in any court of this state to collect compensation for the performance of valuation services for which credentialing is required by the Real Property Appraiser Act without alleging and proving that he or she was duly

credentialed under the act in this state at all times during the performance of such services.

Source: Laws 1990, LB 1153, § 45; Laws 1991, LB 203, § 49; Laws 2001, LB 162, § 37; Laws 2006, LB 778, § 65; Laws 2015, LB139, § 65; Laws 2018, LB741, § 35; Laws 2020, LB808, § 86.
Operative date August 16, 2020.

76-2246 Appraisal without credentials; penalty.

Any person required to be credentialed by the Real Property Appraiser Act who, directly or indirectly for another, offers, attempts, agrees to engage in, or engages in real property appraisal practice or who advertises or holds himself or herself out to the general public as a real property appraiser in this state without obtaining proper credentialing under the act shall be guilty of a Class III misdemeanor and shall be ineligible to apply for credentialing under the act for a period of one year from the date of his or her conviction of such offense. The board may, in its discretion, credential such person within such one-year period upon application and after an administrative hearing.

Source: Laws 1990, LB 1153, § 46; Laws 1991, LB 203, § 50; Laws 1994, LB 1107, § 44; Laws 2001, LB 162, § 38; Laws 2006, LB 778, § 66; Laws 2015, LB139, § 66; Laws 2018, LB741, § 36; Laws 2020, LB808, § 87.
Operative date August 16, 2020.

76-2247.01 Services; authorized; standards applicable.

(1) A person may retain or employ a real property appraiser credentialed under the Real Property Appraiser Act to perform valuation services. In each case, the valuation services specific to real property appraisal practice, including any report, shall comply with the Real Property Appraiser Act and the Uniform Standards of Professional Appraisal Practice.

(2) In a valuation assignment, the real property appraiser shall remain an impartial, disinterested third party. When providing an evaluation assignment, the real property appraiser may respond to a client's stated objective but shall also remain an impartial, disinterested third party.

Source: Laws 1991, LB 203, § 51; Laws 1994, LB 1107, § 45; Laws 2001, LB 162, § 39; Laws 2006, LB 778, § 67; Laws 2007, LB186, § 24; Laws 2015, LB139, § 67; Laws 2018, LB741, § 37; Laws 2020, LB808, § 88.
Operative date August 16, 2020.

ARTICLE 23

ONE-CALL NOTIFICATION SYSTEM

Section	
76-2301.	Act, how cited.
76-2303.	Definitions, where found.
76-2305.	Center, defined.
76-2310.01.	Locator, defined.
76-2315.	Person, defined.
76-2316.	Repealed. Laws 2019, LB462, § 24.
76-2316.01.	Ticket, defined.
76-2318.	Center; membership required.

§ 76-2301

REAL PROPERTY

Section

- 76-2319. Board of directors; rules and regulations; selection of vendor.
- 76-2319.01. Board of directors; duties; report.
- 76-2320.01. Locator; training required.
- 76-2320.02. Use of plastic or nonmetallic underground facilities; installation requirements.
- 76-2322. Excavator; notice to center.
- 76-2323. Underground facilities; mark or identify.
- 76-2325. Violations; civil penalty.
- 76-2325.02. Attorney General; annual report; contents.
- 76-2332. State Fire Marshal; powers.

76-2301 Act, how cited.

Sections 76-2301 to 76-2332 shall be known and may be cited as the One-Call Notification System Act.

Source: Laws 1994, LB 421, § 1; Laws 2002, LB 1105, § 494; Laws 2013, LB589, § 1; Laws 2014, LB930, § 1; Laws 2019, LB462, § 1.

76-2303 Definitions, where found.

For purposes of the One-Call Notification System Act, the definitions found in sections 76-2303.01 to 76-2317 shall be used.

Source: Laws 1994, LB 421, § 3; Laws 2013, LB589, § 2; Laws 2019, LB462, § 2.

76-2305 Center, defined.

Center means a call center which shall have as its principal purpose the statewide receipt and dissemination to participating operators of information on a fair and uniform basis concerning intended excavations by excavators in areas where operators have underground facilities.

Source: Laws 1994, LB 421, § 5; Laws 2019, LB462, § 3.

76-2310.01 Locator, defined.

Locator means a person who identifies and marks underground facilities for an operator, including a contractor who performs such location services for an operator.

Source: Laws 2019, LB462, § 4.

76-2315 Person, defined.

Person means an individual, partnership, limited liability company, association, municipality, state, county, political subdivision, utility, joint venture, or corporation and shall include the employer, employee, or contractor of an individual.

Source: Laws 1994, LB 421, § 15; Laws 2019, LB462, § 5.

76-2316 Repealed. Laws 2019, LB462, § 24.

76-2316.01 Ticket, defined.

Ticket means the compilation of data received by the center in the notice of excavation and the facility locations provided to the center and which is assigned a unique identifying number.

Source: Laws 2019, LB462, § 6.

76-2318 Center; membership required.

Operators of underground facilities shall become members of and participate in the center.

Source: Laws 1994, LB 421, § 18; Laws 2019, LB462, § 7.

76-2319 Board of directors; rules and regulations; selection of vendor.

(1) The center shall be governed by a board of directors who shall oversee operation of the center pursuant to rules and regulations adopted and promulgated by the State Fire Marshal to carry out the One-Call Notification System Act. The board of directors shall have the authority to propose rules and regulations which may be adopted and promulgated pursuant to this section and have such other authority as provided by rules and regulations adopted and promulgated by the State Fire Marshal that are not inconsistent with the One-Call Notification System Act.

(2) The board of directors shall also establish a competitive bidding procedure to select a vendor to provide the notification service, establish a procedure by which members of the center share the costs of the center on a fair, reasonable, and nondiscriminatory basis, and do all other things necessary to implement the purpose of the center. Any agreement between the center and a vendor for the notification service may be modified from time to time by the board of directors, and any agreement shall be reviewed by the board of directors at least once every three years, with an opportunity to receive new bids if desired by the board of directors.

(3) The rules and regulations adopted and promulgated by the State Fire Marshal to carry out subsection (2) of this section may provide for:

(a) Any requirements necessary to comply with United States Department of Transportation programs;

(b) The qualifications, appointment, retention, and composition of the board of directors; and

(c) Best practices for the marking, location, and notification of proposed excavations which shall govern the center, excavators, and operators of underground facilities.

(4) Any rule or regulation adopted and promulgated by the State Fire Marshal pursuant to subdivision (3)(c) of this section shall originate with the board of directors.

Source: Laws 1994, LB 421, § 19; Laws 2017, LB263, § 95; Laws 2019, LB462, § 8.

76-2319.01 Board of directors; duties; report.

The board of directors shall assess the effectiveness of enforcement programs, enforcement actions, and its damage prevention and public awareness programs and make a report to the Governor and the Legislature no later than

December 1, 2021, and by December 1 every odd-numbered year thereafter. The report to the Legislature shall be made electronically.

Source: Laws 2019, LB462, § 11.

76-2320.01 Locator; training required.

Any locator acting as a contractor for an operator to perform location services shall be trained in locator standards and practices applicable to the industry. The board of directors may review locator training materials provided by operators, locators, and excavators and may make recommendations regarding best practices for locators, if deemed appropriate.

Source: Laws 2019, LB462, § 9.

76-2320.02 Use of plastic or nonmetallic underground facilities; installation requirements.

Notwithstanding any other provision of the One-Call Notification System Act, any plastic or nonmetallic underground facilities installed underground on or after January 1, 2021, shall be installed in such a manner as to be locatable, either by mapping or by use of tracer wire, by the operator for purposes of the act.

Source: Laws 2019, LB462, § 10.

76-2322 Excavator; notice to center.

An excavator shall serve notice of intent to excavate upon the center by submitting a locate request using a method provided by the center. The center shall inform the excavator of all operators to whom such notice will be transmitted and shall promptly transmit such notice to every operator having an underground facility in the area of intended excavation. The notice shall be transmitted to operators and excavators as a ticket. The center shall assign an identification number to each notice received, which number shall be evidenced on the ticket.

Source: Laws 1994, LB 421, § 22; Laws 2014, LB736, § 1; Laws 2019, LB462, § 12.

76-2323 Underground facilities; mark or identify.

(1) Upon receipt of the information contained in the notice pursuant to section 76-2321, an operator shall advise the excavator of the approximate location of underground facilities in the area of the proposed excavation by marking or identifying the location of the underground facilities with stakes, flags, paint, or any other clearly identifiable marking or reference point and shall indicate if the underground facilities are subject to section 76-2331. The location of the underground facility given by the operator shall be within a strip of land eighteen inches on either side of the marking or identification plus one-half of the width of the underground facility. If in the opinion of the operator the precise location of a facility cannot be determined and marked as required, the operator shall provide all pertinent information and field locating assistance to the excavator at a mutually agreed to time. The location shall be marked or identified using color standards prescribed by the center. The operator shall respond no later than two business days after receipt of the information in the notice or at a time mutually agreed to by the parties.

(2) The marking or identification shall be done in a manner that will last for a minimum of five business days on any nonpermanent surface and a minimum of ten business days on any permanent surface. If the excavation will continue for longer than five business days, the operator shall remark or reidentify the location of the underground facility upon the request of the excavator. The request for remarking or reidentification shall be made through the center.

(3) An operator who determines that such operator does not have any underground facility located in the area of the proposed excavation shall notify the center of the determination prior to the date of commencement of the excavation, or prior to two full business days after transmittal of the ticket, whichever occurs sooner. All ticket responses made under this subsection shall be transmitted to the operator and excavator by the center.

Source: Laws 1994, LB 421, § 23; Laws 2014, LB930, § 3; Laws 2019, LB462, § 13.

76-2325 Violations; civil penalty.

(1) Any person who violates section 76-2320, 76-2320.01, 76-2320.02, 76-2321, 76-2322, 76-2323, 76-2326, 76-2330, or 76-2331 shall be subject to a civil penalty as follows:

(a) For a violation by an excavator or an operator related to a gas or hazardous liquid underground pipeline facility or a fiber optic telecommunications facility, an amount not to exceed ten thousand dollars for each violation for each day the violation persists, up to a maximum of five hundred thousand dollars; and

(b) For a violation by an excavator or an operator related to any other underground facility, an amount not to exceed five thousand dollars for each day the violation persists, up to a maximum of fifty thousand dollars.

(2) An action to recover a civil penalty shall be brought by the Attorney General or a prosecuting attorney on behalf of the State of Nebraska in any court of competent jurisdiction of this state. The trial shall be before the court, which shall consider the nature, circumstances, and gravity of the violation and, with respect to the person found to have committed the violation, the degree of culpability, the absence or existence of prior violations, whether the violation was a willful act, any good faith attempt to achieve compliance, and such other matters as justice may require in determining the amount of penalty imposed. All penalties shall be remitted to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

Source: Laws 1994, LB 421, § 25; Laws 2014, LB930, § 5; Laws 2017, LB263, § 97; Laws 2019, LB462, § 14.

76-2325.02 Attorney General; annual report; contents.

The Attorney General shall make an annual report to the Legislature, the State Fire Marshal, and the board of directors by each March 15 on the number of complaints filed and the number of such complaints prosecuted under section 76-2325 during the previous calendar year. The report to the Legislature shall be made electronically.

Source: Laws 2019, LB462, § 15.

76-2332 State Fire Marshal; powers.

The State Fire Marshal may, by rule and regulation, define occurrences relating to damage of an underground facility that creates an emergency condition that requires an excavator to immediately notify an operator or a locator, if applicable, and the center regarding the location and extent of damage to an underground facility.

Source: Laws 2019, LB462, § 16.

ARTICLE 26

UNIFORM ENVIRONMENTAL COVENANTS ACT

Section

76-2602. Terms, defined.

76-2608. Recording.

76-2602 Terms, defined.

In the Uniform Environmental Covenants Act:

(1) Activity and use limitations means restrictions or obligations created under the act with respect to real property.

(2) Agency means the Department of Environment and Energy or any other Nebraska or federal agency that determines or approves the environmental response project pursuant to which the environmental covenant is created.

(3) Common interest community means a condominium, cooperative, or other real property with respect to which a person, by virtue of the person's ownership of a parcel of real property, is obligated to pay property taxes or insurance premiums, or for maintenance, or improvement of other real property described in a recorded covenant that creates the common interest community.

(4) Environmental covenant means a servitude arising under an environmental response project that imposes activity and use limitations.

(5) Environmental response project means a plan or work performed for environmental remediation of real property and conducted:

(A) Under a federal or state program governing environmental remediation of real property, including the Petroleum Release Remedial Action Act;

(B) Incident to closure of a solid or hazardous waste management unit, if the closure is conducted with approval of an agency; or

(C) Under a state voluntary cleanup program authorized by the Remedial Action Plan Monitoring Act.

(6) Holder means the grantee of an environmental covenant as specified in subsection (a) of section 76-2603.

(7) Person means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(8) Record, used as a noun, means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(9) State means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

Source: Laws 2005, LB 298, § 3; Laws 2019, LB302, § 94.

Cross References

Petroleum Release Remedial Action Act, see section 66-1501.

Remedial Action Plan Monitoring Act, see section 81-15,181.

76-2608 Recording.

(a) An environmental covenant, any amendment or termination of the covenant under section 76-2609 or 76-2610, and any subordination agreement must be recorded in every county in which any portion of the real property subject to the covenant is located. For purposes of indexing, a holder shall be treated as a grantee.

(b) Except as otherwise provided in subsection (c) of section 76-2609, an environmental covenant is subject to the laws of this state governing recording and priority of interests in real property.

(c) A copy of a document recorded under subsection (a) of this section shall also be provided to the Department of Environment and Energy if the department has not signed the covenant.

(d) The department shall make available to the public a listing of all documents under subsection (a) of this section or documents under subsection (c) of this section which have been provided to the department.

Source: Laws 2005, LB 298, § 9; Laws 2019, LB302, § 95.

ARTICLE 32

**NEBRASKA APPRAISAL MANAGEMENT
COMPANY REGISTRATION ACT**

Section

- 76-3202. Terms, defined.
- 76-3203. Registration; application; contents; form; surety bond; qualifications; renewal.
- 76-3203.01. Appraiser panel; removal; notice; reconsideration of removal.
- 76-3204. Act; exemptions.
- 76-3207. Applicant for registration or renewal; ownership restrictions; fingerprint submission; criminal history record check; costs.
- 76-3210. Compliance with Real Property Appraiser Act.
- 76-3216. Prohibited acts; board; violations; enforcement actions; fine; considerations; report required.

76-3202 Terms, defined.

For purposes of the Nebraska Appraisal Management Company Registration Act:

(1) Affiliate means any person that controls, is controlled by, or is under common control with, another person;

(2) AMC appraiser means a person who holds a valid credential or equivalent to appraise real estate and real property under the laws of this state or another jurisdiction, and holds the status of active on the National Registry of the Appraisal Subcommittee of the Federal Financial Institutions Examination Council in one or more jurisdictions;

(3) AMC final rule means, collectively, the rules adopted by the federal agencies as required in section 1124 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as such rules existed on January 1, 2019;

(4) AMC National Registry means the registry of appraisal management companies that hold a registration as an appraisal management company issued by the board or the equivalent issued in another jurisdiction, and federally regulated appraisal management companies, maintained by the Appraisal Subcommittee;

(5) Appraisal has the same meaning as in section 76-2204;

(6) Appraisal management company means a person that:

(a) Provides appraisal management services to creditors or to secondary mortgage market participants, including affiliates;

(b) Provides appraisal management services in connection with valuing a consumer's principal dwelling as security for a consumer credit transaction or incorporating such transactions into securitizations; and

(c) Within a twelve-month period, oversees an appraiser panel of:

(i) More than fifteen AMC appraisers who each hold a credential in this state; or

(ii) Twenty-five or more AMC appraisers who each hold a credential or equivalent in two or more jurisdictions;

(7) Appraisal management services means one or more of the following:

(a) To recruit, select, and retain AMC appraisers;

(b) To contract with AMC appraisers to perform assignments;

(c) To manage the process of having an appraisal performed, including providing administrative services such as receiving appraisal orders and reports, submitting completed reports to creditors and secondary mortgage market participants, collecting fees from creditors and secondary mortgage market participants for services provided, and paying AMC appraisers for valuation services performed; or

(d) To review and verify the work of AMC appraisers;

(8) Appraisal Subcommittee means the Appraisal Subcommittee of the Federal Financial Institutions Examination Council;

(9) Appraiser panel means a network, list, or roster of AMC appraisers approved by an appraisal management company to perform appraisals as independent contractors for the appraisal management company;

(10) Assignment has the same meaning as in section 76-2207.01;

(11) Board has the same meaning as in section 76-2207.18;

(12) Consumer credit means credit offered or extended to a consumer primarily for personal, family, or household purposes;

(13) Contact person means a person designated by the appraisal management company as the main contact for all communication between the appraisal management company and the board;

(14) Covered transaction means any consumer credit transaction secured by the consumer's principal dwelling;

(15) Credential has the same meaning as in section 76-2207.25;

(16) Creditor means a person who regularly extends consumer credit that is subject to a finance charge or is payable by written agreement in more than four installments, not including a downpayment, and to whom the obligation is initially payable, either on the face of the note or contract or by agreement when there is no note or contract. A person regularly extends consumer credit if:

(a) The person extended credit, other than credit subject to the requirements of 12 C.F.R. 1026.32, as such regulation existed on January 1, 2019, more than five times for transactions secured by a dwelling in the preceding calendar year, or in the current calendar year if a person did not meet these standards in the preceding calendar year; and

(b) In any twelve-month period, the person originates more than one credit extension that is subject to the requirements of 12 C.F.R. 1026.32, as such regulation existed on January 1, 2019, or one or more such credit extensions through a mortgage broker;

(17) Dwelling means a residential structure that contains one to four units, whether or not that structure is attached to real property, including an individual condominium unit, cooperative unit, mobile home, or trailer if used as a residence. With respect to a dwelling:

(a) A consumer may have only one principal dwelling at a time;

(b) A vacation or secondary dwelling is not a principal dwelling; and

(c) A dwelling bought or built by a consumer with the intention of that dwelling becoming the consumer's principal dwelling within one year, or upon completion of construction, is considered to be the consumer's principal dwelling for the purpose of the Nebraska Appraisal Management Company Registration Act;

(18) Federally regulated appraisal management company means an appraisal management company that is:

(a) Owned and controlled by an insured depository institution as defined in 12 U.S.C. 1813, as such section existed on January 1, 2019; and

(b) Regulated by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, or the successor of any such agencies;

(19) Federal agencies means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the National Credit Union Administration, the Consumer Financial Protection Bureau, the Federal Housing Finance Agency, or the successor of any of such agencies;

(20) Financial Institutions Reform, Recovery, and Enforcement Act of 1989 has the same meaning as in section 76-2207.30;

(21) Independent contractor means a person established as an independent contractor by the appraisal management company for the purpose of federal income taxation;

(22) Jurisdiction has the same meaning as in section 76-2207.32;

(23) Person has the same meaning as in section 76-2213.02;

(24) Real estate has the same meaning as in section 76-2214;

(25) Real property has the same meaning as in section 76-2214.01;

(26) Real property appraisal practice has the same meaning as in section 76-2215;

(27) Registration means a registration as an appraisal management company in this state issued by the board if all requirements for approval as an appraisal management company required in the Nebraska Appraisal Management Company Registration Act have been met by a person making application to the board, including the submission of all required fees, and the board has granted all rights to the person to operate as an appraisal management company in this state as allowed under the act;

(28) Report has the same meaning as in section 76-2216.02;

(29) Secondary mortgage market participant means a guarantor or insurer of mortgage-backed securities, or an underwriter or issuer of mortgage-backed securities, and only includes an individual investor in a mortgage-backed security if that investor also serves in the capacity of a guarantor, insurer, underwriter, or issuer for the mortgage-backed security;

(30) Uniform Standards of Professional Appraisal Practice has the same meaning as in section 76-2218.02; and

(31) Valuation services has the same meaning as in section 76-2219.01.

Source: Laws 2011, LB410, § 2; Laws 2015, LB139, § 72; Laws 2018, LB17, § 3; Laws 2019, LB77, § 11; Laws 2020, LB808, § 89.
Operative date August 16, 2020.

76-3203 Registration; application; contents; form; surety bond; qualifications; renewal.

(1) An application for issuance of a registration shall be made in writing to the board on forms approved by the board, which includes, but is not limited to, all information required by the board necessary to administer and enforce the Nebraska Appraisal Management Company Registration Act, and the name of the contact person for the appraisal management company.

(2) An applicant for issuance of a registration shall furnish to the board, at the time of making application, a surety bond in the amount of twenty-five thousand dollars. The surety bond required under this subsection shall be issued by a bonding company or insurance company authorized to do business in this state, and a copy of the bond shall be filed with the board. The bond shall be in favor of the state for the benefit of any person who is damaged by any violation of the Nebraska Appraisal Management Company Registration Act. The bond shall also be in favor of any person damaged by such a violation. Any person claiming against the bond for a violation of the act may maintain an action at law against the appraisal management company and against the surety. The aggregate liability of the surety to all persons damaged by a violation of the act by an appraisal management company shall not exceed the amount of the bond. The bond shall be maintained until one year after the date that the appraisal management company ceases operation in this state.

(3) A registration shall be issued only to persons who:

(a) Meet the requirements for issuance of a registration;

(b) Have a good reputation for honesty, trustworthiness, integrity, and competence to perform appraisal management services in such manner as to safeguard the interest of the public as determined by the board; and

(c) Have not had a final civil or criminal judgment entered against them for fraud, dishonesty, breach of trust, or misrepresentation involving real estate, financial services, or appraisal management services within a five-year period immediately preceding the date of application.

(4) A registration shall be valid for a period of twelve months beginning on the date which the registration was issued or renewed unless canceled, revoked, or surrendered.

(5) All information related to an appraisal management company's registration shall be reported to the Appraisal Subcommittee as required by Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the AMC final rule, and any policy or rule established by the Appraisal Subcommittee.

(6) The renewal of a registration includes the same requirements found in subsections (1) through (5) of this section. An application for renewal of a registration shall be furnished to the board no later than sixty days prior to the date of expiration of the registration.

(7) For the purpose of subdivision (6) of section 76-3202, the twelve-month period for renewal of a registration shall consist of the twelve months pursuant to subsection (4) of this section.

Source: Laws 2011, LB410, § 3; Laws 2018, LB17, § 4; Laws 2019, LB77, § 12.

76-3203.01 Appraiser panel; removal; notice; reconsideration of removal.

(1) Only AMC appraisers considered to be in good standing in all jurisdictions in which an active credential is held shall be included on an appraisal management company's appraiser panel.

(2) An appraisal management company shall remove any AMC appraiser from its appraiser panel within thirty days after receiving notice that the AMC appraiser:

(a) Is no longer considered to be in good standing in one or more jurisdictions in which he or she holds an active credential or equivalent;

(b) The AMC appraiser's credential or equivalent has been refused, denied, canceled, or revoked; or

(c) The AMC appraiser has surrendered his or her credential or equivalent in lieu of revocation.

(3) Pursuant to subdivision (6)(c) of section 76-3202, an appraiser panel shall include each AMC appraiser as of the earliest date on which such person was accepted by the appraisal management company:

(a) For consideration for future assignments in covered transactions or for secondary mortgage market participants in connection with covered transactions; or

(b) For engagement to perform one or more appraisals on behalf of a creditor for a covered transaction or for a secondary mortgage market participant in connection with covered transactions.

(4) Any AMC appraiser included on an appraisal management company's appraiser panel pursuant to subsection (3) of this section shall remain on such appraiser panel until the date on which the appraisal management company:

(a) Sends written notice to the AMC appraiser removing him or her from the appraiser panel. Such written notice shall include an explanation of the action taken by the appraisal management company;

(b) Receives written notice from the AMC appraiser requesting that he or she be removed from the appraiser panel. Such written notice shall include an explanation of the action requested by the AMC appraiser; or

(c) Receives written notice on behalf of the AMC appraiser of the death or incapacity of the AMC appraiser. Such written notice shall include an explanation on behalf of the AMC appraiser.

(5) Upon receipt of notice that he or she has been removed from the appraisal management company's appraiser panel, an AMC appraiser shall have thirty days to provide a response to the appraisal management company that removed the AMC appraiser from its appraiser panel. Upon receipt of the AMC appraiser's response, the appraisal management company shall have thirty days to reconsider the removal and provide a written response to the AMC appraiser.

(6) If an AMC appraiser is removed from an appraisal management company's appraiser panel pursuant to subsection (4) of this section, nothing shall prevent the appraisal management company at any time during the twelve months after removal from the appraiser panel from considering such person for future assignments in covered transactions or for secondary mortgage market participants in connection with covered transactions, or for engagement to perform one or more appraisals on behalf of a creditor for a covered transaction or for a secondary mortgage market participant in connection with covered transactions. If such consideration or engagement takes place, the removal shall be deemed not to have occurred and such person shall be deemed to have been included on the appraiser panel without interruption.

(7) Any AMC appraiser included on an appraisal management company's appraiser panel engaged in real property appraisal practice as a result of an assignment provided by an appraisal management company shall be free from inappropriate influence and coercion as required by the appraisal independence standards established under section 129E of the federal Truth in Lending Act, as such section existed on January 1, 2018, including the requirements for payment of a reasonable and customary fee to AMC appraisers when the appraisal management company is engaged in providing appraisal management services.

(8) An appraisal management company shall select an AMC appraiser from its appraiser panel for an assignment who is independent of the transaction and who has the requisite education, expertise, and experience necessary to competently complete the assignment for the particular market and property type.

Source: Laws 2018, LB17, § 5; Laws 2019, LB77, § 13; Laws 2020, LB808, § 90.

Operative date August 16, 2020.

76-3204 Act; exemptions.

The Nebraska Appraisal Management Company Registration Act does not apply to:

(1) A department or division of a person that provides appraisal management services only to itself; or

(2) A person that provides appraisal management services but does not meet the requirement established by subdivision (6)(c) of section 76-3202.

Source: Laws 2011, LB410, § 4; Laws 2015, LB139, § 73; Laws 2018, LB17, § 7; Laws 2019, LB77, § 14.

76-3207 Applicant for registration or renewal; ownership restrictions; fingerprint submission; criminal history record check; costs.

(1) A person applying for issuance of a registration or renewal of a registration shall not:

(a) In whole or in part, directly or indirectly, be owned by any person who has had a credential or equivalent refused, denied, canceled, or revoked or who has surrendered a credential or equivalent in lieu of revocation in any jurisdiction for a substantive cause as determined by the board; and

(b) Be more than ten percent owned by a person who is not of good moral character, which for purposes of this section shall require that such person has not been convicted of, or entered a plea of nolo contendere to, a felony relating to the real property appraisal practice or any crime involving fraud, misrepresentation, or moral turpitude or failed to submit to a criminal history record check through the Nebraska State Patrol and the Federal Bureau of Investigation.

(2) For purposes of subdivision (1)(b) of this section, each individual owner of more than ten percent of an appraisal management company shall, at the time an application for issuance of a registration is made, submit two copies of legible ink-rolled fingerprint cards or equivalent electronic fingerprint submissions to the board for delivery to the Nebraska State Patrol in a form approved by both the Nebraska State Patrol and the Federal Bureau of Investigation. The board shall pay the Nebraska State Patrol the costs associated with conducting a fingerprint-based national criminal history record check through the Nebraska State Patrol and the Federal Bureau of Investigation with such record check to be carried out by the board.

(3) For the purpose of subdivision (1)(a) of this section, a person is not barred from issuance of a registration if the credential or equivalent of the person with an ownership interest was not refused, denied, canceled, revoked, or surrendered in lieu of revocation for a substantive cause as determined by the board and has been reinstated by the jurisdiction in which the action was taken.

Source: Laws 2011, LB410, § 7; Laws 2018, LB17, § 10; Laws 2020, LB808, § 91.

Operative date August 16, 2020.

76-3210 Compliance with Real Property Appraiser Act.

Any employee of or independent contractor to an appraisal management company that holds a registration, including any AMC appraiser included on an appraisal management company's appraiser panel engaged in real property appraisal practice, shall comply with the Real Property Appraiser Act, including the Uniform Standards of Professional Appraisal Practice.

Source: Laws 2011, LB410, § 10; Laws 2018, LB17, § 12; Laws 2020, LB808, § 92.

Operative date August 16, 2020.

Cross References

Real Property Appraiser Act, see section 76-2201.

76-3216 Prohibited acts; board; violations; enforcement actions; fine; considerations; report required.

(1) It is unlawful for a person to directly or indirectly engage in or attempt to engage in business as an appraisal management company or to advertise or hold itself out as engaging in or conducting business as an appraisal management company in this state without first obtaining a registration or by meeting the requirements as a federally regulated appraisal management company.

(2) Except as provided in section 76-3204, any person who, directly or indirectly for another, offers, attempts, or agrees to perform all actions described in subdivision (6) of section 76-3202 or any action described in subdivision (7) of such section, shall be deemed an appraisal management company within the meaning of the Nebraska Appraisal Management Company Registration Act, and such action shall constitute sufficient contact with this state for the exercise of personal jurisdiction over such person in any action arising out of the act.

(3) The board may issue a cease and desist order against any person who violates this section by performing any action described in subdivision (6) or (7) of section 76-3202 without the appropriate registration. Such order shall be final ten days after issuance unless such person requests a hearing pursuant to section 76-3217. The board may, through the Attorney General, obtain an order from the district court for the enforcement of the cease and desist order.

(4) To the extent permitted by any applicable federal legislation or regulation, the board may censure an appraisal management company, conditionally or unconditionally suspend or revoke its registration, or levy fines or impose civil penalties not to exceed five thousand dollars for a first offense and not to exceed ten thousand dollars for a second or subsequent offense, if the board determines that an appraisal management company is attempting to perform, has performed, or has attempted to perform any of the following:

- (a) A material violation of the act;
- (b) A violation of any rule or regulation adopted and promulgated by the board; or
- (c) Procurement of a registration for itself or any other person by fraud, misrepresentation, or deceit.

(5) In order to promote voluntary compliance, encourage appraisal management companies to correct errors promptly, and ensure a fair and consistent approach to enforcement, the board shall endeavor to impose fines or civil penalties that are reasonable in light of the nature, extent, and severity of the violation. The board shall also take action against an appraisal management company's registration only after less severe sanctions have proven insufficient to ensure behavior consistent with the Nebraska Appraisal Management Company Registration Act. When deciding whether to impose a sanction permitted by subsection (4) of this section, determining the sanction that is most appropriate in a specific instance, or making any other discretionary decision regarding the enforcement of the act, the board shall consider whether an appraisal management company:

- (a) Has an effective program reasonably designed to ensure compliance with the act;

(b) Has taken prompt and appropriate steps to correct and prevent the recurrence of any detected violations; and

(c) Has independently reported to the board any significant violations or potential violations of the act prior to an imminent threat of disclosure or investigation and within a reasonably prompt time after becoming aware of the occurrence of such violations.

(6) Any violation of appraisal-related laws or rules and regulations, and disciplinary action taken against an appraisal management company, shall be reported to the Appraisal Subcommittee as required by Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the AMC final rule, and any policy or rule established by the Appraisal Subcommittee.

Source: Laws 2011, LB410, § 16; Laws 2018, LB17, § 17; Laws 2019, LB77, § 15.

ARTICLE 34

NEBRASKA UNIFORM REAL PROPERTY TRANSFER ON DEATH ACT

Section

76-3413. Revocation by instrument authorized; revocation by act not permitted.

76-3413 Revocation by instrument authorized; revocation by act not permitted.

(a) Subject to subsection (b) of this section, an instrument is effective to revoke a recorded transfer on death deed, or any part of it, only if the instrument:

(1) Is one of the following:

(A) A transfer on death deed that revokes the deed or part of the deed expressly or by inconsistency;

(B) An instrument of revocation that expressly revokes the deed or part of the deed and that is executed with the same formalities as required in section 76-3409;

(C) An inter vivos deed that expressly or by inconsistency revokes the transfer on death deed or part of the deed; or

(D) An inter vivos deed to a bona fide purchaser that expressly or by inconsistency revokes the transfer on death deed or part of the deed; and

(2) Is an instrument under subdivisions (1)(A), (B), and (C) of this subsection that is acknowledged by the transferor after the acknowledgment of the deed being revoked and is recorded before the transferor's death. For any instrument under subdivision (1)(D) of this subsection, such instrument must be acknowledged by the transferor after the acknowledgment of the deed being revoked and must be recorded before the later of thirty days after being executed or the transferor's death. Any instrument under this subsection shall be recorded in the public records in the office of the register of deeds of the county where the deed being revoked is recorded.

(b) If a transfer on death deed is made by more than one transferor:

(1) Revocation by a transferor does not affect the deed as to the interest of another transferor; and

(2) A deed of joint owners is revoked only if it is revoked by all of the living joint owners who were transferors.

(c) After a transfer on death deed is recorded, it may not be revoked by a revocatory act on the deed.

(d) This section does not limit the effect of an inter vivos transfer of the property.

(e) A bona fide purchaser is a purchaser for value in good faith and without notice of any adverse claim.

Source: Laws 2012, LB536, § 13; Laws 2020, LB966, § 19.
Effective date November 14, 2020.

ARTICLE 35

RADON RESISTANT NEW CONSTRUCTION ACT

Section

- 76-3501. Act, how cited.
- 76-3502. Legislative findings.
- 76-3503. Terms, defined.
- 76-3504. Radon resistant new construction; minimum standards.
- 76-3505. New construction not required to use radon resistant new construction; when.
- 76-3506. Conversion of passive radon mitigation system to active radon mitigation system authorized.
- 76-3507. Department; duties.

76-3501 Act, how cited.

Sections 76-3501 to 76-3507 shall be known and may be cited as the Radon Resistant New Construction Act.

Source: Laws 2017, LB9, § 1; Laws 2019, LB130, § 4.

76-3502 Legislative findings.

The Legislature finds that:

- (1) Radon is a radioactive element that is part of the radioactive decay chain of naturally occurring uranium in soil;
- (2) Radon is the leading cause of lung cancer among nonsmokers and is the number one risk in homes according to the Harvard Center for Risk Analysis at the Harvard T.H. Chan School of Public Health;
- (3) The World Health Organization Handbook on Indoor Radon includes key messages which state:
 - (a) "There is no known threshold concentration below which radon exposure presents no risk."; and
 - (b) "The majority of radon-induced lung cancers are caused by low and moderate radon concentrations rather than by high radon concentrations, because in general less people are exposed to high indoor radon concentrations.";
- (4) The Surgeon General of the United States urged Americans to test their homes to find out how much radon they might be breathing;
- (5) The United States Environmental Protection Agency estimates that more than twenty thousand Americans die of radon-related lung cancer each year;
- (6) The United States Environmental Protection Agency has identified radon levels in Nebraska as the third highest in the United States because of the high concentration of uranium in the soil; and

(7) In 2018, the Radon Resistant New Construction Task Force recommended minimum standards for radon resistant new construction to the Governor, the Health and Human Services Committee of the Legislature, and the Urban Affairs Committee of the Legislature.

Source: Laws 2017, LB9, § 2; Laws 2019, LB130, § 5.

76-3503 Terms, defined.

For purposes of the Radon Resistant New Construction Act:

(1) Active radon mitigation system means a family of radon mitigation systems involving mechanically driven soil depressurization, including subslab depressurization, drain tile depressurization, block wall depressurization, and submembrane depressurization. Active radon mitigation system is also known as active soil depressurization;

(2) Building contractor means any individual, corporation, partnership, limited liability company, or other business entity that engages in new construction;

(3) Department means the Department of Health and Human Services;

(4) New construction means any original construction of a single-family home or a multifamily dwelling, including apartments, group homes, condominiums, and townhouses, or any original construction of a building used for commercial, industrial, educational, or medical purposes. New construction does not include additions to existing structures or remodeling of existing structures;

(5) Passive radon mitigation system means a pipe installed in new construction that relies solely on the convective flow of air upward for soil gas depressurization and may consist of multiple pipes routed through conditioned space from below the foundation to above the roof;

(6) Radon mitigation specialist means an individual who is licensed by the department as a radon mitigation specialist in accordance with the Radiation Control Act; and

(7) Radon resistant new construction means construction that utilizes design elements and construction techniques that passively resist radon entry and prepare a building for an active postconstruction mitigation system.

Source: Laws 2017, LB9, § 3; Laws 2019, LB130, § 6.

Cross References

Radiation Control Act, see section 71-3519.

76-3504 Radon resistant new construction; minimum standards.

Except as provided in section 76-3505, new construction built after September 1, 2019, in the State of Nebraska that is intended to be regularly occupied by people shall be built using radon resistant new construction. Such construction shall meet the following minimum standards:

(1) Sumps:

(a) A sump pit open to soil or serving as the termination point for subslab or exterior drain tile loops shall be covered with a gasketed or otherwise sealed lid;

(b) A sump used as the suction point in a subslab depressurization system shall have a lid designed to accommodate the vent pipe; and

(c) A sump used as a floor drain shall have a lid equipped with a trapped inlet;

(2) A passive subslab depressurization system shall be installed during construction in basement or slab-on-grade buildings, including the following components:

(a) Vent pipe:

(i)(A) A minimum three-inch diameter acrylonitrile butadiene styrene (ABS), polyvinyl chloride (PVC), or equivalent gas-tight pipe shall be embedded vertically into the subslab permeable material before the slab is cast. A "T" fitting or equivalent method shall be used to ensure that the pipe opening remains within the subslab permeable material; or

(B) A minimum three-inch diameter ABS, PVC, or equivalent gas-tight pipe shall be inserted directly into an interior perimeter drain tile loop or through a sealed sump cover where the sump is exposed to the subslab or connected to it through a drainage system;

(ii) The pipe shall be extended up through the building floors and terminate at least twelve inches above the surface of the roof in a location at least ten feet away from any window or other opening into the conditioned spaces of the building that is less than two feet below the exhaust point and ten feet from any window or other opening in adjoining or adjacent buildings; and

(iii) In buildings where interior footings or other barriers separate the subslab gas-permeable material, each area shall be fitted with an individual vent pipe. Vent pipes shall connect to a single vent that terminates above the roof or each individual vent pipe shall terminate separately above the roof. All exposed and visible interior radon vent pipes shall be identified with at least one label on each floor and in accessible attics. Such label shall read: Radon Reduction System; and

(3) Power source: In order to provide for future installation of an active radon mitigation system, an electrical circuit terminated in an approved box shall be installed during construction in the attic or other anticipated location of vent pipe fans.

Source: Laws 2017, LB9, § 4; Laws 2019, LB130, § 7.

76-3505 New construction not required to use radon resistant new construction; when.

New construction after September 1, 2019, shall not be required to use radon resistant new construction if (1) the construction project utilizes the design of an architect or professional engineer licensed under the Engineers and Architects Regulation Act, (2) the construction project is located in a county in which the average radon concentration is less than two and seven-tenths picocuries per liter of air as determined by the department pursuant to section 76-3507, or (3) other than for any residential dwelling unit, a local building official makes a determination, after a review of relevant guidelines for the intended use of the structure and property conditions, that radon resistant new construction is not necessary.

Source: Laws 2017, LB9, § 5; Laws 2019, LB130, § 8.

Cross References

Engineers and Architects Regulation Act, see section 81-3401.

76-3506 Conversion of passive radon mitigation system to active radon mitigation system authorized.

A building contractor or a subcontractor of a building contractor may convert a passive radon mitigation system to an active radon mitigation system in accordance with rules and regulations adopted and promulgated by the department under the Radiation Control Act for radon mitigation, but the contractor or subcontractor is not required to be a radon mitigation specialist to convert such system. A radon mitigation specialist shall conduct any postinstallation testing of such system.

Source: Laws 2019, LB130, § 9.

Cross References

Radiation Control Act, see section 71-3519.

76-3507 Department; duties.

On or before January 1, 2020, and on or before January 1 of each year thereafter, the department shall compile the results of the radon measurements performed in the past five years that were reported to the department pursuant to the rules and regulations adopted and promulgated by the department regarding the control of radiation and report such compilation electronically to the Clerk of the Legislature. Such report shall determine the average radon concentration in Nebraska by county and identify each county in which such average concentration exceeds two and seven-tenths picocuries per liter of air.

Source: Laws 2019, LB130, § 10.



REVENUE AND TAXATION

CHAPTER 77
REVENUE AND TAXATION

Article.

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ARTICLE 1 DEFINITIONS

Section

- 77-103. Real property, defined.
- 77-117. Improvements on leased land, defined.
- 77-118. Nebraska adjusted basis, defined; trade in of property; how treated.

77-103 Real property, defined.

Real property shall mean:

- (1) All land;
- (2) All buildings, improvements, and fixtures, except trade fixtures;
- (3) All electric generation, transmission, distribution, and street lighting structures or facilities owned by a political subdivision of the state;
- (4) Mobile homes, cabin trailers, and similar property, not registered for highway use, which are used, or designed to be used, for residential, office, commercial, agricultural, or other similar purposes, but not including mobile homes, cabin trailers, and similar property when unoccupied and held for sale by persons engaged in the business of selling such property when such property is at the location of the business;
- (5) Mines, minerals, quarries, mineral springs and wells, oil and gas wells, overriding royalty interests, and production payments with respect to oil or gas leases; and
- (6) All privileges pertaining to real property described in subdivisions (1) through (5) of this section.

Source: Laws 1903, c. 73, § 1, p. 389; R.S.1913, § 6289; Laws 1921, c. 133, art. I, § 2, p. 545; C.S.1922, § 5809; C.S.1929, § 77-102; R.S.1943, § 77-103; Laws 1951, c. 257, § 1, p. 881; Laws 1961, c. 372, § 1, p. 1147; Laws 1969, c. 638, § 1, p. 2551; Laws 1989, Spec. Sess., LB 1, § 1; Laws 1991, LB 829, § 5; Laws 1992, LB 1063, § 44; Laws 1992, Second Spec. Sess., LB 1, § 43; Laws 1997, LB 270, § 3; Laws 2007, LB334, § 13; Laws 2019, LB218, § 1.

77-117 Improvements on leased land, defined.

Improvements on leased land shall mean any item of real property defined in subdivisions (2) through (5) of section 77-103 which is located on land owned by a person other than the owner of the item.

Source: Laws 1992, LB 1063, § 45; Laws 1992, Second Spec. Sess., LB 1, § 44; Laws 1997, LB 270, § 5; Laws 2019, LB218, § 2.

77-118 Nebraska adjusted basis, defined; trade in of property; how treated.

(1) Nebraska adjusted basis shall mean the adjusted basis of property as determined under the Internal Revenue Code increased by the total amount

allowed under the code for depreciation or amortization or pursuant to an election to expense depreciable property under section 179 of the code.

(2) For purchases of depreciable personal property occurring on or after January 1, 2018, if similar personal property is traded in as part of the payment for the newly acquired property, the Nebraska adjusted basis shall be the remaining federal tax basis of the property traded in, plus the additional amount that was paid by the taxpayer for the newly acquired property.

Source: Laws 1992, LB 1063, § 47; Laws 1992, Second Spec. Sess., LB 1, § 46; Laws 1995, LB 574, § 63; Laws 2018, LB1089, § 1; Laws 2019, LB663, § 1.

ARTICLE 2

PROPERTY TAXABLE, EXEMPTIONS, LIENS

Section

77-202. Property taxable; exemptions enumerated.

77-202.03. Property taxable; exempt status; period of exemption; change of status; late filing authorized; when; penalty; lien; new applications; reviewed; hearing; procedure; list.

77-202 Property taxable; exemptions enumerated.

(1) The following property shall be exempt from property taxes:

(a) Property of the state and its governmental subdivisions to the extent used or being developed for use by the state or governmental subdivision for a public purpose. For purposes of this subdivision:

(i) Property of the state and its governmental subdivisions means (A) property held in fee title by the state or a governmental subdivision or (B) property beneficially owned by the state or a governmental subdivision in that it is used for a public purpose and is being acquired under a lease-purchase agreement, financing lease, or other instrument which provides for transfer of legal title to the property to the state or a governmental subdivision upon payment of all amounts due thereunder. If the property to be beneficially owned by a governmental subdivision has a total acquisition cost that exceeds the threshold amount or will be used as the site of a public building with a total estimated construction cost that exceeds the threshold amount, then such property shall qualify for an exemption under this section only if the question of acquiring such property or constructing such public building has been submitted at a primary, general, or special election held within the governmental subdivision and has been approved by the voters of the governmental subdivision. For purposes of this subdivision, threshold amount means the greater of fifty thousand dollars or six-tenths of one percent of the total actual value of real and personal property of the governmental subdivision that will beneficially own the property as of the end of the governmental subdivision's prior fiscal year; and

(ii) Public purpose means use of the property (A) to provide public services with or without cost to the recipient, including the general operation of government, public education, public safety, transportation, public works, civil and criminal justice, public health and welfare, developments by a public housing authority, parks, culture, recreation, community development, and cemetery purposes, or (B) to carry out the duties and responsibilities conferred by law with or without consideration. Public purpose does not include leasing

of property to a private party unless the lease of the property is at fair market value for a public purpose. Leases of property by a public housing authority to low-income individuals as a place of residence are for the authority's public purpose;

(b) Unleased property of the state or its governmental subdivisions which is not being used or developed for use for a public purpose but upon which a payment in lieu of taxes is paid for public safety, rescue, and emergency services and road or street construction or maintenance services to all governmental units providing such services to the property. Except as provided in Article VIII, section 11, of the Constitution of Nebraska, the payment in lieu of taxes shall be based on the proportionate share of the cost of providing public safety, rescue, or emergency services and road or street construction or maintenance services unless a general policy is adopted by the governing body of the governmental subdivision providing such services which provides for a different method of determining the amount of the payment in lieu of taxes. The governing body may adopt a general policy by ordinance or resolution for determining the amount of payment in lieu of taxes by majority vote after a hearing on the ordinance or resolution. Such ordinance or resolution shall nevertheless result in an equitable contribution for the cost of providing such services to the exempt property;

(c) Property owned by and used exclusively for agricultural and horticultural societies;

(d) Property owned by educational, religious, charitable, or cemetery organizations, or any organization for the exclusive benefit of any such educational, religious, charitable, or cemetery organization, and used exclusively for educational, religious, charitable, or cemetery purposes, when such property is not (i) owned or used for financial gain or profit to either the owner or user, (ii) used for the sale of alcoholic liquors for more than twenty hours per week, or (iii) owned or used by an organization which discriminates in membership or employment based on race, color, or national origin. For purposes of this subdivision, educational organization means (A) an institution operated exclusively for the purpose of offering regular courses with systematic instruction in academic, vocational, or technical subjects or assisting students through services relating to the origination, processing, or guarantying of federally reinsured student loans for higher education or (B) a museum or historical society operated exclusively for the benefit and education of the public. For purposes of this subdivision, charitable organization includes an organization operated exclusively for the purpose of the mental, social, or physical benefit of the public or an indefinite number of persons and a fraternal benefit society organized and licensed under sections 44-1072 to 44-10,109; and

(e) Household goods and personal effects not owned or used for financial gain or profit to either the owner or user.

(2) The increased value of land by reason of shade and ornamental trees planted along the highway shall not be taken into account in the valuation of land.

(3) Tangible personal property which is not depreciable tangible personal property as defined in section 77-119 shall be exempt from property tax.

(4) Motor vehicles, trailers, and semitrailers required to be registered for operation on the highways of this state shall be exempt from payment of property taxes.

(5) Business and agricultural inventory shall be exempt from the personal property tax. For purposes of this subsection, business inventory includes personal property owned for purposes of leasing or renting such property to others for financial gain only if the personal property is of a type which in the ordinary course of business is leased or rented thirty days or less and may be returned at the option of the lessee or renter at any time and the personal property is of a type which would be considered household goods or personal effects if owned by an individual. All other personal property owned for purposes of leasing or renting such property to others for financial gain shall not be considered business inventory.

(6) Any personal property exempt pursuant to subsection (2) of section 77-4105 or section 77-5209.02 shall be exempt from the personal property tax.

(7) Livestock shall be exempt from the personal property tax.

(8) Any personal property exempt pursuant to the Nebraska Advantage Act or the ImagiNE Nebraska Act shall be exempt from the personal property tax.

(9) Any depreciable tangible personal property used directly in the generation of electricity using wind as the fuel source shall be exempt from the property tax levied on depreciable tangible personal property. Any depreciable tangible personal property used directly in the generation of electricity using solar, biomass, or landfill gas as the fuel source shall be exempt from the property tax levied on depreciable tangible personal property if such depreciable tangible personal property was installed on or after January 1, 2016, and has a nameplate capacity of one hundred kilowatts or more. Depreciable tangible personal property used directly in the generation of electricity using wind, solar, biomass, or landfill gas as the fuel source includes, but is not limited to, wind turbines, rotors and blades, towers, solar panels, trackers, generating equipment, transmission components, substations, supporting structures or racks, inverters, and other system components such as wiring, control systems, switchgears, and generator step-up transformers.

(10) Any tangible personal property that is acquired by a person operating a data center located in this state, that is assembled, engineered, processed, fabricated, manufactured into, attached to, or incorporated into other tangible personal property, both in component form or that of an assembled product, for the purpose of subsequent use at a physical location outside this state by the person operating a data center shall be exempt from the personal property tax. Such exemption extends to keeping, retaining, or exercising any right or power over tangible personal property in this state for the purpose of subsequently transporting it outside this state for use thereafter outside this state. For purposes of this subsection, data center means computers, supporting equipment, and other organized assembly of hardware or software that are designed to centralize the storage, management, or dissemination of data and information, environmentally controlled structures or facilities or interrelated structures or facilities that provide the infrastructure for housing the equipment, such as raised flooring, electricity supply, communication and data lines, Internet access, cooling, security, and fire suppression, and any building housing the foregoing.

(11) For tax years prior to tax year 2020, each person who owns property required to be reported to the county assessor under section 77-1201 shall be allowed an exemption amount as provided in the Personal Property Tax Relief Act. For tax years prior to tax year 2020, each person who owns property

required to be valued by the state as provided in section 77-601, 77-682, 77-801, or 77-1248 shall be allowed a compensating exemption factor as provided in the Personal Property Tax Relief Act.

Source: Laws 1903, c. 73, § 13, p. 390; R.S.1913, § 6301; Laws 1921, c. 133, art. II, § 2, p. 547; C.S.1922, § 5821; C.S.1929, § 77-202; R.S.1943, § 77-202; Laws 1955, c. 290, § 1, p. 921; Laws 1965, c. 468, § 1, p. 1514; Laws 1965, c. 469, § 1, p. 1516; Laws 1967, c. 494, § 1, p. 1685; Laws 1967, c. 495, § 1, p. 1686; Laws 1971, LB 945, § 2; Laws 1975, LB 530, § 3; Laws 1980, LB 882, § 1; Laws 1980, LB 913, § 1; Laws 1982, LB 383, § 5; Laws 1984, LB 891, § 1; Laws 1985, LB 268, § 1; Laws 1986, LB 732, § 1; Laws 1987, LB 775, § 13; Laws 1988, LB 855, § 3; Laws 1989, Spec. Sess., LB 7, § 2; Laws 1991, LB 829, § 7; Laws 1992, LB 1063, § 53; Laws 1992, Second Spec. Sess., LB 1, § 51; Laws 1994, LB 961, § 7; Laws 1997, LB 271, § 39; Laws 1999, LB 271, § 4; Laws 2002, LB 994, § 10; Laws 2005, LB 312, § 4; Laws 2008, LB1027, § 1; Laws 2010, LB1048, § 11; Laws 2011, LB360, § 2; Laws 2012, LB902, § 1; Laws 2012, LB1080, § 1; Laws 2015, LB259, § 5; Laws 2015, LB414, § 2; Laws 2015, LB424, § 3; Laws 2016, LB775, § 3; Laws 2020, LB1107, § 121.
Operative date August 18, 2020.

Cross References

ImagiNE Nebraska Act, see section 77-6801.

Nebraska Advantage Act, see section 77-5701.

Personal Property Tax Relief Act, see section 77-1237.

77-202.03 Property taxable; exempt status; period of exemption; change of status; late filing authorized; when; penalty; lien; new applications; reviewed; hearing; procedure; list.

(1) A properly granted exemption of real or tangible personal property, except real property used for cemetery purposes, provided for in subdivisions (1)(c) and (d) of section 77-202 shall continue for a period of four years if the statement of reaffirmation of exemption required by subsection (2) of this section is filed when due. The four-year period shall begin with years evenly divisible by four.

(2) In each intervening year occurring between application years, the organization or society which filed the granted exemption application for the real or tangible personal property, except real property used for cemetery purposes, shall file a statement of reaffirmation of exemption with the county assessor on or before December 31 of the year preceding the year for which the exemption is sought, on forms prescribed by the Tax Commissioner, certifying that the ownership and use of the exempted property has not changed during the year. Any organization or society which misses the December 31 deadline for filing the statement of reaffirmation of exemption may file the statement of reaffirmation of exemption by June 30. Such filing shall maintain the tax-exempt status of the property without further action by the county and regardless of any previous action by the county board of equalization to deny the exemption due to late filing of the statement of reaffirmation of exemption. Upon any such late filing, the county assessor shall assess a penalty against the property of ten percent of the tax that would have been assessed had the statement of reaffirmation of exemption not been filed or one hundred dollars, whichever is less,

for each calendar month or fraction thereof for which the filing of the statement of reaffirmation of exemption is late. The penalty shall be collected and distributed in the same manner as a tax on the property and interest shall be assessed at the rate specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature, from the date the tax would have been delinquent until paid. The penalty shall also become a lien in the same manner as a tax pursuant to section 77-203.

(3)(a) If any organization or society seeks a tax exemption for any real or tangible personal property acquired on or after January 1 of any year or converted to exempt use on or after January 1 of any year, the organization or society shall make application for exemption on or before July 1 of that year as provided in subsection (1) of section 77-202.01. The procedure for reviewing the application shall be as in sections 77-202.01 to 77-202.05, except that the exempt use shall be determined as of the date of application and the review by the county board of equalization shall be completed by August 15.

(b) If an organization as described in subdivision (1)(c) or (d) of section 77-202 purchases, between July 1 and the levy date, property that has been granted tax exemption and the property continues to be qualified for a property tax exemption, the purchaser shall on or before November 15 make application for exemption as provided in section 77-202.01. The procedure for reviewing the application shall be as in sections 77-202.01 to 77-202.05, and the review by the county board of equalization shall be completed by December 15.

(4) In any year, the county assessor or the county board of equalization may cause a review of any exemption to determine whether the exemption is proper. Such a review may be taken even if the ownership or use of the property has not changed from the date of the allowance of the exemption. If it is determined that a change in an exemption is warranted, the procedure for hearing set out in section 77-202.02 shall be followed, except that the published notice shall state that the list provided in the county assessor's office only includes those properties being reviewed. If an exemption is denied, the county board of equalization shall place the property on the tax rolls retroactive to January 1 of that year if on the date of the decision of the county board of equalization the property no longer qualifies for an exemption.

The county board of equalization shall give notice of the assessed value of the real property in the same manner as outlined in section 77-1507, and the procedures for filing a protest shall be the same as those in section 77-1502.

When personal property which was exempt becomes taxable because of lost exemption status, the owner or his or her agent has thirty days after the date of denial to file a personal property return with the county assessor. Upon the expiration of the thirty days for filing a personal property return pursuant to this subsection, the county assessor shall proceed to list and value the personal property and apply the penalty pursuant to section 77-1233.04.

(5) During the month of September of each year, the county board of equalization shall cause to be published in a paper of general circulation in the county a list of all real estate in the county exempt from taxation for that year pursuant to subdivisions (1)(c) and (d) of section 77-202. Such list shall be grouped into categories as provided by the Property Tax Administrator. An electronic copy of the list of real property exemptions and a copy of the proof of

publication shall be forwarded to the Property Tax Administrator on or before November 1 of each year.

Source: Laws 1963, c. 441, § 3, p. 1460; Laws 1965, c. 470, § 1, p. 1517; Laws 1969, c. 641, § 1, p. 2554; Laws 1973, LB 114, § 1; Laws 1973, LB 530, § 1; Laws 1976, LB 786, § 1; Laws 1979, LB 17, § 8; Laws 1980, LB 688, § 3; Laws 1981, LB 179, § 3; Laws 1983, LB 494, § 1; Laws 1986, LB 817, § 2; Laws 1989, LB 133, § 1; Laws 1990, LB 919, § 1; Laws 1993, LB 734, § 42; Laws 1995, LB 490, § 30; Laws 1996, LB 1122, § 2; Laws 1997, LB 270, § 14; Laws 1997, LB 271, § 42; Laws 1998, LB 1104, § 6; Laws 1999, LB 194, § 11; Laws 1999, LB 271, § 6; Laws 2000, LB 968, § 28; Laws 2004, LB 973, § 7; Laws 2007, LB166, § 4; Laws 2007, LB334, § 17; Laws 2010, LB708, § 1; Laws 2019, LB512, § 10.

ARTICLE 3

DEPARTMENT OF REVENUE

Section

77-377.02. Delinquent tax collection; collection agency; fees; remit funds.

77-3,110. Department of Revenue Miscellaneous Receipts Fund; created; use; investment.

77-377.02 Delinquent tax collection; collection agency; fees; remit funds.

(1) Fees for services, reimbursements, or other remuneration to such collection agency shall be based on the amount of tax, penalty, and interest actually collected and shall not be subject to the requirements of section 73-203 or 73-204. Each contract entered into between the Tax Commissioner and the collection agency shall provide for the payment of fees for such services, reimbursements, or other remuneration not in excess of fifty percent of the total amount of delinquent taxes, penalties, and interest actually collected.

(2) All funds collected, less the fees for collection services as provided in the contract, shall be remitted to the Tax Commissioner within forty-five days from the date of collection from a taxpayer. Forms to be used for such remittances shall be prescribed by the Tax Commissioner.

Source: Laws 1981, LB 170, § 2; Laws 2019, LB512, § 11.

77-3,110 Department of Revenue Miscellaneous Receipts Fund; created; use; investment.

(1) All funds received pursuant to sections 77-3,109 and 77-3,118 shall be remitted to the State Treasurer for credit to the Department of Revenue Miscellaneous Receipts Fund which is hereby created.

(2) On or before September 1, 2020, the State Treasurer shall transfer fifty-nine thousand five hundred dollars from the College Savings Plan Expense Fund to the Department of Revenue Miscellaneous Receipts Fund.

(3) All money in the Department of Revenue Miscellaneous Receipts Fund shall be administered by the Department of Revenue and shall be used as follows:

(a) Any money transferred to the fund under subsection (2) of this section shall be used by the Department of Revenue to defray the costs incurred to implement Laws 2020, LB1042; and

(b) All other funds shall be used to defray the cost of production of the publications listed in section 77-3,109 or of the listings described in section 77-3,118 and to carry out any administrative responsibilities of the department.

(4) Transfers may be made from the fund to the General Fund at the direction of the Legislature. Any money in the Department of Revenue Miscellaneous Receipts 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.

Source: Laws 1986, LB 1027, § 212; Laws 1993, LB 345, § 10; Laws 1994, LB 1066, § 79; Laws 2009, First Spec. Sess., LB3, § 54; Laws 2020, LB1042, § 1.
Effective date August 8, 2020.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.
Nebraska State Funds Investment Act, see section 72-1260.

ARTICLE 6

ASSESSMENT AND EQUALIZATION OF RAILROAD PROPERTY

(c) ADJUSTMENT TO VALUE

Section

77-693. Adjustment to value of railroad and car line property; Property Tax Administrator; powers and duties.

(c) ADJUSTMENT TO VALUE

77-693 Adjustment to value of railroad and car line property; Property Tax Administrator; powers and duties.

(1) The Property Tax Administrator in determining the taxable value of railroads and car lines shall determine the following ratios involving railroad and car line property and commercial and industrial property:

(a) The ratio of the taxable value of all commercial and industrial personal property in the state actually subjected to property tax divided by the market value of all commercial and industrial personal property in the state;

(b) The ratio of the taxable value of all commercial and industrial real property in the state actually subjected to property tax divided by the market value of all commercial and industrial real property in the state;

(c) The ratio of the taxable value of railroad personal property to the market value of railroad personal property. The numerator of the ratio shall be the taxable value of railroad personal property. The denominator of the ratio shall be the railroad system value allocated to Nebraska and multiplied by a factor representing the net book value of rail transportation personal property divided by the net book value of total rail transportation property;

(d) The ratio of the taxable value of railroad real property to the market value of railroad real property. The numerator of the ratio shall be the taxable value of railroad real property. The denominator of the ratio shall be the railroad system value allocated to Nebraska and multiplied by a factor representing the net book value of rail transportation real property divided by the net book value of total rail transportation property; and

(e) Similar calculations shall be made for car line taxable properties.

(2) If the ratio of the taxable value of railroad and car line personal or real property exceeds the ratio of the comparable taxable commercial and industrial property by more than five percent, the Property Tax Administrator may adjust the value of such railroad and car line property to the percentage of the comparable taxable commercial and industrial property pursuant to federal statute or Nebraska federal court decisions applicable thereto.

(3) For purposes of this section, commercial and industrial property shall mean all real and personal property which is devoted to commercial or industrial use other than rail transportation property and land used primarily for agricultural purposes.

(4) For tax years prior to tax year 2020, after the adjustment made pursuant to subsections (1) and (2) of this section, the Property Tax Administrator shall multiply the value of the tangible personal property of each railroad and car line by the compensating exemption factor calculated in section 77-1238.

Source: Laws 1992, LB 719A, § 219; Laws 1995, LB 490, § 86; Laws 2015, LB259, § 6; Laws 2020, LB1107, § 122.

Operative date August 18, 2020.

ARTICLE 7

PROPERTY ASSESSMENT DIVISION

Section

77-702. Property Tax Administrator; qualifications; duties.

77-702 Property Tax Administrator; qualifications; duties.

(1) The Governor shall appoint a Property Tax Administrator with the approval of a majority of the members of the Legislature. The Property Tax Administrator shall have experience and training in the fields of taxation and property appraisal and shall meet all the qualifications required for members of the Tax Equalization and Review Commission under subsections (1) and (2) of section 77-5004.

(2) In addition to any duties, powers, or responsibilities otherwise conferred upon the Property Tax Administrator, he or she shall administer and enforce all laws related to the state supervision of local property tax administration and the central assessment of property subject to property taxation. The Property Tax Administrator shall also advise county assessors regarding the administration and assessment of taxable property within the state and measure assessment performance in order to determine the accuracy and uniformity of assessments.

Source: Laws 1999, LB 36, § 22; Laws 2001, LB 465, § 1; Laws 2007, LB334, § 44; Laws 2011, LB210, § 4; Laws 2011, LB384, § 5; Laws 2019, LB512, § 12.

ARTICLE 8

PUBLIC SERVICE ENTITIES

Section

77-801. Public service entity; furnish information; confidentiality; Property Tax Administrator; duties.

77-801 Public service entity; furnish information; confidentiality; Property Tax Administrator; duties.

(1) All public service entities shall, on or before April 15 of each year, furnish a statement specifying such information as may be required by the Property Tax Administrator on forms prescribed by the Tax Commissioner to determine and distribute the entity's total taxable value including the franchise value. All information reported by the public service entities, not available from any other public source, and any memorandum thereof shall be confidential and available to taxing officials only. For good cause shown, the Property Tax Administrator may allow an extension of time in which to file such statement. Such extension shall not exceed fifteen days after April 15.

(2) The returns of public service entities shall not be held to be conclusive as to the taxable value of the property, but the Property Tax Administrator shall, from all the information which he or she is able to obtain, find the taxable value of all such property, including tangible property and franchises, and shall assess such property on the same basis as other property is required to be assessed.

(3) The county assessor shall assess all nonoperating property of any public service entity. A public service entity operating within the State of Nebraska shall, on or before January 1 of each year, report to the county assessor of each county in which it has situs all nonoperating property belonging to such entity which is not subject to assessment and assessed by the Property Tax Administrator under section 77-802.

(4) For tax years prior to tax year 2020, the Property Tax Administrator shall multiply the value of the tangible personal property of each public service entity by the compensating exemption factor calculated in section 77-1238.

Source: Laws 1903, c. 73, § 68, p. 408; Laws 1903, c. 73, § 76, p. 411; Laws 1903, c. 73, § 80, p. 412; Laws 1911, c. 104, § 6, p. 373; R.S.1913, §§ 6358, 6366, 6370; Laws 1921, c. 133, art. IX, § 1, p. 586; C.S.1922, § 5890; C.S.1929, § 77-801; R.S.1943, § 77-801; Laws 1981, LB 179, § 8; Laws 1983, LB 353, § 1; Laws 1985, LB 269, § 2; Laws 1995, LB 490, § 87; Laws 1997, LB 270, § 37; Laws 2000, LB 968, § 38; Laws 2004, LB 973, § 13; Laws 2009, LB166, § 7; Laws 2015, LB259, § 7; Laws 2020, LB1107, § 123.
Operative date August 18, 2020.

ARTICLE 12

PERSONAL PROPERTY, WHERE AND HOW LISTED

Section	
77-1229.	Tangible personal property; form of return; time of filing; exemption; procedure.
77-1238.	Exemption from taxation; Property Tax Administrator; duties.
77-1239.	Reimbursement for tax revenue lost because of exemption; calculation.
77-1248.	Taxation of air carriers; taxable value; allocation; Property Tax Administrator; duties.

77-1229 Tangible personal property; form of return; time of filing; exemption; procedure.

(1) Every person required by section 77-1201 to list and value taxable tangible personal property shall list such property upon the forms prescribed by the Tax Commissioner. The forms shall be available from the county assessor and when completed shall be signed by each person or his or her agent and be

filed with the county assessor. The forms shall be filed on or before May 1 of each year.

(2) Any person seeking a personal property exemption pursuant to subsection (2) of section 77-4105, the Nebraska Advantage Act, or the ImagiNE Nebraska Act shall annually file a copy of the forms required pursuant to section 77-4105 or the act with the county assessor in each county in which the person is requesting exemption. The copy shall be filed on or before May 1. Failure to timely file the required forms shall cause the forfeiture of the exemption for the tax year. If a taxpayer pursuant to this subsection also has taxable tangible personal property, such property shall be listed and valued as required under subsection (1) of this section.

Source: Laws 1903, c. 73, § 49, p. 399; Laws 1909, c. 111, § 1, p. 437; R.S.1913, § 6336; C.S.1922, § 5938; C.S.1929, § 77-1425; R.S. 1943, § 77-1229; Laws 1947, c. 250, § 16, p. 793; Laws 1947, c. 251, § 26, p. 819; Laws 1959, c. 355, § 16, p. 1260; Laws 1959, c. 365, § 8, p. 1289; Laws 1959, c. 367, § 1, p. 1296; Laws 1969, c. 665, § 1, p. 2587; Laws 1987, LB 508, § 35; Laws 1992, LB 1063, § 98; Laws 1992, Second Spec. Sess., LB 1, § 71; Laws 1995, LB 490, § 92; Laws 1997, LB 270, § 50; Laws 2000, LB 968, § 43; Laws 2005, LB 312, § 5; Laws 2007, LB334, § 52; Laws 2020, LB1107, § 124.

Operative date January 1, 2021.

Cross References

ImagiNE Nebraska Act, see section 77-6801.

Nebraska Advantage Act, see section 77-5701.

77-1238 Exemption from taxation; Property Tax Administrator; duties.

(1) For tax years prior to tax year 2020, every person who is required to list his or her taxable tangible personal property as defined in section 77-105, as required under section 77-1229, shall receive an exemption from taxation for the first ten thousand dollars of valuation of his or her tangible personal property in each tax district as defined in section 77-127 in which a personal property return is required to be filed. Failure to report tangible personal property on the personal property return required by section 77-1229 shall result in a forfeiture of the exemption for any tangible personal property not timely reported for that year.

(2) For tax years prior to tax year 2020, the Property Tax Administrator shall reduce the value of the tangible personal property owned by each railroad, car line company, public service entity, and air carrier by a compensating exemption factor to reflect the exemption allowed in subsection (1) of this section for all other personal property taxpayers. The compensating exemption factor is calculated by multiplying the value of the tangible personal property of the railroad, car line company, public service entity, or air carrier by a fraction, the numerator of which is the total amount of locally assessed tangible personal property that is actually subjected to property tax after the exemption allowed in subsection (1) of this section, and the denominator of which is the net book value of locally assessed tangible personal property prior to the exemptions allowed in subsection (1) of this section.

Source: Laws 2015, LB259, § 2; Laws 2020, LB1107, § 125.

Operative date August 18, 2020.

77-1239 Reimbursement for tax revenue lost because of exemption; calculation.

(1) For tax years prior to tax year 2020, reimbursement to taxing subdivisions for tax revenue that will be lost because of the personal property tax exemptions allowed in subsection (1) of section 77-1238 shall be as provided in this subsection. The county assessor and county treasurer shall, on or before November 30 of each year, certify to the Tax Commissioner, on forms prescribed by the Tax Commissioner, the total tax revenue that will be lost to all taxing subdivisions within his or her county from taxes levied and assessed in that year because of the personal property tax exemptions allowed in subsection (1) of section 77-1238. The county assessor and county treasurer may amend the certification to show any change or correction in the total tax revenue that will be lost until May 30 of the next succeeding year. The Tax Commissioner shall, on or before January 1 next following the certification, notify the Director of Administrative Services of the amount so certified to be reimbursed by the state. Reimbursement of the tax revenue lost shall be made to each county according to the certification and shall be distributed in two approximately equal installments on the last business day of February and the last business day of June. The State Treasurer shall, on the business day preceding the last business day of February and the last business day of June, notify the Director of Administrative Services of the amount of funds available in the General Fund to pay the reimbursement. The Director of Administrative Services shall, on the last business day of February and the last business day of June, draw warrants against funds appropriated. Out of the amount received, the county treasurer shall distribute to each of the taxing subdivisions within his or her county the full tax revenue lost by each subdivision, except that one percent of such amount shall be deposited in the county general fund.

(2) For tax years prior to tax year 2020, reimbursement to taxing subdivisions for tax revenue that will be lost because of the compensating exemption factor in subsection (2) of section 77-1238 shall be as provided in this subsection. The Property Tax Administrator shall establish the average tax rate that will be used for purposes of reimbursing taxing subdivisions pursuant to this subsection. The average tax rate shall be equal to the total property taxes levied in the state divided by the total taxable value of all taxable property in the state as certified pursuant to section 77-1613.01. The total valuation that will be lost to all taxing subdivisions within each county because of the compensating exemption factor in subsection (2) of section 77-1238, multiplied by the average tax rate calculated pursuant to this subsection, shall be the tax revenue to be reimbursed to the taxing subdivisions by the state. Reimbursement of the tax revenue lost for public service entities shall be made to each county according to the certification and shall be distributed among the taxing subdivisions within each county in the same proportion as all public service entity taxes levied by the taxing subdivisions. Reimbursement of the tax revenue lost for railroads shall be made to each county according to the certification and shall be distributed among the taxing subdivisions within each county in the same proportion as all railroad taxes levied by taxing subdivisions. Reimbursement of the tax revenue lost for car line companies shall be distributed in the same manner as the taxes collected pursuant to section 77-684. Reimbursement of the tax revenue lost for air carriers shall be distributed in the same manner as the taxes collected pursuant to section 77-1250.

(3) Each taxing subdivision shall, in preparing its annual or biennial budget, take into account the amounts to be received under this section.

Source: Laws 2015, LB259, § 3; Laws 2019, LB512, § 13; Laws 2020, LB1107, § 126.

Operative date August 18, 2020.

77-1248 Taxation of air carriers; taxable value; allocation; Property Tax Administrator; duties.

(1) The Property Tax Administrator shall ascertain from the reports made and from any other information obtained by him or her the taxable value of the flight equipment of air carriers and the proportion allocated to this state for the purposes of taxation as provided in section 77-1245.

(2)(a) In determining the taxable value of the flight equipment of air carriers pursuant to subsection (1) of this section, the Property Tax Administrator shall determine the following ratios:

(i) The ratio of the taxable value of all commercial and industrial depreciable tangible personal property in the state actually subjected to property tax to the market value of all commercial and industrial depreciable tangible personal property in the state; and

(ii) The ratio of the taxable value of flight equipment of air carriers to the market value of flight equipment of air carriers.

(b) If the ratio of the taxable value of flight equipment of air carriers exceeds the ratio of the taxable value of commercial and industrial depreciable tangible personal property by more than five percent, the Property Tax Administrator may adjust the value of such flight equipment of air carriers to the percentage of the taxable commercial and industrial depreciable tangible personal property pursuant to federal law applicable to air carrier transportation property or Nebraska federal court decisions applicable thereto.

(c) For purposes of this subsection, commercial and industrial depreciable tangible personal property means all personal property which is devoted to commercial or industrial use other than flight equipment of air carriers.

(3) For tax years prior to tax year 2020, the Property Tax Administrator shall multiply the valuation of each air carrier by the compensating exemption factor calculated in section 77-1238.

Source: Laws 1949, c. 231, § 2, p. 641; Laws 1969, c. 669, § 1, p. 2591; Laws 1992, LB 1063, § 109; Laws 1992, Second Spec. Sess., LB 1, § 82; Laws 1995, LB 490, § 101; Laws 2015, LB259, § 8; Laws 2015, LB261, § 7; Laws 2020, LB1107, § 127.

Operative date August 18, 2020.

ARTICLE 13

ASSESSMENT OF PROPERTY

Section

- 77-1301. Real property; assessment date; notice of preliminary valuation; destroyed real property; adjustment.
- 77-1307. Destroyed real property; legislative findings and declarations; terms, defined.
- 77-1308. Destroyed real property; property owner; file report; form; county board of equalization; duties.
- 77-1309. Destroyed real property; county board of equalization; adjust assessed valuation; notice; protests; filing; decision; appeal.

Section

77-1344. Agricultural or horticultural land; special valuation; when applicable.

77-1347. Agricultural or horticultural lands; special valuation; disqualification.

77-1363. Agricultural and horticultural land; classes and subclasses.

77-1301 Real property; assessment date; notice of preliminary valuation; destroyed real property; adjustment.

(1) All real property in this state subject to taxation shall be assessed as of January 1 at 12:01 a.m., and such assessment shall be used as a basis of taxation until the next assessment unless the property is destroyed real property as defined in section 77-1307, in which case the assessed value for the destroyed real property shall be adjusted as provided in sections 77-1307 to 77-1309.

(2) Beginning January 1, 2014, in any county with a population of at least one hundred fifty thousand inhabitants according to the most recent federal decennial census, the county assessor shall provide notice of preliminary valuations to real property owners on or before January 15 of each year. Such notice shall be (a) mailed to the taxpayer or (b) published on a web site maintained by the county assessor or by the county.

(3) The county assessor shall complete the assessment of real property on or before March 19 of each year, except beginning January 1, 2014, in any county with a population of at least one hundred fifty thousand inhabitants according to the most recent federal decennial census, the county assessor shall complete the assessment of real property on or before March 25 of each year.

Source: Laws 1903, c. 73, § 105, p. 422; R.S.1913, § 6420; Laws 1921, c. 125, § 1, p. 535; C.S.1922, § 5955; Laws 1925, c. 167, § 1, p. 439; C.S.1929, § 77-1601; Laws 1933, c. 130, § 1, p. 507; C.S.Supp.,1941, § 77-1601; R.S.1943, § 77-1301; Laws 1945, c. 188, § 1, p. 581; Laws 1947, c. 251, § 31, p. 823; Laws 1947, c. 255, § 1, p. 835; Laws 1953, c. 270, § 1, p. 891; Laws 1953, c. 269, § 1, p. 889; Laws 1955, c. 288, § 19, p. 913; Laws 1959, c. 355, § 20, p. 1263; Laws 1959, c. 370, § 1, p. 1301; Laws 1963, c. 450, § 1, p. 1474; Laws 1980, LB 742, § 1; Laws 1984, LB 833, § 1; Laws 1987, LB 508, § 36; Laws 1992, LB 1063, § 114; Laws 1992, Second Spec. Sess., LB 1, § 87; Laws 1997, LB 270, § 63; Laws 1999, LB 194, § 15; Laws 2004, LB 973, § 18; Laws 2011, LB384, § 6; Laws 2019, LB512, § 14.

77-1307 Destroyed real property; legislative findings and declarations; terms, defined.

(1) The Legislature finds and declares that fires, earthquakes, floods, and tornadoes occur with enough frequency in this state that provision should be made to grant property tax relief to owners of real property adversely affected by such events.

(2) For purposes of sections 77-1307 to 77-1309:

(a) Calamity means a disastrous event, including, but not limited to, a fire, an earthquake, a flood, a tornado, or other natural event which significantly affects the assessed value of real property;

(b) Destroyed real property means real property that suffers significant property damage as a result of a calamity occurring on or after January 1,

2019, and before July 1 of the current assessment year. Destroyed real property does not include property suffering significant property damage that is caused by the owner of the property; and

(c) Significant property damage means:

(i) Damage to an improvement exceeding twenty percent of the improvement's assessed value in the current tax year as determined by the county assessor;

(ii) Damage to land exceeding twenty percent of a parcel's assessed land value in the current tax year as determined by the county assessor; or

(iii) Damage exceeding twenty percent of the property's assessed value in the current tax year as determined by the county assessor if (A) such property is located in an area that has been declared a disaster area by the Governor and (B) a housing inspector or health inspector has determined that the property is uninhabitable or unlivable.

Source: Laws 2019, LB512, § 15.

77-1308 Destroyed real property; property owner; file report; form; county board of equalization; duties.

(1) If real property becomes destroyed real property during the current assessment year, the property owner shall file a report of the destroyed real property with the county assessor and county clerk of the county in which the property is located on or before July 15 of the current assessment year. The report of destroyed real property shall be made on a form prescribed by the Tax Commissioner.

(2) If the destroyed real property was a mobile home that was moved pursuant to section 77-3708 and required to pay an accelerated tax pursuant to section 77-1725.01, the property owner shall report the destroyed real property on or before July 15 in the same manner as other real property. The property owner may make a request for refund of the accelerated tax paid pursuant to section 77-1734.01 for any portion of value reduced by the county board of equalization pursuant to section 77-1309.

(3) The county board of equalization shall consider any report of destroyed real property received pursuant to this section, and the assessment of such property shall be made by the county board of equalization in accordance with section 77-1309. After county board of equalization action pursuant to section 77-1309, the county assessor shall correct the current year's assessment roll as provided in section 77-1613.02.

Source: Laws 2019, LB512, § 16.

77-1309 Destroyed real property; county board of equalization; adjust assessed valuation; notice; protests; filing; decision; appeal.

(1) If the county board of equalization receives a report of destroyed real property pursuant to section 77-1308, the county board of equalization shall adjust the assessed value of the destroyed real property to its assessed value on the date it suffers significant property damage.

(2) The county board of equalization may meet on or after June 1 and on or before July 25, or on or before August 10 if the board has adopted a resolution to extend the deadline for hearing protests under section 77-1502, for the purpose of considering the assessed value of destroyed real property pursuant

to this section. Any action of the county board of equalization which changes the assessed value of destroyed real property pursuant to this section shall be for the current assessment year only.

(3) The county board of equalization shall give notice of the assessed value of the destroyed real property to the record owner or agent at his or her last-known address. Protests of the assessed value proposed for destroyed real property pursuant to this section shall be filed with the county board of equalization within thirty days after the mailing of the notice. All provisions of section 77-1502 except dates for filing a protest, the period for hearing protests, and the date for mailing notice of the county board of equalization's decision are applicable to any protest filed pursuant to this section. The county board of equalization shall issue its decision on the protest within thirty days after the filing of the protest. Within seven days after the county board of equalization's final decision, the county clerk shall mail to the protester written notice of the decision. The notice shall contain a statement advising the protester that a report of the decision is available at the county clerk's or county assessor's office, whichever is appropriate.

(4) The action of the county board of equalization upon a protest filed pursuant to this section may be appealed to the Tax Equalization and Review Commission within thirty days after the board's final decision.

Source: Laws 2019, LB512, § 17.

77-1344 Agricultural or horticultural land; special valuation; when applicable.

(1) Agricultural or horticultural land which has an actual value as defined in section 77-112 reflecting purposes or uses other than agricultural or horticultural purposes or uses shall be assessed as provided in subsection (3) of section 77-201 if the land meets the qualifications of this subsection and an application for such special valuation is filed and approved pursuant to section 77-1345. In order for the land to qualify for special valuation, all of the following criteria shall be met: (a) The land must be located outside the corporate boundaries of any sanitary and improvement district, city, or village except as provided in subsection (2) of this section; and (b) the land must be agricultural or horticultural land. If the land consists of five contiguous acres or less, the owner or lessee of the land must also provide an Internal Revenue Service Schedule F documenting a profit or loss from farming for two out of the last three years in order for such land to qualify for special valuation.

(2) Special valuation may be applicable to agricultural or horticultural land included within the corporate boundaries of a city or village if the land is subject to a conservation or preservation easement as provided in the Conservation and Preservation Easements Act and the governing body of the city or village approves the agreement creating the easement.

(3) The eligibility of land for the special valuation provisions of this section shall be determined each year as of January 1. If the land so qualified becomes disqualified on or before December 31 of that year, it shall continue to receive the special valuation until January 1 of the year following.

(4) The special valuation placed on such land by the county assessor under this section shall be subject to equalization by the county board of equalization and the Tax Equalization and Review Commission.

Source: Laws 1974, LB 359, § 2; Laws 1983, LB 26, § 2; Laws 1985, LB 271, § 16; Laws 1989, LB 361, § 10; Laws 1991, LB 320, § 5;

Laws 1996, LB 934, § 2; Laws 1996, LB 1039, § 1; Laws 1997, LB 270, § 76; Laws 1998, LB 611, § 3; Laws 2000, LB 968, § 49; Laws 2001, LB 170, § 10; Laws 2004, LB 973, § 26; Laws 2005, LB 261, § 5; Laws 2006, LB 808, § 28; Laws 2007, LB166, § 6; Laws 2009, LB166, § 10; Laws 2019, LB185, § 1.

Cross References

Conservation and Preservation Easements Act, see section 76-2,118.

77-1347 Agricultural or horticultural lands; special valuation; disqualification.

Upon approval of an application, the county assessor shall value the land as provided in section 77-1344 until the land becomes disqualified for such valuation by:

- (1) Written notification by the applicant or his or her successor in interest to the county assessor to remove such special valuation;
- (2) Except as provided in subsection (2) of section 77-1344, inclusion of the land within the corporate boundaries of any sanitary and improvement district, city, or village;
- (3) The land no longer qualifying as agricultural or horticultural land; or
- (4) For land that consists of five contiguous acres or less, the owner or lessee of the land not being able to provide an Internal Revenue Service Schedule F documenting a profit or loss from farming for two out of the last three years.

Source: Laws 1974, LB 359, § 5; Laws 1983, LB 26, § 4; Laws 1985, LB 271, § 19; Laws 1989, LB 361, § 12; Laws 2000, LB 968, § 53; Laws 2001, LB 170, § 11; Laws 2002, LB 994, § 18; Laws 2005, LB 263, § 12; Laws 2006, LB 808, § 31; Laws 2010, LB806, § 1; Laws 2019, LB185, § 2.

77-1363 Agricultural and horticultural land; classes and subclasses.

Agricultural land and horticultural land shall be divided into classes and subclasses of real property under section 77-103.01, including, but not limited to, irrigated cropland, dryland cropland, grassland, wasteland, nurseries, feedlots, and orchards, so that the categories reflect uses appropriate for the valuation of such land according to law. Classes shall be inventoried by subclasses of real property based on soil classification standards developed by the Natural Resources Conservation Service of the United States Department of Agriculture as converted into land capability groups by the Property Tax Administrator. Land capability groups shall be Natural Resources Conservation Service specific to the applied use and not all based on a dryland farming criterion. County assessors shall utilize soil surveys from the Natural Resources Conservation Service of the United States Department of Agriculture as directed by the Property Tax Administrator. Nothing in this section shall be construed to limit the classes and subclasses of real property that may be used by county assessors or the Tax Equalization and Review Commission to achieve more uniform and proportionate valuations.

Source: Laws 1985, LB 271, § 8; Laws 1988, LB 1207, § 5; Laws 1989, LB 361, § 17; Laws 1991, LB 320, § 9; Laws 1994, LB 902, § 19; Laws 1995, LB 490, § 139; Laws 1997, LB 270, § 81; Laws 1999,

LB 403, § 7; Laws 2001, LB 170, § 15; Laws 2004, LB 973, § 30; Laws 2006, LB 808, § 36; Laws 2006, LB 1115, § 31; Laws 2010, LB877, § 3; Laws 2019, LB372, § 1.

ARTICLE 14**ACHIEVING A BETTER LIFE EXPERIENCE PROGRAM**

Section

77-1403. Account owner; designated beneficiary; death of designated beneficiary; transfer of account balances; notice regarding potential tax consequences; state claim or recovery; when prohibited.

77-1403 Account owner; designated beneficiary; death of designated beneficiary; transfer of account balances; notice regarding potential tax consequences; state claim or recovery; when prohibited.

(1) Unless otherwise permitted under section 529A, the owner of an account shall be the designated beneficiary of the account, except that if the designated beneficiary of the account is a minor or has a custodian or other fiduciary appointed for the purposes of managing such beneficiary's financial affairs, a custodian or fiduciary for such designated beneficiary may serve as the account owner if such form of ownership is permitted or not prohibited under section 529A.

(2) Unless otherwise permitted under section 529A, the designated beneficiary of an account shall be a resident of the state or of a contracting state. The State Treasurer shall determine residency of Nebraska residents for such purpose in such manner as may be required or permissible under section 529A or, in the absence of any guidance under section 529A, by such other means as the State Treasurer shall consider advisable for purposes of satisfying the requirements of section 529A.

(3) To the extent permitted by federal law, upon the death of a designated beneficiary of an account, the owner of the account or the personal representative of the designated beneficiary may have the balance of the account transferred to another account under the program specified by the owner of the account, the designated beneficiary, or the estate of the designated beneficiary.

(4) At the time an account is established under the program and prior to any transfer pursuant to subsection (3) of this section, the State Treasurer shall notify the owner of the account, the designated beneficiary, and the estate of the designated beneficiary, if applicable, of the potential tax consequences of transferring funds pursuant to subsection (3) of this section.

(5) Upon the death of a designated beneficiary and after the Department of Health and Human Services has received approval from the Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services:

(a) The state shall not seek recovery of any amount remaining in the account of the designated beneficiary for any amount of medical assistance received by the designated beneficiary or his or her spouse or dependent under the medical assistance program pursuant to the Medical Assistance Act after the establishment of the account; and

(b) The state shall not file a claim for the payment under subdivision (f) of section 529A of the Internal Revenue Code, as amended.

Source: Laws 2015, LB591, § 3; Laws 2020, LB705, § 1.

Effective date November 14, 2020.

Cross References

Medical Assistance Act, see section 68-901.

ARTICLE 15

EQUALIZATION BY COUNTY BOARD

Section

77-1514. Abstract of property assessment rolls; prepared by county assessor; file with Property Tax Administrator.

77-1514 Abstract of property assessment rolls; prepared by county assessor; file with Property Tax Administrator.

(1) The county assessor shall prepare an abstract of the property assessment rolls of locally assessed real property of his or her county on forms prescribed and furnished by the Tax Commissioner. The county assessor shall file the abstract with the Property Tax Administrator on or before March 19, except beginning January 1, 2014, in any county with a population of at least one hundred fifty thousand inhabitants according to the most recent federal decennial census, the real property abstract shall be filed on or before March 25. The abstract shall show the taxable value of real property in the county as determined by the county assessor and any other information as required by the Property Tax Administrator. The Property Tax Administrator, upon written request from the county assessor, may for good cause shown extend the final filing due date for the abstract and the statutory deadlines provided in section 77-5027. The Property Tax Administrator may extend the statutory deadline in section 77-5028 for a county if the deadline is extended for that county. Beginning January 1, 2014, in any county with a population of at least one hundred fifty thousand inhabitants according to the most recent federal decennial census, the county assessor shall request an extension of the final filing due date by March 22.

(2) For tax years prior to tax year 2020, the county assessor shall prepare an abstract of the property assessment rolls of locally assessed personal property of his or her county on forms prescribed and furnished by the Tax Commissioner. The county assessor shall electronically file the abstract with the Property Tax Administrator on or before July 20.

Source: Laws 1903, c. 73, § 125, p. 431; R.S.1913, § 6442; C.S.1922, § 5977; C.S.1929, § 77-1707; R.S.1943, § 77-1514; Laws 1945, c. 190, § 1, p. 590; Laws 1947, c. 251, § 39, p. 827; Laws 1959, c. 371, § 4, p. 1309; Laws 1987, LB 508, § 49; Laws 1992, LB 1063, § 129; Laws 1992, Second Spec. Sess., LB 1, § 102; Laws 1994, LB 902, § 24; Laws 1995, LB 452, § 28; Laws 1995, LB 490, § 155; Laws 1997, LB 270, § 91; Laws 1999, LB 194, § 28; Laws 2000, LB 968, § 59; Laws 2004, LB 973, § 37; Laws 2005, LB 15, § 6; Laws 2005, LB 261, § 7; Laws 2007, LB334, § 79; Laws 2011, LB162, § 1; Laws 2011, LB384, § 18; Laws 2015, LB259, § 9; Laws 2020, LB1107, § 128.

Operative date August 18, 2020.

ARTICLE 16

LEVY AND TAX LIST

Section

77-1601.02. Property tax request; procedure; public hearing; resolution or ordinance; contents.

77-1601.02 Property tax request; procedure; public hearing; resolution or ordinance; contents.

(1) If the annual assessment of property would result in an increase in the total property taxes levied by a county, municipality, school district, learning community, sanitary and improvement district, natural resources district, educational service unit, or community college, as determined using the previous year's rate of levy, such political subdivision's property tax request for the current year shall be no more than its property tax request in the prior year, and the political subdivision's rate of levy for the current year shall be decreased accordingly when such rate is set by the county board of equalization pursuant to section 77-1601. The governing body of the political subdivision shall pass a resolution or ordinance to set the amount of its property tax request after holding the public hearing required in subsection (3) of this section. If the governing body of a political subdivision seeks to set its property tax request at an amount that exceeds its property tax request in the prior year, it may do so after holding the public hearing required in subsection (3) of this section and by passing a resolution or ordinance that complies with subsection (4) of this section.

(2) If the annual assessment of property would result in no change or a decrease in the total property taxes levied by a county, municipality, school district, learning community, sanitary and improvement district, natural resources district, educational service unit, or community college, as determined using the previous year's rate of levy, such political subdivision's property tax request for the current year shall be no more than its property tax request in the prior year, and the political subdivision's rate of levy for the current year shall be adjusted accordingly when such rate is set by the county board of equalization pursuant to section 77-1601. The governing body of the political subdivision shall pass a resolution or ordinance to set the amount of its property tax request after holding the public hearing required in subsection (3) of this section. If the governing body of a political subdivision seeks to set its property tax request at an amount that exceeds its property tax request in the prior year, it may do so after holding the public hearing required in subsection (3) of this section and by passing a resolution or ordinance that complies with subsection (4) of this section.

(3) The resolution or ordinance required under this section shall only be passed after a special public hearing called for such purpose is held and after notice is published in a newspaper of general circulation in the area of the political subdivision at least four calendar days prior to the hearing. For purposes of such notice, the four calendar days shall include the day of publication but not the day of hearing. If the political subdivision's total operating budget, not including reserves, does not exceed ten thousand dollars per year or twenty thousand dollars per biennial period, the notice may be posted at the governing body's principal headquarters. The hearing notice shall contain the following information: The certified taxable valuation under section

13-509 for the prior year, the certified taxable valuation under section 13-509 for the current year, and the percentage increase or decrease in such valuations from the prior year to the current year; the dollar amount of the prior year's tax request and the property tax rate that was necessary to fund that tax request; the property tax rate that would be necessary to fund last year's tax request if applied to the current year's valuation; the proposed dollar amount of the tax request for the current year and the property tax rate that will be necessary to fund that tax request; the percentage increase or decrease in the property tax rate from the prior year to the current year; and the percentage increase or decrease in the total operating budget from the prior year to the current year.

(4) Any resolution or ordinance setting a political subdivision's property tax request at an amount that exceeds the political subdivision's property tax request in the prior year shall include, but not be limited to, the following information:

- (a) The name of the political subdivision;
- (b) The amount of the property tax request;
- (c) The following statements:

(i) The total assessed value of property differs from last year's total assessed value by percent;

(ii) The tax rate which would levy the same amount of property taxes as last year, when multiplied by the new total assessed value of property, would be \$. . . . per \$100 of assessed value;

(iii) The (name of political subdivision) proposes to adopt a property tax request that will cause its tax rate to be \$. . . . per \$100 of assessed value; and

(iv) Based on the proposed property tax request and changes in other revenue, the total operating budget of (name of political subdivision) will exceed last year's by percent; and

(d) The record vote of the governing body in passing such resolution or ordinance.

(5) Any resolution or ordinance setting a property tax request under this section shall be certified and forwarded to the county clerk on or before October 13 of the year for which the tax request is to apply.

(6) Any levy which is not in compliance with this section and section 77-1601 shall be construed as an unauthorized levy under section 77-1606.

Source: Laws 1996, LB 693, § 10; Laws 1996, LB 1085, § 55; Laws 1997, LB 269, § 43; Laws 1998, LB 306, § 24; Laws 2001, LB 797, § 3; Laws 2006, LB 1024, § 5; Laws 2019, LB103, § 1; Laws 2019, LB212, § 4.

ARTICLE 17

COLLECTION OF TAXES

Section

- 77-1704.01. Collection of taxes; notice; receipt; statement; contents.
- 77-1725.01. Collection of taxes; real property; removal or demolition; public officials; duties; lien on personal property.
- 77-1734.01. Refund of tax paid; claim; verification required; county board approval.
- 77-1736.06. Property tax refund; procedure.

77-1704.01 Collection of taxes; notice; receipt; statement; contents.

(1) The county treasurer shall include with each tax notice to every taxpayer and with each receipt provided to a taxpayer the following information:

(a) The total amount of aid from state sources appropriated to the county and each city, village, and school district in the county;

(b) The net amount of property taxes to be levied by the county and each city, village, school district, and learning community in the county;

(c) For real property, the amount of taxes reflected on the statement that are levied by the county, city, village, school district, learning community, and other subdivisions for the tax year and for the immediately past year on the same parcel;

(d) For real property that has its taxes divided under section 18-2147 as part of a redevelopment project under the Community Development Law, the amount of taxes reflected on the statement that are allocated to the county, city, village, school district, learning community, and other subdivisions, the amount of taxes reflected on the statement that are allocated to the redevelopment project, and a statement explaining that taxes on the real property have been divided as part of a redevelopment project under the Community Development Law; and

(e) For taxes levied for fiscal year 2017-18 on real property within a learning community, statements explaining that the school district levies for learning community member districts are increasing, in part, as a result of the expiration of the learning community common levies, the proceeds of which were distributed directly to school districts, and that the remaining learning community levies fund activities of the learning community.

(2) The necessary form for furnishing the information required by subdivisions (1)(a), (b), and (e) of this section shall be prescribed by the Department of Revenue. The necessary information required by subdivision (1)(a) of this section shall be furnished to the county treasurer by the Department of Revenue prior to October 1 of each year. The form prescribed by the Department of Revenue shall contain the following statement:

THE AMOUNT OF STATE FUNDS SHOWN ABOVE WOULD HAVE BEEN ADDITIONAL PROPERTY TAXES IF NOT ALLOCATED TO THE COUNTY, CITY, VILLAGE, AND SCHOOL DISTRICT BY THE LEGISLATURE.

Source: Laws 1972, LB 674, § 1; Laws 1995, LB 490, § 163; Laws 1997, LB 270, § 98; Laws 1999, LB 881, § 8; Laws 2006, LB 1024, § 9; Laws 2012, LB851, § 2; Laws 2016, LB1067, § 8; Laws 2018, LB874, § 36; Laws 2020, LB1021, § 16.
Effective date November 14, 2020.

Cross References

Community Development Law, see section 18-2101.

77-1725.01 Collection of taxes; real property; removal or demolition; public officials; duties; lien on personal property.

Except in any city or village that has adopted a building code with provisions for demolition of unsafe buildings or structures, it shall be the duty of any assessor, sheriff, constable, city council member, and village trustee to at once inform the county treasurer of the removal or demolition of or a levy of attachment upon any item of real property known to him or her. Except for property considered to be destroyed real property as defined in section 77-1307,

it shall be the duty of the county treasurer to immediately proceed with the collection of any delinquent or current taxes when such acts become known to him or her in any manner. Except for property considered to be destroyed real property as defined in section 77-1307, the taxes shall be due and collectible, which taxes shall include taxes on all real property then assessed upon which the tax shall be computed on the basis of the last preceding levy, and a distress warrant shall be issued when (1) any person attempts to remove or demolish all or a substantial portion of his or her real property or (2) a levy of attachment is made upon the real property. From the date the taxes are due and collectible, the taxes shall be a first lien upon the personal property of the person to whom assessed until paid.

Source: Laws 1992, LB 1063, § 137; Laws 1992, Second Spec. Sess., LB 1, § 110; Laws 2019, LB512, § 18.

77-1734.01 Refund of tax paid; claim; verification required; county board approval.

(1) In the case of an amended federal income tax return or whenever a person's return is changed or corrected by the Internal Revenue Service or other competent authority that decreases the Nebraska adjusted basis of the person's taxable tangible personal property, the county treasurer shall refund that portion of the tax paid that is in excess of the amount due after the amendment or correction.

(2) In case of payment made of any property taxes or any payments in lieu of taxes with respect to property as a result of a clerical error or honest mistake or misunderstanding, on the part of a county or other political subdivision of the state or any taxpayer, or accelerated tax paid for real property that was later adjusted by the county board of equalization under sections 77-1307 to 77-1309, the county treasurer to whom the tax was paid shall refund that portion of the tax paid as a result of the clerical error or honest mistake or misunderstanding or that portion of the tax paid that is in excess of the amount due after the adjustment under sections 77-1307 to 77-1309. A claim for a refund pursuant to this section shall be made in writing to the county treasurer to whom the tax was paid within three years after the date the tax was due or within ninety days after filing the amended return or the correction becomes final.

(3) Before the refund is made, the county treasurer shall receive verification from the county assessor or other taxing official that such error or mistake was made, such adjustment was made, or the amended return was filed or the correction made, and the claim for refund shall be submitted to the county board. Upon verification, the county board shall approve the claim. The refund shall be made in the manner prescribed in section 77-1736.06. Such refund shall not have a dispositional effect on any similar refund for another taxpayer. This section may not be used to challenge the valuation of property, the equalization of property, or the constitutionality of a tax.

Source: Laws 1957, c. 336, § 1, p. 1173; Laws 1959, c. 373, § 1, p. 1312; Laws 1961, c. 385, § 1, p. 1179; Laws 1977, LB 245, § 1; Laws 1988, LB 819, § 1; Laws 1989, LB 762, § 2; Laws 1991, LB 829, § 12; Laws 1992, LB 719A, § 174; Laws 1999, LB 194, § 32; Laws 2008, LB965, § 17; Laws 2019, LB512, § 19.

77-1736.06 Property tax refund; procedure.

The following procedure shall apply when making a property tax refund:

(1) Within thirty days of the entry of a final nonappealable order, an unprotested determination of a county assessor, an unappealed decision of a county board of equalization, or other final action requiring a refund of real or personal property taxes paid or, for property valued by the state, within thirty days of a recertification of value by the Property Tax Administrator pursuant to section 77-1775 or 77-1775.01, the county assessor shall determine the amount of refund due the person entitled to the refund, certify that amount to the county treasurer, and send a copy of such certification to the person entitled to the refund. Within thirty days from the date the county assessor certifies the amount of the refund, the county treasurer shall notify each political subdivision, including any school district receiving a distribution pursuant to section 79-1073 and any land bank receiving real property taxes pursuant to subdivision (3)(a) of section 18-3411, of its respective share of the refund, except that for any political subdivision whose share of the refund is two hundred dollars or less, the county board may waive this notice requirement. Notification shall be by first-class mail, postage prepaid, to the last-known address of record of the political subdivision. The county treasurer shall pay the refund from funds in his or her possession belonging to any political subdivision, including any school district receiving a distribution pursuant to section 79-1073 and any land bank receiving real property taxes pursuant to subdivision (3)(a) of section 18-3411, which received any part of the tax or penalty being refunded. If sufficient funds are not available or the political subdivision, within thirty days of the mailing of the notice by the county treasurer if applicable, certifies to the county treasurer that a hardship would result and create a serious interference with its governmental functions if the refund of the tax or penalty is paid, the county treasurer shall register the refund or portion thereof which remains unpaid as a claim against such political subdivision and shall issue the person entitled to the refund a receipt for the registration of the claim. The certification by a political subdivision declaring a hardship shall be binding upon the county treasurer;

(2) The refund of a tax or penalty or the receipt for the registration of a claim made or issued pursuant to this section shall be satisfied in full as soon as practicable and in no event later than five years from the date the final order or other action approving a refund is entered. The governing body of the political subdivision shall make provisions in its budget for the amount of any refund or claim to be satisfied pursuant to this section. If a receipt for the registration of a claim is given:

(a) Such receipt shall be applied to satisfy any tax levied or assessed by that political subdivision next falling due from the person holding the receipt after the sixth next succeeding levy is made on behalf of the political subdivision following the final order or other action approving the refund; and

(b) To the extent the amount of such receipt exceeds the amount of such tax liability, the unsatisfied balance of the receipt shall be paid and satisfied within the five-year period prescribed in this subdivision from a combination of a credit against taxes anticipated to be due to the political subdivision during such period and cash payment from any funds expected to accrue to the political subdivision pursuant to a written plan to be filed by the political subdivision with the county treasurer no later than thirty days after the claim

against the political subdivision is first reduced by operation of a credit against taxes due to such political subdivision.

If a political subdivision fails to fully satisfy the refund or claim prior to the sixth next succeeding levy following the entry of a final nonappealable order or other action approving a refund, interest shall accrue on the unpaid balance commencing on the sixth next succeeding levy following such entry or action at the rate set forth in section 45-103;

(3) The county treasurer shall mail the refund or the receipt by first-class mail, postage prepaid, to the last-known address of the person entitled thereto. Multiple refunds to the same person may be combined into one refund or credit. If a refund is not claimed by June 1 of the year following the year of mailing, the refund shall be canceled and the resultant amount credited to the various funds originally charged;

(4) When the refund involves property valued by the state, the Tax Commissioner shall be authorized to negotiate a settlement of the amount of the refund or claim due pursuant to this section on behalf of the political subdivision from which such refund or claim is due. Any political subdivision which does not agree with the settlement terms as negotiated may reject such terms, and the refund or claim due from the political subdivision then shall be satisfied as set forth in this section as if no such negotiation had occurred;

(5) In the event that the Legislature appropriates state funds to be disbursed for the purposes of satisfying all or any portion of any refund or claim, the Tax Commissioner shall order the county treasurer to disburse such refund amounts directly to the persons entitled to the refund in partial or total satisfaction of such persons' claims. The county treasurer shall disburse such amounts within forty-five days after receipt thereof; and

(6) If all or any portion of the refund is reduced by way of settlement or forgiveness by the person entitled to the refund, the proportionate amount of the refund that was paid by an appropriation of state funds shall be reimbursed by the county treasurer to the State Treasurer within forty-five days after receipt of the settlement agreement or receipt of the forgiven refund. The amount so reimbursed shall be credited to the General Fund.

Source: Laws 1991, LB 829, § 15; Laws 1992, LB 1063, § 138; Laws 1992, Second Spec. Sess., LB 1, § 111; Laws 1993, LB 555, § 1; Laws 1995, LB 490, § 167; Laws 2007, LB334, § 82; Laws 2008, LB965, § 18; Laws 2010, LB1070, § 3; Laws 2013, LB97, § 19; Laws 2016, LB1067, § 9; Laws 2020, LB424, § 19.
Effective date November 14, 2020.

ARTICLE 18

COLLECTION OF DELINQUENT REAL PROPERTY TAXES BY SALE OF REAL PROPERTY

Section	
77-1802.	Real property taxes; delinquent tax list; notice of sale.
77-1807.	Real property taxes; delinquent tax sale; how conducted; sale of part; bid by land bank; effect.
77-1810.	Real property taxes; delinquent tax sales; purchase by political subdivisions authorized.
77-1824.01.	Repealed. Laws 2019, LB463, § 10.
77-1831.	Real property taxes; issuance of treasurer's tax deed; notice given by purchaser; contents.

Section

- 77-1832. Real property taxes; issuance of treasurer's tax deed; service of notice; upon whom made.
- 77-1833. Real property taxes; issuance of treasurer's tax deed; proof of service; fees.
- 77-1834. Real property taxes; issuance of treasurer's tax deed; notice to owner or encumbrancer by publication.
- 77-1835. Real property taxes; issuance of treasurer's tax deed; manner and proof of publication; false affidavit; penalty.
- 77-1837. Real property taxes; issuance of treasurer's tax deed; when.
- 77-1837.01. Real property taxes; tax deed proceedings; changes in law not retroactive; exceptions.

77-1802 Real property taxes; delinquent tax list; notice of sale.

The county treasurer shall, not less than four nor more than six weeks prior to the first Monday of March in each year, make out a list of all real property subject to sale and the amount of all delinquent taxes against each item with an accompanying notice stating that so much of such property described in the list as may be necessary for that purpose will, on the first Monday of March next thereafter, be sold by such county treasurer at public auction at his or her office for the taxes, interest, and costs thereon. In making such list, the county treasurer shall describe the property as it is described on the tax list and shall include the property's parcel number, if any.

Source: Laws 1903, c. 73, § 194, p. 459; R.S.1913, § 6522; C.S.1922, § 6050; Laws 1929, c. 169, § 1, p. 583; C.S.1929, § 77-2002; Laws 1933, c. 136, § 5, p. 519; Laws 1937, c. 167, § 24, p. 655; Laws 1939, c. 98, § 24, p. 442; Laws 1941, c. 157, § 24, p. 626; C.S.Supp.,1941, § 77-2002; R.S.1943, § 77-1802; Laws 1986, LB 531, § 2; Laws 1992, LB 1063, § 139; Laws 1992, Second Spec. Sess., LB 1, § 112; Laws 2019, LB463, § 1.

77-1807 Real property taxes; delinquent tax sale; how conducted; sale of part; bid by land bank; effect.

(1)(a) This subsection applies until January 1, 2015.

(b) Except as otherwise provided in subdivision (c) of this subsection, the person who offers to pay the amount of taxes due on any real property for the smallest portion of the same shall be the purchaser, and when such person designates the smallest portion of the real property for which he or she will pay the amount of taxes assessed against any such property, the portion thus designated shall be considered an undivided portion.

(c) If a land bank gives an automatically accepted bid for the real property pursuant to section 18-3417, the land bank shall be the purchaser, regardless of the bid of any other person.

(d) If no person bids for a less quantity than the whole and no land bank has given an automatically accepted bid pursuant to section 18-3417, the treasurer may sell any real property to any one who will take the whole and pay the taxes and charges thereon.

(e) If the homestead is listed separately as a homestead, it shall be sold only for the taxes delinquent thereon.

(2)(a) This subsection applies beginning January 1, 2015.

(b) If a land bank gives an automatically accepted bid for real property pursuant to section 18-3417, the land bank shall be the purchaser and no public or private auction shall be held under sections 77-1801 to 77-1863.

(c) If no land bank has given an automatically accepted bid pursuant to section 18-3417, the person who offers to pay the amount of taxes, delinquent interest, and costs due on any real property shall be the purchaser.

(d) The county treasurer shall announce bidding rules at the beginning of the public auction, and such rules shall apply to all bidders throughout the public auction.

(e) The sale, if conducted in a round-robin format, shall be conducted in the following manner:

(i) At the commencement of the sale, a count shall be taken of the number of registered bidders present who want to be eligible to purchase property. Each registered bidder shall only be counted once. If additional registered bidders appear at the sale after the commencement of a round, such registered bidders shall have the opportunity to participate at the end of the next following round, if any, as provided in subdivision (v) of this subdivision;

(ii) Sequentially enumerated tickets shall be placed in a receptacle. The number of tickets in the receptacle for the first round shall equal the count taken in subdivision (i) of this subdivision, and the number of tickets in the receptacle for each subsequent round shall equal the number of the count taken in subdivision (i) of this subdivision plus additional registered bidders as provided in subdivision (v) of this subdivision;

(iii) In a manner determined by the county treasurer, tickets shall be selected from the receptacle by hand for each registered bidder whereby each ticket has an equal chance of being selected. Tickets shall be selected until there are no tickets remaining in the receptacle;

(iv) The number on the ticket selected for a registered bidder shall represent the order in which a registered bidder may purchase property consisting of one parcel subject to sale from the list per round; and

(v) If property listed remains unsold at the end of a round, a new round shall commence until all property listed is either sold or, if any property listed remains unsold, each registered bidder has consecutively passed on the opportunity to make a purchase. Registered bidders who are not present when it is their turn to purchase property shall be considered to have passed on the opportunity to make a purchase. At the beginning of the second and any subsequent rounds, the county treasurer shall inquire whether there are additional registered bidders. If additional registered bidders are present, tickets for each such bidder shall be placed in a receptacle and selected as provided in subdivisions (ii) through (iv) of this subdivision. The second and any subsequent rounds shall proceed in the same manner and purchase order as the last preceding round, except that any additional registered bidders shall be given the opportunity to purchase at the end of the round in the order designated on their ticket.

(f) Any property remaining unsold upon completion of the public auction shall be sold at a private sale pursuant to section 77-1814.

(g) A bidder shall (i) register with the county treasurer prior to participating in the sale, (ii) provide proof that it maintains a registered agent for service of process with the Secretary of State if the bidder is a foreign corporation, and

(iii) pay a twenty-five-dollar registration fee. The fee is not refundable upon redemption.

Source: Laws 1903, c. 73, § 199, p. 461; R.S.1913, § 6527; C.S.1922, § 6055; C.S.1929, § 77-2007; Laws 1937, c. 167, § 11, p. 643; Laws 1939, c. 98, § 11, p. 428; Laws 1941, c. 157, § 11, p. 614; C.S.Supp.,1941, § 77-2007; R.S.1943, § 77-1807; Laws 1992, LB 1063, § 143; Laws 1992, Second Spec. Sess., LB 1, § 116; Laws 2013, LB97, § 21; Laws 2013, LB341, § 1; Laws 2014, LB851, § 9; Laws 2020, LB424, § 20.
Effective date November 14, 2020.

77-1810 Real property taxes; delinquent tax sales; purchase by political subdivisions authorized.

(1) Except as otherwise provided in subsection (2) of this section, whenever any real property subject to sale for taxes is within the corporate limits of any city, village, school district, drainage district, or irrigation district, it shall have the right and power through its governing board or body to purchase such real property for the use and benefit and in the name of the city, village, school district, drainage district, or irrigation district as the case may be. The treasurer of the city, village, school district, drainage district, or irrigation district may assign the certificate of purchase by endorsement of his or her name on the back thereof when directed so to do by written order of the governing board.

(2) No such sale shall be made to any city, village, school district, drainage district, or irrigation district by the county treasurer (a) when the real property has been previously sold to the county, but in any such case, the city, village, school district, drainage district, or irrigation district may purchase the tax certificate held by the county or (b) if a land bank has given an automatically accepted bid on such real property pursuant to section 18-3417.

Source: Laws 1903, c. 73, § 202, p. 462; R.S.1913, § 6530; Laws 1917, c. 118, § 1, p. 292; C.S.1922, § 6058; C.S.1929, § 77-2010; Laws 1937, c. 167, § 35, p. 662; Laws 1939, c. 98, § 35, p. 450; Laws 1941, c. 159, § 1, p. 641; Laws 1941, c. 157, § 35, p. 633; C.S.Supp.,1941, § 77-2010; R.S.1943, § 77-1810; Laws 1992, LB 1063, § 145; Laws 1992, Second Spec. Sess., LB 1, § 118; Laws 2013, LB97, § 23; Laws 2020, LB424, § 21.
Effective date November 14, 2020.

77-1824.01 Repealed. Laws 2019, LB463, § 10.

77-1831 Real property taxes; issuance of treasurer’s tax deed; notice given by purchaser; contents.

No purchaser at any sale for taxes or his or her assignees shall be entitled to a tax deed from the county treasurer for the real property so purchased unless such purchaser or assignee, at least three months before applying for the tax deed, serves or causes to be served a notice that states, after the expiration of at least three months from the date of service of such notice, the tax deed will be applied for.

The notice shall include:

(1) The following statement in sixteen-point type: **UNLESS YOU ACT YOU WILL LOSE THIS PROPERTY;**

(2) The date when the purchaser purchased the real property sold by the county for taxes;

(3) The description of the real property;

(4) In whose name the real property was assessed;

(5) The amount of taxes represented by the tax sale certificate, the year the taxes were levied or assessed, and a statement that subsequent taxes may have been paid and interest may have accrued as of the date the notice is signed by the purchaser; and

(6) The following statements:

(a) That the issuance of a tax deed is subject to the right of redemption under sections 77-1824 to 77-1830;

(b) The right of redemption requires payment to the county treasurer, for the use of such purchaser, or his or her heirs or assigns, the amount of taxes represented by the tax sale certificate for the year the taxes were levied or assessed and any subsequent taxes paid and interest accrued as of the date payment is made to the county treasurer; and

(c) The right of redemption expires at the close of business on the date of application for the tax deed, and a deed may be applied for after the expiration of three months from the date of service of this notice.

Source: Laws 1903, c. 73, § 214, p. 467; Laws 1905, c. 115, § 1, p. 520; R.S.1913, § 6542; Laws 1921, c. 143, § 1, p. 610; C.S.1922, § 6070; C.S.1929, § 77-2022; R.S.1943, § 77-1831; Laws 1992, LB 1063, § 157; Laws 1992, Second Spec. Sess., LB 1, § 130; Laws 2012, LB370, § 4; Laws 2013, LB341, § 12; Laws 2019, LB463, § 2.

77-1832 Real property taxes; issuance of treasurer's tax deed; service of notice; upon whom made.

(1) Service of the notice provided by section 77-1831 shall be made by:

(a) Personal or residence service as described in section 25-505.01 upon a person in actual possession or occupancy of the real property and upon the person in whose name the title to the real property appears of record who can be found in this state. If a person in actual possession or occupancy of the real property cannot be served by personal or residence service, service of the notice shall be made upon such person by certified mail service or designated delivery service as described in section 25-505.01, and the notice shall be sent to the address of the property. If the person in whose name the title to the real property appears of record cannot be found in this state or if such person cannot be served by personal or residence service, service of the notice shall be made upon such person by certified mail service or designated delivery service as described in section 25-505.01, and the notice shall be sent to the name and address to which the property tax statement was mailed; and

(b) Certified mail or designated delivery service as described in section 25-505.01 upon every encumbrancer of record found by the title search required in section 77-1833. The notice shall be sent to the encumbrancer's name and address appearing of record as shown in the encumbrance filed with the register of deeds.

(2) Personal or residence service shall be made by the county sheriff of the county where service is made or by a person authorized by section 25-507. The sheriff or other person serving the notice shall be entitled to the statutory fee prescribed in section 33-117.

Source: Laws 1903, c. 73, § 214, p. 467; Laws 1905, c. 115, § 1, p. 520; R.S.1913, § 6542; Laws 1921, c. 143, § 1, p. 610; C.S.1922, § 6070; C.S.1929, § 77-2022; R.S.1943, § 77-1832; Laws 1987, LB 93, § 20; Laws 1992, LB 1063, § 158; Laws 1992, Second Spec. Sess., LB 1, § 131; Laws 2003, LB 319, § 1; Laws 2012, LB370, § 5; Laws 2013, LB341, § 13; Laws 2017, LB217, § 7; Laws 2019, LB463, § 3.

77-1833 Real property taxes; issuance of treasurer's tax deed; proof of service; fees.

The service of notice provided by section 77-1832 shall be proved by affidavit. The purchaser or assignee shall also affirm in the affidavit that a title search was conducted by a registered abstractor to determine those persons entitled to notice pursuant to such section. If personal or residence service is used, the receipt or returns provided by the person authorized in subsection (2) of section 77-1832 to carry out such service shall be filed with and accompany the affidavit. If certified mail or designated delivery service is used, the certified mail return receipt or a copy of the signed delivery receipt shall be filed with and accompany the affidavit. The affidavit, a copy of the notice, and a copy of such title search shall be filed with the application for the tax deed pursuant to section 77-1837. For each service of such notice, a fee of one dollar shall be allowed. The amount of such fees shall be noted by the county treasurer in the record opposite the real property described in the notice and shall be collected by the county treasurer in case of redemption for the benefit of the holder of the certificate.

Source: Laws 1903, c. 73, § 214, p. 467; Laws 1905, c. 115, § 1, p. 520; R.S.1913, § 6542; Laws 1921, c. 143, § 1, p. 610; C.S.1922, § 6070; C.S.1929, § 77-2022; R.S.1943, § 77-1833; Laws 1969, c. 645, § 9, p. 2561; Laws 1992, LB 1063, § 159; Laws 1992, Second Spec. Sess., LB 1, § 132; Laws 2003, LB 319, § 2; Laws 2012, LB370, § 6; Laws 2013, LB341, § 14; Laws 2017, LB217, § 8; Laws 2019, LB463, § 4.

77-1834 Real property taxes; issuance of treasurer's tax deed; notice to owner or encumbrancer by publication.

If any person or encumbrancer who is entitled to notice under subsection (1) of section 77-1832 cannot, upon diligent inquiry, be found, the purchaser or his or her assignee shall publish the notice in a newspaper of general circulation in the county which has been designated by the county board in the year publication is required under this section.

Source: Laws 1903, c. 73, § 215, p. 467; R.S.1913, § 6543; C.S.1922, § 6071; C.S.1929, § 77-2023; R.S.1943, § 77-1834; Laws 1992, LB 1063, § 160; Laws 1992, Second Spec. Sess., LB 1, § 133; Laws 2003, LB 319, § 3; Laws 2008, LB893, § 1; Laws 2012, LB370, § 7; Laws 2019, LB463, § 5.

77-1835 Real property taxes; issuance of treasurer's tax deed; manner and proof of publication; false affidavit; penalty.

The notice provided by section 77-1834 shall be published three consecutive weeks, the last time not less than three months before applying for the tax deed. Proof of publication shall be made by filing in the county treasurer's office the affidavit of the publisher, manager, or other employee of such newspaper, affirming that to his or her personal knowledge, the notice was published for the time and in the manner provided in this section, setting out a copy of the notice and the date upon which the same was published. The purchaser or assignee shall also file in the county treasurer's office an affidavit affirming that a title search was conducted by a registered abstractor to determine those persons entitled to notice pursuant to section 77-1832 and a copy of such title search. The affidavits, the copy of the notice, and the copy of the title search shall be filed with the application for the tax deed pursuant to section 77-1837. Such documents shall be preserved as a part of the files of the office. Any publisher, manager, or employee of a newspaper knowingly or negligently making a false affidavit regarding any such matters shall be guilty of perjury and shall be punished accordingly. Section 25-520.01 does not apply to publication of notice pursuant to section 77-1834.

Source: Laws 1903, c. 73, § 215, p. 467; R.S.1913, § 6543; C.S.1922, § 6071; C.S.1929, § 77-2023; R.S.1943, § 77-1835; Laws 2012, LB370, § 8; Laws 2019, LB463, § 6.

Cross References

Perjury, see section 28-915.

77-1837 Real property taxes; issuance of treasurer's tax deed; when.

(1) At any time within nine months after the expiration of three years after the date of sale of any real estate for taxes or special assessments, if such real estate has not been redeemed, the purchaser or his or her assignee may apply to the county treasurer for a tax deed for the real estate described in such purchaser's or assignee's tax sale certificate. The county treasurer shall execute and deliver a deed of conveyance for the real estate described in such tax sale certificate if he or she has received the following:

- (a) The tax sale certificate;
- (b) The issuance fee for the tax deed and the fee of the notary public or other officer acknowledging the tax deed, as required under section 77-1823;
- (c) For any notice provided pursuant to section 77-1832, the affidavit proving service of notice, the copy of the notice, and the copy of the title search required under section 77-1833; and
- (d) For any notice provided by publication pursuant to section 77-1834, the affidavit of the publisher, manager, or other employee of the newspaper, the copy of the notice, the affidavit of the purchaser or assignee, and the copy of the title search required under section 77-1835.

(2) The failure of the county treasurer to issue the deed of conveyance if requested within the timeframe provided in this section shall not impair the validity of such deed if there has otherwise been compliance with sections 77-1801 to 77-1863.

Source: Laws 1903, c. 73, § 217, p. 468; R.S.1913, § 6545; C.S.1922, § 6073; C.S.1929, § 77-2025; R.S.1943, § 77-1837; Laws 1975,

INHERITANCE TAX

§ 77-2002

LB 78, § 1; Laws 1987, LB 215, § 2; Laws 2001, LB 118, § 1; Laws 2012, LB370, § 9; Laws 2013, LB341, § 16; Laws 2019, LB463, § 7.

77-1837.01 Real property taxes; tax deed proceedings; changes in law not retroactive; exceptions.

(1) Except as otherwise provided in subsections (2) and (3) of this section, the laws in effect on the date of the issuance of a tax sale certificate govern all matters related to tax deed proceedings, including noticing and application, and foreclosure proceedings. Changes in law shall not apply retroactively with regard to the tax sale certificates previously issued.

(2) Tax sale certificates sold and issued between January 1, 2010, and December 31, 2016, shall be governed by the laws and statutes that were in effect on December 31, 2009, with regard to all matters relating to tax deed proceedings, including noticing and application, and foreclosure proceedings.

(3) Tax sale certificates sold and issued between January 1, 2017, and September 7, 2019, shall be governed by the laws and statutes that are in effect on September 7, 2019, with regard to all matters relating to tax deed proceedings, including noticing and application, and foreclosure proceedings.

Source: Laws 2012, LB370, § 10; Laws 2014, LB851, § 10; Laws 2017, LB217, § 9; Laws 2019, LB463, § 8.

ARTICLE 20

INHERITANCE TAX

Section

- 77-2002. Inheritance tax; property taxable; transfer in contemplation of death.
- 77-2018.02. Inheritance tax; independent proceeding for determination in absence of probate of estate; petition; notice; waiver of notice; notice to Department of Health and Human Services.

77-2002 Inheritance tax; property taxable; transfer in contemplation of death.

(1) Any interest in property whether created or acquired prior or subsequent to August 27, 1951, shall be subject to tax at the rates prescribed by sections 77-2004 to 77-2006, except property exempted by the provisions of Chapter 77, article 20, if it shall be transferred by deed, grant, sale, or gift, in trust or otherwise, and: (a) Made in contemplation of the death of the grantor; (b) intended to take effect in possession or enjoyment, after his or her death; (c) by reason of death, any person shall become beneficially entitled in possession or expectation to any property or income thereof; or (d) held as joint owners or joint tenants by the decedent and any other person in their joint names, except such part thereof as may be shown to have originally belonged to such other person and never to have been received or acquired by the latter from the decedent for less than an adequate and full consideration in money or property, except that when such property or any part thereof, or part of the consideration with which such property was acquired, is shown to have been at any time acquired by such other person from the decedent for less than an adequate and full consideration in money or property, there shall be excepted only such part of the value of such property as is proportionate to the consideration furnished by such other person or, when any property has been acquired by gift, bequest,

devise, or inheritance by the decedent and any other person as joint owners or joint tenants and their interests are not otherwise specified or fixed by law, then to the extent of the value of a fractional part to be determined by dividing the value of the property by the number of joint owners or joint tenants.

(2) For the purpose of subsection (1) of this section, if the decedent, within a period of three years ending with the date of his or her death, except in the case of a bona fide sale for an adequate and full consideration for money or money's worth, transferred an interest in property for which a federal gift tax return is required to be filed under the provisions of the Internal Revenue Code, such transfer shall be deemed to have been made in contemplation of death within the meaning of subsection (1) of this section; no such transfer made before such three-year period shall be treated as having been made in contemplation of death in any event.

(3) Proceeds of life insurance receivable by a trustee, of either an inter vivos trust or a testamentary trust, as insurance under policies upon the life of the decedent shall not be subject to inheritance tax. This subsection shall not apply if the decedent's estate is the beneficiary of the trust.

Source: Laws 1901, c. 54, § 1, p. 414; Laws 1905, c. 117, § 1, p. 523; Laws 1907, c. 103, § 1, p. 356; R.S.1913, § 6622; C.S.1922, § 6153; Laws 1923, c. 187, § 1, p. 430; C.S.1929, § 77-2201; Laws 1931, c. 132, § 1, p. 371; C.S.Supp.,1941, § 77-2201; R.S. 1943, § 77-2002; Laws 1945, c. 198, § 4, p. 604; Laws 1947, c. 263, § 1, p. 853; Laws 1951, c. 267, § 2, p. 899; Laws 1953, c. 282, § 1, p. 913; Laws 1955, c. 299, § 1, p. 935; Laws 1976, LB 585, § 2; Laws 1982, LB 480, § 2; Laws 1995, LB 574, § 66; Laws 2019, LB315, § 1.

77-2018.02 Inheritance tax; independent proceeding for determination in absence of probate of estate; petition; notice; waiver of notice; notice to Department of Health and Human Services.

(1) In the absence of any proceeding brought under Chapter 30, article 24 or 25, in this state, an independent proceeding for the sole purpose of determining the tax may be instituted in the county court of the county where the property or any part thereof which might be subject to tax is situated.

(2) Upon the filing of a petition to initiate such an independent proceeding, the county court shall order the petition set for hearing, not less than two nor more than four weeks after the date of filing the petition, and shall cause notice thereof to be given to all persons interested in the estate of the deceased and the property described in the petition, except as provided in subsections (4) and (5) of this section, in the manner provided for in subsection (3) of this section.

(3) The notice, provided for by subsection (2) of this section, shall be given by one publication in a legal newspaper of the county or, in the absence of such legal newspaper, then in a legal newspaper of some adjoining county of general circulation in the county. In addition to such publication of notice, personal service of notice of the hearing shall be had upon the county attorney of each county in which the property described in the petition is located, at least one week prior to the hearing.

(4) If it appears to the county court, upon the filing of the petition, by any person other than the county attorney, that no assessment of inheritance tax could result, it shall forthwith enter thereon an order directing the county

attorney to show cause, within one week from the service thereof, why determination should not be made that no inheritance tax is due on account of the property described in the petition and the potential lien thereof on such property extinguished. Upon service of such order to show cause and failure of such showing by the county attorney, notice of such hearing by publication shall be dispensed with, and the petitioner shall be entitled without delay to a determination of no tax due on account of the property described in the petition, and any potential lien shall be extinguished.

(5) If it appears to the county court that (a) the county attorney of each county in which the property described in the petition is located has executed a waiver of notice upon him or her to show cause, or of the time and place of hearing, and has entered a voluntary appearance in such proceeding in behalf of the county and the State of Nebraska, and (b) either (i) all persons against whom an inheritance tax may be assessed are either a petitioner or have executed a waiver of notice upon them to show cause, or of the time and place of hearing, and have entered a voluntary appearance, or (ii) a party to the proceeding has agreed to pay to the proper counties the full inheritance tax so determined, the court may dispense with the notice provided for in subsections (2) and (3) of this section and proceed without delay to make a determination of inheritance tax, if any, due on account of the property described in the petition.

(6) If a petition is filed to initiate an independent proceeding under this section and the decedent was fifty-five years of age or older or resided in a medical institution as defined in subsection (1) of section 68-919, notice of the filing of such petition shall be provided to the Department of Health and Human Services with the decedent's social security number and, if the decedent was predeceased by a spouse, the name and social security number of such spouse. A certificate of the providing of the notice to the department shall be filed in the independent proceeding by an attorney for the petitioner or, if there is no attorney, by the petitioner, prior to the entry of an order pursuant to this section. The notice shall be provided to the department in a delivery manner and at an address designated by the department, which manner may include email. The department shall post the acceptable manner of delivering notice on its web site. Any notice that fails to conform with such manner is void.

Source: Laws 1953, c. 282, § 8, p. 917; Laws 1959, c. 375, § 1, p. 1314; Laws 1969, c. 682, § 1, p. 2609; Laws 1975, LB 481, § 33; Laws 1976, LB 585, § 15; Laws 1977, LB 456, § 3; Laws 2015, LB72, § 5; Laws 2017, LB268, § 16; Laws 2019, LB315, § 2; Laws 2019, LB593, § 10.

ARTICLE 23

DEPOSIT AND INVESTMENT OF PUBLIC FUNDS

(b) PUBLIC FUNDS DEPOSIT SECURITY ACT

Section	
77-2386.	Act, how cited.
77-2387.	Terms, defined.
77-2388.	Authorized depositories; security; requirements.
77-2392.	Substitution or exchange of securities authorized.
77-2394.	Deposit guaranty bond; statement required.
77-2395.	Custodial official; duties.
77-2396.	Custodial official; liability.

Section

77-2397.	Depositories of public money or public funds; powers.
77-2398.	Deposits in excess of insured or guaranteed amount; requirements.
77-2399.	Governmental unit; deposits in excess of insured amount; rights.
77-23,100.	Deposits in excess of insured or guaranteed amount; qualified trustee; duties.
77-23,101.	Qualified trustee; requirements.
77-23,102.	Default; procedure.
77-23,107.	Liability.
77-23,108.	Rules and regulations.

(b) PUBLIC FUNDS DEPOSIT SECURITY ACT

77-2386 Act, how cited.

Sections 77-2386 to 77-23,108 shall be known and may be cited as the Public Funds Deposit Security Act.

Source: Laws 1996, LB 1274, § 1; Laws 2000, LB 932, § 38; Laws 2019, LB622, § 1.

77-2387 Terms, defined.

For purposes of the Public Funds Deposit Security Act, unless the context otherwise requires:

(1) Affiliate means any entity that controls, is controlled by, or is under common control with another entity;

(2) Bank means any state-chartered or federally chartered bank which has a main chartered office in this state, any branch thereof in this state, or any branch in this state of a state-chartered or federally chartered bank which maintained a main chartered office in this state prior to becoming a branch of such state-chartered or federally chartered bank;

(3) Capital stock financial institution means a capital stock state building and loan association, a capital stock federal savings and loan association, a capital stock federal savings bank, and a capital stock state savings bank, which has a main chartered office in this state, any branch thereof in this state, or any branch in this state of a capital stock financial institution which maintained a main chartered office in this state prior to becoming a branch of such capital stock financial institution;

(4) Control means to own directly or indirectly or to control in any manner twenty-five percent of the voting shares of any bank, capital stock financial institution, or holding company or to control in any manner the election of the majority of directors of any bank, capital stock financial institution, or holding company;

(5) Custodial official means an officer or an employee of the State of Nebraska or any political subdivision who, by law, is made custodian of or has control over public money or public funds subject to the act or the security for the deposit of public money or public funds subject to the act;

(6) Deposit guaranty bond means a bond underwritten by an insurance company authorized to do business in this state which provides coverage for deposits of a governing authority which are in excess of the amounts insured or guaranteed by the Federal Deposit Insurance Corporation;

(7) Director means the Director of Banking and Finance;

(8) Event of default means the issuance of an order by a supervisory authority or a receiver which restrains a bank, capital stock financial institution, or qualifying mutual financial institution from paying its deposit liabilities;

(9) Governing authority means the official, or the governing board, council, or other body or group of officials, authorized to designate a bank, capital stock financial institution, or qualifying mutual financial institution as a depository of public money or public funds subject to the act;

(10) Governmental unit means the State of Nebraska or any political subdivision thereof;

(11) Political subdivision means any county, city, village, township, district, authority, or other public corporation or entity, whether organized and existing under direct provisions of the Constitution of Nebraska or laws of the State of Nebraska or by virtue of a charter, corporate articles, or other legal instruments executed under authority of the constitution or laws, including any entity created pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act;

(12) Qualifying mutual financial institution shall have the same meaning as in section 77-2365.01;

(13) Repurchase agreement means an agreement to purchase securities by the governing authority by which the counterparty bank, capital stock financial institution, or qualifying mutual financial institution will repurchase the securities on or before a specified date and for a specified amount and the counterparty bank, capital stock financial institution, or qualifying mutual financial institution will deliver the underlying securities to the governing authority by book entry, physical delivery, or third-party custodial agreement. The transfer of underlying securities to the counterparty bank's, capital stock financial institution's, or qualifying mutual financial institution's customer book entry account may be used for book entry delivery if the governing authority so chooses; and

(14) Securities means:

(a) Bonds or obligations fully and unconditionally guaranteed both as to principal and interest by the United States Government;

(b) United States Government notes, certificates of indebtedness, or treasury bills of any issue;

(c) United States Government bonds;

(d) United States Government guaranteed bonds or notes;

(e) Bonds or notes of United States Government agencies;

(f) Bonds of any state or political subdivision which are fully defeased as to principal and interest by any combination of bonds or notes authorized in subdivision (c), (d), or (e) of this subdivision;

(g) Bonds or obligations, including mortgage-backed securities and collateralized mortgage obligations, issued by or backed by collateral one hundred percent guaranteed by the Federal Home Loan Mortgage Corporation, the Federal Farm Credit System, a Federal Home Loan Bank, or the Federal National Mortgage Association;

(h) Student loans backed or partially guaranteed by the United States Department of Education;

(i) Repurchase agreements the subject securities of which are any of the securities described in subdivisions (a) through (g) of this subdivision;

(j) Securities issued under the authority of the Federal Farm Loan Act;

(k) Loan participations which carry the guarantee of the Commodity Credit Corporation, an instrumentality of the United States Department of Agriculture;

(l) Guaranty agreements of the Small Business Administration of the United States Government;

(m) Bonds or obligations of any county, city, village, metropolitan utilities district, public power and irrigation district, sewer district, fire protection district, rural water district, or school district in this state which have been issued as required by law;

(n) Bonds of the State of Nebraska or of any other state which are purchased by the Board of Educational Lands and Funds of this state for investment in the permanent school fund or which are purchased by the state investment officer of this state for investment in the permanent school fund;

(o) Bonds or obligations of another state, or a political subdivision of another state, which are rated within the two highest classifications by at least one of the standard rating services;

(p) Warrants of the State of Nebraska;

(q) Warrants of any county, city, village, local hospital district, or school district in this state;

(r) Irrevocable, nontransferable, unconditional standby letters of credit issued by a Federal Home Loan Bank; and

(s) Certificates of deposit fully insured or guaranteed by the Federal Deposit Insurance Corporation that are issued to a bank, capital stock financial institution, or qualifying mutual financial institution furnishing securities pursuant to the Public Funds Deposit Security Act.

Source: Laws 1996, LB 1274, § 2; Laws 1997, LB 275, § 2; Laws 2000, LB 932, § 39; Laws 2001, LB 362, § 82; Laws 2001, LB 420, § 35; Laws 2003, LB 131, § 37; Laws 2003, LB 175, § 14; Laws 2004, LB 999, § 50; Laws 2009, LB259, § 27; Laws 2011, LB78, § 1; Laws 2013, LB155, § 1; Laws 2019, LB622, § 2; Laws 2020, LB808, § 93.

Operative date August 16, 2020.

Cross References

Interlocal Cooperation Act, see section 13-801.

Joint Public Agency Act, see section 13-2501.

77-2388 Authorized depositories; security; requirements.

Any bank, capital stock financial institution, or qualifying mutual financial institution subject to a requirement by law to secure the deposit of public money or public funds in excess of the amount insured or guaranteed by the Federal Deposit Insurance Corporation may give security by furnishing securities or providing a deposit guaranty bond, or any combination thereof, pursuant to the Public Funds Deposit Security Act in satisfaction of the requirement.

Source: Laws 1996, LB 1274, § 3; Laws 2001, LB 362, § 83; Laws 2009, LB259, § 28; Laws 2019, LB622, § 3.

77-2392 Substitution or exchange of securities authorized.

A bank, capital stock financial institution, or qualifying mutual financial institution which has furnished securities pursuant to the Public Funds Deposit Security Act shall have the right at any time and without prior approval to substitute or exchange other securities of equal value in lieu of securities furnished except that such securities substituted or exchanged shall be those provided for under the act and such substitution or exchange shall not reduce the market value of the securities to an amount that is less than one hundred two percent of the total amount of public money or public funds less the portion of such public money or public funds insured or guaranteed by the Federal Deposit Insurance Corporation. Following any substitution or exchange of securities pursuant to this section by a bank, capital stock financial institution, or qualifying mutual financial institution utilizing the dedicated method as provided in subdivision (2)(a) of section 77-2398, the custodial official shall report such substitution or exchange to the governing authority.

Source: Laws 1996, LB 1274, § 7; Laws 2001, LB 362, § 87; Laws 2019, LB622, § 4.

77-2394 Deposit guaranty bond; statement required.

A bank, capital stock financial institution, or qualifying mutual financial institution provides a deposit guaranty bond pursuant to the Public Funds Deposit Security Act if it issues a deposit guaranty bond which runs to the director or custodial official, as applicable, and which is conditioned that the bank, capital stock financial institution, or qualifying mutual financial institution shall, at the end of each and every month, render to the custodial official a statement, in duplicate, showing the daily balances and the amounts of public money or public funds of the governing authority held by it during the month and how credited. The public money or public funds shall be paid promptly on the order of the custodial official depositing the public money or public funds.

Source: Laws 1996, LB 1274, § 9; Laws 2001, LB 362, § 89; Laws 2019, LB622, § 5.

77-2395 Custodial official; duties.

(1) If a bank, capital stock financial institution, or qualifying mutual financial institution designated as a depository provides a deposit guaranty bond or furnishes securities or any combination thereof, pursuant to section 77-2389, the custodial official shall not have on deposit in such depository any public money or public funds in excess of the amount insured or guaranteed by the Federal Deposit Insurance Corporation, unless and until the depository has provided a deposit guaranty bond or furnished securities, or any combination thereof, to the custodial official, and the total value of such deposit guaranty bond and the market value of such securities are in an amount not less than one hundred two percent of the amount on deposit which is in excess of the amount so insured or guaranteed.

(2) If a bank, capital stock financial institution, or qualifying mutual financial institution designated as a depository provides a deposit guaranty bond or furnishes securities or any combination thereof, pursuant to subsection (1) of section 77-2398, the custodial official shall not have on deposit in such depository any public money or public funds in excess of the amount insured or guaranteed by the Federal Deposit Insurance Corporation, unless and until the

depository has provided a deposit guaranty bond or furnished securities, or any combination thereof, pursuant to the Public Funds Deposit Security Act, and the total value of such deposit guaranty bond and the market value of such securities are in an amount not less than one hundred two percent of the amount on deposit which is in excess of the amount so insured or guaranteed.

Source: Laws 1996, LB 1274, § 10; Laws 2000, LB 932, § 42; Laws 2001, LB 362, § 90; Laws 2009, LB259, § 30; Laws 2019, LB622, § 6.

77-2396 Custodial official; liability.

No custodial official shall be liable on his or her official bond as such custodial official for public money or public funds on deposit in a bank, capital stock financial institution, or qualifying mutual financial institution designated as a depository if the depository has furnished securities or provided a deposit guaranty bond, or any combination thereof, pursuant to the Public Funds Deposit Security Act.

Source: Laws 1996, LB 1274, § 11; Laws 2001, LB 362, § 91; Laws 2019, LB622, § 7.

77-2397 Depositories of public money or public funds; powers.

All depositories of public money or public funds belonging to the State of Nebraska or the political subdivisions in this state shall have full authority to deposit, pledge, or grant a security interest in their assets or to provide a deposit guaranty bond, or any combination thereof, for the security and payment for all such deposits and accretions. The State of Nebraska and any political subdivision in this state are given the right and authority to accept such deposit, pledge, or grant of a security interest in assets or the provision of a deposit guaranty bond, or any combination thereof.

Source: Laws 1996, LB 1274, § 12; Laws 2019, LB622, § 8.

77-2398 Deposits in excess of insured or guaranteed amount; requirements.

(1) As an alternative to the requirements to secure the deposit of public money or public funds in excess of the amount insured or guaranteed by the Federal Deposit Insurance Corporation pursuant to sections 77-2389 and 77-2394, a bank, capital stock financial institution, or qualifying mutual financial institution designated as a public depository may secure the deposits of one or more governmental units by providing a deposit guaranty bond or by depositing, pledging, or granting a security interest in a single pool of securities or by a combination thereof to secure the repayment of all public money or public funds deposited in the bank, capital stock financial institution, or qualifying mutual financial institution by such governmental units and not otherwise secured pursuant to law, if at all times the total value of the deposit guaranty bond and the aggregate market value of the pool of securities so deposited, pledged, or in which a security interest is granted is at least equal to one hundred two percent of the amount on deposit which is in excess of the amount so insured or guaranteed. Each such bank, capital stock financial institution, or qualifying mutual financial institution shall carry on its accounting records at all times a general ledger or other appropriate account of the total amount of all public money or public funds to be secured by a deposit guaranty bond or by the pool of securities, or any combination thereof, as determined at the opening of business each day, and the total value of the

deposit guaranty bond or the aggregate market value of the pool of securities deposited, pledged, or in which a security interest is granted to secure such public money or public funds. For purposes of this section, a pool of securities shall include shares of investment companies registered under the federal Investment Company Act of 1940 when the investment companies' assets are limited to obligations that are eligible for investment by the bank, capital stock financial institution, or qualifying mutual financial institution and limited by their prospectuses to owning securities enumerated in section 77-2387.

(2) A bank, capital stock financial institution, or qualifying mutual financial institution may secure the deposit of public money or public funds using the dedicated method, the single bank pooled method, or both methods as set forth in subsection (1) of this section.

(a) Under the dedicated method, a bank, capital stock financial institution, or qualifying mutual financial institution may secure the deposit of public money or public funds by each governmental unit separately by furnishing securities or providing a deposit guaranty bond, or any combination thereof, pursuant to the Public Funds Deposit Security Act.

(b)(i) Under the single bank pooled method, a bank, capital stock financial institution, or qualifying mutual financial institution may secure the deposit of public money or public funds of one or more governmental units by providing a deposit guaranty bond or through a pool of eligible securities established by such bank, capital stock financial institution, or qualifying mutual financial institution with a qualified trustee, or any combination thereof, to be held subject to the order of the director or the administrator for the benefit of the governmental units having public money or public funds with such bank, capital stock financial institution, or qualifying mutual financial institution as set forth in subsection (1) of this section. A bank, capital stock financial institution, or qualifying mutual financial institution may not retain any deposit of public money or public funds which is required to be secured unless, within ten days thereafter or such shorter period as has been agreed upon by the bank, capital stock financial institution, or qualifying mutual financial institution and the director or administrator, it has secured the deposits for the benefit of the governmental units having public money or public funds with such bank, capital stock financial institution, or qualifying mutual financial institution pursuant to this section.

(ii) The director shall designate a bank, savings association, trust company, or other qualified firm, corporation, or association which is authorized to transact business in this state to serve as the administrator with respect to a single bank pooled method. Fees and expenses of such administrator shall be paid by the banks, capital stock financial institutions, or qualifying mutual financial institutions utilizing the single bank pooled method.

(iii) If a bank, capital stock financial institution, or qualifying mutual financial institution elects to secure the deposit of public money or public funds through the use of the single bank pooled method, such bank, capital stock financial institution, or qualifying mutual financial institution shall notify the administrator in writing that it has elected to utilize the single bank pooled method and the proposed effective date thereof.

(iv) The single bank pooled method shall not be utilized by any bank, capital stock financial institution, or qualifying mutual financial institution unless an

administrator has been designated by the director pursuant to subdivision (2)(b)(ii) of this section and is acting as the administrator.

(3) Only a deposit guaranty bond and the securities listed in subdivision (14) of section 77-2387 may be provided and accepted as security for the deposit of public money or public funds and shall be eligible as collateral. The qualified trustee shall not accept any securities which are not listed in subdivision (14) of section 77-2387.

Source: Laws 2000, LB 932, § 43; Laws 2001, LB 362, § 92; Laws 2009, LB259, § 31; Laws 2011, LB78, § 2; Laws 2013, LB155, § 2; Laws 2019, LB622, § 9; Laws 2020, LB909, § 52.
Operative date July 25, 2020.

77-2399 Governmental unit; deposits in excess of insured amount; rights.

Each governmental unit depositing public money or public funds in a bank, capital stock financial institution, or qualifying mutual financial institution shall have an undivided beneficial interest under the deposit guaranty bond provided and an undivided security interest in the pool of securities deposited, pledged, or in which a security interest is granted by such bank, capital stock financial institution, or qualifying mutual financial institution pursuant to subsection (1) of section 77-2398 in the proportion that the total amount of the governmental unit's public money or public funds held deposited in such bank, capital stock financial institution, or qualifying mutual financial institution secured by the deposit guaranty bond or by the pool of securities, or any combination thereof, bears to the total amount of public money or public funds so secured. Articles 8 and 9, Uniform Commercial Code, shall not apply to any security interest arising under this section.

Source: Laws 2000, LB 932, § 44; Laws 2001, LB 362, § 93; Laws 2019, LB622, § 10.

77-23,100 Deposits in excess of insured or guaranteed amount; qualified trustee; duties.

(1) Any bank, capital stock financial institution, or qualifying mutual financial institution in which public money or public funds have been deposited which satisfies its requirement to secure the deposit of public money or public funds in excess of the amount insured or guaranteed by the Federal Deposit Insurance Corporation, in whole or in part, by the deposit, pledge, or granting of a security interest in a single pool of securities shall designate a qualified trustee and place with the trustee for holding the securities so deposited, pledged, or in which a security interest has been granted pursuant to subsection (1) of section 77-2398, subject to the order of the director or the administrator. The bank, capital stock financial institution, or qualifying mutual financial institution shall give written notice of the designation of the qualified trustee to any custodial official depositing public money or public funds for which such securities are deposited, pledged, or in which a security interest has been granted, and if an affiliate of the bank, capital stock financial institution, or qualifying mutual financial institution is to serve as the qualified trustee, the notice shall disclose the affiliate relationship and shall be given prior to designation of the qualified trustee. The custodial official shall accept the written receipt of the trustee describing the pool of securities so deposited, pledged, or in which a security interest has been granted by the bank, capital stock financial institution, or

qualifying mutual financial institution, a copy of which shall also be delivered to the bank, capital stock financial institution, or qualifying mutual financial institution.

(2) Any bank, capital stock financial institution, or qualifying mutual financial institution which satisfies its requirement to secure the deposit of public money or public funds in excess of the amount insured or guaranteed by the Federal Deposit Insurance Corporation under the Public Funds Deposit Security Act, in whole or in part, by providing a deposit guaranty bond pursuant to the provisions of subsection (1) of section 77-2398, shall designate the director and cause to be issued a deposit guaranty bond which runs to the director acting for the benefit of the governmental units having public money or public funds on deposit with such bank, capital stock financial institution, or qualifying mutual financial institution and which is conditioned that the bank, capital stock financial institution, or qualifying mutual financial institution shall render to the administrator the statement required under subsection (3) of this section.

(3) Each bank, capital stock financial institution, or qualifying mutual financial institution which satisfies its requirement to secure the deposit of public money or public funds in excess of the amount insured or guaranteed by the Federal Deposit Insurance Corporation by providing a deposit guaranty bond or by depositing, pledging, or granting a security interest in a single pool of securities, or any combination thereof, shall, on or before the tenth day of each month, render to the administrator a statement showing as of the last business day of the previous month (a) the amount of public money or public funds deposited in such bank, capital stock financial institution, or qualifying mutual financial institution that is not insured or guaranteed by the Federal Deposit Insurance Corporation (i) by each governmental unit separately and (ii) by all governmental units in the aggregate and (b) the total value of the deposit guaranty bond and the aggregate market value of the pool of securities deposited, pledged, or in which a security interest has been granted pursuant to subsection (1) of section 77-2398. The director shall be authorized, acting for the benefit of the governmental units having public money or public funds on deposit with such bank, capital stock financial institution, or qualifying mutual financial institution, to take any and all actions necessary to take title to or to effect a first perfected security interest in the securities deposited, pledged, or in which a security interest is granted.

(4) Within twenty days after the deadline for receiving the statement required under subsection (3) of this section from a bank, capital stock financial institution, or qualifying mutual financial institution, the administrator shall provide a report to each governmental unit listed in such statement reflecting (a) the amount of public money or public funds deposited in such bank, capital stock financial institution, or qualifying mutual financial institution by each governmental unit as of the last business day of the previous month that is not insured or guaranteed by the Federal Deposit Insurance Corporation and that is secured pursuant to subsection (1) of section 77-2398 and (b) the total value of the deposit guaranty bond and the aggregate market value of the pool of securities deposited, pledged, or in which a security interest is granted pursuant to subsection (1) of section 77-2398 as of the last business day of the previous month. The report shall clearly notify the governmental unit if the value of the deposit guaranty bond provided or the securities deposited, pledged, or in which a security interest has been granted, or any combination thereof, do not meet the statutory requirement. The report required by this

subsection shall be deemed to have been provided to a governmental unit upon posting of the report by the administrator on its web site for access by governmental units participating under the single bank pooled method if the governmental unit has agreed in advance to receive such report by accessing the administrator's web site.

Source: Laws 2000, LB 932, § 45; Laws 2001, LB 362, § 94; Laws 2009, LB259, § 32; Laws 2019, LB622, § 11; Laws 2020, LB909, § 53.
Operative date July 25, 2020.

77-23,101 Qualified trustee; requirements.

Any Federal Reserve Bank, branch of a Federal Reserve Bank, a federal home loan bank, or another responsible bank which is authorized to exercise trust powers, capital stock financial institution which is authorized to exercise trust powers, qualifying mutual financial institution which is authorized to exercise trust powers, or trust company, other than the pledgor or the bank, capital stock financial institution, or qualifying mutual financial institution providing the deposit guaranty bond or granting the security interest, is qualified to act as a qualified trustee for the receipt of a deposit guaranty bond or the holding of securities under section 77-23,100. The bank, capital stock financial institution, or qualifying mutual financial institution in which public money or public funds are deposited may at any time substitute, exchange, or release securities deposited with a qualified trustee if such substitution, exchange, or release does not reduce the aggregate market value of the pool of securities to an amount that is less than one hundred two percent of the total amount of public money or public funds less the portion of such public money or public funds insured or guaranteed by the Federal Deposit Insurance Corporation. The bank, capital stock financial institution, or qualifying mutual financial institution in which public money or public funds are deposited may at any time reduce the amount of the deposit guaranty bond if the reduction does not reduce the total combined value of the deposit guaranty bond and the aggregate market value of the pool of securities to an amount less than one hundred two percent of the total amount of public money or public funds less the portion of such public money or public funds insured or guaranteed by the Federal Deposit Insurance Corporation.

Source: Laws 2000, LB 932, § 46; Laws 2001, LB 362, § 95; Laws 2009, LB259, § 33; Laws 2019, LB622, § 12.

77-23,102 Default; procedure.

(1) When the director determines that a bank, capital stock financial institution, or qualifying mutual financial institution has experienced an event of default the director shall proceed in the following manner: (a) The director shall ascertain the aggregate amounts of public money or public funds secured pursuant to subsection (1) of section 77-2398 and deposited in the bank, capital stock financial institution, or qualifying mutual financial institution which has defaulted, as disclosed by the records of such bank, capital stock financial institution, or qualifying mutual financial institution. The director shall determine for each custodial official for whom public money or public funds are deposited in the defaulting bank, capital stock financial institution, or qualifying mutual financial institution the accounts and amount of federal deposit insurance or guarantee that is available for each account. The director shall

then determine for each such custodial official the amount of public money or public funds not insured or guaranteed by the Federal Deposit Insurance Corporation and the amount of the deposit guaranty bond or pool of securities pledged, deposited, or in which a security interest has been granted, or any combination thereof, to secure such public money or public funds. Upon completion of this analysis, the director shall provide each such custodial official with a statement that reports the amount of public money or public funds deposited by the custodial official in the defaulting bank, capital stock financial institution, or qualifying mutual financial institution, the amount of public money or public funds that may be insured or guaranteed by the Federal Deposit Insurance Corporation, and the amount of public money or public funds secured by a deposit guaranty bond or secured by a pool of securities, or any combination thereof, pursuant to subsection (1) of section 77-2398. Each such custodial official shall verify this information from his or her records within ten business days after receiving the report and information from the director; and (b) upon receipt of a verified report from such custodial official and if the defaulting bank, capital stock financial institution, or qualifying mutual financial institution is to be liquidated or if for any other reason the director determines that public money or public funds are not likely to be promptly paid upon demand, the director shall proceed to enforce the deposit guaranty bond and liquidate the pool of securities held to secure the deposit of public money or public funds and shall repay each custodial official for the public money or public funds not insured or guaranteed by the Federal Deposit Insurance Corporation deposited in the bank, capital stock financial institution, or qualifying mutual financial institution by the custodial official. In the event that the amount of the deposit guaranty bond or the proceeds of the securities held by the director after liquidation is insufficient to cover all public money or public funds not insured or guaranteed by the Federal Deposit Insurance Corporation for all custodial officials for whom the director serves, the director shall pay out to each custodial official available amounts pro rata in accordance with the respective public money or public funds not insured or guaranteed by the Federal Deposit Insurance Corporation for each such custodial official.

(2) In the event that a federal deposit insurance agency is appointed and acts as a liquidator or receiver of any bank, capital stock financial institution, or qualifying mutual financial institution under state or federal law, those duties under this section that are specified to be performed by the director in the event of default may be delegated to and performed by such federal deposit insurance agency.

Source: Laws 2000, LB 932, § 47; Laws 2001, LB 362, § 96; Laws 2009, LB259, § 34; Laws 2019, LB622, § 13.

77-23,107 Liability.

The director and the administrator under the Public Funds Deposit Security Act shall, except for actions or inactions that constitute gross negligence or intentional wrongful acts, be immune from liability for any act required of or authorized for the director and the administrator under the act.

Source: Laws 2019, LB622, § 14.

77-23,108 Rules and regulations.

The director may adopt and promulgate rules and regulations, establish policies and procedures, prescribe forms, or issue orders as may be necessary to accomplish the purposes of the Public Funds Deposit Security Act.

Source: Laws 2019, LB622, § 15.

ARTICLE 26 CIGARETTE TAX

Section

77-2601. Terms, defined.

77-2602. Cigarette tax; rate; disposition of proceeds; priority.

77-2603. Tax; stamps; tax meter impressions; requirements; stamping agent; license; application; form; service of process; corporate surety bond; Tax Commissioner; duties; directory license; application; term.

77-2601 Terms, defined.

For purposes of sections 77-2601 to 77-2615:

(1) Person means and includes every individual, firm, association, joint-stock company, partnership, limited liability company, syndicate, corporation, trustee, or other legal entity, including any Indian tribe or instrumentality thereof;

(2) Wholesale dealer means a person who sells cigarettes to licensed retail dealers other than branch stores operated by or connected with such wholesale dealer for purposes of resale and is licensed under section 28-1423;

(3) Retail dealer includes every person other than a wholesale dealer engaged in the business of selling cigarettes in this state irrespective of quantity, amount, or number of sales thereof;

(4) Tax Commissioner means the Tax Commissioner of the State of Nebraska;

(5) Cigarette means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains (a) any roll of tobacco wrapped in paper or in any substance not containing tobacco; (b) tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette; or (c) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in subdivision (5)(a) of this section;

(6) Consumer means any person, firm, association, partnership, limited liability company, joint-stock company, syndicate, or corporation not having a license to sell cigarettes;

(7) Sales entity affiliate means an entity that (a) sells cigarettes that it acquires directly from a manufacturer or importer and (b) is affiliated with that manufacturer or importer. Entities are affiliated with each other if one directly, or indirectly through one or more intermediaries, controls or is controlled by or is under common control with the other. Unless provided otherwise, manufacturer or importer includes any sales entity affiliate of that manufacturer or importer;

(8) Stamping agent has the same meaning as in section 69-2705; and

(9) Indian country means (a) all land in this state within the limits of any Indian reservation under the jurisdiction of the United States, notwithstanding

the issuance of any patent, including rights-of-way running through the reservation, (b) all dependent Indian communities within the borders of this state, and (c) all Indian allotments in this state, the Indian titles to which have not been extinguished, including rights-of-way running through such allotments.

Source: Laws 1947, c. 267, § 1, p. 861; Laws 1978, LB 748, § 41; Laws 1993, LB 121, § 499; Laws 2002, LB 989, § 9; Laws 2003, LB 572, § 9; Laws 2011, LB590, § 19; Laws 2019, LB397, § 21.

77-2602 Cigarette tax; rate; disposition of proceeds; priority.

(1) Every stamping agent engaged in distributing or selling cigarettes at wholesale in this state shall pay to the Tax Commissioner of this state a special privilege tax. This shall be in addition to all other taxes. It shall be paid prior to or at the time of the sale, gift, or delivery to the retail dealer in the several amounts as follows: On each package of cigarettes containing not more than twenty cigarettes, sixty-four cents per package; and on packages containing more than twenty cigarettes, the same tax as provided on packages containing not more than twenty cigarettes for the first twenty cigarettes in each package and a tax of one-twentieth of the tax on the first twenty cigarettes on each cigarette in excess of twenty cigarettes in each package.

(2) Beginning October 1, 2004, the State Treasurer shall place the equivalent of forty-nine cents of such tax in the General Fund. The State Treasurer shall reduce the amount placed in the General Fund under this subsection by the amount prescribed in subdivision (3)(d) of this section. For purposes of this section, the equivalent of a specified number of cents of the tax shall mean that portion of the proceeds of the tax equal to the specified number divided by the tax rate per package of cigarettes containing not more than twenty cigarettes.

(3) The State Treasurer shall distribute the remaining proceeds of such tax in the following order:

(a) First, beginning July 1, 1980, the State Treasurer shall place the equivalent of one cent of such tax in the Nebraska Outdoor Recreation Development Cash Fund. For fiscal year distributions occurring after FY1998-99, the distribution under this subdivision shall not be less than the amount distributed under this subdivision for FY1997-98. Any money needed to increase the amount distributed under this subdivision to the FY1997-98 amount shall reduce the distribution to the General Fund;

(b) Second, beginning July 1, 1993, the State Treasurer shall place the equivalent of three cents of such tax in the Health and Human Services Cash Fund to carry out sections 81-637 to 81-640. For fiscal year distributions occurring after FY1998-99, the distribution under this subdivision shall not be less than the amount distributed under this subdivision for FY1997-98. Any money needed to increase the amount distributed under this subdivision to the FY1997-98 amount shall reduce the distribution to the General Fund;

(c) Third, beginning October 1, 2002, and continuing until all the purposes of the Deferred Building Renewal Act have been fulfilled, the State Treasurer shall place the equivalent of seven cents of such tax in the Building Renewal Allocation Fund. The distribution under this subdivision shall not be less than the amount distributed under this subdivision for FY1997-98. Any money needed to increase the amount distributed under this subdivision to the FY1997-98 amount shall reduce the distribution to the General Fund;

(d) Fourth, until July 1, 2009, the State Treasurer shall place in the Municipal Infrastructure Redevelopment Fund the sum of five hundred twenty thousand dollars each fiscal year to carry out the Municipal Infrastructure Redevelopment Fund Act. The Legislature shall appropriate the sum of five hundred twenty thousand dollars each year for fiscal year 2003-04 through fiscal year 2008-09;

(e) Fifth, beginning July 1, 2001, and continuing until June 30, 2008, the State Treasurer shall place the equivalent of two cents of such tax in the Information Technology Infrastructure Fund. The distribution under this subdivision shall not be less than two million fifty thousand dollars. Any money needed to increase the amount distributed under this subdivision to two million fifty thousand dollars shall reduce the distribution to the General Fund;

(f) Sixth, beginning July 1, 2008, and continuing until June 30, 2009, the State Treasurer shall place the equivalent of two million fifty thousand dollars of such tax in the Nebraska Public Safety Communication System Cash Fund. Beginning July 1, 2009, and continuing until June 30, 2016, the State Treasurer shall place the equivalent of two million five hundred seventy thousand dollars of such tax in the Nebraska Public Safety Communication System Cash Fund. Beginning July 1, 2016, and every fiscal year thereafter, the State Treasurer shall place the equivalent of three million eight hundred twenty thousand dollars of such tax in the Nebraska Public Safety Communication System Cash Fund. If necessary, the State Treasurer shall reduce the distribution of tax proceeds to the General Fund pursuant to subsection (2) of this section by such amount required to fulfill the distribution pursuant to this subdivision; and

(g) Seventh, beginning July 1, 2016, and every fiscal year thereafter, the State Treasurer shall place the equivalent of one million two hundred fifty thousand dollars of such tax in the Nebraska Health Care Cash Fund. If necessary, the State Treasurer shall reduce the distribution of tax proceeds to the General Fund pursuant to subsection (2) of this section by such amount required to fulfill the distribution pursuant to this subdivision.

(4) If, after distributing the proceeds of such tax pursuant to subsections (2) and (3) of this section, any proceeds of such tax remain, the State Treasurer shall place such remainder in the Nebraska Capital Construction Fund.

(5) The Legislature hereby finds and determines that the projects funded from the Municipal Infrastructure Redevelopment Fund and the Building Renewal Allocation Fund are of critical importance to the State of Nebraska. It is the intent of the Legislature that the allocations and appropriations made by the Legislature to such funds or, in the case of allocations for the Municipal Infrastructure Redevelopment Fund, to the particular municipality's account not be reduced until all contracts and securities relating to the construction and financing of the projects or portions of the projects funded from such funds or accounts of such funds are completed or paid or, in the case of the Municipal Infrastructure Redevelopment Fund, the earlier of such date or July 1, 2009, and that until such time any reductions in the cigarette tax rate made by the Legislature shall be simultaneously accompanied by equivalent reductions in the amount dedicated to the General Fund from cigarette tax revenue. Any provision made by the Legislature for distribution of the proceeds of the cigarette tax for projects or programs other than those to (a) the General Fund, (b) the Nebraska Outdoor Recreation Development Cash Fund, (c) the Health and Human Services Cash Fund, (d) the Municipal Infrastructure Redevelop-

ment Fund, (e) the Building Renewal Allocation Fund, (f) the Information Technology Infrastructure Fund, (g) the Nebraska Public Safety Communication System Cash Fund, and (h) the Nebraska Health Care Cash Fund shall not be made a higher priority than or an equal priority to any of the programs or projects specified in subdivisions (a) through (h) of this subsection.

Source: Laws 1947, c. 267, § 2, p. 861; Laws 1957, c. 341, § 1, p. 1179; Laws 1963, c. 457, § 1, p. 1483; Laws 1965, c. 501, § 2, p. 1595; Laws 1965, c. 500, § 1, p. 1590; Laws 1969, c. 645, § 10, p. 2562; Laws 1971, LB 87, § 1; Laws 1972, LB 1433, § 1; Laws 1973, LB 447, § 5; Laws 1974, LB 945, § 9; Laws 1975, Spec. Sess., LB 6, § 67; Laws 1976, LB 1004, § 24; Laws 1976, LB 1006, § 6; Laws 1978, LB 109, § 3; Laws 1981, LB 506, § 5; Laws 1982, LB 753, § 1; Laws 1983, LB 192, § 1; Laws 1983, LB 410, § 1; Laws 1983, LB 469, § 4; Laws 1984, LB 862, § 1; Laws 1985, LB 728, § 1; Laws 1985, LB 653A, § 1; Laws 1985, Second Spec. Sess., LB 3, § 1; Laws 1986, LB 258, § 16; Laws 1986, LB 842, § 1; Laws 1987, LB 730, § 27; Laws 1987, LB 218, § 1; Laws 1989, LB 683, § 1; Laws 1990, LB 1220, § 1; Laws 1991, LB 703, § 65; Laws 1992, Third Spec. Sess., LB 9, § 1; Laws 1992, Third Spec. Sess., LB 11, § 1; Laws 1993, LB 22, § 1; Laws 1993, LB 595, § 2; Laws 1994, LB 961, § 8; Laws 1996, LB 1044, § 795; Laws 1996, LB 1190, § 15; Laws 1998, LB 1107, § 2; Laws 1999, LB 683, § 1; Laws 2000, LB 1349, § 1; Laws 2001, LB 657, § 5; Laws 2002, LB 1085, § 1; Laws 2003, LB 440, § 2; Laws 2003, LB 759, § 3; Laws 2005, LB 426, § 15; Laws 2007, LB296, § 703; Laws 2007, LB322, § 20; Laws 2011, LB590, § 20; Laws 2015, LB661, § 33; Laws 2019, LB193, § 242.

Cross References

Deferred Building Renewal Act, see section 81-190.

Municipal Infrastructure Redevelopment Fund Act, see section 18-2601.

77-2603 Tax; stamps; tax meter impressions; requirements; stamping agent; license; application; form; service of process; corporate surety bond; Tax Commissioner; duties; directory license; application; term.

(1) The tax, as levied in section 77-2602, shall be paid and stamps or cigarette tax meter impressions shall be affixed or printed with a cigarette tax meter by the person having possession and ownership of such cigarettes after the same shall have come to rest in this state and intended to be sold or given away in this state. Nothing in sections 77-2601 to 77-2615 shall be construed to require a stamping agent to fix the retail price or to require any retail dealer to sell at any particular price. Subject to such rules and regulations as the Tax Commissioner shall prescribe, tax meter machines may be used when approved by the Tax Commissioner to affix a suitable stamp or impression on each package of cigarettes and cigarettes with a tax meter impression shall be treated as stamped cigarettes for purposes of sections 69-2701 to 69-2711 and 77-2601 to 77-2615. Before any person is issued a license to affix stamps or cigarette tax meter impressions, the person shall make application to become licensed as a stamping agent to the Tax Commissioner on a form provided by the Tax Commissioner to engage in such activity.

(2) Any manufacturer, importer, sales entity affiliate, wholesale dealer, or retail dealer that engages in the business of selling cigarettes may apply to be

licensed as a stamping agent in accordance with this section. A license shall be issued by the Tax Commissioner to an applicant upon the applicant's:

(a) Meeting all requirements of sections 69-2701 to 69-2711 and 77-2601 to 77-2615 and rules and regulations pursuant to such sections;

(b) Certifying on a form prescribed by the Tax Commissioner that it will comply with the requirements of section 69-2708; and

(c) In the case of an applicant located outside of the state, designating an agent for service of process in Nebraska, and providing notice thereof as required by section 69-2707, in connection with enforcement of sections 69-2701 to 69-2711 and 77-2601 to 77-2615, and, if approval is given by the Tax Commissioner, the manufacturer, importer, sales entity affiliate, wholesale dealer, or retail dealer shall furnish a corporate surety bond, conditioned to faithfully comply with all the requirements of sections 77-2601 to 77-2615, in a sum not less than ten thousand dollars. Such bond shall be subject to forfeiture if the stamping agent fails to pay the shortfall amount under subsection (1) of section 69-2708.01 unless the stamping agent is excused from liability under subsection (3) of section 69-2708.01.

(3) Nothing in sections 77-2601 to 77-2615 shall prevent the Tax Commissioner from affixing the stamps or meter impressions in lieu of the provisions for affixing stamps and meter impressions by stamping agents as determined by such rules and regulations adopted by the Tax Commissioner.

(4) The Tax Commissioner shall list on its web site the names of all persons licensed as stamping agents under this section. Manufacturers, importers, and sales entity affiliates shall be entitled to rely upon the list in selling cigarettes as provided in section 69-2706.

(5) A manufacturer, importer, sales entity affiliate, wholesale dealer, or retail dealer that engages in the business of selling cigarettes and that holds a valid stamping agent license under subsection (1) of this section may apply for a directory license allowing it to purchase or possess in the state cigarettes of a manufacturer or brand family not at the time of purchase listed in the directory for sale into another state if permitted under section 69-2706. A directory license shall be issued by the Tax Commissioner to an applicant upon the applicant's (a) demonstrating that it holds a valid license under subsection (1) of this section and (b) providing a certification by an officer thereof on a form prescribed by the Tax Commissioner that any cigarettes of a manufacturer or brand family not listed in the directory will be purchased or possessed solely for sale or transfer into another state as permitted by section 69-2706. The directory license shall remain in effect for a period of one year.

(6) No directory license may be issued to a person that acted inconsistently with a certification it previously made under subsection (2) of this section.

(7) The Tax Commissioner shall list on its web site the names of all persons holding a directory license. Manufacturers, importers, sales entity affiliates, and stamping agents shall be entitled to rely upon the list in selling cigarettes as provided in section 69-2706.

Source: Laws 1947, c. 267, § 3, p. 862; Laws 1949, c. 245, § 1, p. 665; Laws 1951, c. 271, § 1, p. 905; Laws 1963, c. 458, § 1, p. 1484; Laws 2002, LB 989, § 11; Laws 2003, LB 572, § 10; Laws 2011, LB590, § 24; Laws 2019, LB397, § 22.

SALES AND INCOME TAX

ARTICLE 27

SALES AND INCOME TAX

(a) ACT, RATES, AND DEFINITIONS

Section

- 77-2701. Act, how cited.
- 77-2701.04. Definitions, where found.
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- 77-2701.32. Retailer, defined.

(b) SALES AND USE TAX

- 77-2703. Sales and use tax; rate; collection; collection fee; understatement; prohibited acts; violation; penalty; interest.
- 77-2703.01. General sourcing rules.
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- 77-2704.31. Sales or use tax paid in another state; credit given.
- 77-2705. Sales and use tax; retailer; registration; permit; form; revocation; restoration; appeal; exempt sale certificate; violations; penalty; wrongful disclosure; online registration system.
- 77-2708. Sales and use tax; returns; date due; failure to file; penalty; deduction; amount; claim for refund; allowance; disallowance; proceedings; Tax Commissioner; duties regarding refund.
- 77-2711. Sales and use tax; Tax Commissioner; enforcement; records; retain; reports; wrongful disclosures; exceptions; information provided to municipality; penalty; waiver; streamlined sales and use tax agreement; confidentiality rights.
- 77-2712.05. Streamlined sales and use tax agreement; requirements.

(c) INCOME TAX

- 77-2715.07. Income tax credits.
- 77-2716. Income tax; adjustments.
- 77-2716.01. Personal exemptions; standard deduction; computation.
- 77-2717. Income tax; estates; trusts; rate; fiduciary return; contents; filing; state income tax; contents; credits.
- 77-2734.01. Small business corporation shareholders; limited liability company members; determination of income; credit; Tax Commissioner; powers; return; when required.
- 77-2734.03. Income tax; tax credits.
- 77-2761. Income tax; return; required by whom.
- 77-2773. Income tax; partnership; taxable year; return.
- 77-2776. Income tax; Tax Commissioner; return; examination; failure to file; notice; deficiency; notice.
- 77-27,119. Income tax; Tax Commissioner; administer and enforce sections; prescribe forms; content; examination of return or report; uniform school district numbering system; audit by Auditor of Public Accounts or office of Legislative Audit; wrongful disclosure; exception; penalty.

(g) LOCAL OPTION REVENUE ACT

- 77-27,144. Municipalities; sales and use tax; Tax Commissioner; collection; distribution; refunds; notice; deductions; qualifying business; duty to provide information.

(h) AIR AND WATER POLLUTION CONTROL TAX REFUND ACT

- 77-27,150. Refund; application; when; contents; hearing; approval.
- 77-27,151. Refund; notice to Tax Commissioner; Department of Environment and Energy; duties.
- 77-27,152. Refund; notice; modify or revoke; when; effect.
- 77-27,153. Appeal; procedure.
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§ 77-2701

REVENUE AND TAXATION

Section

(i) ECONOMIC FORECASTING

77-27,157. Board; membership; terms; officers; quorum; expenses.

(m) NEBRASKA ADVANTAGE RURAL DEVELOPMENT ACT

77-27,187.01. Terms, defined.

(t) BIODIESEL FACILITY INVESTMENT CREDIT

77-27,236. Biodiesel facility tax credit; conditions; facility; requirements; information not public record.

(w) ONLINE HOSTING PLATFORM

77-27,239. Online hosting platform; Tax Commissioner; agreement authorized; powers.

(a) ACT, RATES, AND DEFINITIONS

77-2701 Act, how cited.

Sections 77-2701 to 77-27,135.01, 77-27,222, 77-27,235, 77-27,236, 77-27,238, and 77-27,239 shall be known and may be cited as the Nebraska Revenue Act of 1967.

Source: Laws 1967, c. 487, § 1, p. 1533; Laws 1984, LB 1124, § 2; Laws 1985, LB 715, § 1; Laws 1985, LB 273, § 40; Laws 1987, LB 773, § 1; Laws 1987, LB 772, § 1; Laws 1987, LB 775, § 14; Laws 1987, LB 523, § 12; Laws 1989, LB 714, § 1; Laws 1989, LB 762, § 9; Laws 1991, LB 444, § 1; Laws 1991, LB 773, § 6; Laws 1991, LB 829, § 19; Laws 1992, LB 871, § 3; Laws 1992, LB 1063, § 180; Laws 1992, Second Spec. Sess., LB 1, § 153; Laws 1992, Fourth Spec. Sess., LB 1, § 22; Laws 1993, LB 138, § 69; Laws 1993, LB 240, § 1; Laws 1993, LB 345, § 14; Laws 1993, LB 587, § 20; Laws 1993, LB 815, § 22; Laws 1994, LB 901, § 1; Laws 1994, LB 938, § 1; Laws 1995, LB 430, § 2; Laws 1996, LB 106, § 2; Laws 1997, LB 182A, § 1; Laws 1998, LB 924, § 27; Laws 2001, LB 172, § 10; Laws 2001, LB 433, § 2; Laws 2002, LB 57, § 2; Laws 2002, LB 947, § 3; Laws 2003, LB 72, § 1; Laws 2003, LB 168, § 1; Laws 2003, LB 282, § 6; Laws 2003, LB 759, § 4; Laws 2004, LB 1017, § 2; Laws 2005, LB 28, § 1; Laws 2005, LB 312, § 6; Laws 2006, LB 872, § 1; Laws 2006, LB 968, § 3; Laws 2006, LB 1189, § 1; Laws 2007, LB223, § 3; Laws 2007, LB343, § 1; Laws 2007, LB367, § 9; Laws 2008, LB916, § 5; Laws 2009, LB9, § 2; Laws 2012, LB727, § 34; Laws 2012, LB830, § 1; Laws 2012, LB970, § 1; Laws 2012, LB1080, § 2; Laws 2014, LB96, § 1; Laws 2014, LB867, § 8; Laws 2015, LB3, § 1; Laws 2015, LB419, § 1; Laws 2016, LB774, § 2; Laws 2017, LB217, § 14; Laws 2019, LB57, § 2.

77-2701.04 Definitions, where found.

For purposes of sections 77-2701.04 to 77-2713 and 77-27,239, unless the context otherwise requires, the definitions found in sections 77-2701.05 to 77-2701.55 shall be used.

Source: Laws 1992, LB 871, § 4; Laws 1992, Fourth Spec. Sess., LB 1, § 23; Laws 1993, LB 345, § 15; Laws 1998, LB 924, § 28; R.S.Supp.,2002, § 77-2702.03; Laws 2003, LB 282, § 8; Laws

2003, LB 759, § 6; Laws 2004, LB 1017, § 3; Laws 2005, LB 312, § 7; Laws 2006, LB 968, § 4; Laws 2006, LB 1189, § 2; Laws 2007, LB223, § 4; Laws 2007, LB367, § 10; Laws 2008, LB916, § 6; Laws 2009, LB9, § 3; Laws 2012, LB727, § 35; Laws 2012, LB830, § 2; Laws 2012, LB1080, § 3; Laws 2014, LB96, § 2; Laws 2014, LB867, § 9; Laws 2015, LB419, § 2; Laws 2019, LB57, § 3.

77-2701.13 Engaged in business in this state, defined.

(1) Engaged in business in this state means conducting operations in this state that exceed the limitations of the commerce clause and due process clause of the United States Constitution and includes, but is not limited to, any of the following:

(a) Maintaining, occupying, or using, permanently or temporarily, directly or indirectly, or through a subsidiary or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse, storage place, or other place of business in this state;

(b) Having any representative, agent, salesperson, canvasser, facilitator, or solicitor operating in this state under the authority of the retailer or its subsidiary for the purpose of selling, delivering, or taking orders for any property;

(c) Deriving rentals from a lease of property in this state by any retailer;

(d) Soliciting retail sales of property from residents of this state on a continuous, regular, or systematic basis by means of advertising which is broadcast into this state or installed onto an electronic device located in this state;

(e) Soliciting or facilitating orders from or sales to residents of this state if the activities are continuous, regular, seasonal, or systematic or if the retailer benefits from any activities occurring in this state or benefits from the location in this state of authorized installation, servicing, or repair facilities;

(f) Being owned or controlled by the same interests which own or control any retailer engaged in business in this state; or

(g) Maintaining or having a franchisee or licensee operating under the retailer's trade name in this state if the franchisee or licensee is required to collect the tax under the Nebraska Revenue Act of 1967.

(2) A retailer who lacks a physical presence in this state and who operates a web site or other digital medium or media to execute sales to purchasers of property subject to sales or use taxes in this state, or who uses a multivendor marketplace platform that acts as an intermediary by facilitating sales between a seller and the purchaser of property subject to sales or use taxes in this state, shall be deemed to be engaged in business in this state if:

(a) Such retailer made total retail sales of property in this state that exceeded one hundred thousand dollars in the previous or current calendar year; or

(b) Such retailer made retail sales in this state in two hundred or more separate transactions in the previous or current calendar year.

(3) A multivendor marketplace platform that acts as an intermediary by facilitating sales between a seller and the purchaser of property subject to sales

or use taxes in this state shall be deemed to be engaged in business in this state if:

(a) The multivendor marketplace platform made or facilitated total retail sales of property in this state that exceeded one hundred thousand dollars in the previous or current calendar year; or

(b) The multivendor marketplace platform made or facilitated retail sales in this state in two hundred or more separate transactions in the previous or current calendar year.

Source: Laws 1992, LB 871, § 7; Laws 1993, LB 345, § 17; R.S.1943, (1996), § 77-2702.06; Laws 2003, LB 282, § 17; Laws 2019, LB284, § 1.

77-2701.16 Gross receipts, defined.

(1) Gross receipts means the total amount of the sale or lease or rental price, as the case may be, of the retail sales of retailers.

(2) Gross receipts of every person engaged as a public utility specified in this subsection, as a community antenna television service operator, or as a satellite service operator or any person involved in connecting and installing services defined in subdivision (2)(a), (b), or (d) of this section means:

(a)(i) In the furnishing of telephone communication service, other than mobile telecommunications service as described in section 77-2703.04, the gross income received from furnishing ancillary services, except for conference bridging services, and intrastate telecommunications services, except for value-added, nonvoice data service.

(ii) In the furnishing of mobile telecommunications service as described in section 77-2703.04, the gross income received from furnishing mobile telecommunications service that originates and terminates in the same state to a customer with a place of primary use in Nebraska;

(b) In the furnishing of telegraph service, the gross income received from the furnishing of intrastate telegraph services;

(c)(i) In the furnishing of gas, sewer, water, and electricity service, other than electricity service to a customer-generator as defined in section 70-2002, the gross income received from the furnishing of such services upon billings or statements rendered to consumers for such utility services.

(ii) In the furnishing of electricity service to a customer-generator as defined in section 70-2002, the net energy use upon billings or statements rendered to customer-generators for such electricity service;

(d) In the furnishing of community antenna television service or satellite service, the gross income received from the furnishing of such community antenna television service as regulated under sections 18-2201 to 18-2205 or 23-383 to 23-388 or satellite service; and

(e) The gross income received from the provision, installation, construction, servicing, or removal of property used in conjunction with the furnishing, installing, or connecting of any public utility services specified in subdivision (2)(a) or (b) of this section or community antenna television service or satellite service specified in subdivision (2)(d) of this section, except when acting as a subcontractor for a public utility, this subdivision does not apply to the gross income received by a contractor electing to be treated as a consumer of

building materials under subdivision (2) or (3) of section 77-2701.10 for any such services performed on the customer's side of the utility demarcation point. This subdivision also does not apply to the gross income received by a political subdivision of the state, an electric cooperative, or an electric membership association for the lease or use of, or by a contractor for the construction of or services provided on, electric generation, transmission, distribution, or street lighting structures or facilities owned by a political subdivision of the state, an electric cooperative, or an electric membership association.

(3) Gross receipts of every person engaged in selling, leasing, or otherwise providing intellectual or entertainment property means:

(a) In the furnishing of computer software, the gross income received, including the charges for coding, punching, or otherwise producing any computer software and the charges for the tapes, disks, punched cards, or other properties furnished by the seller; and

(b) In the furnishing of videotapes, movie film, satellite programming, satellite programming service, and satellite television signal descrambling or decoding devices, the gross income received from the license, franchise, or other method establishing the charge.

(4) Gross receipts for providing a service means:

(a) The gross income received for building cleaning and maintenance, pest control, and security;

(b) The gross income received for motor vehicle washing, waxing, towing, and painting;

(c) The gross income received for computer software training;

(d) The gross income received for installing and applying tangible personal property if the sale of the property is subject to tax. If any or all of the charge for installation is free to the customer and is paid by a third-party service provider to the installer, any tax due on that part of the activation commission, finder's fee, installation charge, or similar payment made by the third-party service provider shall be paid and remitted by the third-party service provider;

(e) The gross income received for services of recreational vehicle parks;

(f) The gross income received for labor for repair or maintenance services performed with regard to tangible personal property the sale of which would be subject to sales and use taxes, excluding motor vehicles, except as otherwise provided in section 77-2704.26 or 77-2704.50;

(g) The gross income received for animal specialty services except (i) veterinary services, (ii) specialty services performed on livestock as defined in section 54-183, and (iii) animal grooming performed by a licensed veterinarian or a licensed veterinary technician in conjunction with medical treatment; and

(h) The gross income received for detective services.

(5) Gross receipts includes the sale of admissions. When an admission to an activity or a membership constituting an admission is combined with the solicitation of a contribution, the portion or the amount charged representing the fair market price of the admission shall be considered a retail sale subject to the tax imposed by section 77-2703. The organization conducting the activity shall determine the amount properly attributable to the purchase of the privilege, benefit, or other consideration in advance, and such amount shall be

clearly indicated on any ticket, receipt, or other evidence issued in connection with the payment.

(6) Gross receipts includes the sale of live plants incorporated into real estate except when such incorporation is incidental to the transfer of an improvement upon real estate or the real estate.

(7) Gross receipts includes the sale of any building materials annexed to real estate by a person electing to be taxed as a retailer pursuant to subdivision (1) of section 77-2701.10.

(8) Gross receipts includes the sale of and recharge of prepaid calling service and prepaid wireless calling service.

(9) Gross receipts includes the retail sale of digital audio works, digital audiovisual works, digital codes, and digital books delivered electronically if the products are taxable when delivered on tangible storage media. A sale includes the transfer of a permanent right of use, the transfer of a right of use that terminates on some condition, and the transfer of a right of use conditioned upon the receipt of continued payments.

(10) Gross receipts includes any receipts from sales of tangible personal property made over a multivendor marketplace platform that acts as the intermediary by facilitating sales between a seller and the purchaser and that, either directly or indirectly through agreements or arrangements with third parties, collects payment from the purchaser and transmits payment to the seller.

(11) Gross receipts does not include:

(a) The amount of any rebate granted by a motor vehicle or motorboat manufacturer or dealer at the time of sale of the motor vehicle or motorboat, which rebate functions as a discount from the sales price of the motor vehicle or motorboat; or

(b) The price of property or services returned or rejected by customers when the full sales price is refunded either in cash or credit.

Source: Laws 1992, LB 871, § 8; Laws 1993, LB 345, § 18; Laws 1994, LB 123, § 21; Laws 1994, LB 901, § 2; Laws 1994, LB 977, § 1; Laws 1994, LB 1087, § 1; Laws 1996, LB 106, § 3; Laws 1999, LB 214, § 1; Laws 2002, LB 947, § 4; Laws 2002, LB 1085, § 3; R.S.Supp.,2002, § 77-2702.07; Laws 2003, LB 282, § 20; Laws 2003, LB 759, § 8; Laws 2004, LB 1017, § 7; Laws 2005, LB 216, § 4; Laws 2005, LB 753, § 1; Laws 2007, LB367, § 13; Laws 2008, LB916, § 7; Laws 2009, LB165, § 5; Laws 2009, LB 587, § 1; Laws 2012, LB727, § 38; Laws 2013, LB90, § 1; Laws 2019, LB218, § 3; Laws 2019, LB284, § 2; Laws 2020, LB923, § 1.
Operative date October 1, 2020.

77-2701.32 Retailer, defined.

(1) Retailer means any seller.

(2) To facilitate the proper administration of the Nebraska Revenue Act of 1967, the following persons have the duties and responsibilities of sellers for the purposes of sales and use taxes:

(a) Any person in the business of making sales subject to tax under section 77-2703 at auction of property owned by the person or others;

(b) Any person collecting the proceeds of the auction, other than the owner of the property, together with his or her principal, if any, when the person collecting the proceeds of the auction is not the auctioneer or an agent or employee of the auctioneer. The seller does not include the auctioneer in such case;

(c) Every person who has elected to be considered a retailer pursuant to subdivision (1) of section 77-2701.10;

(d) Every person operating, organizing, or promoting a flea market, craft show, fair, or similar event;

(e) Every person engaged in the business of providing any service defined in subsection (4) of section 77-2701.16; and

(f) Every person operating a multivendor marketplace platform that (i) acts as the intermediary by facilitating sales between a seller and the purchaser or that engages directly or indirectly through one or more affiliated persons in transmitting or otherwise communicating the offer or acceptance between the seller and purchaser and (ii) either directly or indirectly through agreements or arrangements with third parties, collects payment from the purchaser and transmits payment to the seller.

(3) For the proper administration of the Nebraska Revenue Act of 1967, the following persons do not have the duties and responsibilities of a seller for purposes of sales and use taxes:

(a) Any person who leases or rents films when an admission tax is charged under the Nebraska Revenue Act of 1967;

(b) Any person who leases or rents railroad rolling stock interchanged pursuant to the provisions of the federal Interstate Commerce Act;

(c) Any person engaged in the business of furnishing rooms in a facility licensed under the Health Care Facility Licensure Act in which rooms, lodgings, or accommodations are regularly furnished for a consideration or a facility operated by an educational institution established under Chapter 79 or Chapter 85 in which rooms are regularly used to house students for a consideration for periods in excess of thirty days;

(d) Any person making sales at a flea market, craft show, fair, or similar event when such person does not have a sales tax permit and has arranged to pay sales taxes collected to the person operating, organizing, or promoting such event; or

(e) Any payment processor appointed by a retailer whose sole activity with regard to a sale or lease transaction is to process the payment made from the customer to the retailer.

Source: Laws 1992, LB 871, § 15; Laws 1993, LB 345, § 23; Laws 2000, LB 819, § 149; Laws 2002, LB 1085, § 7; R.S.Supp.,2002, § 77-2702.14; Laws 2003, LB 282, § 36; Laws 2003, LB 759, § 10; Laws 2008, LB916, § 8; Laws 2019, LB284, § 3.

Cross References

Health Care Facility Licensure Act, see section 71-401.

(b) SALES AND USE TAX

77-2703 Sales and use tax; rate; collection; collection fee; understatement; prohibited acts; violation; penalty; interest.

(1) There is hereby imposed a tax at the rate provided in section 77-2701.02 upon the gross receipts from all sales of tangible personal property sold at retail in this state; the gross receipts of every person engaged as a public utility, as a community antenna television service operator, or as a satellite service operator, any person involved in the connecting and installing of the services defined in subdivision (2)(a), (b), (d), or (e) of section 77-2701.16, or every person engaged as a retailer of intellectual or entertainment properties referred to in subsection (3) of section 77-2701.16; the gross receipts from the sale of admissions in this state; the gross receipts from the sale of warranties, guarantees, service agreements, or maintenance agreements when the items covered are subject to tax under this section; beginning January 1, 2008, the gross receipts from the sale of bundled transactions when one or more of the products included in the bundle are taxable; the gross receipts from the provision of services defined in subsection (4) of section 77-2701.16; and the gross receipts from the sale of products delivered electronically as described in subsection (9) of section 77-2701.16. Except as provided in section 77-2701.03, when there is a sale, the tax shall be imposed at the rate in effect at the time the gross receipts are realized under the accounting basis used by the retailer to maintain his or her books and records.

(a) The tax imposed by this section shall be collected by the retailer from the consumer. It shall constitute a part of the purchase price and until collected shall be a debt from the consumer to the retailer and shall be recoverable at law in the same manner as other debts. The tax required to be collected by the retailer from the consumer constitutes a debt owed by the retailer to this state.

(b) It is unlawful for any retailer to advertise, hold out, or state to the public or to any customer, directly or indirectly, that the tax or part thereof will be assumed or absorbed by the retailer, that it will not be added to the selling, renting, or leasing price of the property sold, rented, or leased, or that, if added, it or any part thereof will be refunded. The provisions of this subdivision shall not apply to a public utility.

(c) The tax required to be collected by the retailer from the purchaser, unless otherwise provided by statute or by rule and regulation of the Tax Commissioner, shall be displayed separately from the list price, the price advertised in the premises, the marked price, or other price on the sales check or other proof of sales, rentals, or leases.

(d) For the purpose of more efficiently securing the payment, collection, and accounting for the sales tax and for the convenience of the retailer in collecting the sales tax, it shall be the duty of the Tax Commissioner to provide a schedule or schedules of the amounts to be collected from the consumer or user to effectuate the computation and collection of the tax imposed by the Nebraska Revenue Act of 1967. Such schedule or schedules shall provide that the tax shall be collected from the consumer or user uniformly on sales according to brackets based on sales prices of the item or items. Retailers may compute the tax due on any transaction on an item or an invoice basis. The rounding rule provided in section 77-3,117 applies.

(e) The use of tokens or stamps for the purpose of collecting or enforcing the collection of the taxes imposed in the Nebraska Revenue Act of 1967 or for any other purpose in connection with such taxes is prohibited.

(f) For the purpose of the proper administration of the provisions of the Nebraska Revenue Act of 1967 and to prevent evasion of the retail sales tax, it

shall be presumed that all gross receipts are subject to the tax until the contrary is established. The burden of proving that a sale of property is not a sale at retail is upon the person who makes the sale unless he or she takes from the purchaser (i) a resale certificate to the effect that the property is purchased for the purpose of reselling, leasing, or renting it, (ii) an exemption certificate pursuant to subsection (7) of section 77-2705, or (iii) a direct payment permit pursuant to sections 77-2705.01 to 77-2705.03. Receipt of a resale certificate, exemption certificate, or direct payment permit shall be conclusive proof for the seller that the sale was made for resale or was exempt or that the tax will be paid directly to the state.

(g) In the rental or lease of automobiles, trucks, trailers, semitrailers, and truck-tractors as defined in the Motor Vehicle Registration Act, the tax shall be collected by the lessor on the rental or lease price, except as otherwise provided within this section.

(h) In the rental or lease of automobiles, trucks, trailers, semitrailers, and truck-tractors as defined in the act, for periods of one year or more, the lessor may elect not to collect and remit the sales tax on the gross receipts and instead pay a sales tax on the cost of such vehicle. If such election is made, it shall be made pursuant to the following conditions:

(i) Notice of the desire to make such election shall be filed with the Tax Commissioner and shall not become effective until the Tax Commissioner is satisfied that the taxpayer has complied with all conditions of this subsection and all rules and regulations of the Tax Commissioner;

(ii) Such election when made shall continue in force and effect for a period of not less than two years and thereafter until such time as the lessor elects to terminate the election;

(iii) When such election is made, it shall apply to all vehicles of the lessor rented or leased for periods of one year or more except vehicles to be leased to common or contract carriers who provide to the lessor a valid common or contract carrier exemption certificate. If the lessor rents or leases other vehicles for periods of less than one year, such lessor shall maintain his or her books and records and his or her accounting procedure as the Tax Commissioner prescribes; and

(iv) The Tax Commissioner by rule and regulation shall prescribe the contents and form of the notice of election, a procedure for the determination of the tax base of vehicles which are under an existing lease at the time such election becomes effective, the method and manner for terminating such election, and such other rules and regulations as may be necessary for the proper administration of this subdivision.

(i) The tax imposed by this section on the sales of motor vehicles, semitrailers, and trailers as defined in sections 60-339, 60-348, and 60-354 shall be the liability of the purchaser and, with the exception of motor vehicles, semitrailers, and trailers registered pursuant to section 60-3,198, the tax shall be collected by the county treasurer as provided in the Motor Vehicle Registration Act or by an approved licensed dealer participating in the electronic dealer services system pursuant to section 60-1507 at the time the purchaser makes application for the registration of the motor vehicle, semitrailer, or trailer for operation upon the highways of this state. The tax imposed by this section on motor vehicles, semitrailers, and trailers registered pursuant to section 60-3,198 shall be collected by the Department of Motor Vehicles at the time the purchaser

makes application for the registration of the motor vehicle, semitrailer, or trailer for operation upon the highways of this state. At the time of the sale of any motor vehicle, semitrailer, or trailer, the seller shall (i) state on the sales invoice the dollar amount of the tax imposed under this section and (ii) furnish to the purchaser a certified statement of the transaction, in such form as the Tax Commissioner prescribes, setting forth as a minimum the total sales price, the allowance for any trade-in, and the difference between the two. The sales tax due shall be computed on the difference between the total sales price and the allowance for any trade-in as disclosed by such certified statement. Any seller who willfully understates the amount upon which the sales tax is due shall be subject to a penalty of one thousand dollars. A copy of such certified statement shall also be furnished to the Tax Commissioner. Any seller who fails or refuses to furnish such certified statement shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars. If the purchaser does not register such motor vehicle, semitrailer, or trailer for operation on the highways of this state within thirty days of the purchase thereof, the tax imposed by this section shall immediately thereafter be paid by the purchaser to the county treasurer or the Department of Motor Vehicles. If the tax is not paid on or before the thirtieth day after its purchase, the county treasurer or Department of Motor Vehicles shall also collect from the purchaser interest from the thirtieth day through the date of payment and sales tax penalties as provided in the Nebraska Revenue Act of 1967. The county treasurer or Department of Motor Vehicles shall report and remit the tax so collected to the Tax Commissioner by the fifteenth day of the following month. The county treasurer, for his or her collection fee, shall deduct and withhold, from all amounts required to be collected under this subsection, the collection fee permitted to be deducted by any retailer collecting the sales tax, all of which shall be deposited in the county general fund, plus an additional amount equal to one-half of one percent of all amounts in excess of six thousand dollars remitted each month. Prior to January 1, 2023, fifty percent of such additional amount shall be deposited in the county general fund and fifty percent of such additional amount shall be deposited in the county road fund. On and after January 1, 2023, seventy-five percent of such additional amount shall be deposited in the county general fund and twenty-five percent of such additional amount shall be deposited in the county road fund. In any county with a population of one hundred fifty thousand inhabitants or more, the county treasurer shall remit one dollar of his or her collection fee for each of the first five thousand motor vehicles, semitrailers, or trailers registered with such county treasurer on or after January 1, 2020, to the State Treasurer for credit to the Department of Revenue Enforcement Fund. The Department of Motor Vehicles, for its collection fee, shall deduct, withhold, and deposit in the Motor Carrier Division Cash Fund the collection fee permitted to be deducted by any retailer collecting the sales tax. The collection fee for the county treasurer or the Department of Motor Vehicles shall be forfeited if the county treasurer or department violates any rule or regulation pertaining to the collection of the use tax.

(j)(i) The tax imposed by this section on the sale of a motorboat as defined in section 37-1204 shall be the liability of the purchaser. The tax shall be collected by the county treasurer at the time the purchaser makes application for the registration of the motorboat. At the time of the sale of a motorboat, the seller

shall (A) state on the sales invoice the dollar amount of the tax imposed under this section and (B) furnish to the purchaser a certified statement of the transaction, in such form as the Tax Commissioner prescribes, setting forth as a minimum the total sales price, the allowance for any trade-in, and the difference between the two. The sales tax due shall be computed on the difference between the total sales price and the allowance for any trade-in as disclosed by such certified statement. Any seller who willfully understates the amount upon which the sales tax is due shall be subject to a penalty of one thousand dollars. A copy of such certified statement shall also be furnished to the Tax Commissioner. Any seller who fails or refuses to furnish such certified statement shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars. If the purchaser does not register such motorboat within thirty days of the purchase thereof, the tax imposed by this section shall immediately thereafter be paid by the purchaser to the county treasurer. If the tax is not paid on or before the thirtieth day after its purchase, the county treasurer shall also collect from the purchaser interest from the thirtieth day through the date of payment and sales tax penalties as provided in the Nebraska Revenue Act of 1967. The county treasurer shall report and remit the tax so collected to the Tax Commissioner by the fifteenth day of the following month. The county treasurer, for his or her collection fee, shall deduct and withhold for the use of the county general fund, from all amounts required to be collected under this subsection, the collection fee permitted to be deducted by any retailer collecting the sales tax. The collection fee shall be forfeited if the county treasurer violates any rule or regulation pertaining to the collection of the use tax.

(ii) In the rental or lease of motorboats, the tax shall be collected by the lessor on the rental or lease price.

(k)(i) The tax imposed by this section on the sale of an all-terrain vehicle as defined in section 60-103 or a utility-type vehicle as defined in section 60-135.01 shall be the liability of the purchaser. The tax shall be collected by the county treasurer or by an approved licensed dealer participating in the electronic dealer services system pursuant to section 60-1507 at the time the purchaser makes application for the certificate of title for the all-terrain vehicle or utility-type vehicle. At the time of the sale of an all-terrain vehicle or a utility-type vehicle, the seller shall (A) state on the sales invoice the dollar amount of the tax imposed under this section and (B) furnish to the purchaser a certified statement of the transaction, in such form as the Tax Commissioner prescribes, setting forth as a minimum the total sales price, the allowance for any trade-in, and the difference between the two. The sales tax due shall be computed on the difference between the total sales price and the allowance for any trade-in as disclosed by such certified statement. Any seller who willfully understates the amount upon which the sales tax is due shall be subject to a penalty of one thousand dollars. A copy of such certified statement shall also be furnished to the Tax Commissioner. Any seller who fails or refuses to furnish such certified statement shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars. If the purchaser does not obtain a certificate of title for such all-terrain vehicle or utility-type vehicle within thirty days of the purchase thereof, the tax imposed by this section shall immediately thereafter be paid by the purchaser to the county treasurer. If the tax is not paid on or before the thirtieth day after its purchase, the county treasurer shall also collect from the

purchaser interest from the thirtieth day through the date of payment and sales tax penalties as provided in the Nebraska Revenue Act of 1967. The county treasurer shall report and remit the tax so collected to the Tax Commissioner by the fifteenth day of the following month. The county treasurer, for his or her collection fee, shall deduct and withhold for the use of the county general fund, from all amounts required to be collected under this subsection, the collection fee permitted to be deducted by any retailer collecting the sales tax. The collection fee shall be forfeited if the county treasurer violates any rule or regulation pertaining to the collection of the use tax.

(ii) In the rental or lease of an all-terrain vehicle or a utility-type vehicle, the tax shall be collected by the lessor on the rental or lease price.

(iii) County treasurers are appointed as sales and use tax collectors for all sales of all-terrain vehicles or utility-type vehicles made outside of this state to purchasers or users of all-terrain vehicles or utility-type vehicles which are required to have a certificate of title in this state. The county treasurer shall collect the applicable use tax from the purchaser of an all-terrain vehicle or a utility-type vehicle purchased outside of this state at the time application for a certificate of title is made. The full use tax on the purchase price shall be collected by the county treasurer if a sales or occupation tax was not paid by the purchaser in the state of purchase. If a sales or occupation tax was lawfully paid in the state of purchase at a rate less than the tax imposed in this state, use tax must be collected on the difference as a condition for obtaining a certificate of title in this state.

(l) The Tax Commissioner shall adopt and promulgate necessary rules and regulations for determining the amount subject to the taxes imposed by this section so as to insure that the full amount of any applicable tax is paid in cases in which a sale is made of which a part is subject to the taxes imposed by this section and a part of which is not so subject and a separate accounting is not practical or economical.

(2) A use tax is hereby imposed on the storage, use, or other consumption in this state of property purchased, leased, or rented from any retailer and on any transaction the gross receipts of which are subject to tax under subsection (1) of this section on or after June 1, 1967, for storage, use, or other consumption in this state at the rate set as provided in subsection (1) of this section on the sales price of the property or, in the case of leases or rentals, of the lease or rental prices.

(a) Every person storing, using, or otherwise consuming in this state property purchased from a retailer or leased or rented from another person for such purpose shall be liable for the use tax at the rate in effect when his or her liability for the use tax becomes certain under the accounting basis used to maintain his or her books and records. His or her liability shall not be extinguished until the use tax has been paid to this state, except that a receipt from a retailer engaged in business in this state or from a retailer who is authorized by the Tax Commissioner, under such rules and regulations as he or she may prescribe, to collect the sales tax and who is, for the purposes of the Nebraska Revenue Act of 1967 relating to the sales tax, regarded as a retailer engaged in business in this state, which receipt is given to the purchaser pursuant to subdivision (b) of this subsection, shall be sufficient to relieve the purchaser from further liability for the tax to which the receipt refers.

(b) Every retailer engaged in business in this state and selling, leasing, or renting property for storage, use, or other consumption in this state shall, at the time of making any sale, collect any tax which may be due from the purchaser and shall give to the purchaser, upon request, a receipt therefor in the manner and form prescribed by the Tax Commissioner.

(c) The Tax Commissioner, in order to facilitate the proper administration of the use tax, may designate such person or persons as he or she may deem necessary to be use tax collectors and delegate to such persons such authority as is necessary to collect any use tax which is due and payable to the State of Nebraska. The Tax Commissioner may require of all persons so designated a surety bond in favor of the State of Nebraska to insure against any misappropriation of state funds so collected. The Tax Commissioner may require any tax official, city, county, or state, to collect the use tax on behalf of the state. All persons designated to or required to collect the use tax shall account for such collections in the manner prescribed by the Tax Commissioner. Nothing in this subdivision shall be so construed as to prevent the Tax Commissioner or his or her employees from collecting any use taxes due and payable to the State of Nebraska.

(d) All persons designated to collect the use tax and all persons required to collect the use tax shall forward the total of such collections to the Tax Commissioner at such time and in such manner as the Tax Commissioner may prescribe. For all use taxes collected prior to October 1, 2002, such collectors of the use tax shall deduct and withhold from the amount of taxes collected two and one-half percent of the first three thousand dollars remitted each month and one-half of one percent of all amounts in excess of three thousand dollars remitted each month as reimbursement for the cost of collecting the tax. For use taxes collected on and after October 1, 2002, such collectors of the use tax shall deduct and withhold from the amount of taxes collected two and one-half percent of the first three thousand dollars remitted each month as reimbursement for the cost of collecting the tax. Any such deduction shall be forfeited to the State of Nebraska if such collector violates any rule, regulation, or directive of the Tax Commissioner.

(e) For the purpose of the proper administration of the Nebraska Revenue Act of 1967 and to prevent evasion of the use tax, it shall be presumed that property sold, leased, or rented by any person for delivery in this state is sold, leased, or rented for storage, use, or other consumption in this state until the contrary is established. The burden of proving the contrary is upon the person who purchases, leases, or rents the property.

(f) For the purpose of the proper administration of the Nebraska Revenue Act of 1967 and to prevent evasion of the use tax, for the sale of property to an advertising agency which purchases the property as an agent for a disclosed or undisclosed principal, the advertising agency is and remains liable for the sales and use tax on the purchase the same as if the principal had made the purchase directly.

Source: Laws 1967, c. 487, § 3, p. 1543; Laws 1967, c. 490, § 2, p. 1652; Laws 1969, c. 684, § 1, p. 2646; Laws 1969, c. 683, § 2, p. 2621; Laws 1974, LB 820, § 2; Laws 1981, LB 179, § 14; Laws 1983, LB 17, § 2; Laws 1983, LB 169, § 1; Laws 1983, LB 571, § 1; Laws 1985, LB 715, § 3; Laws 1985, LB 273, § 42; Laws 1986, LB 1027, § 204; Laws 1987, LB 224, § 28; Laws 1987, LB 523,

§ 14; Laws 1991, LB 239, § 1; Laws 1991, LB 47, § 7; Laws 1991, LB 829, § 21; Laws 1992, LB 871, § 25; Laws 1992, LB 1063, § 182; Laws 1992, Second Spec. Sess., LB 1, § 155; Laws 1992, Fourth Spec. Sess., LB 1, § 26; Laws 1993, LB 112, § 45; Laws 1993, LB 345, § 33; Laws 1993, LB 767, § 1; Laws 1994, LB 123, § 24; Laws 1994, LB 994, § 1; Laws 1994, LB 1207, § 15; Laws 1995, LB 17, § 1; Laws 1996, LB 1041, § 6; Laws 1996, LB 1218, § 65; Laws 1997, LB 62, § 1; Laws 1997, LB 182A, § 3; Laws 2002, LB 1085, § 11; Laws 2002, Second Spec. Sess., LB 32, § 1; Laws 2003, LB 282, § 48; Laws 2003, LB 381, § 3; Laws 2003, LB 563, § 43; Laws 2003, LB 759, § 12; Laws 2004, LB 1017, § 10; Laws 2005, LB 274, § 274; Laws 2007, LB223, § 7; Laws 2007, LB367, § 15; Laws 2008, LB916, § 15; Laws 2011, LB211, § 3; Laws 2012, LB801, § 98; Laws 2014, LB814, § 9; Laws 2017, LB263, § 98; Laws 2019, LB237, § 1.

Cross References

Motor Vehicle Registration Act, see section 60-301.

77-2703.01 General sourcing rules.

(1) The determination of whether a sale or use of property or the provision of services is in this state, in a municipality that has adopted a tax under the Local Option Revenue Act, or in a county that has adopted a tax under section 13-319 or 77-6403 shall be governed by the sourcing rules in sections 77-2703.01 to 77-2703.04.

(2) When the property or service is received by the purchaser at a business location of the retailer, the sale is sourced to that business location.

(3) When the property or service is not received by the purchaser at a business location of the retailer, the sale is sourced to the location where receipt by the purchaser or the purchaser's donee, designated as such by the purchaser, occurs, including the location indicated by instructions for delivery to the purchaser or donee, known to the retailer.

(4) When subsection (2) or (3) of this section does not apply, the sale is sourced to the location indicated by an address or other information for the purchaser that is available from the business records of the retailer that are maintained in the ordinary course of the retailer's business when use of this address does not constitute bad faith.

(5) When subsection (2), (3), or (4) of this section does not apply, the sale is sourced to the location indicated by an address for the purchaser obtained during the consummation of the sale, including the address of a purchaser's payment instrument, if no other address is available, when use of this address does not constitute bad faith.

(6) When subsection (2), (3), (4), or (5) of this section does not apply, including the circumstance in which the retailer is without sufficient information to apply the rules in any such subsection, then the location will be determined by the address from which property was shipped, from which the digital good was first available for transmission by the retailer, or from which the service was provided disregarding for these purposes any location that merely provided the digital transfer of the product sold.

(7) The lease or rental of tangible personal property, other than property identified in subsection (8) or (9) of this section, shall be sourced as follows:

(a) For a lease or rental that requires recurring periodic payments, the first periodic payment is sourced the same as a retail sale in accordance with the provisions of subsections (2) through (6) of this section. Periodic payments made subsequent to the first payment are sourced to the primary property location for each period covered by the payment. The primary property location shall be as indicated by an address for the property provided by the lessee that is available to the lessor from its records maintained in the ordinary course of business when use of this address does not constitute bad faith. The property location shall not be altered by intermittent use at different locations, such as use of business property that accompanies employees on business trips and service calls; and

(b) For a lease or rental that does not require recurring periodic payments, the payment is sourced the same as a retail sale in accordance with the provisions of subsections (2) through (6) of this section.

This subsection does not affect the imposition or computation of sales or use tax on leases or rentals based on a lump-sum or accelerated basis or on the acquisition of property for lease.

(8) The lease or rental of motor vehicles, trailers, semitrailers, or aircraft that do not qualify as transportation equipment under subsection (9) of this section shall be sourced as follows:

(a) For a lease or rental that requires recurring periodic payments, each periodic payment is sourced to the primary property location. The primary property location shall be as indicated by an address for the property provided by the lessee that is available to the lessor from its records maintained in the ordinary course of business when use of this address does not constitute bad faith. This location shall not be altered by intermittent use at different locations; and

(b) For a lease or rental that does not require recurring periodic payments, the payment is sourced the same as a retail sale in accordance with the provisions of subsections (2) through (6) of this section.

This subsection does not affect the imposition or computation of sales or use tax on leases or rentals based on a lump-sum or accelerated basis or on the acquisition of property for lease.

(9) The retail sale, including lease or rental, of transportation equipment shall be sourced the same as a retail sale in accordance with subsections (2) through (6) of this section. Transportation equipment means any of the following:

(a) Locomotives and railcars that are utilized for the carriage of persons or property in interstate commerce;

(b) Trucks and truck-tractors with a gross vehicle weight rating of ten thousand one pounds or greater, trailers, semitrailers, or passenger buses that are (i) registered through the International Registration Plan and (ii) operated under authority of a carrier authorized and certificated by the United States Department of Transportation or another federal authority to engage in the carriage of persons or property in interstate commerce;

(c) Aircraft operated by air carriers authorized and certificated by the United States Department of Transportation or another federal authority or a foreign

authority to engage in the carriage of persons or property in interstate or foreign commerce; and

(d) Containers designed for use on and component parts attached or secured on the items set forth in subdivisions (9)(a) through (c) of this section.

(10) For purposes of this section, receive and receipt mean taking possession of tangible personal property, making first use of services, or taking possession or making first use of digital goods, whichever comes first. The terms receive and receipt do not include possession by a shipping company on behalf of the purchaser. For purposes of sourcing detective services subject to tax under subdivision (4)(h) of section 77-2701.16, making first use of a service shall be deemed to be at the individual's residence, in the case of a customer who is an individual, or at the principal place of business, in the case of a business customer.

(11) The sale, not including lease or rental, of a motor vehicle, semitrailer, or trailer as defined in the Motor Vehicle Registration Act shall be sourced to the place of registration of the motor vehicle, semitrailer, or trailer for operation upon the highways of this state or, if no such registration has occurred, the place where such motor vehicle, semitrailer, or trailer is required to be registered, except that beginning January 1, 2021, the sale of any motor vehicle or trailer operated by a public power district and registered under section 60-3,228 shall be sourced to the place where the motor vehicle or trailer has situs as defined in section 60-349.

(12) The sale or lease for one year or more of motorboats shall be sourced to the place of registration of the motorboat. The lease of motorboats for less than one year shall be sourced to the point of delivery.

Source: Laws 2003, LB 282, § 49; Laws 2003, LB 759, § 13; Laws 2004, LB 1017, § 11; Laws 2005, LB 274, § 275; Laws 2007, LB367, § 16; Laws 2008, LB916, § 16; Laws 2014, LB851, § 11; Laws 2018, LB1030, § 2; Laws 2019, LB472, § 10.

Cross References

Local Option Revenue Act, see section 77-27,148.

Motor Vehicle Registration Act, see section 60-301.

77-2703.04 Telecommunications sourcing rule.

(1) Except for the telecommunications service defined in subsection (3) of this section, the sale of telecommunications service sold on a call-by-call basis shall be sourced to (a) each level of taxing jurisdiction where the call originates and terminates in that jurisdiction or (b) each level of taxing jurisdiction where the call either originates or terminates and in which the service address is also located.

(2) Except for the telecommunications service defined in subsection (3) of this section, a sale of telecommunications service sold on a basis other than a call-by-call basis and ancillary services are sourced to the customer's place of primary use.

(3)(a) For mobile telecommunications service and ancillary services provided and billed to a customer by a home service provider:

(i) Notwithstanding any other provision of law or any local ordinance or resolution, such mobile telecommunications service is deemed to be provided by the customer's home service provider;

(ii) All taxable charges for such mobile telecommunications service and ancillary services shall be subject to tax by the state or other taxing jurisdiction in this state whose territorial limits encompass the customer's place of primary use regardless of where the mobile telecommunications service originates, terminates, or passes through; and

(iii) No taxes, charges, or fees may be imposed on a customer with a place of primary use outside this state.

(b) In accordance with the federal Mobile Telecommunications Sourcing Act, as such act existed on July 20, 2002, the Tax Commissioner may, but is not required to:

(i) Provide or contract for a tax assignment data base based upon standards identified in 4 U.S.C. 119, as such section existed on July 20, 2002, with the following conditions:

(A) If such data base is provided, a home service provider shall be held harmless for any tax that otherwise would result from any errors or omissions attributable to reliance on such data base; or

(B) If such data base is not provided, a home service provider may rely on an enhanced zip code for identifying the proper taxing jurisdictions and shall be held harmless for any tax that otherwise would result from any errors or omissions attributable to reliance on such enhanced zip code if the home service provider identified the taxing jurisdiction through the exercise of due diligence and complied with any procedures that may be adopted by the Tax Commissioner. Any such procedure shall be in accordance with 4 U.S.C. 120, as such section existed on July 20, 2002; and

(ii) Adopt procedures for correcting errors in the assignment of primary use that are consistent with 4 U.S.C. 121, as such section existed on July 20, 2002.

(c) If charges for mobile telecommunications service that are not subject to tax are aggregated with and not separately stated on the bill from charges that are subject to tax, the total charge to the customer shall be subject to tax unless the home service provider can reasonably separate charges not subject to tax using the records of the home service provider that are kept in the regular course of business.

(d) For purposes of this subsection:

(i) Customer means an individual, business, organization, or other person contracting to receive mobile telecommunications service from a home service provider. Customer does not include a reseller of mobile telecommunications service or a serving carrier under an arrangement to serve the customer outside the home service provider's service area;

(ii) Home service provider means a telecommunications company as defined in section 86-322 that has contracted with a customer to provide mobile telecommunications service;

(iii) Mobile telecommunications service means a wireless communication service carried on between mobile stations or receivers and land stations, and by mobile stations communicating among themselves, and includes (A) both one-way and two-way wireless communication services, (B) a mobile service which provides a regularly interacting group of base, mobile, portable, and associated control and relay stations, whether on an individual, cooperative, or multiple basis for private one-way or two-way land mobile radio communica-

tions by eligible users over designated areas of operation, and (C) any personal communication service;

(iv) Place of primary use means the street address representative of where the customer's use of mobile telecommunications service primarily occurs. The place of primary use shall be the residential street address or the primary business street address of the customer and shall be within the service area of the home service provider; and

(v) Tax means the sales taxes levied under sections 13-319, 77-2703, 77-27,142, and 77-6403, the surcharges levied under the Enhanced Wireless 911 Services Act, the Nebraska Telecommunications Universal Service Fund Act, and the Telecommunications Relay System Act, and any other tax levied against the customer based on the amount charged to the customer. Tax does not mean an income tax, property tax, franchise tax, or any other tax levied on the home service provider that is not based on the amount charged to the customer.

(4) A sale of post-paid calling service is sourced to the origination point of the telecommunications signal as first identified by either (a) the seller's telecommunications system, or (b) information received by the seller from its service provider, where the system used to transport such signals is not that of the seller.

(5) A sale of prepaid calling service or a sale of a prepaid wireless calling service is sourced in accordance with section 77-2703.01, except that in the case of a sale of a prepaid wireless calling service, the rule provided in section 77-2703.01 shall include as an option the location associated with the mobile telephone number.

(6) A sale of a private communication service is sourced as follows:

(a) Service for a separate charge related to a customer channel termination point is sourced to each level of jurisdiction in which such customer channel termination point is located;

(b) Service where all customer termination points are located entirely within one jurisdiction or levels of jurisdiction is sourced in such jurisdiction in which the customer channel termination points are located;

(c) Service for segments of a channel between two customer channel termination points located in different jurisdictions and which segments of channel are separately charged is sourced fifty percent in each level of jurisdiction in which the customer channel termination points are located; and

(d) Service for segments of a channel located in more than one jurisdiction or levels of jurisdiction and which segments are not separately billed is sourced in each jurisdiction based on the percentage determined by dividing the number of customer channel termination points in such jurisdiction by the total number of customer channel termination points.

(7) For purposes of this section:

(a) 800 service means a telecommunications service that allows a caller to dial a toll-free number without incurring a charge for the call. The service is typically marketed under the name 800, 855, 866, 877, and 888 toll-free calling, and any subsequent numbers designated by the Federal Communications Commission;

(b) 900 service means an inbound toll telecommunications service purchased by a subscriber that allows the subscriber's customers to call in to the subscrib-

er's prerecorded announcement or live service. 900 service does not include the charge for collection services provided by the seller of the telecommunications services to the subscriber or service or product sold by the subscriber to the subscriber's customer. The service is typically marketed under the name 900 service, and any subsequent numbers designated by the Federal Communications Commission;

(c) Air-to-ground radiotelephone service means a radio telecommunication service, as that term is defined in 47 C.F.R. 22.99, as such regulation existed on January 1, 2007, in which common carriers are authorized to offer and provide radio telecommunications service for hire to subscribers in aircraft;

(d) Ancillary services means services that are associated with or incidental to the provision of telecommunications services, including, but not limited to, detailed telecommunications billings, directory assistance, vertical service, and voice mail services;

(e) Call-by-call basis means any method of charging for telecommunications service where the price is measured by individual calls;

(f) Coin-operated telephone service means a telecommunications service paid for by inserting money into a telephone accepting direct deposits of money to operate;

(g) Communications channel means a physical or virtual path of communications over which signals are transmitted between or among customer channel termination points;

(h) Conference bridging service means an ancillary service that links two or more participants of an audio or video conference call and may include the provision of a telephone number. Conference bridging service does not include the telecommunications services used to reach the conference bridge;

(i) Customer means the person or entity that contracts with the seller of telecommunications service. If the end user of telecommunications service is not the contracting party, the end user of the telecommunications service is the customer of the telecommunications service, but this sentence only applies for the purpose of sourcing sales of telecommunications service under this section. Customer does not include a reseller of telecommunications service or for mobile telecommunications service of a serving carrier under an agreement to serve the customer outside the home service provider's licensed service area;

(j) Customer channel termination point means the location where the customer either inputs or receives the communications;

(k) Detailed telecommunications billing service means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement;

(l) Directory assistance means an ancillary service of providing telephone number information and address information;

(m) End user means the person who utilizes the telecommunications service. In the case of an entity, end user means the individual who utilizes the service on behalf of the entity;

(n) Fixed wireless service means a telecommunications service that provides radio communication between fixed points;

(o) International means a telecommunications service that originates or terminates in the United States and terminates or originates outside the United

States, respectively. United States includes the District of Columbia or a United States territory or possession;

(p) Interstate means a telecommunications service that originates in one state of the United States, or a territory or possession of the United States, and terminates in a different state, territory, or possession of the United States;

(q) Intrastate means a telecommunications service that originates in one state of the United States, or a territory or possession of the United States, and terminates in the same state, territory, or possession of the United States;

(r) Mobile wireless service means a telecommunications service that is transmitted, conveyed, or routed regardless of the technology used, whereby the origination and termination points of the transmission, conveyance, or routing are not fixed, including, by way of example only, telecommunications services that are provided by a commercial mobile radio service provider;

(s) Paging service means a telecommunications service that provides transmission of coded radio signals for the purpose of activating specific pagers. Such transmission may include messages and sounds;

(t) Pay telephone services means a telecommunications service provided through pay telephones;

(u) Post-paid calling service means the telecommunications service obtained by making a payment on a call-by-call basis either through the use of a credit card or payment mechanism, such as a bank card, travel card, credit card, or debit card, or by a charge made to a telephone number which is not associated with the origination or termination of the telecommunications service. A post-paid calling service includes a telecommunications service, except a prepaid wireless calling service, that would be a prepaid calling service except it is not exclusively a telecommunications service;

(v) Prepaid calling service means the right to access exclusively telecommunications service, which is paid for in advance and which enables the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the number declines with use in a known amount;

(w) Prepaid wireless calling service means a telecommunications service that provides the right to utilize mobile wireless service as well as other nontelecommunications services, including the download of digital products delivered electronically, content, and ancillary services, which must be paid for in advance, that is sold in predetermined units of dollars or which the number declines with use in a known amount;

(x) Private communication service means a telecommunications service that entitles the customer to exclusive or priority use of a communications channel or group of channels between or among termination points, regardless of the manner in which such channel or channels are connected, and includes switching capacity, extension lines, stations, and any other associated services that are provided in connection with the use of such channel or channels;

(y) Residential telecommunications service means a telecommunications service or ancillary services provided to an individual for personal use at a residential address, including an individual dwelling unit such as an apartment. In the case of institutions where individuals reside, such as schools or nursing homes, telecommunications service is considered residential if it is provided to and paid for by an individual resident rather than the institution;

(z) Service address means the location of the telecommunications equipment to which a customer's call is charged and from which the call originates or terminates, regardless of where the call is billed or paid. If this location is not known, service address means the origination point of the signal of the telecommunications service first identified either by the seller's telecommunications system, or in information received by the seller from its service provider, where the system used to transport such signals is not that of the seller. If both locations are not known, the service address means the location of the customer's place of primary use;

(aa) Telecommunications service means the electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points. Telecommunications service includes such transmission, conveyance, or routing in which computer processing applications are used to act on the form, code, or protocol of the content for purposes of transmission, conveyance, or routing without regard to whether such service is referred to as voice over Internet protocol services or is classified by the Federal Communications Commission as enhanced or value-added. Telecommunications service does not include:

(i) Data processing and information services that allow data to be generated, acquired, stored, processed, or retrieved and delivered by an electronic transmission to a purchaser when such purchaser's primary purpose for the underlying transaction is the processed data or information;

(ii) Installation or maintenance of wiring or equipment on a customer's premises;

(iii) Tangible personal property;

(iv) Advertising, including, but not limited to, directory advertising;

(v) Billing and collection services provided to third parties;

(vi) Internet access service;

(vii) Radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance, and routing of such services by the programming service provider. Radio and television audio and video programming services shall include, but not be limited to, cable service as defined in 47 U.S.C. 522, as such section existed on January 1, 2007, and audio and video programming services delivered by providers of commercial mobile radio service as defined in 47 C.F.R. 20.3, as such regulation existed on January 1, 2007;

(viii) Ancillary services; or

(ix) Digital products delivered electronically, including, but not limited to, software, music, video, reading materials, or ringtones;

(bb) Value-added, nonvoice data service means a service that otherwise meets the definition of telecommunications services in which computer processing applications are used to act on the form, content, code, or protocol of the information or data primarily for a purpose other than transmission, conveyance, or routing;

(cc) Vertical service means an ancillary service that is offered in connection with one or more telecommunications services, which offers advanced calling features that allow customers to identify callers and to manage multiple calls and call connections, including conference bridging services; and

(dd) Voice mail service means an ancillary service that enables the customer to store, send, or receive recorded messages. Voice mail service does not include any vertical services that the customer may be required to have in order to utilize the voice mail service.

Source: Laws 2003, LB 282, § 52; Laws 2007, LB223, § 8; Laws 2009, LB165, § 7; Laws 2019, LB472, § 11.

Cross References

Enhanced Wireless 911 Services Act, see section 86-442.

Nebraska Telecommunications Universal Service Fund Act, see section 86-316.

Telecommunications Relay System Act, see section 86-301.

77-2704.31 Sales or use tax paid in another state; credit given.

If any person who causes property or service to be brought into this state has already paid a tax in another state with respect to the sale or use of such property or service in an amount less than the tax imposed by sections 13-319, 13-2813, 77-2703, 77-27,142, and 77-6403, the provisions of subsection (2) of section 77-2703 shall apply, but at a rate measured by the difference only between the rate imposed by such sections and the rate by which the previous tax on the sale or use was computed. If such tax imposed and paid in such other state is equal to or more than the tax imposed by such sections, then no use tax shall be due in this state on such property if such other state, territory, or possession grants a reciprocal exclusion or exemption to similar transactions in this state.

Source: Laws 1992, LB 871, § 54; Laws 1993, LB 345, § 50; Laws 1999, LB 34, § 2; Laws 2001, LB 142, § 55; Laws 2002, LB 1085, § 16; Laws 2019, LB472, § 12.

77-2705 Sales and use tax; retailer; registration; permit; form; revocation; restoration; appeal; exempt sale certificate; violations; penalty; wrongful disclosure; online registration system.

(1) Except as provided in subsection (10) of this section, every retailer shall register with the Tax Commissioner and give:

- (a) The name and address of all agents operating in this state;
- (b) The location of all distribution or sales houses or offices or other places of business in this state;
- (c) The name and address of any officer, director, partner, limited liability company member, or employee, other than an employee whose duties are purely ministerial in nature, or any person with a substantial interest in the applicant, who is or who will be responsible for the collection or remittance of the sales tax;

(d) Such other information as the Tax Commissioner may require; and

(e) If the retailer is an individual, his or her social security number.

(2) Every person furnishing public utility service as defined in subsection (2) of section 77-2701.16 shall register with the Tax Commissioner and give:

(a) The address of each office open to the public in which such public utility service business is transacted with consumers; and

(b) Such other information as the Tax Commissioner may require.

(3)(a) It shall be unlawful for any person to engage in or transact business as a seller within this state after June 1, 1967, unless a permit or permits shall have been issued to him or her as prescribed in this section.

(b) Every person desiring to engage in or to conduct business as a seller within this state shall file with the Tax Commissioner an application for a permit for each place of business. There shall be no charge to the retailer for the application for or issuance of a permit except as otherwise provided in this section.

(c) If a retailer becomes engaged in business in this state during a calendar year by exceeding one of the thresholds in subsection (2) or (3) of section 77-2701.13 for the first time, the retailer must obtain a permit and begin collecting the sales tax on or before the first day of the second calendar month after the threshold was exceeded. Such retailer shall also be subject to the Local Option Revenue Act and sections 13-319 and 13-2813 and shall collect and remit the sales tax due under such act and sections.

(4) Every application for a permit shall:

(a) Be made upon a form prescribed by the Tax Commissioner;

(b) Set forth the name under which the applicant transacts or intends to transact business and the location of his or her place or places of business;

(c) Set forth such other information as the Tax Commissioner may require; and

(d) Be signed by the owner and include his or her social security number if he or she is a natural person; in the case of an association or partnership, by a member or partner; in the case of a limited liability company, by a member or some person authorized by the limited liability company to sign such kinds of applications; and in the case of a corporation, by an executive officer or some person authorized by the corporation to sign such kinds of applications.

(5) After compliance with subsections (1) through (4) of this section by the applicant, the Tax Commissioner shall grant and issue to each applicant a separate permit for each place of business within the state. A permit shall not be assignable and shall be valid only for the person in whose name it is issued and for the transaction of business at the place designated therein. It shall at all times be conspicuously displayed at the place for which issued and shall be valid and effective until revoked by the Tax Commissioner.

(6)(a) Whenever the holder of a permit issued under subsection (5) of this section or any person required to be identified in subdivision (1)(c) of this section (i) fails to comply with any provision of the Nebraska Revenue Act of 1967 relating to the retail sales tax or with any rule or regulation of the Tax Commissioner relating to such tax prescribed and adopted under such act, (ii) fails to provide for inspection or audit any book, record, document, or item required by law, rule, or regulation, or (iii) makes a misrepresentation of or fails to disclose a material fact to the Department of Revenue, the Tax Commissioner upon hearing, after giving the person twenty days' notice in writing specifying the time and place of hearing and requiring him or her to show cause why his or her permit or permits should not be revoked, may revoke or suspend any one or more of the permits held by the person. The Tax Commissioner shall give to the person written notice of the suspension or revocation of any of his or her permits. The notices may be served personally or by mail in the manner prescribed for service of notice of a deficiency determination.

(b) The Tax Commissioner shall have the power to restore permits which have been revoked but shall not issue a new permit after the revocation of a permit unless he or she is satisfied that the former holder of the permit will comply with the provisions of such act relating to the retail sales tax and the regulations of the Tax Commissioner. A seller whose permit has been previously suspended or revoked under this subsection shall pay the Tax Commissioner a fee of twenty-five dollars for the renewal or issuance of a permit in the event of a first revocation and fifty dollars for renewal after each successive revocation.

(c) The action of the Tax Commissioner may be appealed by the taxpayer in the same manner as a final deficiency determination.

(7) For the purpose of more efficiently securing the payment, collection, and accounting for the sales and use taxes and for the convenience of the retailer in collecting the sales tax, it shall be the duty of the Tax Commissioner to formulate and promulgate appropriate rules and regulations providing a form and method for the registration of exempt purchases and the documentation of exempt sales.

(8) If any person, firm, corporation, association, or agent thereof presents an exempt sale certificate to the seller for property which is purchased by a taxpayer or for a use other than those enumerated in the Nebraska Revenue Act of 1967 as exempted from the computation of sales and use taxes, the Tax Commissioner may, in addition to other penalties provided by law, impose, assess, and collect from the purchaser or the agent thereof a penalty of one hundred dollars or ten times the tax, whichever amount is larger, for each instance of such presentation and misuse of an exempt sale certificate. Such amount shall be in addition to any tax, interest, or penalty otherwise imposed.

(9) Any report, name, or information which is supplied to the Tax Commissioner regarding a violation specified in this section, including the identity of the informer, shall be subject to the pertinent provisions regarding wrongful disclosure in section 77-2711.

(10) Pursuant to the streamlined sales and use tax agreement, the state shall participate in an online registration system that will allow retailers to register in all the member states. The state hereby agrees to honor and abide by the retailer registration decisions made by the governing board pursuant to the agreement.

Source: Laws 1967, c. 487, § 5, p. 1553; Laws 1967, c. 490, § 4, p. 1663; Laws 1982, LB 928, § 65; Laws 1984, LB 962, § 9; Laws 1992, LB 871, § 60; Laws 1993, LB 121, § 502; Laws 1993, LB 345, § 54; Laws 1997, LB 752, § 212; Laws 2002, Second Spec. Sess., LB 32, § 2; Laws 2003, LB 282, § 70; Laws 2003, LB 759, § 20; Laws 2008, LB916, § 24; Laws 2019, LB284, § 4.

Cross References

Local Option Revenue Act, see section 77-27,148.

77-2708 Sales and use tax; returns; date due; failure to file; penalty; deduction; amount; claim for refund; allowance; disallowance; proceedings; Tax Commissioner; duties regarding refund.

(1)(a) The sales and use taxes imposed by the Nebraska Revenue Act of 1967 shall be due and payable to the Tax Commissioner monthly on or before the

twentieth day of the month next succeeding each monthly period unless otherwise provided pursuant to the Nebraska Revenue Act of 1967.

(b)(i) On or before the twentieth day of the month following each monthly period or such other period as the Tax Commissioner may require, a return for such period, along with all taxes due, shall be filed with the Tax Commissioner in such form and content as the Tax Commissioner may prescribe and containing such information as the Tax Commissioner deems necessary for the proper administration of the Nebraska Revenue Act of 1967. The Tax Commissioner, if he or she deems it necessary in order to insure payment to or facilitate the collection by the state of the amount of sales or use taxes due, may require returns and payment of the amount of such taxes for periods other than monthly periods in the case of a particular seller, retailer, or purchaser, as the case may be. The Tax Commissioner shall by rule and regulation require reports and tax payments from sellers, retailers, or purchasers depending on their yearly tax liability. Except as required by the streamlined sales and use tax agreement, annual returns shall be required if such sellers', retailers', or purchasers' yearly tax liability is less than nine hundred dollars, quarterly returns shall be required if their yearly tax liability is nine hundred dollars or more and less than three thousand dollars, and monthly returns shall be required if their yearly tax liability is three thousand dollars or more. The Tax Commissioner shall have the discretion to allow an annual return for seasonal retailers, even when their yearly tax liability exceeds the amounts listed in this subdivision.

The Tax Commissioner may adopt and promulgate rules and regulations to allow annual, semiannual, or quarterly returns for any retailer making monthly remittances or payments of sales and use taxes by electronic funds transfer or for any retailer remitting tax to the state pursuant to the streamlined sales and use tax agreement. Such rules and regulations may establish a method of determining the amount of the payment that will result in substantially all of the tax liability being paid each quarter. At least once each year, the difference between the amount paid and the amount due shall be reconciled. If the difference is more than ten percent of the amount paid, a penalty of fifty percent of the unpaid amount shall be imposed.

(ii) For purposes of the sales tax, a return shall be filed by every retailer liable for collection from a purchaser and payment to the state of the tax, except that a combined sales tax return may be filed for all licensed locations which are subject to common ownership. For purposes of this subdivision, common ownership means the same person or persons own eighty percent or more of each licensed location. For purposes of the use tax, a return shall be filed by every retailer engaged in business in this state and by every person who has purchased property, the storage, use, or other consumption of which is subject to the use tax, but who has not paid the use tax due to a retailer required to collect the tax.

(iii) The Tax Commissioner may require that returns be signed by the person required to file the return or by his or her duly authorized agent but need not be verified by oath.

(iv) A taxpayer who keeps his or her regular books and records on a cash basis, an accrual basis, or any generally recognized accounting basis which correctly reflects the operation of the business may file the sales and use tax returns required by the Nebraska Revenue Act of 1967 on the same accounting

basis that is used for the regular books and records, except that on credit, conditional, and installment sales, the retailer who keeps his or her books on an accrual basis may report such sales on the cash basis and pay the tax upon the collections made during each month. If a taxpayer transfers, sells, assigns, or otherwise disposes of an account receivable, he or she shall be deemed to have received the full balance of the consideration for the original sale and shall be liable for the remittance of the sales tax on the balance of the total sale price not previously reported, except that such transfer, sale, assignment, or other disposition of an account receivable by a retailer to a subsidiary shall not be deemed to require the retailer to pay the sales tax on the credit sale represented by the account transferred prior to the time the customer makes payment on such account. If the subsidiary does not obtain a Nebraska sales tax permit, the taxpayer shall obtain a surety bond in favor of the State of Nebraska to insure payment of the tax and any interest and penalty imposed thereon under this section in an amount not less than two times the amount of tax payable on outstanding accounts receivable held by the subsidiary as of the end of the prior calendar year. Failure to obtain either a sales tax permit or a surety bond in accordance with this section shall result in the payment on the next required filing date of all sales taxes not previously remitted. When the retailer has adopted one basis or the other of reporting credit, conditional, or installment sales and paying the tax thereon, he or she will not be permitted to change from that basis without first having notified the Tax Commissioner.

(c) Except as provided in the streamlined sales and use tax agreement, the taxpayer required to file the return shall deliver or mail any required return together with a remittance of the net amount of the tax due to the office of the Tax Commissioner on or before the required filing date. Failure to file the return, filing after the required filing date, failure to remit the net amount of the tax due, or remitting the net amount of the tax due after the required filing date shall be cause for a penalty, in addition to interest, of ten percent of the amount of tax not paid by the required filing date or twenty-five dollars, whichever is greater, unless the penalty is being collected under subdivision (1)(i), (1)(j)(i), or (1)(k)(i) of section 77-2703 by a county treasurer or the Department of Motor Vehicles, in which case the penalty shall be five dollars.

(d) The taxpayer shall deduct and withhold, from the taxes otherwise due from him or her on his or her tax return, two and one-half percent of the first three thousand dollars remitted each month to reimburse himself or herself for the cost of collecting the tax. Taxpayers filing a combined return as allowed by subdivision (1)(b)(ii) of this subsection shall compute such collection fees on the basis of the receipts and liability of each licensed location.

(e) A retailer that makes sales into Nebraska using a multivendor marketplace platform is relieved of its obligation to collect and remit sales taxes to Nebraska with regard to any sales taxes collected and remitted by the multivendor marketplace platform. Such a retailer must include all sales into Nebraska in its gross receipts in its return, but may claim credit for any sales taxes collected and remitted by the multivendor marketplace platform with respect to such retailer's sales. Such retailer is liable for the sales tax due on sales into Nebraska as provided in section 77-2704.35.

(f) A multivendor marketplace platform is relieved of its obligation to collect and remit the correct amount of state and local sales taxes to Nebraska to the extent that the multivendor marketplace platform can establish that the error was due to insufficient or incorrect information given to the multivendor

marketplace platform by the seller and relied on by the multivendor marketplace platform. This subdivision shall not apply if the multivendor marketplace platform and the seller are related persons under either section 267(b) or (c) or section 707(b) of the Internal Revenue Code of 1986 or if the seller is also the multivendor marketplace platform operator.

(2)(a) If the Tax Commissioner determines that any sales or use tax amount, penalty, or interest has been paid more than once, has been erroneously or illegally collected or computed, or has been paid and the purchaser qualifies for a refund under section 77-2708.01, the Tax Commissioner shall set forth that fact in his or her records and the excess amount collected or paid may be credited on any sales, use, or income tax amounts then due and payable from the person under the Nebraska Revenue Act of 1967. Any balance may be refunded to the person by whom it was paid or his or her successors, administrators, or executors.

(b) No refund shall be allowed unless a claim therefor is filed with the Tax Commissioner by the person who made the overpayment or his or her attorney, executor, or administrator within three years from the required filing date following the close of the period for which the overpayment was made, within six months after any determination becomes final under section 77-2709, or within six months from the date of overpayment with respect to such determinations, whichever of these three periods expires later, unless the credit relates to a period for which a waiver has been given. Failure to file a claim within the time prescribed in this subsection shall constitute a waiver of any demand against the state on account of overpayment.

(c) Every claim shall be in writing on forms prescribed by the Tax Commissioner and shall state the specific amount and grounds upon which the claim is founded. No refund shall be made in any amount less than two dollars.

(d) The Tax Commissioner shall allow or disallow a claim within one hundred eighty days after it has been filed. A request for a hearing shall constitute a waiver of the one-hundred-eighty-day period. The claimant and the Tax Commissioner may also agree to extend the one-hundred-eighty-day period. If a hearing has not been requested and the Tax Commissioner has neither allowed nor disallowed a claim within either the one hundred eighty days or the period agreed to by the claimant and the Tax Commissioner, the claim shall be deemed to have been allowed.

(e) Within thirty days after disallowing any claim in whole or in part, the Tax Commissioner shall serve notice of his or her action on the claimant in the manner prescribed for service of notice of a deficiency determination.

(f) Within thirty days after the mailing of the notice of the Tax Commissioner's action upon a claim filed pursuant to the Nebraska Revenue Act of 1967, the action of the Tax Commissioner shall be final unless the taxpayer seeks review of the Tax Commissioner's determination as provided in section 77-27,127.

(g) Upon the allowance of a credit or refund of any sum erroneously or illegally assessed or collected, of any penalty collected without authority, or of any sum which was excessive or in any manner wrongfully collected, interest shall be allowed and paid on the amount of such credit or refund at the rate specified in section 45-104.02, as such rate may from time to time be adjusted, from the date such sum was paid or from the date the return was required to be filed, whichever date is later, to the date of the allowance of the refund or, in

the case of a credit, to the due date of the amount against which the credit is allowed, but in the case of a voluntary and unrequested payment in excess of actual tax liability or a refund under section 77-2708.01, no interest shall be allowed when such excess is refunded or credited.

(h) No suit or proceeding shall be maintained in any court for the recovery of any amount alleged to have been erroneously or illegally determined or collected unless a claim for refund or credit has been duly filed.

(i) The Tax Commissioner may recover any refund or part thereof which is erroneously made and any credit or part thereof which is erroneously allowed by issuing a deficiency determination within one year from the date of refund or credit or within the period otherwise allowed for issuing a deficiency determination, whichever expires later.

(j)(i) Credit shall be allowed to the retailer, contractor, or repairperson for sales or use taxes paid pursuant to the Nebraska Revenue Act of 1967 on any deduction taken that is attributed to bad debts not including interest. Bad debt has the same meaning as in 26 U.S.C. 166, as such section existed on January 1, 2003. However, the amount calculated pursuant to 26 U.S.C. 166 shall be adjusted to exclude: Financing charges or interest; sales or use taxes charged on the purchase price; uncollectible amounts on property that remains in the possession of the seller until the full purchase price is paid; and expenses incurred in attempting to collect any debt and repossessed property.

(ii) Bad debts may be deducted on the return for the period during which the bad debt is written off as uncollectible in the claimant's books and records and is eligible to be deducted for federal income tax purposes. A claimant who is not required to file federal income tax returns may deduct a bad debt on a return filed for the period in which the bad debt is written off as uncollectible in the claimant's books and records and would be eligible for a bad debt deduction for federal income tax purposes if the claimant was required to file a federal income tax return.

(iii) If a deduction is taken for a bad debt and the debt is subsequently collected in whole or in part, the tax on the amount so collected must be paid and reported on the return filed for the period in which the collection is made.

(iv) When the amount of bad debt exceeds the amount of taxable sales for the period during which the bad debt is written off, a refund claim may be filed within the otherwise applicable statute of limitations for refund claims. The statute of limitations shall be measured from the due date of the return on which the bad debt could first be claimed.

(v) If filing responsibilities have been assumed by a certified service provider, the service provider may claim, on behalf of the retailer, any bad debt allowance provided by this section. The certified service provider shall credit or refund the full amount of any bad debt allowance or refund received to the retailer.

(vi) For purposes of reporting a payment received on a previously claimed bad debt, any payments made on a debt or account are applied first proportionally to the taxable price of the property or service and the sales tax thereon, and secondly to interest, service charges, and any other charges.

(vii) In situations in which the books and records of the party claiming the bad debt allowance support an allocation of the bad debts among the member

states in the streamlined sales and use tax agreement, the state shall permit the allocation.

(3) Beginning July 1, 2020, if a refund claim under this section involves a refund of a tax imposed under the Local Option Revenue Act or section 13-319, 13-2813, or 77-6403 and the amount of such tax to be refunded is at least five thousand dollars, the Tax Commissioner shall notify the affected city, village, county, or municipal county of such claim within twenty days after receiving the claim. If the Tax Commissioner allows the claim and the refund of such tax is at least five thousand dollars, the Tax Commissioner shall notify the affected city, village, county, or municipal county of such refund and shall give the city, village, county, or municipal county the option of having such refund deducted from its tax proceeds in one lump sum or in twelve equal monthly installments. The city, village, county, or municipal county shall make its selection and shall certify the selection to the Tax Commissioner within twenty days after receiving notice of the refund. The Tax Commissioner shall then deduct such refund from the applicable tax proceeds in accordance with the selection when he or she deducts refunds pursuant to section 13-324, 13-2814, 77-27,144, or 77-6403, whichever is applicable.

Source: Laws 1967, c. 487, § 8, p. 1558; Laws 1967, c. 490, § 5, p. 1665; Laws 1969, c. 683, § 5, p. 2635; Laws 1976, LB 996, § 1; Laws 1981, LB 179, § 15; Laws 1981, LB 167, § 51; Laws 1982, Spec. Sess., LB 2, § 1; Laws 1983, LB 101, § 1; Laws 1983, LB 571, § 2; Laws 1984, LB 758, § 1; Laws 1985, LB 715, § 7; Laws 1985, LB 273, § 46; Laws 1987, LB 775, § 15; Laws 1987, LB 523, § 16; Laws 1988, LB 1234, § 1; Laws 1991, LB 829, § 23; Laws 1992, LB 1063, § 183; Laws 1992, Second Spec. Sess., LB 1, § 156; Laws 1992, Fourth Spec. Sess., LB 1, § 28; Laws 1993, LB 128, § 1; Laws 1993, LB 345, § 56; Laws 1995, LB 9, § 1; Laws 1995, LB 118, § 1; Laws 1996, LB 1041, § 7; Laws 2002, Second Spec. Sess., LB 32, § 3; Laws 2003, LB 282, § 71; Laws 2005, LB 216, § 8; Laws 2008, LB916, § 25; Laws 2011, LB210, § 9; Laws 2012, LB801, § 99; Laws 2014, LB814, § 10; Laws 2018, LB745, § 1; Laws 2019, LB284, § 5; Laws 2019, LB472, § 13.

Cross References

Local Option Revenue Act, see section 77-27,148.

77-2711 Sales and use tax; Tax Commissioner; enforcement; records; retain; reports; wrongful disclosures; exceptions; information provided to municipality; penalty; waiver; streamlined sales and use tax agreement; confidentiality rights.

(1)(a) The Tax Commissioner shall enforce sections 77-2701.04 to 77-2713 and may prescribe, adopt, and enforce rules and regulations relating to the administration and enforcement of such sections.

(b) The Tax Commissioner may prescribe the extent to which any ruling or regulation shall be applied without retroactive effect.

(2) The Tax Commissioner may employ accountants, auditors, investigators, assistants, and clerks necessary for the efficient administration of the Nebraska Revenue Act of 1967 and may delegate authority to his or her representatives to

conduct hearings, prescribe regulations, or perform any other duties imposed by such act.

(3)(a) Every seller, every retailer, and every person storing, using, or otherwise consuming in this state property purchased from a retailer shall keep such records, receipts, invoices, and other pertinent papers in such form as the Tax Commissioner may reasonably require.

(b) Every such seller, retailer, or person shall keep such records for not less than three years from the making of such records unless the Tax Commissioner in writing sooner authorized their destruction.

(4) The Tax Commissioner or any person authorized in writing by him or her may examine the books, papers, records, and equipment of any person selling property and any person liable for the use tax and may investigate the character of the business of the person in order to verify the accuracy of any return made or, if no return is made by the person, to ascertain and determine the amount required to be paid. In the examination of any person selling property or of any person liable for the use tax, an inquiry shall be made as to the accuracy of the reporting of city and county sales and use taxes for which the person is liable under the Local Option Revenue Act or sections 13-319, 13-324, 13-2813, and 77-6403 and the accuracy of the allocation made between the various counties, cities, villages, and municipal counties of the tax due. The Tax Commissioner may make or cause to be made copies of resale or exemption certificates and may pay a reasonable amount to the person having custody of the records for providing such copies.

(5) The taxpayer shall have the right to keep or store his or her records at a point outside this state and shall make his or her records available to the Tax Commissioner at all times.

(6) In administration of the use tax, the Tax Commissioner may require the filing of reports by any person or class of persons having in his, her, or their possession or custody information relating to sales of property, the storage, use, or other consumption of which is subject to the tax. The report shall be filed when the Tax Commissioner requires and shall set forth the names and addresses of purchasers of the property, the sales price of the property, the date of sale, and such other information as the Tax Commissioner may require.

(7) It shall be a Class I misdemeanor for the Tax Commissioner or any official or employee of the Tax Commissioner, the State Treasurer, or the Department of Administrative Services to make known in any manner whatever the business affairs, operations, or information obtained by an investigation of records and activities of any retailer or any other person visited or examined in the discharge of official duty or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed in any return, or to permit any return or copy thereof, or any book containing any abstract or particulars thereof to be seen or examined by any person not connected with the Tax Commissioner. Nothing in this section shall be construed to prohibit (a) the delivery to a taxpayer, his or her duly authorized representative, or his or her successors, receivers, trustees, executors, administrators, assignees, or guarantors, if directly interested, of a certified copy of any return or report in connection with his or her tax, (b) the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof, (c) the inspection by the Attorney General, other legal representative of the state, or county attorney of the reports or returns of any taxpayer when either

(i) information on the reports or returns is considered by the Attorney General to be relevant to any action or proceeding instituted by the taxpayer or against whom an action or proceeding is being considered or has been commenced by any state agency or the county or (ii) the taxpayer has instituted an action to review the tax based thereon or an action or proceeding against the taxpayer for collection of tax or failure to comply with the Nebraska Revenue Act of 1967 is being considered or has been commenced, (d) the furnishing of any information to the United States Government or to states allowing similar privileges to the Tax Commissioner, (e) the disclosure of information and records to a collection agency contracting with the Tax Commissioner pursuant to sections 77-377.01 to 77-377.04, (f) the disclosure to another party to a transaction of information and records concerning the transaction between the taxpayer and the other party, (g) the disclosure of information pursuant to section 77-27,195, 77-5731, 77-6837, or 77-6839, or (h) the disclosure of information to the Department of Labor necessary for the administration of the Employment Security Law, the Contractor Registration Act, or the Employee Classification Act.

(8) Notwithstanding the provisions of subsection (7) of this section, the Tax Commissioner may permit the Postal Inspector of the United States Postal Service or his or her delegates to inspect the reports or returns of any person filed pursuant to the Nebraska Revenue Act of 1967 when information on the reports or returns is relevant to any action or proceeding instituted or being considered by the United States Postal Service against such person for the fraudulent use of the mails to carry and deliver false and fraudulent tax returns to the Tax Commissioner with the intent to defraud the State of Nebraska or to evade the payment of Nebraska state taxes.

(9) Notwithstanding the provisions of subsection (7) of this section, the Tax Commissioner may permit other tax officials of this state to inspect the tax returns, reports, and applications filed under sections 77-2701.04 to 77-2713, but such inspection shall be permitted only for purposes of enforcing a tax law and only to the extent and under the conditions prescribed by the rules and regulations of the Tax Commissioner.

(10) Notwithstanding the provisions of subsection (7) of this section, the Tax Commissioner may, upon request, provide the county board of any county which has exercised the authority granted by section 81-3716 with a list of the names and addresses of the hotels located within the county for which lodging sales tax returns have been filed or for which lodging sales taxes have been remitted for the county's County Visitors Promotion Fund under the Nebraska Visitors Development Act.

The information provided by the Tax Commissioner shall indicate only the names and addresses of the hotels located within the requesting county for which lodging sales tax returns have been filed for a specified period and the fact that lodging sales taxes remitted by or on behalf of the hotel have constituted a portion of the total sum remitted by the state to the county for a specified period under the provisions of the Nebraska Visitors Development Act. No additional information shall be revealed.

(11)(a) Notwithstanding the provisions of subsection (7) of this section, the Tax Commissioner shall, upon written request by the Auditor of Public Accounts or the office of Legislative Audit, make tax returns and tax return information open to inspection by or disclosure to the Auditor of Public

Accounts or employees of the office of Legislative Audit for the purpose of and to the extent necessary in making an audit of the Department of Revenue pursuant to section 50-1205 or 84-304. Confidential tax returns and tax return information shall be audited only upon the premises of the Department of Revenue. All audit workpapers pertaining to the audit of the Department of Revenue shall be stored in a secure place in the Department of Revenue.

(b) No employee of the Auditor of Public Accounts or the office of Legislative Audit shall disclose to any person, other than another Auditor of Public Accounts or office employee whose official duties require such disclosure, any return or return information described in the Nebraska Revenue Act of 1967 in a form which can be associated with or otherwise identify, directly or indirectly, a particular taxpayer.

(c) Any person who violates the provisions of this subsection shall be guilty of a Class I misdemeanor. For purposes of this subsection, employee includes a former Auditor of Public Accounts or office of Legislative Audit employee.

(12) For purposes of this subsection and subsections (11) and (14) of this section:

(a) Disclosure means the making known to any person in any manner a tax return or return information;

(b) Return information means:

(i) A taxpayer's identification number and (A) the nature, source, or amount of his or her income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, deficiencies, overassessments, or tax payments, whether the taxpayer's return was, is being, or will be examined or subject to other investigation or processing or (B) any other data received by, recorded by, prepared by, furnished to, or collected by the Tax Commissioner with respect to a return or the determination of the existence or possible existence of liability or the amount of liability of any person for any tax, penalty, interest, fine, forfeiture, or other imposition or offense; and

(ii) Any part of any written determination or any background file document relating to such written determination; and

(c) Tax return or return means any tax or information return or claim for refund required by, provided for, or permitted under sections 77-2701 to 77-2713 which is filed with the Tax Commissioner by, on behalf of, or with respect to any person and any amendment or supplement thereto, including supporting schedules, attachments, or lists which are supplemental to or part of the filed return.

(13) Notwithstanding the provisions of subsection (7) of this section, the Tax Commissioner shall, upon request, provide any municipality which has adopted the local option sales tax under the Local Option Revenue Act with a list of the names and addresses of the retailers which have collected the local option sales tax for the municipality. The request may be made annually and shall be submitted to the Tax Commissioner on or before June 30 of each year. The information provided by the Tax Commissioner shall indicate only the names and addresses of the retailers. The Tax Commissioner may provide additional information to a municipality so long as the information does not include any data detailing the specific revenue, expenses, or operations of any particular business.

(14)(a) Notwithstanding the provisions of subsection (7) of this section, the Tax Commissioner shall, upon written request, provide an individual certified under subdivision (b) of this subsection representing a municipality which has adopted the local option sales and use tax under the Local Option Revenue Act with confidential sales and use tax returns and sales and use tax return information regarding taxpayers that possess a sales tax permit and the amounts remitted by such permitholders at locations within the boundaries of the requesting municipality or with confidential business use tax returns and business use tax return information regarding taxpayers that file a Nebraska and Local Business Use Tax Return and the amounts remitted by such taxpayers at locations within the boundaries of the requesting municipality. Any written request pursuant to this subsection shall provide the Department of Revenue with no less than ten business days to prepare the sales and use tax returns and sales and use tax return information requested. The individual certified under subdivision (b) of this subsection shall review such returns and return information only upon the premises of the department, except that such limitation shall not apply if the certifying municipality has an agreement in effect under the Nebraska Advantage Transformational Tourism and Redevelopment Act. In such case, the individual certified under subdivision (b) of this subsection may request that copies of such returns and return information be sent to him or her by electronic transmission, secured in a manner as determined by the Tax Commissioner.

(b) Each municipality that seeks to request information under subdivision (a) of this subsection shall certify to the Department of Revenue one individual who is authorized by such municipality to make such request and review the documents described in subdivision (a) of this subsection. The individual may be a municipal employee or an individual who contracts with the requesting municipality to provide financial, accounting, or other administrative services.

(c) No individual certified by a municipality pursuant to subdivision (b) of this subsection shall disclose to any person any information obtained pursuant to a review under this subsection. An individual certified by a municipality pursuant to subdivision (b) of this subsection shall remain subject to this subsection after he or she (i) is no longer certified or (ii) is no longer in the employment of or under contract with the certifying municipality.

(d) Any person who violates the provisions of this subsection shall be guilty of a Class I misdemeanor.

(e) The Department of Revenue shall not be held liable by any person for an impermissible disclosure by a municipality or any agent or employee thereof of any information obtained pursuant to a review under this subsection.

(15) In all proceedings under the Nebraska Revenue Act of 1967, the Tax Commissioner may act for and on behalf of the people of the State of Nebraska. The Tax Commissioner in his or her discretion may waive all or part of any penalties provided by the provisions of such act or interest on delinquent taxes specified in section 45-104.02, as such rate may from time to time be adjusted.

(16)(a) The purpose of this subsection is to set forth the state's policy for the protection of the confidentiality rights of all participants in the system operated pursuant to the streamlined sales and use tax agreement and of the privacy interests of consumers who deal with model 1 sellers.

(b) For purposes of this subsection:

(i) Anonymous data means information that does not identify a person;

(ii) Confidential taxpayer information means all information that is protected under a member state's laws, regulations, and privileges; and

(iii) Personally identifiable information means information that identifies a person.

(c) The state agrees that a fundamental precept for model 1 sellers is to preserve the privacy of consumers by protecting their anonymity. With very limited exceptions, a certified service provider shall perform its tax calculation, remittance, and reporting functions without retaining the personally identifiable information of consumers.

(d) The governing board of the member states in the streamlined sales and use tax agreement may certify a certified service provider only if that certified service provider certifies that:

(i) Its system has been designed and tested to ensure that the fundamental precept of anonymity is respected;

(ii) Personally identifiable information is only used and retained to the extent necessary for the administration of model 1 with respect to exempt purchasers;

(iii) It provides consumers clear and conspicuous notice of its information practices, including what information it collects, how it collects the information, how it uses the information, how long, if at all, it retains the information, and whether it discloses the information to member states. Such notice shall be satisfied by a written privacy policy statement accessible by the public on the web site of the certified service provider;

(iv) Its collection, use, and retention of personally identifiable information is limited to that required by the member states to ensure the validity of exemptions from taxation that are claimed by reason of a consumer's status or the intended use of the goods or services purchased; and

(v) It provides adequate technical, physical, and administrative safeguards so as to protect personally identifiable information from unauthorized access and disclosure.

(e) The state shall provide public notification to consumers, including exempt purchasers, of the state's practices relating to the collection, use, and retention of personally identifiable information.

(f) When any personally identifiable information that has been collected and retained is no longer required for the purposes set forth in subdivision (16)(d)(iv) of this section, such information shall no longer be retained by the member states.

(g) When personally identifiable information regarding an individual is retained by or on behalf of the state, it shall provide reasonable access by such individual to his or her own information in the state's possession and a right to correct any inaccurately recorded information.

(h) If anyone other than a member state, or a person authorized by that state's law or the agreement, seeks to discover personally identifiable information, the state from whom the information is sought should make a reasonable and timely effort to notify the individual of such request.

(i) This privacy policy is subject to enforcement by the Attorney General.

(j) All other laws and regulations regarding the collection, use, and maintenance of confidential taxpayer information remain fully applicable and binding.

Without limitation, this subsection does not enlarge or limit the state's authority to:

- (i) Conduct audits or other reviews as provided under the agreement and state law;
- (ii) Provide records pursuant to the federal Freedom of Information Act, disclosure laws with governmental agencies, or other regulations;
- (iii) Prevent, consistent with state law, disclosure of confidential taxpayer information;
- (iv) Prevent, consistent with federal law, disclosure or misuse of federal return information obtained under a disclosure agreement with the Internal Revenue Service; and
- (v) Collect, disclose, disseminate, or otherwise use anonymous data for governmental purposes.

Source: Laws 1967, c. 487, § 11, p. 1566; Laws 1969, c. 683, § 7, p. 2641; Laws 1977, LB 39, § 239; Laws 1981, LB 170, § 6; Laws 1982, LB 705, § 2; Laws 1984, LB 962, § 12; Laws 1985, LB 344, § 4; Laws 1987, LB 523, § 17; Laws 1991, LB 773, § 10; Laws 1992, LB 871, § 61; Laws 1992, Fourth Spec. Sess., LB 1, § 31; Laws 1993, LB 345, § 60; Laws 1994, LB 1175, § 1; Laws 1995, LB 134, § 3; Laws 1996, LB 1177, § 18; Laws 2001, LB 142, § 56; Laws 2003, LB 282, § 73; Laws 2005, LB 216, § 9; Laws 2005, LB 312, § 11; Laws 2006, LB 588, § 8; Laws 2007, LB94, § 1; Laws 2007, LB223, § 9; Laws 2008, LB914, § 8; Laws 2009, LB165, § 10; Laws 2010, LB563, § 14; Laws 2010, LB879, § 9; Laws 2012, LB209, § 1; Laws 2012, LB1053, § 25; Laws 2013, LB39, § 12; Laws 2014, LB867, § 15; Laws 2015, LB539, § 6; Laws 2016, LB1022, § 4; Laws 2019, LB472, § 14; Laws 2020, LB236, § 1; Laws 2020, LB1107, § 129.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB236, section 1, with LB1107, section 129, to reflect all amendments.

Note: Changes made by LB236 became effective November 14, 2020. Changes made by LB1107 became operative January 1, 2021.

Cross References

Contractor Registration Act, see section 48-2101.

Employee Classification Act, see section 48-2901.

Employment Security Law, see section 48-601.

Local Option Revenue Act, see section 77-27,148.

Nebraska Advantage Transformational Tourism and Redevelopment Act, see section 77-1001.

Nebraska Visitors Development Act, see section 81-3701.

77-2712.05 Streamlined sales and use tax agreement; requirements.

By agreeing to the terms of the streamlined sales and use tax agreement, this state agrees to abide by the following requirements:

- (1) Uniform state rate. The state shall comply with restrictions to achieve over time more uniform state rates through the following:
 - (a) Limiting the number of state rates;
 - (b) Limiting the application of maximums on the amount of state tax that is due on a transaction; and
 - (c) Limiting the application of thresholds on the application of state tax;
- (2) Uniform standards. The state hereby establishes uniform standards for the following:

(a) Sourcing of transactions to taxing jurisdictions as provided in sections 77-2703.01 to 77-2703.04;

(b) Administration of exempt sales as set out by the agreement and using procedures as determined by the governing board;

(c) Allowances a seller can take for bad debts as provided in section 77-2708; and

(d) Sales and use tax returns and remittances. To comply with the agreement, the Tax Commissioner shall:

(i) Require only one remittance for each return except as provided in this subdivision. If any additional remittance is required, it may only be required from retailers that collect more than thirty thousand dollars in sales and use taxes in the state during the preceding calendar year as provided in this subdivision. The amount of any additional remittance may be determined through a calculation method rather than actual collections. Any additional remittance shall not require the filing of an additional return;

(ii) Require, at his or her discretion, all remittances from sellers under models 1, 2, and 3 to be remitted electronically;

(iii) Allow for electronic payments by both automated clearinghouse credit and debit;

(iv) Provide an alternative method for making same day payments if an electronic funds transfer fails;

(v) Provide that if a due date falls on a legal banking holiday, the taxes are due to that state on the next succeeding business day; and

(vi) Require that any data that accompanies a remittance be formatted using uniform tax type and payment type codes approved by the governing board of the member states to the streamlined sales and use tax agreement;

(3) Uniform definitions. (a) The state shall utilize the uniform definitions of sales and use tax terms as provided in the agreement. The definitions enable Nebraska to preserve its ability to make taxability and exemption choices not inconsistent with the uniform definitions.

(b) The state may enact a product-based exemption without restriction if the agreement does not have a definition for the product or for a term that includes the product. If the agreement has a definition for the product or for a term that includes the product, the state may exempt all items included within the definition but shall not exempt only part of the items included within the definition unless the agreement sets out the exemption for part of the items as an acceptable variation.

(c) The state may enact an entity-based or a use-based exemption without restriction if the agreement does not have a definition for the product whose use or purchase by a specific entity is exempt or for a term that includes the product. If the agreement has a definition for the product whose use or specific purchase is exempt, states may enact an entity-based or a use-based exemption that applies to that product as long as the exemption utilizes the agreement definition of the product. If the agreement does not have a definition for the product whose use or specific purchase is exempt but has a definition for a term that includes the product, states may enact an entity-based or a use-based exemption for the product without restriction.

(d) For purposes of complying with the requirements in this section, the inclusion of a product within the definition of tangible personal property is disregarded;

(4) Central registration. The state shall participate in an electronic central registration system that allows a seller to register to collect and remit sales and use taxes for all member states. Under the system:

(a) A retailer registering under the agreement is registered in this state;

(b) The state agrees not to require the payment of any registration fees or other charges for a retailer to register in the state if the retailer has no legal requirement to register;

(c) A written signature from the retailer is not required;

(d) An agent may register a retailer under uniform procedures adopted by the member states pursuant to the agreement;

(e) A retailer may cancel its registration under the system at any time under uniform procedures adopted by the governing board. Cancellation does not relieve the retailer of its liability for remitting to the proper states any taxes collected;

(f) When registering, the retailer that is registered under the agreement may select one of the following methods of remittances or other method allowed by state law to remit the taxes collected:

(i) Model 1, wherein a seller selects a certified service provider as an agent to perform all the seller's sales or use tax functions, other than the seller's obligation to remit tax on its own purchases;

(ii) Model 2, wherein a seller selects a certified automated system to use which calculates the amount of tax due on a transaction; and

(iii) Model 3, wherein a seller utilizes its own proprietary automated sales tax system that has been certified as a certified automated system; and

(g) Sellers who register within twelve months after this state's first approval of a certified service provider are relieved from liability, including the local option tax, for tax not collected or paid if the seller was not registered between October 1, 2004, and September 30, 2005. Such relief from liability shall be in accordance with the terms of the agreement;

(5) No nexus attribution. The state agrees that registration with the central registration system and the collection of sales and use taxes in the state will not be used as a factor in determining whether the seller has nexus with the state for any tax at any time;

(6) Local sales and use taxes. The agreement requires the reduction of the burdens of complying with local sales and use taxes as provided in sections 13-319, 13-324, 13-326, 77-2701.03, 77-27,142, 77-27,143, 77-27,144, and 77-6403 that require the following:

(a) No variation between the state and local tax bases;

(b) Statewide administration of all sales and use taxes levied by local jurisdictions within the state so that sellers collecting and remitting these taxes will not have to register or file returns with, remit funds to, or be subject to independent audits from local taxing jurisdictions;

(c) Limitations on the frequency of changes in the local sales and use tax rates and setting effective dates for the application of local jurisdictional boundary changes to local sales and use taxes; and

(d) Uniform notice of changes in local sales and use tax rates and of changes in the boundaries of local taxing jurisdictions;

(7) Complete a taxability matrix approved by the governing board. (a) Notice of changes in the taxability of the products or services listed will be provided as required by the governing board.

(b) The entries in the matrix shall be provided and maintained in a data base that is in a downloadable format approved by the governing board.

(c) Sellers, model 2 sellers, and certified service providers are relieved from liability, including the local option tax, for having charged and collected the incorrect amount of sales or use tax resulting from the seller or certified service provider relying on erroneous data provided by the member state in the taxability matrix or for relying on product-based classifications that have been reviewed and approved by the state. The state shall notify the certified service provider or model 2 seller if an item or transaction is incorrectly classified as to its taxability.

(d) Purchasers are relieved from liability for penalty for having failed to pay the correct amount of tax resulting from the purchaser's reliance on erroneous data provided by the member state in the taxability matrix or rates and boundaries data bases or for relying on product-based classifications that have been reviewed and approved by the state;

(8) Monetary allowances. The state agrees to allow any monetary allowances that are to be provided by the states to sellers or certified service providers in exchange for collecting sales and use taxes as provided in Article VI of the agreement;

(9) State compliance. The agreement requires the state to certify compliance with the terms of the agreement prior to joining and to maintain compliance, under the laws of the member state, with all provisions of the agreement while a member;

(10) Consumer privacy. The state hereby adopts a uniform policy for certified service providers that protects the privacy of consumers and maintains the confidentiality of tax information as provided in section 77-2711; and

(11) Advisory councils. The state agrees to the recognition of an advisory council of private-sector representatives and an advisory council of member and nonmember state representatives to consult with in the administration of the agreement.

Source: Laws 2001, LB 172, § 6; Laws 2003, LB 282, § 77; Laws 2004, LB 1017, § 20; Laws 2005, LB 16, § 1; Laws 2006, LB 887, § 4; Laws 2007, LB223, § 11; Laws 2009, LB165, § 11; Laws 2019, LB472, § 15.

(c) INCOME TAX

77-2715.07 Income tax credits.

(1) There shall be allowed to qualified resident individuals as a nonrefundable credit against the income tax imposed by the Nebraska Revenue Act of 1967:

(a) A credit equal to the federal credit allowed under section 22 of the Internal Revenue Code; and

(b) A credit for taxes paid to another state as provided in section 77-2730.

(2) There shall be allowed to qualified resident individuals against the income tax imposed by the Nebraska Revenue Act of 1967:

(a) For returns filed reporting federal adjusted gross incomes of greater than twenty-nine thousand dollars, a nonrefundable credit equal to twenty-five percent of the federal credit allowed under section 21 of the Internal Revenue Code of 1986, as amended, except that for taxable years beginning or deemed to begin on or after January 1, 2015, such nonrefundable credit shall be allowed only if the individual would have received the federal credit allowed under section 21 of the code after adding back in any carryforward of a net operating loss that was deducted pursuant to such section in determining eligibility for the federal credit;

(b) For returns filed reporting federal adjusted gross income of twenty-nine thousand dollars or less, a refundable credit equal to a percentage of the federal credit allowable under section 21 of the Internal Revenue Code of 1986, as amended, whether or not the federal credit was limited by the federal tax liability. The percentage of the federal credit shall be one hundred percent for incomes not greater than twenty-two thousand dollars, and the percentage shall be reduced by ten percent for each one thousand dollars, or fraction thereof, by which the reported federal adjusted gross income exceeds twenty-two thousand dollars, except that for taxable years beginning or deemed to begin on or after January 1, 2015, such refundable credit shall be allowed only if the individual would have received the federal credit allowed under section 21 of the code after adding back in any carryforward of a net operating loss that was deducted pursuant to such section in determining eligibility for the federal credit;

(c) A refundable credit as provided in section 77-5209.01 for individuals who qualify for an income tax credit as a qualified beginning farmer or livestock producer under the Beginning Farmer Tax Credit Act for all taxable years beginning or deemed to begin on or after January 1, 2006, under the Internal Revenue Code of 1986, as amended;

(d) A refundable credit for individuals who qualify for an income tax credit under the Angel Investment Tax Credit Act, the Nebraska Advantage Microenterprise Tax Credit Act, the Nebraska Advantage Research and Development Act, or the Volunteer Emergency Responders Incentive Act; and

(e) A refundable credit equal to ten percent of the federal credit allowed under section 32 of the Internal Revenue Code of 1986, as amended, except that for taxable years beginning or deemed to begin on or after January 1, 2015, such refundable credit shall be allowed only if the individual would have received the federal credit allowed under section 32 of the code after adding back in any carryforward of a net operating loss that was deducted pursuant to such section in determining eligibility for the federal credit.

(3) There shall be allowed to all individuals as a nonrefundable credit against the income tax imposed by the Nebraska Revenue Act of 1967:

(a) A credit for personal exemptions allowed under section 77-2716.01;

(b) A credit for contributions to certified community betterment programs as provided in the Community Development Assistance Act. Each partner, each shareholder of an electing subchapter S corporation, each beneficiary of an estate or trust, or each member of a limited liability company shall report his or her share of the credit in the same manner and proportion as he or she reports the partnership, subchapter S corporation, estate, trust, or limited liability company income;

(c) A credit for investment in a biodiesel facility as provided in section 77-27,236;

(d) A credit as provided in the New Markets Job Growth Investment Act;

(e) A credit as provided in the Nebraska Job Creation and Mainstreet Revitalization Act;

(f) A credit to employers as provided in section 77-27,238; and

(g) A credit as provided in the Affordable Housing Tax Credit Act.

(4) There shall be allowed as a credit against the income tax imposed by the Nebraska Revenue Act of 1967:

(a) A credit to all resident estates and trusts for taxes paid to another state as provided in section 77-2730;

(b) A credit to all estates and trusts for contributions to certified community betterment programs as provided in the Community Development Assistance Act; and

(c) A refundable credit for individuals who qualify for an income tax credit as an owner of agricultural assets under the Beginning Farmer Tax Credit Act for all taxable years beginning or deemed to begin on or after January 1, 2009, under the Internal Revenue Code of 1986, as amended. The credit allowed for each partner, shareholder, member, or beneficiary of a partnership, corporation, limited liability company, or estate or trust qualifying for an income tax credit as an owner of agricultural assets under the Beginning Farmer Tax Credit Act shall be equal to the partner's, shareholder's, member's, or beneficiary's portion of the amount of tax credit distributed pursuant to subsection (6) of section 77-5211.

(5)(a) For all taxable years beginning on or after January 1, 2007, and before January 1, 2009, under the Internal Revenue Code of 1986, as amended, there shall be allowed to each partner, shareholder, member, or beneficiary of a partnership, subchapter S corporation, limited liability company, or estate or trust a nonrefundable credit against the income tax imposed by the Nebraska Revenue Act of 1967 equal to fifty percent of the partner's, shareholder's, member's, or beneficiary's portion of the amount of franchise tax paid to the state under sections 77-3801 to 77-3807 by a financial institution.

(b) For all taxable years beginning on or after January 1, 2009, under the Internal Revenue Code of 1986, as amended, there shall be allowed to each partner, shareholder, member, or beneficiary of a partnership, subchapter S corporation, limited liability company, or estate or trust a nonrefundable credit against the income tax imposed by the Nebraska Revenue Act of 1967 equal to the partner's, shareholder's, member's, or beneficiary's portion of the amount of franchise tax paid to the state under sections 77-3801 to 77-3807 by a financial institution.

(c) Each partner, shareholder, member, or beneficiary shall report his or her share of the credit in the same manner and proportion as he or she reports the partnership, subchapter S corporation, limited liability company, or estate or trust income. If any partner, shareholder, member, or beneficiary cannot fully utilize the credit for that year, the credit may not be carried forward or back.

(6) There shall be allowed to all individuals nonrefundable credits against the income tax imposed by the Nebraska Revenue Act of 1967 as provided in section 77-3604 and refundable credits against the income tax imposed by the Nebraska Revenue Act of 1967 as provided in section 77-3605.

(7)(a) For taxable years beginning or deemed to begin on or after January 1, 2020, and before January 1, 2026, under the Internal Revenue Code of 1986, as amended, a nonrefundable credit against the income tax imposed by the Nebraska Revenue Act of 1967 in the amount of five thousand dollars shall be allowed to any individual who purchases a residence during the taxable year if such residence:

(i) Is located within an area that has been declared an extremely blighted area under section 18-2101.02;

(ii) Is the individual's primary residence; and

(iii) Was not purchased from a family member of the individual or a family member of the individual's spouse.

(b) The credit provided in this subsection shall be claimed for the taxable year in which the residence is purchased. If the individual cannot fully utilize the credit for such year, the credit may be carried forward to subsequent taxable years until fully utilized.

(c) No more than one credit may be claimed under this subsection with respect to a single residence.

(d) The credit provided in this subsection shall be subject to recapture by the Department of Revenue if the individual claiming the credit sells or otherwise transfers the residence or quits using the residence as his or her primary residence within five years after the end of the taxable year in which the credit was claimed.

(e) For purposes of this subsection, family member means an individual's spouse, child, parent, brother, sister, grandchild, or grandparent, whether by blood, marriage, or adoption.

(8) There shall be allowed to all individuals refundable credits against the income tax imposed by the Nebraska Revenue Act of 1967 as provided in the Nebraska Property Tax Incentive Act and the Renewable Chemical Production Tax Credit Act.

Source: Laws 1987, LB 773, § 6; Laws 1989, LB 739, § 2; Laws 1993, LB 5, § 3; Laws 1993, LB 121, § 503; Laws 1993, LB 240, § 4; Laws 1993, LB 815, § 23; Laws 1994, LB 977, § 12; Laws 1996, LB 898, § 5; Laws 1998, LB 1028, § 2; Laws 1999, LB 630, § 1; Laws 2001, LB 433, § 4; Laws 2005, LB 312, § 12; Laws 2006, LB 968, § 8; Laws 2006, LB 990, § 1; Laws 2007, LB343, § 3; Laws 2007, LB367, § 20; Laws 2007, LB456, § 1; Laws 2009, LB165, § 12; Laws 2011, LB389, § 12; Laws 2012, LB1128, § 22; Laws 2014, LB191, § 17; Laws 2015, LB591, § 12; Laws 2016, LB774, § 7; Laws 2016, LB884, § 19; Laws 2016, LB886, § 6; Laws 2016, LB889, § 10; Laws 2019, LB86, § 10; Laws 2019, LB560, § 1; Laws 2020, LB1107, § 130.

Operative date August 18, 2020.

Cross References

Affordable Housing Tax Credit Act, see section 77-2501.

Angel Investment Tax Credit Act, see section 77-6301.

Beginning Farmer Tax Credit Act, see section 77-5201.

Community Development Assistance Act, see section 13-201.

Nebraska Advantage Microenterprise Tax Credit Act, see section 77-5901.

Nebraska Advantage Research and Development Act, see section 77-5801.

Nebraska Job Creation and Mainstreet Revitalization Act, see section 77-2901.

Nebraska Property Tax Incentive Act, see section 77-6701.

New Markets Job Growth Investment Act, see section 77-1101.

Renewable Chemical Production Tax Credit Act, see section 77-6601.

Volunteer Emergency Responders Incentive Act, see section 77-3101.

77-2716 Income tax; adjustments.

(1) The following adjustments to federal adjusted gross income or, for corporations and fiduciaries, federal taxable income shall be made for interest or dividends received:

(a)(i) There shall be subtracted interest or dividends received by the owner of obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States to the extent includable in gross income for federal income tax purposes but exempt from state income taxes under the laws of the United States; and

(ii) There shall be subtracted interest received by the owner of obligations of the State of Nebraska or its political subdivisions or authorities which are Build America Bonds to the extent includable in gross income for federal income tax purposes;

(b) There shall be subtracted that portion of the total dividends and other income received from a regulated investment company which is attributable to obligations described in subdivision (a) of this subsection as reported to the recipient by the regulated investment company;

(c) There shall be added interest or dividends received by the owner of obligations of the District of Columbia, other states of the United States, or their political subdivisions, authorities, commissions, or instrumentalities to the extent excluded in the computation of gross income for federal income tax purposes except that such interest or dividends shall not be added if received by a corporation which is a regulated investment company;

(d) There shall be added that portion of the total dividends and other income received from a regulated investment company which is attributable to obligations described in subdivision (c) of this subsection and excluded for federal income tax purposes as reported to the recipient by the regulated investment company; and

(e)(i) Any amount subtracted under this subsection shall be reduced by any interest on indebtedness incurred to carry the obligations or securities described in this subsection or the investment in the regulated investment company and by any expenses incurred in the production of interest or dividend income described in this subsection to the extent that such expenses, including amortizable bond premiums, are deductible in determining federal taxable income.

(ii) Any amount added under this subsection shall be reduced by any expenses incurred in the production of such income to the extent disallowed in the computation of federal taxable income.

(2) There shall be allowed a net operating loss derived from or connected with Nebraska sources computed under rules and regulations adopted and promulgated by the Tax Commissioner consistent, to the extent possible under the Nebraska Revenue Act of 1967, with the laws of the United States. For a resident individual, estate, or trust, the net operating loss computed on the federal income tax return shall be adjusted by the modifications contained in this section. For a nonresident individual, estate, or trust or for a partial-year resident individual, the net operating loss computed on the federal return shall

be adjusted by the modifications contained in this section and any carryovers or carrybacks shall be limited to the portion of the loss derived from or connected with Nebraska sources.

(3) There shall be subtracted from federal adjusted gross income for all taxable years beginning on or after January 1, 1987, the amount of any state income tax refund to the extent such refund was deducted under the Internal Revenue Code, was not allowed in the computation of the tax due under the Nebraska Revenue Act of 1967, and is included in federal adjusted gross income.

(4) Federal adjusted gross income, or, for a fiduciary, federal taxable income shall be modified to exclude the portion of the income or loss received from a small business corporation with an election in effect under subchapter S of the Internal Revenue Code or from a limited liability company organized pursuant to the Nebraska Uniform Limited Liability Company Act that is not derived from or connected with Nebraska sources as determined in section 77-2734.01.

(5) There shall be subtracted from federal adjusted gross income or, for corporations and fiduciaries, federal taxable income dividends received or deemed to be received from corporations which are not subject to the Internal Revenue Code.

(6) There shall be subtracted from federal taxable income a portion of the income earned by a corporation subject to the Internal Revenue Code of 1986 that is actually taxed by a foreign country or one of its political subdivisions at a rate in excess of the maximum federal tax rate for corporations. The taxpayer may make the computation for each foreign country or for groups of foreign countries. The portion of the taxes that may be deducted shall be computed in the following manner:

(a) The amount of federal taxable income from operations within a foreign taxing jurisdiction shall be reduced by the amount of taxes actually paid to the foreign jurisdiction that are not deductible solely because the foreign tax credit was elected on the federal income tax return;

(b) The amount of after-tax income shall be divided by one minus the maximum tax rate for corporations in the Internal Revenue Code; and

(c) The result of the calculation in subdivision (b) of this subsection shall be subtracted from the amount of federal taxable income used in subdivision (a) of this subsection. The result of such calculation, if greater than zero, shall be subtracted from federal taxable income.

(7) Federal adjusted gross income shall be modified to exclude any amount repaid by the taxpayer for which a reduction in federal tax is allowed under section 1341(a)(5) of the Internal Revenue Code.

(8)(a) Federal adjusted gross income or, for corporations and fiduciaries, federal taxable income shall be reduced, to the extent included, by income from interest, earnings, and state contributions received from the Nebraska educational savings plan trust created in sections 85-1801 to 85-1817 and any account established under the achieving a better life experience program as provided in sections 77-1401 to 77-1409.

(b) Federal adjusted gross income or, for corporations and fiduciaries, federal taxable income shall be reduced by any contributions as a participant in the Nebraska educational savings plan trust or contributions to an account established under the achieving a better life experience program made for the benefit

of a beneficiary as provided in sections 77-1401 to 77-1409, to the extent not deducted for federal income tax purposes, but not to exceed five thousand dollars per married filing separate return or ten thousand dollars for any other return. With respect to a qualified rollover within the meaning of section 529 of the Internal Revenue Code from another state's plan, any interest, earnings, and state contributions received from the other state's educational savings plan which is qualified under section 529 of the code shall qualify for the reduction provided in this subdivision. For contributions by a custodian of a custodial account including rollovers from another custodial account, the reduction shall only apply to funds added to the custodial account after January 1, 2014.

(c) For taxable years beginning or deemed to begin on or after January 1, 2021, under the Internal Revenue Code of 1986, as amended, federal adjusted gross income shall be reduced, to the extent included in the adjusted gross income of an individual, by the amount of any contribution made by the individual's employer into an account under the Nebraska educational savings plan trust owned by the individual, not to exceed five thousand dollars per married filing separate return or ten thousand dollars for any other return.

(d) Federal adjusted gross income or, for corporations and fiduciaries, federal taxable income shall be increased by:

(i) The amount resulting from the cancellation of a participation agreement refunded to the taxpayer as a participant in the Nebraska educational savings plan trust to the extent previously deducted under subdivision (8)(b) of this section; and

(ii) The amount of any withdrawals by the owner of an account established under the achieving a better life experience program as provided in sections 77-1401 to 77-1409 for nonqualified expenses to the extent previously deducted under subdivision (8)(b) of this section.

(9)(a) For income tax returns filed after September 10, 2001, for taxable years beginning or deemed to begin before January 1, 2006, under the Internal Revenue Code of 1986, as amended, federal adjusted gross income or, for corporations and fiduciaries, federal taxable income shall be increased by eighty-five percent of any amount of any federal bonus depreciation received under the federal Job Creation and Worker Assistance Act of 2002 or the federal Jobs and Growth Tax Act of 2003, under section 168(k) or section 1400L of the Internal Revenue Code of 1986, as amended, for assets placed in service after September 10, 2001, and before December 31, 2005.

(b) For a partnership, limited liability company, cooperative, including any cooperative exempt from income taxes under section 521 of the Internal Revenue Code of 1986, as amended, limited cooperative association, subchapter S corporation, or joint venture, the increase shall be distributed to the partners, members, shareholders, patrons, or beneficiaries in the same manner as income is distributed for use against their income tax liabilities.

(c) For a corporation with a unitary business having activity both inside and outside the state, the increase shall be apportioned to Nebraska in the same manner as income is apportioned to the state by section 77-2734.05.

(d) The amount of bonus depreciation added to federal adjusted gross income or, for corporations and fiduciaries, federal taxable income by this subsection shall be subtracted in a later taxable year. Twenty percent of the total amount of bonus depreciation added back by this subsection for tax years beginning or deemed to begin before January 1, 2003, under the Internal Revenue Code of

1986, as amended, may be subtracted in the first taxable year beginning or deemed to begin on or after January 1, 2005, under the Internal Revenue Code of 1986, as amended, and twenty percent in each of the next four following taxable years. Twenty percent of the total amount of bonus depreciation added back by this subsection for tax years beginning or deemed to begin on or after January 1, 2003, may be subtracted in the first taxable year beginning or deemed to begin on or after January 1, 2006, under the Internal Revenue Code of 1986, as amended, and twenty percent in each of the next four following taxable years.

(10) For taxable years beginning or deemed to begin on or after January 1, 2003, and before January 1, 2006, under the Internal Revenue Code of 1986, as amended, federal adjusted gross income or, for corporations and fiduciaries, federal taxable income shall be increased by the amount of any capital investment that is expensed under section 179 of the Internal Revenue Code of 1986, as amended, that is in excess of twenty-five thousand dollars that is allowed under the federal Jobs and Growth Tax Act of 2003. Twenty percent of the total amount of expensing added back by this subsection for tax years beginning or deemed to begin on or after January 1, 2003, may be subtracted in the first taxable year beginning or deemed to begin on or after January 1, 2006, under the Internal Revenue Code of 1986, as amended, and twenty percent in each of the next four following tax years.

(11)(a) For taxable years beginning or deemed to begin before January 1, 2018, under the Internal Revenue Code of 1986, as amended, federal adjusted gross income shall be reduced by contributions, up to two thousand dollars per married filing jointly return or one thousand dollars for any other return, and any investment earnings made as a participant in the Nebraska long-term care savings plan under the Long-Term Care Savings Plan Act, to the extent not deducted for federal income tax purposes.

(b) For taxable years beginning or deemed to begin before January 1, 2018, under the Internal Revenue Code of 1986, as amended, federal adjusted gross income shall be increased by the withdrawals made as a participant in the Nebraska long-term care savings plan under the act by a person who is not a qualified individual or for any reason other than transfer of funds to a spouse, long-term care expenses, long-term care insurance premiums, or death of the participant, including withdrawals made by reason of cancellation of the participation agreement, to the extent previously deducted as a contribution or as investment earnings.

(12) There shall be added to federal adjusted gross income for individuals, estates, and trusts any amount taken as a credit for franchise tax paid by a financial institution under sections 77-3801 to 77-3807 as allowed by subsection (5) of section 77-2715.07.

(13)(a) For taxable years beginning or deemed to begin on or after January 1, 2015, under the Internal Revenue Code of 1986, as amended, federal adjusted gross income shall be reduced by the amount received as benefits under the federal Social Security Act which are included in the federal adjusted gross income if:

(i) For taxpayers filing a married filing joint return, federal adjusted gross income is fifty-eight thousand dollars or less; or

(ii) For taxpayers filing any other return, federal adjusted gross income is forty-three thousand dollars or less.

(b) For taxable years beginning or deemed to begin on or after January 1, 2020, under the Internal Revenue Code of 1986, as amended, the Tax Commissioner shall adjust the dollar amounts provided in subdivisions (13)(a)(i) and (ii) of this section by the same percentage used to adjust individual income tax brackets under subsection (3) of section 77-2715.03.

(14)(a) For taxable years beginning or deemed to begin on or after January 1, 2015, and before January 1, 2022, under the Internal Revenue Code of 1986, as amended, an individual may make a one-time election within two calendar years after the date of his or her retirement from the military to exclude income received as a military retirement benefit by the individual to the extent included in federal adjusted gross income and as provided in this subdivision. The individual may elect to exclude forty percent of his or her military retirement benefit income for seven consecutive taxable years beginning with the year in which the election is made or may elect to exclude fifteen percent of his or her military retirement benefit income for all taxable years beginning with the year in which he or she turns sixty-seven years of age.

(b) For taxable years beginning or deemed to begin on or after January 1, 2022, under the Internal Revenue Code of 1986, as amended, an individual may exclude fifty percent of the military retirement benefit income received by such individual to the extent included in federal adjusted gross income.

(c) For purposes of this subsection, military retirement benefit means retirement benefits that are periodic payments attributable to service in the uniformed services of the United States for personal services performed by an individual prior to his or her retirement.

(15) For taxable years beginning or deemed to begin on or after January 1, 2021, under the Internal Revenue Code of 1986, as amended, federal adjusted gross income shall be reduced by the amount received as a Segal AmeriCorps Education Award, to the extent such amount is included in federal adjusted gross income.

Source: Laws 1967, c. 487, § 16, p. 1579; Laws 1983, LB 619, § 1; Laws 1984, LB 962, § 15; Laws 1984, LB 1124, § 3; Laws 1985, LB 273, § 50; Laws 1986, LB 774, § 9; Laws 1987, LB 523, § 20; Laws 1987, LB 773, § 9; Laws 1989, LB 458, § 2; Laws 1989, LB 459, § 3; Laws 1991, LB 773, § 13; Laws 1993, LB 121, § 504; Laws 1994, LB 977, § 13; Laws 1997, LB 401, § 2; Laws 1998, LB 1028, § 3; Laws 2000, LB 1003, § 15; Laws 2002, LB 1085, § 18; Laws 2003, LB 596, § 1; Laws 2005, LB 216, § 10; Laws 2006, LB 965, § 6; Laws 2006, LB 968, § 9; Laws 2007, LB338, § 1; Laws 2007, LB368, § 135; Laws 2007, LB456, § 2; Laws 2010, LB197, § 1; Laws 2010, LB888, § 104; Laws 2013, LB283, § 6; Laws 2013, LB296, § 1; Laws 2014, LB987, § 2; Laws 2015, LB591, § 13; Laws 2016, LB756, § 1; Laws 2016, LB776, § 3; Laws 2018, LB738, § 1; Laws 2019, LB610, § 7; Laws 2020, LB153, § 1; Laws 2020, LB477, § 1; Laws 2020, LB1042, § 2.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB153, section 1, with LB477, section 1, and LB1042, section 2, to reflect all amendments.

Note: Changes made by LB1042 became effective August 8, 2020. Changes made by LB153 and LB477 became effective November 14, 2020.

Cross References

Long-Term Care Savings Plan Act, see section 77-6101.

Nebraska Uniform Limited Liability Company Act, see section 21-101.

77-2716.01 Personal exemptions; standard deduction; computation.

(1)(a) Through tax year 2017, every individual shall be allowed to subtract from his or her income tax liability an amount for personal exemptions. The amount allowed to be subtracted shall be the credit amount for the year as provided in this subdivision multiplied by the number of exemptions allowed on the federal return. For tax year 1993, the credit amount shall be sixty-five dollars; for tax year 1994, the credit amount shall be sixty-nine dollars; for tax year 1995, the credit amount shall be sixty-nine dollars; for tax year 1996, the credit amount shall be seventy-two dollars; for tax year 1997, the credit amount shall be eighty-six dollars; for tax year 1998, the credit amount shall be eighty-eight dollars; for tax year 1999, and each year thereafter through tax year 2017, the credit amount shall be adjusted for inflation by the method provided in section 151 of the Internal Revenue Code of 1986, as it existed prior to December 22, 2017. The eighty-eight-dollar credit amount shall be adjusted for cumulative inflation since 1998. If any credit amount is not an even dollar amount, the amount shall be rounded to the nearest dollar. For nonresident individuals and partial-year resident individuals, the personal exemption credit shall be subtracted as specified in subsection (3) of section 77-2715.

(b) Beginning with tax year 2018, every individual, except an individual that can be claimed for a child credit or dependent credit on the federal return of another taxpayer, shall be allowed to subtract from his or her income tax liability an amount for personal exemptions. The amount allowed to be subtracted shall be the credit amount for the year as provided in this subdivision multiplied by the sum of the number of child credits and dependent credits taken on the federal return, plus two for a married filing jointly return or plus one for any other return. For tax year 2018, the credit amount shall be one hundred thirty-four dollars. For tax year 2019 and each tax year thereafter, the credit amount shall be adjusted for inflation based on the percentage change in the Consumer Price Index for All Urban Consumers published by the federal Bureau of Labor Statistics from the twelve months ending on August 31, 2017, to the twelve months ending on August 31 of the year preceding the taxable year. If any credit amount is not an even dollar amount, the amount shall be rounded to the nearest dollar. For nonresident individuals and partial-year resident individuals, the personal exemption credit shall be subtracted as specified in subsection (3) of section 77-2715.

(2)(a) For tax years beginning or deemed to begin on or after January 1, 2003, and before January 1, 2004, under the Internal Revenue Code of 1986, as amended, every individual who did not itemize deductions on his or her federal return shall be allowed to subtract from federal adjusted gross income a standard deduction based on the filing status used on the federal return except as the amount is adjusted under section 77-2716.03. The standard deduction shall be the smaller of the federal standard deduction actually allowed or (i) for single taxpayers four thousand seven hundred fifty dollars, (ii) for head of household taxpayers seven thousand dollars, (iii) for married filing jointly taxpayers seven thousand nine hundred fifty dollars, and (iv) for married filing separately taxpayers three thousand nine hundred seventy-five dollars. Taxpayers who are allowed additional federal standard deduction amounts because of age or blindness shall be allowed an increase in the Nebraska standard deduction for each additional amount allowed on the federal return. The additional amounts shall be for married taxpayers, nine hundred fifty dollars,

and for single or head of household taxpayers, one thousand one hundred fifty dollars.

(b) For tax years beginning or deemed to begin on or after January 1, 2007, and before January 1, 2018, under the Internal Revenue Code of 1986, as amended, every individual who did not itemize deductions on his or her federal return shall be allowed to subtract from federal adjusted gross income a standard deduction based on the filing status used on the federal return. The standard deduction shall be the smaller of the federal standard deduction actually allowed or (i) for single taxpayers three thousand dollars and (ii) for head of household taxpayers four thousand four hundred dollars. The standard deduction for married filing jointly taxpayers shall be double the standard deduction for single taxpayers, and for married filing separately taxpayers, the standard deduction shall be the same as single taxpayers. Taxpayers who are allowed additional federal standard deduction amounts because of age or blindness shall be allowed an increase in the Nebraska standard deduction for each additional amount allowed on the federal return. The additional amounts shall be for married taxpayers six hundred dollars and for single or head of household taxpayers seven hundred fifty dollars. The amounts in this subdivision will be indexed using 1987 as the base year.

(c) For tax years beginning or deemed to begin on or after January 1, 2007, and before January 1, 2018, the standard deduction amounts, including the additional standard deduction amounts, in this subsection shall be adjusted for inflation by the method provided in section 151 of the Internal Revenue Code of 1986, as it existed prior to December 22, 2017. If any amount is not a multiple of fifty dollars, the amount shall be rounded to the next lowest multiple of fifty dollars.

(3)(a) For tax years beginning or deemed to begin on or after January 1, 2018, every individual who did not itemize deductions on his or her federal return shall be allowed to subtract from federal adjusted gross income a standard deduction based on the filing status used on the federal return. The standard deduction shall be the smaller of the federal standard deduction actually allowed or (i) six thousand seven hundred fifty dollars for single taxpayers and (ii) nine thousand nine hundred dollars for head of household taxpayers. The standard deduction for married filing jointly taxpayers or qualifying widows or widowers shall be double the standard deduction for single taxpayers, and the standard deduction for married filing separately taxpayers shall be the same as the standard deduction for single taxpayers. Taxpayers who are allowed additional federal standard deduction amounts because of age or blindness shall be allowed an increase in the Nebraska standard deduction for each additional amount allowed on the federal return. The additional amounts shall be one thousand three hundred dollars for married taxpayers and one thousand six hundred dollars for single or head of household taxpayers.

(b) For tax years beginning or deemed to begin on or after January 1, 2019, the standard deduction amounts, including the additional standard deduction amounts, in this subsection shall be adjusted for inflation based on the percentage change in the Consumer Price Index for All Urban Consumers published by the federal Bureau of Labor Statistics from the twelve months ending on August 31, 2017, to the twelve months ending on August 31 of the year preceding the taxable year. If any amount is not a multiple of fifty dollars, the amount shall be rounded to the next lowest multiple of fifty dollars.

(4) Every individual who itemized deductions on his or her federal return shall be allowed to subtract from federal adjusted gross income the greater of either the standard deduction allowed in this section or his or her federal itemized deductions as defined in section 63(d) of the Internal Revenue Code of 1986, as amended, except for the amount for state or local income taxes included in federal itemized deductions before any federal disallowance.

Source: Laws 1987, LB 773, § 10; Laws 1988, LB 1234, § 2; Laws 1989, LB 739, § 3; Laws 1991, LB 300, § 3; Laws 1993, LB 240, § 5; Laws 1997, LB 401, § 3; Laws 1998, LB 1028, § 4; Laws 2003, LB 596, § 2; Laws 2004, LB 355, § 1; Laws 2006, LB 968, § 10; Laws 2007, LB367, § 21; Laws 2018, LB1090, § 2; Laws 2019, LB512, § 20.

77-2717 Income tax; estates; trusts; rate; fiduciary return; contents; filing; state income tax; contents; credits.

(1)(a)(i) For taxable years beginning or deemed to begin before January 1, 2014, the tax imposed on all resident estates and trusts shall be a percentage of the federal taxable income of such estates and trusts as modified in section 77-2716, plus a percentage of the federal alternative minimum tax and the federal tax on premature or lump-sum distributions from qualified retirement plans. The additional taxes shall be recomputed by (A) substituting Nebraska taxable income for federal taxable income, (B) calculating what the federal alternative minimum tax would be on Nebraska taxable income and adjusting such calculations for any items which are reflected differently in the determination of federal taxable income, and (C) applying Nebraska rates to the result. The federal credit for prior year minimum tax, after the recomputations required by the Nebraska Revenue Act of 1967, and the credits provided in the Nebraska Advantage Microenterprise Tax Credit Act and the Nebraska Advantage Research and Development Act shall be allowed as a reduction in the income tax due. A refundable income tax credit shall be allowed for all resident estates and trusts under the Angel Investment Tax Credit Act, the Nebraska Advantage Microenterprise Tax Credit Act, and the Nebraska Advantage Research and Development Act. A nonrefundable income tax credit shall be allowed for all resident estates and trusts as provided in the New Markets Job Growth Investment Act.

(ii) For taxable years beginning or deemed to begin on or after January 1, 2014, the tax imposed on all resident estates and trusts shall be a percentage of the federal taxable income of such estates and trusts as modified in section 77-2716, plus a percentage of the federal tax on premature or lump-sum distributions from qualified retirement plans. The additional taxes shall be recomputed by substituting Nebraska taxable income for federal taxable income and applying Nebraska rates to the result. The credits provided in the Nebraska Advantage Microenterprise Tax Credit Act and the Nebraska Advantage Research and Development Act shall be allowed as a reduction in the income tax due. A refundable income tax credit shall be allowed for all resident estates and trusts under the Angel Investment Tax Credit Act, the Nebraska Advantage Microenterprise Tax Credit Act, the Nebraska Advantage Research and Development Act, the Nebraska Property Tax Incentive Act, and the Renewable Chemical Production Tax Credit Act. A nonrefundable income tax credit shall be allowed for all resident estates and trusts as provided in the Nebraska Job Creation and Mainstreet Revitalization Act, the New Markets Job Growth

Investment Act, the School Readiness Tax Credit Act, the Affordable Housing Tax Credit Act, and section 77-27,238.

(b) The tax imposed on all nonresident estates and trusts shall be the portion of the tax imposed on resident estates and trusts which is attributable to the income derived from sources within this state. The tax which is attributable to income derived from sources within this state shall be determined by multiplying the liability to this state for a resident estate or trust with the same total income by a fraction, the numerator of which is the nonresident estate's or trust's Nebraska income as determined by sections 77-2724 and 77-2725 and the denominator of which is its total federal income after first adjusting each by the amounts provided in section 77-2716. The federal credit for prior year minimum tax, after the recomputations required by the Nebraska Revenue Act of 1967, reduced by the percentage of the total income which is attributable to income from sources outside this state, and the credits provided in the Nebraska Advantage Microenterprise Tax Credit Act and the Nebraska Advantage Research and Development Act shall be allowed as a reduction in the income tax due. A refundable income tax credit shall be allowed for all nonresident estates and trusts under the Angel Investment Tax Credit Act, the Nebraska Advantage Microenterprise Tax Credit Act, the Nebraska Advantage Research and Development Act, the Nebraska Property Tax Incentive Act, and the Renewable Chemical Production Tax Credit Act. A nonrefundable income tax credit shall be allowed for all nonresident estates and trusts as provided in the Nebraska Job Creation and Mainstreet Revitalization Act, the New Markets Job Growth Investment Act, the School Readiness Tax Credit Act, the Affordable Housing Tax Credit Act, and section 77-27,238.

(2) In all instances wherein a fiduciary income tax return is required under the provisions of the Internal Revenue Code, a Nebraska fiduciary return shall be filed, except that a fiduciary return shall not be required to be filed regarding a simple trust if all of the trust's beneficiaries are residents of the State of Nebraska, all of the trust's income is derived from sources in this state, and the trust has no federal tax liability. The fiduciary shall be responsible for making the return for the estate or trust for which he or she acts, whether the income be taxable to the estate or trust or to the beneficiaries thereof. The fiduciary shall include in the return a statement of each beneficiary's distributive share of net income when such income is taxable to such beneficiaries.

(3) The beneficiaries of such estate or trust who are residents of this state shall include in their income their proportionate share of such estate's or trust's federal income and shall reduce their Nebraska tax liability by their proportionate share of the credits as provided in the Angel Investment Tax Credit Act, the Nebraska Advantage Microenterprise Tax Credit Act, the Nebraska Advantage Research and Development Act, the Nebraska Job Creation and Mainstreet Revitalization Act, the New Markets Job Growth Investment Act, the School Readiness Tax Credit Act, the Affordable Housing Tax Credit Act, the Nebraska Property Tax Incentive Act, the Renewable Chemical Production Tax Credit Act, and section 77-27,238. There shall be allowed to a beneficiary a refundable income tax credit under the Beginning Farmer Tax Credit Act for all taxable years beginning or deemed to begin on or after January 1, 2001, under the Internal Revenue Code of 1986, as amended.

(4) If any beneficiary of such estate or trust is a nonresident during any part of the estate's or trust's taxable year, he or she shall file a Nebraska income tax return which shall include (a) in Nebraska adjusted gross income that portion

of the estate's or trust's Nebraska income, as determined under sections 77-2724 and 77-2725, allocable to his or her interest in the estate or trust and (b) a reduction of the Nebraska tax liability by his or her proportionate share of the credits as provided in the Angel Investment Tax Credit Act, the Nebraska Advantage Microenterprise Tax Credit Act, the Nebraska Advantage Research and Development Act, the Nebraska Job Creation and Mainstreet Revitalization Act, the New Markets Job Growth Investment Act, the School Readiness Tax Credit Act, the Affordable Housing Tax Credit Act, the Nebraska Property Tax Incentive Act, the Renewable Chemical Production Tax Credit Act, and section 77-27,238 and shall execute and forward to the fiduciary, on or before the original due date of the Nebraska fiduciary return, an agreement which states that he or she will file a Nebraska income tax return and pay income tax on all income derived from or connected with sources in this state, and such agreement shall be attached to the Nebraska fiduciary return for such taxable year.

(5) In the absence of the nonresident beneficiary's executed agreement being attached to the Nebraska fiduciary return, the estate or trust shall remit a portion of such beneficiary's income which was derived from or attributable to Nebraska sources with its Nebraska return for the taxable year. For taxable years beginning or deemed to begin before January 1, 2013, the amount of remittance, in such instance, shall be the highest individual income tax rate determined under section 77-2715.02 multiplied by the nonresident beneficiary's share of the estate or trust income which was derived from or attributable to sources within this state. For taxable years beginning or deemed to begin on or after January 1, 2013, the amount of remittance, in such instance, shall be the highest individual income tax rate determined under section 77-2715.03 multiplied by the nonresident beneficiary's share of the estate or trust income which was derived from or attributable to sources within this state. The amount remitted shall be allowed as a credit against the Nebraska income tax liability of the beneficiary.

(6) The Tax Commissioner may allow a nonresident beneficiary to not file a Nebraska income tax return if the nonresident beneficiary's only source of Nebraska income was his or her share of the estate's or trust's income which was derived from or attributable to sources within this state, the nonresident did not file an agreement to file a Nebraska income tax return, and the estate or trust has remitted the amount required by subsection (5) of this section on behalf of such nonresident beneficiary. The amount remitted shall be retained in satisfaction of the Nebraska income tax liability of the nonresident beneficiary.

(7) For purposes of this section, unless the context otherwise requires, simple trust shall mean any trust instrument which (a) requires that all income shall be distributed currently to the beneficiaries, (b) does not allow amounts to be paid, permanently set aside, or used in the tax year for charitable purposes, and (c) does not distribute amounts allocated in the corpus of the trust. Any trust which does not qualify as a simple trust shall be deemed a complex trust.

(8) For purposes of this section, any beneficiary of an estate or trust that is a grantor trust of a nonresident shall be disregarded and this section shall apply as though the nonresident grantor was the beneficiary.

Source: Laws 1967, c. 487, § 17, p. 1579; Laws 1969, c. 690, § 1, p. 2683; Laws 1973, LB 531, § 1; Laws 1985, LB 273, § 51; Laws 1987, LB 523, § 21; Laws 1991, LB 773, § 14; Laws 1994, LB 977,

§ 14; Laws 2000, LB 1223, § 1; Laws 2001, LB 433, § 5; Laws 2005, LB 312, § 13; Laws 2006, LB 1003, § 6; Laws 2007, LB367, § 22; Laws 2008, LB915, § 1; Laws 2011, LB389, § 13; Laws 2012, LB970, § 6; Laws 2012, LB1128, § 23; Laws 2013, LB308, § 2; Laws 2014, LB191, § 18; Laws 2016, LB774, § 8; Laws 2016, LB884, § 20; Laws 2016, LB889, § 11; Laws 2020, LB1107, § 131.

Operative date August 18, 2020.

Cross References

Affordable Housing Tax Credit Act, see section 77-2501.

Angel Investment Tax Credit Act, see section 77-6301.

Beginning Farmer Tax Credit Act, see section 77-5201.

Nebraska Advantage Microenterprise Tax Credit Act, see section 77-5901.

Nebraska Advantage Research and Development Act, see section 77-5801.

Nebraska Job Creation and Mainstreet Revitalization Act, see section 77-2901.

Nebraska Property Tax Incentive Act, see section 77-6701.

New Markets Job Growth Investment Act, see section 77-1101.

Renewable Chemical Production Tax Credit Act, see section 77-6601.

School Readiness Tax Credit Act, see section 77-3601.

77-2734.01 Small business corporation shareholders; limited liability company members; determination of income; credit; Tax Commissioner; powers; return; when required.

(1) Residents of Nebraska who are shareholders of a small business corporation having an election in effect under subchapter S of the Internal Revenue Code or who are members of a limited liability company organized pursuant to the Nebraska Uniform Limited Liability Company Act shall include in their Nebraska taxable income, to the extent includable in federal gross income, their proportionate share of such corporation's or limited liability company's federal income adjusted pursuant to this section. Income or loss from such corporation or limited liability company conducting a business, trade, profession, or occupation shall be included in the Nebraska taxable income of a shareholder or member who is a resident of this state to the extent of such shareholder's or member's proportionate share of the net income or loss from the conduct of such business, trade, profession, or occupation within this state, determined under subsection (2) of this section. A resident of Nebraska shall include in Nebraska taxable income fair compensation for services rendered to such corporation or limited liability company. Compensation actually paid shall be presumed to be fair unless it is apparent to the Tax Commissioner that such compensation is materially different from fair value for the services rendered or has been manipulated for tax avoidance purposes.

(2) The income of any small business corporation having an election in effect under subchapter S of the Internal Revenue Code or limited liability company organized pursuant to the Nebraska Uniform Limited Liability Company Act that is derived from or connected with Nebraska sources shall be determined in the following manner:

(a) If the small business corporation is a member of a unitary group, the small business corporation shall be deemed to be doing business within this state if any part of its income is derived from transactions with other members of the unitary group doing business within this state, and such corporation shall apportion its income by using the apportionment factor determined for the entire unitary group, including the small business corporation, under sections 77-2734.05 to 77-2734.15;

(b) If the small business corporation or limited liability company is not a member of a unitary group and is subject to tax in another state, it shall apportion its income under sections 77-2734.05 to 77-2734.15; and

(c) If the small business corporation or limited liability company is not subject to tax in another state, all of its income is derived from or connected with Nebraska sources.

(3) Nonresidents of Nebraska who are shareholders of such corporations or members of such limited liability companies shall file a Nebraska income tax return and shall include in Nebraska adjusted gross income their proportionate share of the corporation's or limited liability company's Nebraska income as determined under subsection (2) of this section.

(4) The nonresident shareholder or member shall execute and forward to the corporation or limited liability company before the filing of the corporation's or limited liability company's return an agreement which states he or she will file a Nebraska income tax return and pay the tax on the income derived from or connected with sources in this state, and such agreement shall be attached to the corporation's or limited liability company's Nebraska return for such taxable year.

(5) For taxable years beginning or deemed to begin before January 1, 2013, in the absence of the nonresident shareholder's or member's executed agreement being attached to the Nebraska return, the corporation or limited liability company shall remit with the return an amount equal to the highest individual income tax rate determined under section 77-2715.02 multiplied by the nonresident shareholder's or member's share of the corporation's or limited liability company's income which was derived from or attributable to this state. For taxable years beginning or deemed to begin on or after January 1, 2013, in the absence of the nonresident shareholder's or member's executed agreement being attached to the Nebraska return, the corporation or limited liability company shall remit with the return an amount equal to the highest individual income tax rate determined under section 77-2715.03 multiplied by the nonresident shareholder's or member's share of the corporation's or limited liability company's income which was derived from or attributable to this state. The amount remitted shall be allowed as a credit against the Nebraska income tax liability of the shareholder or member.

(6) The Tax Commissioner may allow a nonresident individual shareholder or member to not file a Nebraska income tax return if the nonresident individual shareholder's or member's only source of Nebraska income was his or her share of the small business corporation's or limited liability company's income which was derived from or attributable to sources within this state, the nonresident did not file an agreement to file a Nebraska income tax return, and the small business corporation or limited liability company has remitted the amount required by subsection (5) of this section on behalf of such nonresident individual shareholder or member. The amount remitted shall be retained in satisfaction of the Nebraska income tax liability of the nonresident individual shareholder or member.

(7) A small business corporation or limited liability company return shall be filed if the small business corporation or limited liability company has income derived from Nebraska sources.

(8) For purposes of this section, any shareholder or member of the corporation or limited liability company that is a grantor trust of a nonresident shall be

disregarded and this section shall apply as though the nonresident grantor was the shareholder or member.

Source: Laws 1984, LB 1124, § 4; Laws 1985, LB 273, § 54; Laws 1987, LB 523, § 23; Laws 1987, LB 773, § 18; Laws 1991, LB 773, § 16; Laws 1993, LB 121, § 508; Laws 2005, LB 216, § 12; Laws 2008, LB915, § 3; Laws 2010, LB888, § 105; Laws 2012, LB970, § 8; Laws 2013, LB283, § 7; Laws 2019, LB512, § 21.

Cross References

Nebraska Uniform Limited Liability Company Act, see section 21-101.

77-2734.03 Income tax; tax credits.

(1)(a) For taxable years commencing prior to January 1, 1997, any (i) insurer paying a tax on premiums and assessments pursuant to section 77-908 or 81-523, (ii) electric cooperative organized under the Joint Public Power Authority Act, or (iii) credit union shall be credited, in the computation of the tax due under the Nebraska Revenue Act of 1967, with the amount paid during the taxable year as taxes on such premiums and assessments and taxes in lieu of intangible tax.

(b) For taxable years commencing on or after January 1, 1997, any insurer paying a tax on premiums and assessments pursuant to section 77-908 or 81-523, any electric cooperative organized under the Joint Public Power Authority Act, or any credit union shall be credited, in the computation of the tax due under the Nebraska Revenue Act of 1967, with the amount paid during the taxable year as (i) taxes on such premiums and assessments included as Nebraska premiums and assessments under section 77-2734.05 and (ii) taxes in lieu of intangible tax.

(c) For taxable years commencing or deemed to commence prior to, on, or after January 1, 1998, any insurer paying a tax on premiums and assessments pursuant to section 77-908 or 81-523 shall be credited, in the computation of the tax due under the Nebraska Revenue Act of 1967, with the amount paid during the taxable year as assessments allowed as an offset against premium and related retaliatory tax liability pursuant to section 44-4233.

(2) There shall be allowed to corporate taxpayers a tax credit for contributions to community betterment programs as provided in the Community Development Assistance Act.

(3) There shall be allowed to corporate taxpayers a refundable income tax credit under the Beginning Farmer Tax Credit Act for all taxable years beginning or deemed to begin on or after January 1, 2001, under the Internal Revenue Code of 1986, as amended.

(4) The changes made to this section by Laws 2004, LB 983, apply to motor fuels purchased during any tax year ending or deemed to end on or after January 1, 2005, under the Internal Revenue Code of 1986, as amended.

(5) There shall be allowed to corporate taxpayers refundable income tax credits under the Nebraska Advantage Microenterprise Tax Credit Act, the Nebraska Advantage Research and Development Act, the Nebraska Property Tax Incentive Act, and the Renewable Chemical Production Tax Credit Act.

(6) There shall be allowed to corporate taxpayers a nonrefundable income tax credit for investment in a biodiesel facility as provided in section 77-27,236.

(7) There shall be allowed to corporate taxpayers a nonrefundable income tax credit as provided in the Nebraska Job Creation and Mainstreet Revitalization Act, the New Markets Job Growth Investment Act, the School Readiness Tax Credit Act, the Affordable Housing Tax Credit Act, and section 77-27,238.

Source: Laws 1984, LB 1124, § 6; Laws 1985, LB 273, § 55; Laws 1986, LB 1114, § 19; Laws 1992, LB 719A, § 176; Laws 1992, LB 1063, § 184; Laws 1993, LB 5, § 4; Laws 1993, LB 815, § 25; Laws 1996, LB 898, § 6; Laws 1997, LB 55, § 4; Laws 1997, LB 61, § 1; Laws 1998, LB 1035, § 24; Laws 2000, LB 1223, § 2; Laws 2001, LB 433, § 6; Laws 2004, LB 983, § 68; Laws 2005, LB 312, § 14; Laws 2007, LB343, § 6; Laws 2007, LB367, § 23; Laws 2012, LB1128, § 24; Laws 2014, LB191, § 19; Laws 2016, LB774, § 9; Laws 2016, LB884, § 21; Laws 2016, LB889, § 12; Laws 2020, LB1107, § 132.

Operative date August 18, 2020.

Cross References

Affordable Housing Tax Credit Act, see section 77-2501.

Beginning Farmer Tax Credit Act, see section 77-5201.

Community Development Assistance Act, see section 13-201.

Joint Public Power Authority Act, see section 70-1401.

Nebraska Advantage Microenterprise Tax Credit Act, see section 77-5901.

Nebraska Advantage Research and Development Act, see section 77-5801.

Nebraska Job Creation and Mainstreet Revitalization Act, see section 77-2901.

Nebraska Property Tax Incentive Act, see section 77-6701.

New Markets Job Growth Investment Act, see section 77-1101.

Renewable Chemical Production Tax Credit Act, see section 77-6601.

School Readiness Tax Credit Act, see section 77-3601.

77-2761 Income tax; return; required by whom.

An income tax return with respect to the income tax imposed by the provisions of the Nebraska Revenue Act of 1967 shall be made by the following:

- (1) Every resident individual who is required to file a federal income tax return for the taxable year;
- (2) Every nonresident individual who has income from Nebraska sources;
- (3) Every resident estate or trust which is required to file a federal income tax return except a simple trust not required to file under subsection (2) of section 77-2717;
- (4) Every nonresident estate or trust which has taxable income from Nebraska sources;
- (5) Every corporation or any other entity taxed as a corporation under the Internal Revenue Code which is required to file a federal income tax return except the small business corporations not required to file under subsection (7) of section 77-2734.01;
- (6) Every limited liability company having income derived from Nebraska sources; and
- (7) Every partnership having income derived from Nebraska sources.

Source: Laws 1967, c. 487, § 61, p. 1598; Laws 1987, LB 523, § 25; Laws 1993, LB 121, § 510; Laws 2009, LB165, § 13; Laws 2019, LB512, § 22.

77-2773 Income tax; partnership; taxable year; return.

Every partnership having part of its income derived from Nebraska sources, determined in accordance with the applicable rules of section 77-2733 as in the case of a nonresident individual, shall make a return for the taxable year setting forth such pertinent information as the Tax Commissioner by rule and regulation may prescribe. Such information may include, but shall not be limited to, all items of income, gain, loss, and deduction, the names and addresses of the individuals whether residents or nonresidents who would be entitled to share in the net income if distributed, and the amount of the distributive share of each individual. Such return shall be filed on or before the date prescribed for filing a federal partnership return. For purposes of this section, taxable year shall mean a year or period which would be a taxable year of the partnership if it were subject to tax under the provisions of the Nebraska Revenue Act of 1967.

Source: Laws 1967, c. 487, § 73, p. 1603; Laws 1987, LB 523, § 28; Laws 2019, LB512, § 23.

77-2776 Income tax; Tax Commissioner; return; examination; failure to file; notice; deficiency; notice.

(1) As soon as practical after an income tax return is filed, the Tax Commissioner shall examine it to determine the correct amount of tax. If the Tax Commissioner finds that the amount of tax shown on the return is less than the correct amount, he or she shall notify the taxpayer of the amount of the deficiency proposed to be assessed. If the Tax Commissioner finds that the tax paid is more than the correct amount, he or she shall credit the overpayment against any taxes due by the taxpayer and refund the difference. The Tax Commissioner shall, upon request, make prompt assessment of taxes due as provided by the laws of the United States for federal income tax purposes.

(2) If the taxpayer fails to file an income tax return, the Tax Commissioner shall estimate the taxpayer's tax liability from any available information and notify the taxpayer of the amount proposed to be assessed as in the case of a deficiency.

(3) A notice of deficiency shall set forth the reason for the proposed assessment or for the change in the amount of credit or loss to be carried over to another year. The notice may be mailed to the taxpayer at his or her last-known address. In the case of a joint return, the notice of deficiency may be a single joint notice, except that if the Tax Commissioner is notified by either spouse that separate residences have been established, the Tax Commissioner shall mail joint notices to each spouse. If the taxpayer is deceased or under a legal disability, a notice of deficiency may be mailed to his or her last-known address unless the Tax Commissioner has received notice of the existence of a fiduciary relationship with respect to such taxpayer.

(4) A notice of deficiency regarding an item of entity income may be mailed to the entity at its last-known address or to the address of the entity's tax matters person for federal income tax purposes. Such notice shall be deemed to have been received by each partner, shareholder, or member of such entity, but only for items of entity income reported by the partner, shareholder, or member. The actions taken thereon on behalf of the partnership, limited liability company, small business corporation, estate, or trust are binding on the partners, members, shareholders, or beneficiaries.

Source: Laws 1967, c. 487, § 76, p. 1604; Laws 2005, LB 216, § 16; Laws 2012, LB727, § 41; Laws 2019, LB512, § 24.

77-27,119 Income tax; Tax Commissioner; administer and enforce sections; prescribe forms; content; examination of return or report; uniform school district numbering system; audit by Auditor of Public Accounts or office of Legislative Audit; wrongful disclosure; exception; penalty.

(1) The Tax Commissioner shall administer and enforce the income tax imposed by sections 77-2714 to 77-27,135, and he or she is authorized to conduct hearings, to adopt and promulgate such rules and regulations, and to require such facts and information to be reported as he or she may deem necessary to enforce the income tax provisions of such sections, except that such rules, regulations, and reports shall not be inconsistent with the laws of this state or the laws of the United States. The Tax Commissioner may for enforcement and administrative purposes divide the state into a reasonable number of districts in which branch offices may be maintained.

(2)(a) The Tax Commissioner may prescribe the form and contents of any return or other document required to be filed under the income tax provisions. Such return or other document shall be compatible as to form and content with the return or document required by the laws of the United States. The form shall have a place where the taxpayer shall designate the high school district in which he or she lives and the county in which the high school district is headquartered. The Tax Commissioner shall adopt and promulgate such rules and regulations as may be necessary to insure compliance with this requirement.

(b) The State Department of Education, with the assistance and cooperation of the Department of Revenue, shall develop a uniform system for numbering all school districts in the state. Such system shall be consistent with the data processing needs of the Department of Revenue and shall be used for the school district identification required by subdivision (a) of this subsection.

(c) The proper filing of an income tax return shall consist of the submission of such form as prescribed by the Tax Commissioner or an exact facsimile thereof with sufficient information provided by the taxpayer on the face of the form from which to compute the actual tax liability. Each taxpayer shall include such taxpayer's correct social security number or state identification number and the school district identification number of the school district in which the taxpayer resides on the face of the form. A filing is deemed to occur when the required information is provided.

(3) The Tax Commissioner, for the purpose of ascertaining the correctness of any return or other document required to be filed under the income tax provisions, for the purpose of determining corporate income, individual income, and withholding tax due, or for the purpose of making an estimate of taxable income of any person, shall have the power to examine or to cause to have examined, by any agent or representative designated by him or her for that purpose, any books, papers, records, or memoranda bearing upon such matters and may by summons require the attendance of the person responsible for rendering such return or other document or remitting any tax, or any officer or employee of such person, or the attendance of any other person having knowledge in the premises, and may take testimony and require proof material for his or her information, with power to administer oaths or affirmations to such person or persons.

(4) The time and place of examination pursuant to this section shall be such time and place as may be fixed by the Tax Commissioner and as are reasonable

under the circumstances. In the case of a summons, the date fixed for appearance before the Tax Commissioner shall not be less than twenty days from the time of service of the summons.

(5) No taxpayer shall be subjected to unreasonable or unnecessary examinations or investigations.

(6) Except in accordance with proper judicial order or as otherwise provided by law, it shall be unlawful for the Tax Commissioner, any officer or employee of the Tax Commissioner, any person engaged or retained by the Tax Commissioner on an independent contract basis, any person who pursuant to this section is permitted to inspect any report or return or to whom a copy, an abstract, or a portion of any report or return is furnished, any employee of the State Treasurer or the Department of Administrative Services, or any other person to divulge, make known, or use in any manner the amount of income or any particulars set forth or disclosed in any report or return required except for the purpose of enforcing sections 77-2714 to 77-27,135. The officers charged with the custody of such reports and returns shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the Tax Commissioner in an action or proceeding under the provisions of the tax law to which he or she is a party or on behalf of any party to any action or proceeding under such sections when the reports or facts shown thereby are directly involved in such action or proceeding, in either of which events the court may require the production of, and may admit in evidence, so much of such reports or of the facts shown thereby as are pertinent to the action or proceeding and no more. Nothing in this section shall be construed (a) to prohibit the delivery to a taxpayer, his or her duly authorized representative, or his or her successors, receivers, trustees, personal representatives, administrators, assignees, or guarantors, if directly interested, of a certified copy of any return or report in connection with his or her tax, (b) to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof, (c) to prohibit the inspection by the Attorney General, other legal representatives of the state, or a county attorney of the report or return of any taxpayer who brings an action to review the tax based thereon, against whom an action or proceeding for collection of tax has been instituted, or against whom an action, proceeding, or prosecution for failure to comply with the Nebraska Revenue Act of 1967 is being considered or has been commenced, (d) to prohibit furnishing to the Nebraska Workers' Compensation Court the names, addresses, and identification numbers of employers, and such information shall be furnished on request of the court, (e) to prohibit the disclosure of information and records to a collection agency contracting with the Tax Commissioner pursuant to sections 77-377.01 to 77-377.04, (f) to prohibit the disclosure of information pursuant to section 77-27,195, 77-4110, 77-5731, 77-6521, 77-6837, or 77-6839, (g) to prohibit the disclosure to the Public Employees Retirement Board of the addresses of individuals who are members of the retirement systems administered by the board, and such information shall be furnished to the board solely for purposes of its administration of the retirement systems upon written request, which request shall include the name and social security number of each individual for whom an address is requested, (h) to prohibit the disclosure of information to the Department of Labor necessary for the administration of the Employment Security Law, the Contractor Registration Act, or the Employee Classification Act, (i) to prohibit the disclosure to the Department

of Motor Vehicles of tax return information pertaining to individuals, corporations, and businesses determined by the Department of Motor Vehicles to be delinquent in the payment of amounts due under agreements pursuant to the International Fuel Tax Agreement Act, and such disclosure shall be strictly limited to information necessary for the administration of the act, (j) to prohibit the disclosure under section 42-358.08, 43-512.06, or 43-3327 to any court-appointed individuals, the county attorney, any authorized attorney, or the Department of Health and Human Services of an absent parent's address, social security number, amount of income, health insurance information, and employer's name and address for the exclusive purpose of establishing and collecting child, spousal, or medical support, (k) to prohibit the disclosure of information to the Department of Insurance, the Nebraska State Historical Society, or the State Historic Preservation Officer as necessary to carry out the Department of Revenue's responsibilities under the Nebraska Job Creation and Mainstreet Revitalization Act, or (l) to prohibit the disclosure to the Department of Insurance of information pertaining to authorization for, and use of, tax credits under the New Markets Job Growth Investment Act. Information so obtained shall be used for no other purpose. Any person who violates this subsection shall be guilty of a felony and shall upon conviction thereof be fined not less than one hundred dollars nor more than five hundred dollars, or be imprisoned not more than five years, or be both so fined and imprisoned, in the discretion of the court and shall be assessed the costs of prosecution. If the offender is an officer or employee of the state, he or she shall be dismissed from office and be ineligible to hold any public office in this state for a period of two years thereafter.

(7) Reports and returns required to be filed under income tax provisions of sections 77-2714 to 77-27,135 shall be preserved until the Tax Commissioner orders them to be destroyed.

(8) Notwithstanding the provisions of subsection (6) of this section, the Tax Commissioner may permit the Secretary of the Treasury of the United States or his or her delegates or the proper officer of any state imposing an income tax, or the authorized representative of either such officer, to inspect the income tax returns of any taxpayer or may furnish to such officer or his or her authorized representative an abstract of the return of income of any taxpayer or supply him or her with information concerning an item of income contained in any return or disclosed by the report of any investigation of the income or return of income of any taxpayer, but such permission shall be granted only if the statutes of the United States or of such other state, as the case may be, grant substantially similar privileges to the Tax Commissioner of this state as the officer charged with the administration of the income tax imposed by sections 77-2714 to 77-27,135.

(9) Notwithstanding the provisions of subsection (6) of this section, the Tax Commissioner may permit the Postal Inspector of the United States Postal Service or his or her delegates to inspect the reports or returns of any person filed pursuant to the Nebraska Revenue Act of 1967 when information on the reports or returns is relevant to any action or proceeding instituted or being considered by the United States Postal Service against such person for the fraudulent use of the mails to carry and deliver false and fraudulent tax returns to the Tax Commissioner with the intent to defraud the State of Nebraska or to evade the payment of Nebraska state taxes.

(10)(a) Notwithstanding the provisions of subsection (6) of this section, the Tax Commissioner shall, upon written request by the Auditor of Public Accounts or the office of Legislative Audit, make tax returns and tax return information open to inspection by or disclosure to officers and employees of the Auditor of Public Accounts or employees of the office of Legislative Audit for the purpose of and to the extent necessary in making an audit of the Department of Revenue pursuant to section 50-1205 or 84-304. The Auditor of Public Accounts or office of Legislative Audit shall statistically and randomly select the tax returns and tax return information to be audited based upon a computer tape provided by the Department of Revenue which contains only total population documents without specific identification of taxpayers. The Tax Commissioner shall have the authority to approve the statistical sampling method used by the Auditor of Public Accounts or office of Legislative Audit. Confidential tax returns and tax return information shall be audited only upon the premises of the Department of Revenue. All audit workpapers pertaining to the audit of the Department of Revenue shall be stored in a secure place in the Department of Revenue.

(b) When selecting tax returns or tax return information for a performance audit of a tax incentive program, the office of Legislative Audit shall select the tax returns or tax return information for either all or a statistically and randomly selected sample of taxpayers who have applied for or who have qualified for benefits under the tax incentive program that is the subject of the audit. When the office of Legislative Audit reports on its review of tax returns and tax return information, it shall comply with subdivision (10)(c) of this section.

(c) No officer or employee of the Auditor of Public Accounts or office of Legislative Audit employee shall disclose to any person, other than another officer or employee of the Auditor of Public Accounts or office of Legislative Audit whose official duties require such disclosure, any return or return information described in the Nebraska Revenue Act of 1967 in a form which can be associated with or otherwise identify, directly or indirectly, a particular taxpayer.

(d) Any person who violates the provisions of this subsection shall be guilty of a Class IV felony and, in the discretion of the court, may be assessed the costs of prosecution. The guilty officer or employee shall be dismissed from employment and be ineligible to hold any position of employment with the State of Nebraska for a period of two years thereafter. For purposes of this subsection, officer or employee shall include a former officer or employee of the Auditor of Public Accounts or former employee of the office of Legislative Audit.

(11) For purposes of subsections (10) through (13) of this section:

(a) Tax returns shall mean any tax or information return or claim for refund required by, provided for, or permitted under sections 77-2714 to 77-27,135 which is filed with the Tax Commissioner by, on behalf of, or with respect to any person and any amendment or supplement thereto, including supporting schedules, attachments, or lists which are supplemental to or part of the filed return;

(b) Return information shall mean:

(i) A taxpayer's identification number and (A) the nature, source, or amount of his or her income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, deficiencies, overassess-

ments, or tax payments, whether the taxpayer's return was, is being, or will be examined or subject to other investigation or processing or (B) any other data received by, recorded by, prepared by, furnished to, or collected by the Tax Commissioner with respect to a return or the determination of the existence or possible existence of liability or the amount of liability of any person for any tax, penalty, interest, fine, forfeiture, or other imposition or offense; and

(ii) Any part of any written determination or any background file document relating to such written determination; and

(c) Disclosures shall mean the making known to any person in any manner a return or return information.

(12) The Auditor of Public Accounts shall (a) notify the Tax Commissioner in writing thirty days prior to the beginning of an audit of his or her intent to conduct an audit, (b) provide an audit plan, and (c) provide a list of the tax returns and tax return information identified for inspection during the audit. The office of Legislative Audit shall notify the Tax Commissioner of the intent to conduct an audit and of the scope of the audit as provided in section 50-1209.

(13) The Auditor of Public Accounts or the office of Legislative Audit shall, as a condition for receiving tax returns and tax return information: (a) Subject employees involved in the audit to the same confidential information safeguards and disclosure procedures as required of Department of Revenue employees; (b) establish and maintain a permanent system of standardized records with respect to any request for tax returns or tax return information, the reason for such request, and the date of such request and any disclosure of the tax return or tax return information; (c) establish and maintain a secure area or place in the Department of Revenue in which the tax returns, tax return information, or audit workpapers shall be stored; (d) restrict access to the tax returns or tax return information only to persons whose duties or responsibilities require access; (e) provide such other safeguards as the Tax Commissioner determines to be necessary or appropriate to protect the confidentiality of the tax returns or tax return information; (f) provide a report to the Tax Commissioner which describes the procedures established and utilized by the Auditor of Public Accounts or office of Legislative Audit for insuring the confidentiality of tax returns, tax return information, and audit workpapers; and (g) upon completion of use of such returns or tax return information, return to the Tax Commissioner such returns or tax return information, along with any copies.

(14) The Tax Commissioner may permit other tax officials of this state to inspect the tax returns and reports filed under sections 77-2714 to 77-27,135, but such inspection shall be permitted only for purposes of enforcing a tax law and only to the extent and under the conditions prescribed by the rules and regulations of the Tax Commissioner.

(15) The Tax Commissioner shall compile the school district information required by subsection (2) of this section. Insofar as it is possible, such compilation shall include, but not be limited to, the total adjusted gross income of each school district in the state. The Tax Commissioner shall adopt and promulgate such rules and regulations as may be necessary to insure that such compilation does not violate the confidentiality of any individual income tax return nor conflict with any other provisions of state or federal law.

Source: Laws 1967, c. 487, § 119, p. 1628; Laws 1969, c. 694, § 1, p. 2689; Laws 1971, LB 527, § 1; Laws 1971, LB 571, § 1; Laws 1973, LB 526, § 6; Laws 1979, LB 302, § 1; Laws 1981, LB 170,

§ 7; Laws 1984, LB 962, § 32; Laws 1985, LB 273, § 68; Laws 1985, LB 344, § 8; Laws 1985, LB 345, § 1; Laws 1989, LB 611, § 3; Laws 1990, LB 431, § 1; Laws 1991, LB 549, § 22; Laws 1993, LB 46, § 17; Laws 1993, LB 345, § 72; Laws 1997, LB 129, § 2; Laws 1997, LB 720, § 23; Laws 1997, LB 806, § 3; Laws 2002, LB 989, § 19; Laws 2005, LB 216, § 18; Laws 2005, LB 312, § 15; Laws 2006, LB 588, § 9; Laws 2006, LB 956, § 11; Laws 2008, LB915, § 6; Laws 2010, LB563, § 15; Laws 2010, LB879, § 17; Laws 2013, LB39, § 13; Laws 2014, LB191, § 20; Laws 2014, LB851, § 14; Laws 2015, LB539, § 7; Laws 2016, LB1022, § 5; Laws 2020, LB1107, § 133.

Operative date January 1, 2021.

Cross References

Contractor Registration Act, see section 48-2101.

Employee Classification Act, see section 48-2901.

Employment Security Law, see section 48-601.

International Fuel Tax Agreement Act, see section 66-1401.

Nebraska Job Creation and Mainstreet Revitalization Act, see section 77-2901.

New Markets Job Growth Investment Act, see section 77-1101.

(g) LOCAL OPTION REVENUE ACT

77-27,144 Municipalities; sales and use tax; Tax Commissioner; collection; distribution; refunds; notice; deductions; qualifying business; duty to provide information.

(1) The Tax Commissioner shall collect the tax imposed by any incorporated municipality concurrently with collection of a state tax in the same manner as the state tax is collected. The Tax Commissioner shall remit monthly the proceeds of the tax to the incorporated municipalities levying the tax, after deducting the amount of refunds made and three percent of the remainder to be credited to the Municipal Equalization Fund.

(2) Deductions for a refund made pursuant to section 77-4105, 77-4106, 77-5725, or 77-5726 shall be delayed for one year after the refund has been made to the taxpayer. The Department of Revenue shall notify the municipality liable for a refund exceeding one thousand five hundred dollars of the pending refund, the amount of the refund, and the month in which the deduction will be made or begin, except that if the amount of a refund claimed under section 77-4105, 77-4106, 77-5725, or 77-5726 exceeds twenty-five percent of the municipality's total sales and use tax receipts, net of any refunds or sales tax collection fees, for the municipality's prior fiscal year, the department shall deduct the refund over the period of one year in equal monthly amounts beginning after the one-year notification period required by this subsection. This subsection applies to refunds owed by cities of the first class, cities of the second class, and villages. This subsection applies to refunds beginning January 1, 2014.

(3) Deductions for a refund made pursuant to the ImagiNE Nebraska Act shall be delayed as provided in this subsection after the refund has been made to the taxpayer. The Department of Revenue shall notify each municipality liable for a refund exceeding one thousand five hundred dollars of the pending refund and the amount of the refund claimed under the ImagiNE Nebraska Act. The notification shall be made by March 1 of each year beginning in 2021 and shall be used to establish the refund amount for the following calendar year.

The notification shall include any excess or underpayment from the prior calendar year. The department shall deduct the refund over a period of one year in equal monthly amounts beginning in January following the notification. This subsection applies to total annual refunds exceeding one million dollars or twenty-five percent of the municipality's total sales and use tax receipts for the prior fiscal year, whichever is the lesser amount.

(4) The Tax Commissioner shall keep full and accurate records of all money received and distributed under the provisions of the Local Option Revenue Act. When proceeds of a tax levy are received but the identity of the incorporated municipality which levied the tax is unknown and is not identified within six months after receipt, the amount shall be credited to the Municipal Equalization Fund. The municipality may request the names and addresses of the retailers which have collected the tax as provided in subsection (13) of section 77-2711 and may certify an individual to request and review confidential sales and use tax returns and sales and use tax return information as provided in subsection (14) of section 77-2711.

(5)(a) Every qualifying business that has filed an application to receive tax incentives under the Employment and Investment Growth Act, the Nebraska Advantage Act, or the ImagiNE Nebraska Act shall, with respect to such acts, provide annually to each municipality, in aggregate data, the maximum amount the qualifying business is eligible to receive in the current year in refunds of local sales and use taxes of the municipality and exemptions for the previous year, and the estimate of annual refunds of local sales and use taxes of the municipality and exemptions such business intends to claim in each future year. Such information shall be kept confidential by the municipality unless publicly disclosed previously by the taxpayer or by the State of Nebraska.

(b) For purposes of this subsection, municipality means a municipality that has adopted the local option sales and use tax under the Local Option Revenue Act and to which the qualifying business has paid such sales and use tax.

(c) The qualifying business shall provide the information to the municipality on or before June 30 of each year.

(d) Any amounts held by a municipality to make sales and use tax refunds under the Employment and Investment Growth Act, the Nebraska Advantage Act, and the ImagiNE Nebraska Act shall not count toward any budgeted restricted funds limitation as provided in section 13-519 or toward any cash reserve limitation as provided in section 13-504.

Source: Laws 1969, c. 629, § 3, p. 2530; Laws 1971, LB 53, § 10; Laws 1976, LB 868, § 2; Laws 1996, LB 1177, § 19; Laws 1998, LB 1104, § 13; Laws 2007, LB94, § 2; Laws 2012, LB209, § 2; Laws 2014, LB867, § 16; Laws 2014, LB1067, § 1; Laws 2020, LB1107, § 134.

Operative date January 1, 2021.

Cross References

Employment and Investment Growth Act, see section 77-4101.

ImagiNE Nebraska Act, see section 77-6801.

Local Option Revenue Act, see section 77-27,148.

Nebraska Advantage Act, see section 77-5701.

(h) AIR AND WATER POLLUTION CONTROL TAX REFUND ACT

77-27,150 Refund; application; when; contents; hearing; approval.

(1) An application for a refund of Nebraska sales and use taxes paid for any air or water pollution control facility may be filed with the Tax Commissioner by the owner of such facility in such manner and in such form as may be prescribed by the commissioner. The application for a refund shall contain: (a) Plans and specifications of such facility including all materials incorporated therein; (b) a descriptive list of all equipment acquired by the applicant for the purpose of industrial or agricultural waste pollution control; (c) the proposed operating procedure for the facility; (d) the acquisition cost of the facility for which a refund is claimed; and (e) a copy of the final findings of the Department of Environment and Energy issued pursuant to section 77-27,151.

(2) The Tax Commissioner shall offer an applicant a hearing upon request of such applicant. The hearing shall not affect the authority of the Department of Environment and Energy to determine whether or not industrial or agricultural waste pollution control exists within the meaning of the Air and Water Pollution Control Tax Refund Act.

(3) A claim for refund received without a copy of the final findings of the Department of Environment and Energy issued pursuant to section 77-27,151 shall not be considered a valid claim and shall be returned to the applicant.

(4) Notice of the Tax Commissioner's refusal to issue a refund shall be mailed to the applicant.

Source: Laws 1972, LB 716, § 2; Laws 1974, LB 820, § 4; Laws 1977, LB 308, § 1; Laws 1978, LB 244, § 1; Laws 1993, LB 3, § 43; Laws 2002, LB 989, § 20; Laws 2012, LB727, § 45; Laws 2019, LB302, § 96.

77-27,151 Refund; notice to Tax Commissioner; Department of Environment and Energy; duties.

If the Department of Environment and Energy finds that a facility or multiple facilities at a single location are designed and operated primarily for control, capture, abatement, or removal of industrial or agricultural waste from air or water and are suitable, are reasonably adequate, and meet the intent and purposes of the Environmental Protection Act, the Department of Environment and Energy shall so notify the owner of the facility in writing of its findings that the facility, multiple facilities, or the specified portions of any facility are approved. The Department of Environment and Energy shall also notify the Tax Commissioner of its findings and the extent of commercial or productive value derived from any materials captured or recovered by the facility.

Source: Laws 1972, LB 716, § 3; Laws 1974, LB 820, § 5; Laws 1977, LB 308, § 2; Laws 1993, LB 3, § 44; Laws 2002, LB 989, § 21; Laws 2019, LB302, § 97.

Cross References

Environmental Protection Act, see section 81-1532.

77-27,152 Refund; notice; modify or revoke; when; effect.

(1) The Tax Commissioner, after giving notice by mail to the applicant and giving an opportunity for a hearing, shall modify or revoke the refund whenever the following appears: (a) The refund was obtained by fraud or misrepresentation regarding the payment of tax on materials incorporated into the facility or

facilities; or (b) the Department of Environment and Energy has modified its findings regarding the facility covered by the refund.

(2) The Department of Environment and Energy may modify its findings when it determines any of the following: (a) The refund was obtained by fraud or misrepresentation regarding the facility or planned operation of the facility; (b) the applicant has failed substantially to operate the facility for the purpose and degree of control specified in the application or an amended application; or (c) the facility covered by the refund is no longer used for the primary purpose of pollution control.

(3) On the mailing to the refund applicant of notice of the action of the Tax Commissioner modifying or revoking the refund, the refund shall cease to be in force or shall remain in force only as modified. When a refund is revoked because a refund was obtained by fraud or misrepresentation, all taxes which would have been payable if no certificate had been issued shall be immediately due and payable with the maximum interest and penalties prescribed by the Nebraska Revenue Act of 1967. No statute of limitations shall operate in the event of fraud or misrepresentation.

Source: Laws 1972, LB 716, § 4; Laws 1977, LB 308, § 3; Laws 1993, LB 3, § 45; Laws 2002, LB 989, § 22; Laws 2012, LB727, § 46; Laws 2019, LB302, § 98.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

77-27,153 Appeal; procedure.

(1) A party aggrieved by the issuance, refusal to issue, revocation, or modification of a pollution control tax refund may appeal from the finding and order of the Tax Commissioner. The finding and order shall not affect the authority of the Department of Environment and Energy to determine whether or not industrial or agricultural waste pollution control exists within the meaning of the Air and Water Pollution Control Tax Refund Act. The appeal shall be in accordance with the Administrative Procedure Act.

(2) The Department of Environment and Energy shall make its findings for the Air and Water Pollution Control Tax Refund Act in accordance with its normal administrative procedures. Nothing in the act is intended to affect the department's authority to make findings and to determine whether or not industrial or agricultural waste pollution control exists within the meaning of the act.

Source: Laws 1972, LB 716, § 5; Laws 1988, LB 352, § 160; Laws 2002, LB 989, § 23; Laws 2019, LB302, § 99.

Cross References

Administrative Procedure Act, see section 84-920.

77-27,154 Rules and regulations.

The Tax Commissioner may adopt and promulgate rules and regulations that are necessary for the administration of the Air and Water Pollution Control Tax Refund Act. Such rules and regulations shall not abridge the authority of the

Department of Environment and Energy to determine whether or not industrial or agricultural waste pollution control exists within the meaning of the act.

Source: Laws 1972, LB 716, § 6; Laws 1977, LB 308, § 4; Laws 1993, LB 3, § 46; Laws 2002, LB 989, § 24; Laws 2019, LB302, § 100.

(i) ECONOMIC FORECASTING

77-27,157 Board; membership; terms; officers; quorum; expenses.

The Nebraska Economic Forecasting Advisory Board shall consist of nine members, five of whom shall be appointed by and serve at the pleasure of the Executive Board of the Legislative Council and four of whom shall be appointed by and serve at the pleasure of the Governor. The original gubernatorial appointees shall serve for two-year terms. Successive gubernatorial appointees and all legislative appointees shall serve for four-year terms. After appointments are made, the board shall select a chairperson and a vice-chairperson from its membership. The chairperson and vice-chairperson shall serve for two-year terms. The chairperson of the board on September 6, 1985, shall serve until his or her successor is selected. Each member of the board shall have demonstrated expertise in the field of tax policy, economics, or economic forecasting. A majority of the members of the board shall constitute a quorum for the purpose of transacting business and every act of a majority of the members shall be deemed an act of the board. Board members shall serve without compensation but may be reimbursed for expenses as provided in sections 81-1174 to 81-1177. Board members appointed by the Legislative Council shall receive such reimbursement out of the appropriation made to the Legislature's Fiscal and Program Analysis Program. Board members appointed by the Governor shall receive such reimbursement out of the appropriation made to the Department of Revenue for administration.

Source: Laws 1984, LB 892, § 4; Laws 1985, LB 283, § 1; Laws 2020, LB381, § 84.

Operative date January 1, 2021.

(m) NEBRASKA ADVANTAGE RURAL DEVELOPMENT ACT

77-27,187.01 Terms, defined.

For purposes of the Nebraska Advantage Rural Development Act, unless the context otherwise requires:

(1) Any term has the same meaning as used in the Nebraska Revenue Act of 1967;

(2) Equivalent employees means the number of employees computed by dividing the total hours paid in a year to employees by the product of forty times the number of weeks in a year;

(3) Livestock means all animals, including cattle, horses, sheep, goats, hogs, dairy animals, chickens, turkeys, and other species of game birds and animals raised and produced subject to permit and regulation by the Game and Parks Commission or the Department of Agriculture;

(4) Livestock modernization or expansion means the construction, improvement, or acquisition of buildings, facilities, or equipment for livestock housing, confinement, feeding, production, and waste management. Livestock modernization or expansion does not include any improvements made to correct a

violation of the Environmental Protection Act, the Integrated Solid Waste Management Act, the Livestock Waste Management Act, a rule or regulation adopted and promulgated pursuant to such acts, or any order of the Department of Environment and Energy undertaken within five years after a complaint issued from the Director of Environment and Energy under section 81-1507;

(5) Livestock production means the active use, management, and operation of real and personal property (a) for the commercial production of livestock, (b) for the commercial breeding, training, showing, or racing of horses or for the use of horses in a recreational or tourism enterprise, and (c) for the commercial production of dairy and eggs. The activity will be considered commercial if the gross income derived from an activity for two or more of the taxable years in the period of seven consecutive taxable years which ends with the taxable year exceeds the deductions attributable to such activity or, if the operation has been in existence for less than seven years, if the activity is engaged in for the purpose of generating a profit;

(6) Qualified employee leasing company means a company which places all employees of a client-lessee on its payroll and leases such employees to the client-lessee on an ongoing basis for a fee and, by written agreement between the employee leasing company and a client-lessee, grants to the client-lessee input into the hiring and firing of the employees leased to the client-lessee;

(7) Related taxpayers includes any corporations that are part of a unitary business under the Nebraska Revenue Act of 1967 but are not part of the same corporate taxpayer, any business entities that are not corporations but which would be a part of the unitary business if they were corporations, and any business entities if at least fifty percent of such entities are owned by the same persons or related taxpayers and family members as defined in the ownership attribution rules of the Internal Revenue Code of 1986, as amended;

(8) Taxpayer means a corporate taxpayer or other person subject to either an income tax imposed by the Nebraska Revenue Act of 1967 or a franchise tax under Chapter 77, article 38, or a partnership, limited liability company, subchapter S corporation, cooperative, including a cooperative exempt under section 521 of the Internal Revenue Code of 1986, as amended, limited cooperative association, or joint venture that is or would otherwise be a member of the same unitary group if incorporated, which is, or whose partners, members, or owners representing an ownership interest of at least ninety percent of the control of such entity are, subject to or exempt from such taxes, and any other partnership, limited liability company, subchapter S corporation, cooperative, including a cooperative exempt under section 521 of the Internal Revenue Code of 1986, as amended, limited cooperative association, or joint venture when the partners, members, or owners representing an ownership interest of at least ninety percent of the control of such entity are subject to or exempt from such taxes; and

(9) Year means the taxable year of the taxpayer.

Source: Laws 1997, LB 886, § 2; Laws 1998, LB 1104, § 15; Laws 1999, LB 539, § 1; Laws 2003, LB 608, § 2; Laws 2005, LB 312, § 17; Laws 2006, LB 990, § 2; Laws 2006, LB 1003, § 8; Laws 2007, LB223, § 16; Laws 2007, LB368, § 136; Laws 2008, LB895, § 2; Laws 2015, LB175, § 6; Laws 2019, LB302, § 101.

Cross References

Environmental Protection Act, see section 81-1532.

Integrated Solid Waste Management Act, see section 13-2001.

Livestock Waste Management Act, see section 54-2416.

Nebraska Revenue Act of 1967, see section 77-2701.

(t) BIODIESEL FACILITY INVESTMENT CREDIT

77-27,236 Biodiesel facility tax credit; conditions; facility; requirements; information not public record.

(1) A taxpayer who makes an investment after January 1, 2008, and prior to January 1, 2015, in a biodiesel facility shall receive a nonrefundable income tax credit as provided in this section.

(2) The credit provided in subsection (1) of this section shall be equal to thirty percent of the amount invested by the taxpayer in a biodiesel facility. The credit shall be taken over at least four taxable years subject to the following conditions:

(a) No more than ten percent of the credit provided for in subsection (1) of this section shall be taken in each of the first two taxable years the biodiesel facility produces B100 and no more than fifty percent of the credit provided for in subsection (1) of this section shall be taken in the third taxable year the biodiesel facility produces B100. The credit allowed under subsection (1) of this section shall not exceed fifty percent of the taxpayer's liability in any tax year;

(b) Any amount of credit not allowed because of the limitations in this section may be carried forward for up to fifteen taxable years after the taxable year in which the investment was made. The aggregate maximum income tax credit a taxpayer may obtain is two hundred fifty thousand dollars;

(c) The investment shall be at risk in the biodiesel facility. The investment shall be in the form of a purchase of an ownership interest or the right to receive payment of dividends from the biodiesel facility and shall remain in the business for at least three years. The Tax Commissioner may recapture any credits used if the investment does not remain invested for the three-year period. An investment placed in escrow does not qualify under this subdivision;

(d) The entire amount of the investment shall be expended by the biodiesel facility for plant, equipment, research and development, marketing and sales activity, or working capital;

(e) A partnership, a subchapter S corporation, a limited liability company that for tax purposes is treated like a partnership, a cooperative, including a cooperative exempt under section 521 of the Internal Revenue Code of 1986, as amended, or any other pass-through entity that invests in a biodiesel facility shall be considered to be the taxpayer for purposes of the credit limitations. Except for the limitation under subdivision (2)(a) of this section, the amount of the credit allowed to a pass-through entity shall be determined at the partnership, corporate, cooperative, or other organizational level. The amount of the credit determined at the partnership, corporate, cooperative, or other organizational level shall be allowed to the partners, members, or other owners in proportion to their respective ownership interests in the pass-through entity;

(f) The credit shall be taken only if (i) the biodiesel facility produces B100, (ii) the biodiesel facility in which the investment was made produces at a rate of at least seventy percent of its rated capacity continuously for at least one week during the first taxable year the credit is taken and produces at a rate of at least

seventy percent of its rated capacity over a six-month period during each of the next two taxable years the credit is taken, (iii) all processing takes place at the biodiesel facility in which the investment was made and which is located in Nebraska, and (iv) at least fifty-one percent of the ownership interest of the biodiesel facility is held by Nebraska resident individuals or Nebraska entities; and

(g) The biodiesel facility shall provide the Department of Revenue written evidence substantiating that the biodiesel facility has received the requisite authority from the Department of Environment and Energy and from the United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives. The biodiesel facility shall annually provide an analysis to the Department of Revenue of samples of the product collected according to procedures specified by the department. The analysis shall be prepared by an independent laboratory meeting standards of the International Organization for Standardization. Prior to collecting the samples, the biodiesel facility shall notify the department which may observe the sampling procedures utilized by the biodiesel facility to obtain the samples to be submitted for independent analysis.

(3) Any biodiesel facility for which credits are granted shall, whenever possible, employ workers who are residents of the State of Nebraska.

(4) Trade secrets, academic and scientific research work, and other proprietary or commercial information which may be filed with the Tax Commissioner shall not be considered to be public records as defined in section 84-712.01 if the release of such trade secrets, work, or information would give advantage to business competitors and serve no public purpose. Any person seeking release of the trade secrets, work, or information as a public record shall demonstrate to the satisfaction of the department that the release would not violate this section.

(5) For purposes of this section:

(a) Biodiesel facility means a plant or facility related to the processing, marketing, or distribution of biodiesel; and

(b) B100 means pure biodiesel containing mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats, designated as B100, and meeting the American Society for Testing and Materials standard, ASTM D6751.

Source: Laws 2007, LB343, § 2; Laws 2019, LB302, § 102.

(w) ONLINE HOSTING PLATFORM

77-27,239 Online hosting platform; Tax Commissioner; agreement authorized; powers.

(1) For purposes of this section, online hosting platform means a marketplace connected by computer to one or more other computers or networks, as through a commercial electronic information service or the Internet, through which (a) a seller or hotel operator may rent or furnish any room or rooms, lodgings, or accommodations in a hotel, a motel, an inn, a tourist camp, a tourist cabin, or any other place, (b) such room or rooms, lodgings, or accommodations may be advertised or listed, and (c) a purchaser or occupant may arrange for the occupancy of such room or rooms, lodgings, or accommodations.

(2) The Tax Commissioner may enter into an agreement with an online hosting platform to permit the online hosting platform to collect and pay the applicable sales taxes imposed under the Local Option Revenue Act, the Nebraska Revenue Act of 1967, the Nebraska Visitors Development Act, and sections 13-318 to 13-326 and 13-2813 to 13-2816 on behalf of the seller or hotel operator otherwise required to collect such taxes for transactions consummated through the online hosting platform. Upon entering into such agreement with the online hosting platform, the Tax Commissioner shall waive the tax collection responsibility of a seller or hotel operator for transactions consummated through the online hosting platform for which the online hosting platform has assumed this responsibility. The online hosting platform shall give written notice to each seller or hotel operator which is covered by the agreement between the online hosting platform and the Tax Commissioner.

(3) Upon entering into an agreement with the Tax Commissioner under this section, the online hosting platform shall report aggregate information on the tax return prescribed by the Tax Commissioner, including an aggregate of gross receipts, exemptions, adjustments, and taxable receipts of all transactions subject to the agreement.

Source: Laws 2019, LB57, § 4.

Cross References

Local Option Revenue Act, see section 77-27,148.

Nebraska Visitors Development Act, see section 81-3701.

ARTICLE 29

NEBRASKA JOB CREATION AND MAINSTREET REVITALIZATION ACT

Section

77-2906. Request for final approval; form; approval; when; department; duties; extension; denial; appeal; credit; issuance of certificates; fee; credit carried forward.

77-2906 Request for final approval; form; approval; when; department; duties; extension; denial; appeal; credit; issuance of certificates; fee; credit carried forward.

(1)(a) Within twelve months after the date on which the historically significant real property is placed in service, a person whose application was approved under section 77-2905 shall file a request for final approval containing all required information with the officer on a form prescribed by the officer and shall include a fee established by the officer pursuant to section 77-2907. The officer shall then determine whether the work substantially conforms to the application approved under section 77-2905. If the work substantially conforms and no other significant improvements have been made to the historically significant real property that do not substantially comply with the standards, the officer shall approve the request for final approval. The person whose request is approved shall then apply to the department to determine the amount of eligible expenditures, calculate the amount of the credit, and issue a certificate to the person evidencing the credit. If the work does not substantially conform to the approved application or if other significant improvements have been made to the historically significant real property that do not substantially comply with the standards, the officer shall deny the request for final approval and provide the person with a written explanation of the decision. The officer

shall make a determination on the request for final approval in writing within thirty days after the filing of the request. If the officer does not make a determination within thirty days after the filing of the request, the request shall be deemed approved and the person may apply to the department to determine the amount of eligible expenditures, calculate the amount of the credit, and issue a certificate evidencing the credit.

(b) The department shall determine the amount of eligible expenditures, calculate the amount of the credit, and issue one or more certificates evidencing the credit within sixty days after receiving an application pursuant to subdivision (1)(a) of this section. The person filing the application and the department may also agree to extend the sixty-day period, but such extension shall not exceed an additional thirty days. If the department does not determine the amount of eligible expenditures, calculate the amount of the credit, and issue one or more certificates evidencing the credit within such sixty-day period or agreed-upon longer period, the credit shall be deemed to have been issued by the department for the amount requested in such person's application, except that such amount shall not exceed one hundred ten percent of the amount of credits allocated by the officer under section 77-2905 and such amount shall not increase or decrease the total amount of credits that may be allocated by the officer under section 77-2905 in any calendar year.

(c) Any denial of a request for final approval by the officer or any determination of the amount of eligible expenditures or calculation of the amount of the credit by the department pursuant to this section may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

(2) The department shall divide the credit and issue multiple certificates to a person who qualifies for the credit upon reasonable request.

(3) In calculating the amount of the credits to be issued pursuant to this section, the department may issue credits in an amount that differs from the amount of credits allocated by the officer under section 77-2905 if such credits are supported by eligible expenditures as determined by the department, except that the department shall not issue credits in an amount exceeding one hundred ten percent of the amount of credits allocated by the officer under section 77-2905. If the amount of credits to be issued under this section is more than the amount of credits allocated by the officer pursuant to section 77-2905, the department shall notify the officer of the difference and such amount shall be subtracted from the annual amount available for allocation under section 77-2905. If the amount of credits to be issued under this section is less than the amount of credits allocated by the officer pursuant to section 77-2905, the department shall notify the officer of the difference and such amount shall be added to the annual amount available for allocation under section 77-2905.

(4) The department shall not issue any certificates for credits under this section until the recipient of the credit has paid to the department:

(a) A fee equal to one-quarter of one percent of the credit amount. The department shall remit such fees to the State Treasurer for credit to the Civic and Community Center Financing Fund; and

(b) A fee equal to six-tenths of one percent of the credit amount. The department shall remit such fees to the State Treasurer for credit to the Department of Revenue Enforcement Fund.

(5) If the recipient of the credit is (a) a corporation having an election in effect under subchapter S of the Internal Revenue Code of 1986, as amended,

(b) a partnership, or (c) a limited liability company, the credit may be claimed by the shareholders of the corporation, the partners of the partnership, or the members of the limited liability company in the same manner as those shareholders, partners, or members account for their proportionate shares of the income or losses of the corporation, partnership, or limited liability company, or as provided in the bylaws or other executed agreement of the corporation, partnership, or limited liability company. Credits granted to a partnership, a limited liability company taxed as a partnership, or other multiple owners of property shall be passed through to the partners, members, or owners, respectively, on a pro rata basis or pursuant to an executed agreement among the partners, members, or owners documenting any alternate distribution method.

(6) Subject to section 77-2912, any credit amount that is unused may be carried forward to subsequent tax years until fully utilized.

(7) Credits allowed under this section may be claimed for taxable years beginning or deemed to begin on or after January 1, 2015, under the Internal Revenue Code of 1986, as amended.

Source: Laws 2014, LB191, § 6; Laws 2020, LB310, § 1.
Effective date November 14, 2020.

Cross References

Administrative Procedure Act, see section 84-920.

ARTICLE 30

MECHANICAL AMUSEMENT DEVICE TAX ACT

Section

- 77-3001. Terms, defined.
77-3003.01. Seizure of mechanical amusement device; penalty; determination cash device complies with act; procedure; Tax Commissioner; powers and duties; mechanical amusement device decal; final decision; appeal; retail establishment; limits on devices; annual decal fee.
77-3003.02. Operation of cash device; restrictions.
77-3006. Tax Commissioner; administration of act.
77-3007. Tax; payment; decal; form; display.
77-3008. Municipalities; political subdivisions; power to tax.
77-3010. Violations; prosecution; limitation.
77-3011. Act, how cited.

77-3001 Terms, defined.

For purposes of the Mechanical Amusement Device Tax Act, unless the context otherwise requires:

(1) Cash device means any mechanical amusement device capable of awarding (a) cash, (b) anything redeemable for cash, (c) gift cards, credit, or other instruments which have a value denominated by reference to an amount of currency, or (d) anything redeemable for anything described in subdivision (c) of this subdivision;

(2) Department means the Department of Revenue;

(3) Distributor means any person who sells, leases, or delivers possession or custody of a machine or mechanical device to operators thereof for a consideration either directly or indirectly received;

(4) Mechanical amusement device means any machine which, upon insertion of a coin, currency, credit card, or substitute into the machine, operates or may

be operated or used for a game, contest, or amusement of any description, such as, by way of example, but not by way of limitation, pinball games, shuffleboard, bowling games, radio-ray rifle games, baseball, football, racing, boxing games, electronic video games of skill, and coin-operated pool tables. Mechanical amusement device also includes game and draw lotteries and coin-operated automatic musical devices. Mechanical amusement device does not mean vending machines which dispense tangible personal property, devices located in private homes for private use, pickle card dispensing devices which are required to be registered with the department pursuant to section 9-345.03, or devices which are mechanically constructed in a manner that would render their operation illegal under the laws of the State of Nebraska;

(5) Operator means any person who operates a place of business in which a machine or device owned by him or her is physically located or any person who places and who either directly or indirectly controls or manages any machine or device;

(6) Person means an individual, partnership, limited liability company, society, association, joint-stock company, corporation, estate, receiver, lessee, trustee, assignee, referee, or other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals;

(7) Whenever in the act, the words machine or device are used, they refer to mechanical amusement device;

(8) Whenever in the act, the words electronic video games of skill, games of skill, or skill-based devices are used, they refer to mechanical amusement devices which produce an outcome predominantly caused by skill and not chance; and

(9) Whenever in the act, the words machine, device, person, operator, or distributor are used, the words in the singular include the plural and in the plural include the singular.

Source: Laws 1969, c. 635, § 1, p. 2541; Laws 1977, LB 353, § 1; Laws 1993, LB 121, § 514; Laws 1997, LB 317, § 1; Laws 2019, LB538, § 2.

77-3003.01 Seizure of mechanical amusement device; penalty; determination cash device complies with act; procedure; Tax Commissioner; powers and duties; mechanical amusement device decal; final decision; appeal; retail establishment; limits on devices; annual decal fee.

(1)(a) The Tax Commissioner or his or her agents or employees, at the direction of the Tax Commissioner, or any peace officer of this state may seize, without a warrant, any mechanical amusement device if there is cause to believe such device is not in compliance with the Mechanical Amusement Device Tax Act or any rules and regulations adopted and promulgated under the act or if the department determines the response to a request for information is materially deficient without good cause. In addition to seizure, any person placing in service or operating a cash device constituting a game of chance within this state shall be subject to a penalty of one thousand dollars for each day of such operation.

(b) For purposes of this subsection, a mechanical amusement device is subject to seizure and penalties as if it were a game of chance if:

(i) The mechanical amusement device is a cash device; and
(ii) The mechanical amusement device does not bear an unexpired decal as required under the Mechanical Amusement Device Tax Act.

(c) This section does not apply to any device (i) used in any bingo, lottery by the sale of pickle cards, or other lottery, raffle, or gift enterprise conducted in accordance with the Nebraska Bingo Act, Nebraska County and City Lottery Act, Nebraska Lottery and Raffle Act, Nebraska Pickle Card Lottery Act, Nebraska Small Lottery and Raffle Act, State Lottery Act, or section 9-701, (ii) used for a prize contest as defined in section 28-1101, or (iii) specifically authorized by the laws of this state.

(2) To receive a determination from the department that a cash device is in compliance with the Mechanical Amusement Device Tax Act and any rules and regulations adopted and promulgated under the act, a manufacturer or distributor of the device shall:

(a) Submit an application to the Tax Commissioner containing information regarding the device's location, software, Internet connectivity, and configuration as may be required by the Tax Commissioner;

(b) Submit an application fee of five hundred dollars;

(c) Provide a specimen of the proposed device;

(d) Provide all supporting evidence, including a report by an independent testing authority preapproved by the Tax Commissioner, to the Tax Commissioner indicating that, under all configurations, settings, and modes of operation, operation of the device constitutes a game of skill and not a game of chance and the use, operation, sale, or manufacture of the device would not constitute a violation of section 28-1107; and

(e) Provide an affidavit from the distributor affirming that no functional changes in hardware or software will be made to the approved device without further approval from the Tax Commissioner.

(3) The Tax Commissioner shall issue a response in writing to the applicant within forty-five days after the applicant has completed and submitted all application requirements. The Tax Commissioner's response shall state the reason for any denial or the reasons a determination cannot be made.

(4)(a) A device shall not be considered a game of skill if one or more of the following apply:

(i) The ability of any player to succeed at the game played on the device is impacted by the number or ratio of prior wins to prior losses of players playing such device;

(ii) The ability of the player to succeed at the game played on the device is impacted by the ability of any person to set a specified win-loss ratio for the device or by the device having a predetermined win-loss percentage;

(iii) The outcome of the game played on the device can be controlled by a source other than any player playing the device;

(iv) The success of any player is or may be determined by a chance event which cannot be altered by player action;

(v) There is no possibility for the player to win every game played on the device or there are unwinnable games or game modes on the device;

(vi) The ability of any player to succeed at the game played on the device requires the exercise of skill that no reasonable player could exercise; or

(vii) The primary determination of the prize amount is determined by the presentation or generation of a particular puzzle or group of symbols dealt to the player and the player does not have control over the puzzle or group of symbols presented.

(b) For purposes of this subsection, reasonable player means a player with an average level of intelligence, physical and mental skills, reaction time, and dexterity.

(5) The department or any court considering whether a gambling device is a game of skill may consider:

(a) The results of an analysis by any independent testing authority preapproved by the Tax Commissioner to evaluate the reaction time required for a player of a particular game on such device to perform the tasks required by the game to win; or

(b) The results of an analysis by any independent testing authority preapproved by the Tax Commissioner to evaluate factors set forth by the Tax Commissioner, other than reaction time, required for the player of a particular game on such device to perform the tasks required by the game to win.

(6) Factors which are not sufficient indications of a skill-based game include, but are not limited to:

(a) Whether a comprehensive list of prizes or outcomes is offered to the player or whether all outcomes are drawn from a finite pool of predetermined outcomes or starting positions;

(b) Whether a player can increase his or her chance of winning based on knowledge of probabilities in general or the probabilities of any particular prize or outcome in a game or on a device;

(c) Whether a player can simply choose not to play before committing money or credits; or

(d) A game task consisting solely of moving a symbol up or down, replacing one symbol with another, or any similar action, with or without a timer.

(7) Upon approval of an application based on a determination that the mechanical amusement device is a game of skill and not a game of chance, the Tax Commissioner shall issue a mechanical amusement device decal for the device as configured and as provided in subsection (8) of this section. No mechanical amusement device decal shall be issued for any cash device unless the department has determined that such device is a game of skill and not a game of chance and that the manufacture, sale, transport, placement, possession, or operation of such device does not constitute a violation of section 28-1107. If the Tax Commissioner does not approve the application for the device, the application shall be denied and the operator shall have the opportunity for an administrative hearing before the Tax Commissioner at which evidence may be presented on the issue of whether the device is specifically authorized by law and is not a gambling device as defined in section 28-1101. After such hearing, the Tax Commissioner shall enter a final decision approving or denying the application. The Tax Commissioner's final decision may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

(8)(a) Upon approval of a specimen of a mechanical amusement device as a game of skill under this section, the department may issue a mechanical amusement device decal for each such device:

(i) If certified by the manufacturer to be functionally identical in both hardware and software configurations to the specimen provided to the department; and

(ii) If the application fee described in subdivision (2)(b) of this section and the annual decal fee described in subdivision (c) of this subsection have been paid.

(b) An owner or operator of a retail establishment shall operate no more than four cash devices, except that an establishment with over four thousand square feet may have one cash device for each one thousand square feet, up to a maximum of fifteen cash devices.

(c) The owner or operator of a cash device shall pay an annual decal fee of two hundred fifty dollars to the department for each device in operation in Nebraska. The decal issued under this section shall be distinct from other decals issued by the department for mechanical amusement devices that are not required to be evaluated under this section. Regardless of the issuance of a decal by the department, no device shall be considered in compliance if it does not bear an unexpired decal in a conspicuous place.

(9) The application process described in this section shall not be construed to limit further investigation by the department or the issuance of further regulations to promote compliance after the application process is completed. At any point after a determination of skill by the department, the department may request from the manufacturer, distributor, or operator information about any device in operation in this state, including, but not limited to, information regarding currently operable source code, changes to software or hardware, and communications from or to the device over the Internet. A manufacturer, distributor, or operator that receives a request shall respond with all responsive information in its possession or control within fifteen business days.

(10)(a) Before any rules and regulations adopted and promulgated to carry out this section become effective, any manufacturer, distributor, or owner may continue to manufacture, sell, transport, place, possess, or enter into a transaction involving (i) cash devices already in operation at an establishment as of May 1, 2019, or (ii) other cash devices that are functionally identical to those already in operation at an establishment as of May 1, 2019.

(b) After any rules and regulations adopted and promulgated to carry out this section become effective, until any determination of compliance or noncompliance by the department, any manufacturer, distributor, or owner may continue to manufacture, sell, transport, place, possess, or enter into a transaction involving cash devices described in subdivision (10)(a) of this section if, within ninety days after the date when any such rules and regulations become effective, the manufacturer or distributor files an application with the department for such a determination.

(c) If a manufacturer or distributor receives a determination from the department that a device described in subdivision (10)(a) of this section is not in compliance with the Mechanical Amusement Device Tax Act, such manufacturer or distributor shall have thirty days after the issuance of that determination to remove any such device from operation in Nebraska.

(11) Application fees collected under subsection (2) of this section and annual decal fees collected under subsection (8) of this section shall be remitted to the State Treasurer for credit to the Department of Revenue Enforcement Fund.

Source: Laws 2019, LB538, § 3.

Cross References

Administrative Procedure Act, see section 84-920.
Nebraska Bingo Act, see section 9-201.
Nebraska County and City Lottery Act, see section 9-601.
Nebraska Lottery and Raffle Act, see section 9-401.
Nebraska Pickle Card Lottery Act, see section 9-301.
Nebraska Small Lottery and Raffle Act, see section 9-501.
State Lottery Act, see section 9-801.

77-3003.02 Operation of cash device; restrictions.

No cash device shall be operated using a credit card, charge card, or debit card. No person under nineteen years of age shall play or participate in any way in the operation of a cash device. No operator or employee or agent of any operator shall knowingly permit any individual under nineteen years of age to play or participate in any way in the operation of a cash device.

Source: Laws 2019, LB538, § 4.

77-3006 Tax Commissioner; administration of act.

The administration of the Mechanical Amusement Device Tax Act is hereby vested in the Tax Commissioner subject to other provisions of law relating to the Tax Commissioner. The Tax Commissioner may prescribe, adopt and promulgate, and enforce rules and regulations relating to the administration and enforcement of the act and may delegate authority to his or her representatives to conduct hearings or perform any other duties imposed under the act. The Tax Commissioner may adopt and promulgate rules and regulations necessary to carry out section 77-3003.01.

Source: Laws 1969, c. 635, § 6, p. 2544; Laws 2019, LB538, § 5.

77-3007 Tax; payment; decal; form; display.

(1) The payment of the tax imposed by the Mechanical Amusement Device Tax Act shall be evidenced by a separate decal for each device signifying payment of the tax, in a form prescribed by the Tax Commissioner.

(2) Every operator shall place such decal in a conspicuous place on each device to denote payment of the tax for each device for the current year.

Source: Laws 1969, c. 635, § 7, p. 2544; Laws 1977, LB 353, § 3; Laws 2019, LB538, § 6.

77-3008 Municipalities; political subdivisions; power to tax.

Nothing in the Mechanical Amusement Device Tax Act shall be construed to limit, usurp, or repeal any power to tax granted to the political subdivisions and municipalities of the State of Nebraska by the laws and Constitution of Nebraska.

Source: Laws 1969, c. 635, § 8, p. 2545; Laws 2019, LB538, § 7.

77-3010 Violations; prosecution; limitation.

Prosecutions for any violations of the Mechanical Amusement Device Tax Act shall be brought by the Attorney General or county attorney in the county in which the violation occurs. Any prosecution for the violation of any of the provisions of the act shall be instituted within three years after the commission of the offense.

Source: Laws 1969, c. 635, § 10, p. 2545; Laws 2019, LB538, § 8.

77-3011 Act, how cited.

Sections 77-3001 to 77-3011 shall be known and may be cited as the Mechanical Amusement Device Tax Act.

Source: Laws 1969, c. 635, § 11, p. 2545; Laws 2019, LB538, § 9.

ARTICLE 31**VOLUNTEER EMERGENCY RESPONDERS INCENTIVE ACT**

Section

77-3104. Certification administrator; designation; duties; notice to volunteer member; written certification.

77-3105. Certification administrator; certified list of volunteer members; duties; income tax credit.

77-3104 Certification administrator; designation; duties; notice to volunteer member; written certification.

(1) Each volunteer department serving a county, city, village, or rural or suburban fire protection district shall designate one member of the department to serve as the certification administrator. The designation of such individual as the certification administrator shall be confirmed and approved by the governing body of such county, city, village, or rural or suburban fire protection district. The certification administrator shall keep and maintain records on the activities of all volunteer members and award points for such activities based upon the standard criteria for qualified active service.

(2) No later than July 15 of each year, the certification administrator shall provide each volunteer member with notice of the total points he or she has accumulated during the first six months of the current calendar year of service.

(3) No later than February 1 of each year, the certification administrator shall provide each volunteer member with a written certification stating the total number of points accumulated by the volunteer member during the immediately preceding calendar year of service and whether the volunteer member has qualified as an active emergency responder, active rescue squad member, or active volunteer firefighter for such year. Such certification may be sent electronically or by mail.

Source: Laws 2016, LB886, § 4; Laws 2018, LB760, § 4; Laws 2019, LB222, § 1.

77-3105 Certification administrator; certified list of volunteer members; duties; income tax credit.

(1) The certification administrator of the volunteer department shall file with the Department of Revenue a certified list of those volunteer members who have qualified as active emergency responders, active rescue squad members, or active volunteer firefighters for the immediately preceding calendar year of service no later than February 15. The certification administrator shall also send a copy of such certified list to the governing body of the county, city, village, or rural or suburban fire protection district. Such copy may be sent electronically or by mail.

(2) Each volunteer member on the list described in subsection (1) of this section shall receive a refundable credit against the income tax imposed by the Nebraska Revenue Act of 1967 in an amount equal to two hundred fifty dollars

beginning with the second taxable year in which such volunteer member is included on such list. The volunteer member shall claim the credit by including a copy of the certification received under subsection (3) of section 77-3104 with the volunteer member's state income tax return.

Source: Laws 2016, LB886, § 5; Laws 2018, LB760, § 5; Laws 2019, LB222, § 2.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

ARTICLE 34

POLITICAL SUBDIVISIONS, BUDGET LIMITATIONS

(d) LIMITATION ON PROPERTY TAXES

Section

77-3442. Property tax levies; maximum levy; exceptions.

77-3443. Other political subdivisions; levy limit; levy request; governing body; duties; allocation of levy.

(e) BASE LIMITATION

77-3446. Base limitation, defined.

(d) LIMITATION ON PROPERTY TAXES

77-3442 Property tax levies; maximum levy; exceptions.

(1) Property tax levies for the support of local governments for fiscal years beginning on or after July 1, 1998, shall be limited to the amounts set forth in this section except as provided in section 77-3444.

(2)(a) Except as provided in subdivisions (2)(b) and (2)(e) of this section, school districts and multiple-district school systems may levy a maximum levy of one dollar and five cents per one hundred dollars of taxable valuation of property subject to the levy.

(b) For each fiscal year prior to fiscal year 2017-18, learning communities may levy a maximum levy for the general fund budgets of member school districts of ninety-five cents per one hundred dollars of taxable valuation of property subject to the levy. The proceeds from the levy pursuant to this subdivision shall be distributed pursuant to section 79-1073.

(c) Except as provided in subdivision (2)(e) of this section, for each fiscal year prior to fiscal year 2017-18, school districts that are members of learning communities may levy for purposes of such districts' general fund budget and special building funds a maximum combined levy of the difference of one dollar and five cents on each one hundred dollars of taxable property subject to the levy minus the learning community levy pursuant to subdivision (2)(b) of this section for such learning community.

(d) Excluded from the limitations in subdivisions (2)(a) and (2)(c) of this section are (i) amounts levied to pay for current and future sums agreed to be paid by a school district to certificated employees in exchange for a voluntary termination of employment occurring prior to September 1, 2017, (ii) amounts levied by a school district otherwise at the maximum levy pursuant to subdivision (2)(a) of this section to pay for current and future qualified voluntary termination incentives for certificated teachers pursuant to subsection (3) of section 79-8,142 that are not otherwise included in an exclusion pursuant to

subdivision (2)(d) of this section, (iii) amounts levied by a school district otherwise at the maximum levy pursuant to subdivision (2)(a) of this section to pay for seventy-five percent of the current and future sums agreed to be paid to certificated employees in exchange for a voluntary termination of employment occurring between September 1, 2017, and August 31, 2018, as a result of a collective-bargaining agreement in force and effect on September 1, 2017, that are not otherwise included in an exclusion pursuant to subdivision (2)(d) of this section, (iv) amounts levied by a school district otherwise at the maximum levy pursuant to subdivision (2)(a) of this section to pay for fifty percent of the current and future sums agreed to be paid to certificated employees in exchange for a voluntary termination of employment occurring between September 1, 2018, and August 31, 2019, as a result of a collective-bargaining agreement in force and effect on September 1, 2017, that are not otherwise included in an exclusion pursuant to subdivision (2)(d) of this section, (v) amounts levied by a school district otherwise at the maximum levy pursuant to subdivision (2)(a) of this section to pay for twenty-five percent of the current and future sums agreed to be paid to certificated employees in exchange for a voluntary termination of employment occurring between September 1, 2019, and August 31, 2020, as a result of a collective-bargaining agreement in force and effect on September 1, 2017, that are not otherwise included in an exclusion pursuant to subdivision (2)(d) of this section, (vi) amounts levied in compliance with sections 79-10,110 and 79-10,110.02, and (vii) amounts levied to pay for special building funds and sinking funds established for projects commenced prior to April 1, 1996, for construction, expansion, or alteration of school district buildings. For purposes of this subsection, commenced means any action taken by the school board on the record which commits the board to expend district funds in planning, constructing, or carrying out the project.

(e) Federal aid school districts may exceed the maximum levy prescribed by subdivision (2)(a) or (2)(c) of this section only to the extent necessary to qualify to receive federal aid pursuant to Title VIII of Public Law 103-382, as such title existed on September 1, 2001. For purposes of this subdivision, federal aid school district means any school district which receives ten percent or more of the revenue for its general fund budget from federal government sources pursuant to Title VIII of Public Law 103-382, as such title existed on September 1, 2001.

(f) For each fiscal year, learning communities may levy a maximum levy of one-half cent on each one hundred dollars of taxable property subject to the levy for elementary learning center facility leases, for remodeling of leased elementary learning center facilities, and for up to fifty percent of the estimated cost for focus school or program capital projects approved by the learning community coordinating council pursuant to section 79-2111.

(g) For each fiscal year, learning communities may levy a maximum levy of one and one-half cents on each one hundred dollars of taxable property subject to the levy for early childhood education programs for children in poverty, for elementary learning center employees, for contracts with other entities or individuals who are not employees of the learning community for elementary learning center programs and services, and for pilot projects, except that no more than ten percent of such levy may be used for elementary learning center employees.

(3) For each fiscal year, community college areas may levy the levies provided in subdivisions (2)(a) through (c) of section 85-1517, in accordance

with the provisions of such subdivisions. A community college area may exceed the levy provided in subdivision (2)(b) of section 85-1517 by the amount necessary to retire general obligation bonds assumed by the community college area or issued pursuant to section 85-1515 according to the terms of such bonds or for any obligation pursuant to section 85-1535 entered into prior to January 1, 1997.

(4)(a) Natural resources districts may levy a maximum levy of four and one-half cents per one hundred dollars of taxable valuation of property subject to the levy.

(b) Natural resources districts shall also have the power and authority to levy a tax equal to the dollar amount by which their restricted funds budgeted to administer and implement ground water management activities and integrated management activities under the Nebraska Ground Water Management and Protection Act exceed their restricted funds budgeted to administer and implement ground water management activities and integrated management activities for FY2003-04, not to exceed one cent on each one hundred dollars of taxable valuation annually on all of the taxable property within the district.

(c) In addition, natural resources districts located in a river basin, subbasin, or reach that has been determined to be fully appropriated pursuant to section 46-714 or designated as overappropriated pursuant to section 46-713 by the Department of Natural Resources shall also have the power and authority to levy a tax equal to the dollar amount by which their restricted funds budgeted to administer and implement ground water management activities and integrated management activities under the Nebraska Ground Water Management and Protection Act exceed their restricted funds budgeted to administer and implement ground water management activities and integrated management activities for FY2005-06, not to exceed three cents on each one hundred dollars of taxable valuation on all of the taxable property within the district for fiscal year 2006-07 and each fiscal year thereafter through fiscal year 2017-18.

(5) Any educational service unit authorized to levy a property tax pursuant to section 79-1225 may levy a maximum levy of one and one-half cents per one hundred dollars of taxable valuation of property subject to the levy.

(6)(a) Incorporated cities and villages which are not within the boundaries of a municipal county may levy a maximum levy of forty-five cents per one hundred dollars of taxable valuation of property subject to the levy plus an additional five cents per one hundred dollars of taxable valuation to provide financing for the municipality's share of revenue required under an agreement or agreements executed pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act. The maximum levy shall include amounts levied to pay for sums to support a library pursuant to section 51-201, museum pursuant to section 51-501, visiting community nurse, home health nurse, or home health agency pursuant to section 71-1637, or statue, memorial, or monument pursuant to section 80-202.

(b) Incorporated cities and villages which are within the boundaries of a municipal county may levy a maximum levy of ninety cents per one hundred dollars of taxable valuation of property subject to the levy. The maximum levy shall include amounts paid to a municipal county for county services, amounts levied to pay for sums to support a library pursuant to section 51-201, a museum pursuant to section 51-501, a visiting community nurse, home health

nurse, or home health agency pursuant to section 71-1637, or a statue, memorial, or monument pursuant to section 80-202.

(7) Sanitary and improvement districts which have been in existence for more than five years may levy a maximum levy of forty cents per one hundred dollars of taxable valuation of property subject to the levy, and sanitary and improvement districts which have been in existence for five years or less shall not have a maximum levy. Unconsolidated sanitary and improvement districts which have been in existence for more than five years and are located in a municipal county may levy a maximum of eighty-five cents per hundred dollars of taxable valuation of property subject to the levy.

(8) Counties may levy or authorize a maximum levy of fifty cents per one hundred dollars of taxable valuation of property subject to the levy, except that five cents per one hundred dollars of taxable valuation of property subject to the levy may only be levied to provide financing for the county's share of revenue required under an agreement or agreements executed pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act. The maximum levy shall include amounts levied to pay for sums to support a library pursuant to section 51-201 or museum pursuant to section 51-501. The county may allocate up to fifteen cents of its authority to other political subdivisions subject to allocation of property tax authority under subsection (1) of section 77-3443 and not specifically covered in this section to levy taxes as authorized by law which do not collectively exceed fifteen cents per one hundred dollars of taxable valuation on any parcel or item of taxable property. The county may allocate to one or more other political subdivisions subject to allocation of property tax authority by the county under subsection (1) of section 77-3443 some or all of the county's five cents per one hundred dollars of valuation authorized for support of an agreement or agreements to be levied by the political subdivision for the purpose of supporting that political subdivision's share of revenue required under an agreement or agreements executed pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act. If an allocation by a county would cause another county to exceed its levy authority under this section, the second county may exceed the levy authority in order to levy the amount allocated.

(9) Municipal counties may levy or authorize a maximum levy of one dollar per one hundred dollars of taxable valuation of property subject to the levy. The municipal county may allocate levy authority to any political subdivision or entity subject to allocation under section 77-3443.

(10) Beginning July 1, 2016, rural and suburban fire protection districts may levy a maximum levy of ten and one-half cents per one hundred dollars of taxable valuation of property subject to the levy if (a) such district is located in a county that had a levy pursuant to subsection (8) of this section in the previous year of at least forty cents per one hundred dollars of taxable valuation of property subject to the levy or (b) such district had a levy request pursuant to section 77-3443 in any of the three previous years and the county board of the county in which the greatest portion of the valuation of such district is located did not authorize any levy authority to such district in such year.

(11) A regional metropolitan transit authority may levy a maximum levy of ten cents per one hundred dollars of taxable valuation of property subject to the levy for each fiscal year that commences on the January 1 that follows the

effective date of the conversion of the transit authority established under the Transit Authority Law into the regional metropolitan transit authority.

(12) Property tax levies (a) for judgments, except judgments or orders from the Commission of Industrial Relations, obtained against a political subdivision which require or obligate a political subdivision to pay such judgment, to the extent such judgment is not paid by liability insurance coverage of a political subdivision, (b) for preexisting lease-purchase contracts approved prior to July 1, 1998, (c) for bonds as defined in section 10-134 approved according to law and secured by a levy on property except as provided in section 44-4317 for bonded indebtedness issued by educational service units and school districts, and (d) for payments by a public airport to retire interest-free loans from the Division of Aeronautics of the Department of Transportation in lieu of bonded indebtedness at a lower cost to the public airport are not included in the levy limits established by this section.

(13) The limitations on tax levies provided in this section are to include all other general or special levies provided by law. Notwithstanding other provisions of law, the only exceptions to the limits in this section are those provided by or authorized by sections 77-3442 to 77-3444.

(14) Tax levies in excess of the limitations in this section shall be considered unauthorized levies under section 77-1606 unless approved under section 77-3444.

(15) For purposes of sections 77-3442 to 77-3444, political subdivision means a political subdivision of this state and a county agricultural society.

(16) For school districts that file a binding resolution on or before May 9, 2008, with the county assessors, county clerks, and county treasurers for all counties in which the school district has territory pursuant to subsection (7) of section 79-458, if the combined levies, except levies for bonded indebtedness approved by the voters of the school district and levies for the refinancing of such bonded indebtedness, are in excess of the greater of (a) one dollar and twenty cents per one hundred dollars of taxable valuation of property subject to the levy or (b) the maximum levy authorized by a vote pursuant to section 77-3444, all school district levies, except levies for bonded indebtedness approved by the voters of the school district and levies for the refinancing of such bonded indebtedness, shall be considered unauthorized levies under section 77-1606.

Source: Laws 1996, LB 1114, § 1; Laws 1997, LB 269, § 56; Laws 1998, LB 306, § 36; Laws 1998, LB 1104, § 17; Laws 1999, LB 87, § 87; Laws 1999, LB 141, § 11; Laws 1999, LB 437, § 26; Laws 2001, LB 142, § 57; Laws 2002, LB 568, § 9; Laws 2002, LB 898, § 1; Laws 2002, LB 1085, § 19; Laws 2003, LB 540, § 2; Laws 2004, LB 962, § 110; Laws 2004, LB 1093, § 1; Laws 2005, LB 38, § 2; Laws 2006, LB 968, § 12; Laws 2006, LB 1024, § 14; Laws 2006, LB 1226, § 30; Laws 2007, LB342, § 31; Laws 2007, LB641, § 4; Laws 2007, LB701, § 33; Laws 2008, LB988, § 2; Laws 2008, LB1154, § 5; Laws 2009, LB121, § 11; Laws 2010, LB1070, § 4; Laws 2010, LB1072, § 3; Laws 2011, LB59, § 2; Laws 2011, LB400, § 2; Laws 2012, LB946, § 10; Laws 2012, LB1104, § 1; Laws 2013, LB585, § 1; Laws 2015, LB261, § 13; Laws 2015, LB325, § 7; Laws 2016, LB959, § 1; Laws 2016, LB1067, § 10; Laws 2017, LB339, § 269; Laws 2017, LB512, § 6; Laws 2019, LB63, § 6; Laws 2019, LB492, § 42.

Cross References

Interlocal Cooperation Act, see section 13-801.

Joint Public Agency Act, see section 13-2501.

Nebraska Ground Water Management and Protection Act, see section 46-701.

Transit Authority Law, see section 14-1826.

77-3443 Other political subdivisions; levy limit; levy request; governing body; duties; allocation of levy.

(1) All political subdivisions, other than (a) school districts, community colleges, natural resources districts, educational service units, cities, villages, counties, municipal counties, rural and suburban fire protection districts that have levy authority pursuant to subsection (10) of section 77-3442, and sanitary and improvement districts and (b) political subdivisions subject to municipal allocation under subsection (2) of this section, may levy taxes as authorized by law which are authorized by the county board of the county or the council of a municipal county in which the greatest portion of the valuation is located, which are counted in the county or municipal county levy limit provided in section 77-3442, and which do not collectively total more than fifteen cents per one hundred dollars of taxable valuation on any parcel or item of taxable property for all governments for which allocations are made by the municipality, county, or municipal county, except that such limitation shall not apply to property tax levies for preexisting lease-purchase contracts approved prior to July 1, 1998, for bonded indebtedness approved according to law and secured by a levy on property, and for payments by a public airport to retire interest-free loans from the Division of Aeronautics of the Department of Transportation in lieu of bonded indebtedness at a lower cost to the public airport. The county board or council shall review and approve or disapprove the levy request of all political subdivisions subject to this subsection. The county board or council may approve all or a portion of the levy request and may approve a levy request that would allow the requesting political subdivision to levy a tax at a levy greater than that permitted by law. Unless a transit authority elects to convert to a regional metropolitan transit authority in accordance with the Regional Metropolitan Transit Authority Act, and for each fiscal year of such a transit authority until the first fiscal year commencing after the effective date of such conversion, the county board of a county or the council of a municipal county which contains a transit authority established pursuant to the Transit Authority Law shall allocate no less than three cents per one hundred dollars of taxable property within the city or municipal county subject to the levy to the transit authority if requested by such authority. For any political subdivision subject to this subsection that receives taxes from more than one county or municipal county, the levy shall be allocated only by the county or municipal county in which the greatest portion of the valuation is located. The county board of equalization shall certify all levies by October 15 to insure that the taxes levied by political subdivisions subject to this subsection do not exceed the allowable limit for any parcel or item of taxable property. The levy allocated by the county or municipal county may be exceeded as provided in section 77-3444.

(2) All city airport authorities established under the Cities Airport Authorities Act, community redevelopment authorities established under the Community Development Law, transit authorities established under the Transit Authority Law unless and until the first fiscal year commencing after the effective date of any conversion by such a transit authority into a regional metropolitan transit

authority pursuant to the Regional Metropolitan Transit Authority Act, and offstreet parking districts established under the Offstreet Parking District Act may be allocated property taxes as authorized by law which are authorized by the city, village, or municipal county and are counted in the city or village levy limit or municipal county levy limit provided by section 77-3442, except that such limitation shall not apply to property tax levies for preexisting lease-purchase contracts approved prior to July 1, 1998, for bonded indebtedness approved according to law and secured by a levy on property, and for payments by a public airport to retire interest-free loans from the Division of Aeronautics of the Department of Transportation in lieu of bonded indebtedness at a lower cost to the public airport. For offstreet parking districts established under the Offstreet Parking District Act, the tax shall be counted in the allocation by the city proportionately, by dividing the total taxable valuation of the taxable property within the district by the total taxable valuation of the taxable property within the city multiplied by the levy of the district. Unless a transit authority elects to convert into a regional metropolitan transit authority pursuant to the Regional Metropolitan Transit Authority Act, and for each fiscal year of such a transit authority until the first fiscal year commencing after the effective date of such conversion, the city council of a city which has established a transit authority pursuant to the Transit Authority Law or the council of a municipal county which contains a transit authority shall allocate no less than three cents per one hundred dollars of taxable property subject to the levy to the transit authority if requested by such authority. The city council, village board, or council shall review and approve or disapprove the levy request of the political subdivisions subject to this subsection. The city council, village board, or council may approve all or a portion of the levy request and may approve a levy request that would allow a levy greater than that permitted by law. The levy allocated by the municipality or municipal county may be exceeded as provided in section 77-3444.

(3) On or before August 1, all political subdivisions subject to county, municipal, or municipal county levy authority under this section shall submit a preliminary request for levy allocation to the county board, city council, village board, or council that is responsible for levying such taxes. The preliminary request of the political subdivision shall be in the form of a resolution adopted by a majority vote of members present of the political subdivision's governing body. The failure of a political subdivision to make a preliminary request shall preclude such political subdivision from using procedures set forth in section 77-3444 to exceed the final levy allocation as determined in subsection (4) of this section.

(4) Each county board, city council, village board, or council shall (a) adopt a resolution by a majority vote of members present which determines a final allocation of levy authority to its political subdivisions and (b) forward a copy of such resolution to the chairperson of the governing body of each of its political subdivisions. No final levy allocation shall be changed after September 1 except by agreement between both the county board, city council, village board, or council which determined the amount of the final levy allocation and the governing body of the political subdivision whose final levy allocation is at issue.

Source: Laws 1996, LB 1114, § 2; Laws 1997, LB 269, § 57; Laws 1998, LB 306, § 37; Laws 1999, LB 141, § 12; Laws 2001, LB 142, § 58; Laws 2002, LB 994, § 26; Laws 2015, LB325, § 8; Laws 2017, LB339, § 270; Laws 2019, LB492, § 43.

Cross References

Cities Airport Authorities Act, see section 3-514.
Community Development Law, see section 18-2101.
Offstreet Parking District Act, see section 19-3301.
Regional Metropolitan Transit Authority Act, see section 18-801.
Transit Authority Law, see section 14-1826.

(e) BASE LIMITATION

77-3446 Base limitation, defined.

Base limitation means the budget limitation rate applicable to school districts and the limitation on growth of restricted funds applicable to other political subdivisions prior to any increases in the rate as a result of special actions taken by a supermajority of any governing board or of any exception allowed by law. The base limitation is two and one-half percent until adjusted, except that the base limitation for school districts for school fiscal years 2017-18 and 2018-19 is one and one-half percent and for school fiscal year 2019-20 is two percent. The base limitation may be adjusted annually by the Legislature to reflect changes in the prices of services and products used by school districts and political subdivisions.

Source: Laws 1998, LB 989, § 15; Laws 2001, LB 365, § 1; Laws 2003, LB 540, § 3; Laws 2009, LB545, § 2; Laws 2009, First Spec. Sess., LB5, § 1; Laws 2011, LB235, § 1; Laws 2013, LB407, § 1; Laws 2017, LB409, § 1; Laws 2019, LB675, § 1.

ARTICLE 35

HOMESTEAD EXEMPTION

Section

- 77-3506. Certain veterans; exemption; unremarried surviving spouse; application.
 77-3508. Homesteads; assessment; exemptions; individuals; based on disability and income.
 77-3519. Homestead; exemption; county assessor; rejection; applicant; complaint; contents; hearing; appeal.

77-3506 Certain veterans; exemption; unremarried surviving spouse; application.

(1) All homesteads in this state shall be assessed for taxation the same as other property, except that there shall be exempt from taxation, on any homestead described in subsection (2) of this section, one hundred percent of the exempt amount.

(2) The exemption described in subsection (1) of this section shall apply to homesteads of:

(a) A veteran who was discharged or otherwise separated with a characterization of honorable or general (under honorable conditions), who is drawing compensation from the United States Department of Veterans Affairs because of one hundred percent service-connected disability, and who is not eligible for total exemption under sections 77-3526 to 77-3528, an unremarried surviving spouse of such a veteran, or a surviving spouse of such a veteran who remarries after attaining the age of fifty-seven years;

(b) An unremarried surviving spouse of any veteran, including a veteran other than a veteran described in section 80-401.01, who was discharged or otherwise separated with a characterization of honorable or general (under

honorable conditions) and who died because of a service-connected disability or a surviving spouse of such a veteran who remarries after attaining the age of fifty-seven years;

(c) An unremarried surviving spouse of a serviceman or servicewoman, including a veteran other than a veteran described in section 80-401.01, whose death while on active duty was service-connected or a surviving spouse of such a serviceman or servicewoman who remarries after attaining the age of fifty-seven years; and

(d) An unremarried surviving spouse of a serviceman or servicewoman who died while on active duty during the periods described in section 80-401.01 or a surviving spouse of such a serviceman or servicewoman who remarries after attaining the age of fifty-seven years.

(3) Application for exemption under this section shall include certification of the status set forth in subsection (2) of this section from the United States Department of Veterans Affairs. Such certification shall not be required in succeeding years if no change in status has occurred, except that the county assessor or the Tax Commissioner may request such certification to verify that no change in status has occurred.

Source: Laws 2014, LB1087, § 5; Laws 2016, LB683, § 1; Laws 2018, LB1089, § 6; Laws 2019, LB512, § 25.

77-3508 Homesteads; assessment; exemptions; individuals; based on disability and income.

(1)(a) All homesteads in this state shall be assessed for taxation the same as other property, except that there shall be exempt from taxation, on any homestead described in subdivision (b) of this subsection, a percentage of the exempt amount as limited by section 77-3506.03. The exemption shall be based on the household income of a claimant pursuant to subsections (2) through (4) of this section.

(b) The exemption described in subdivision (a) of this subsection shall apply to homesteads of:

(i) Veterans as defined in section 80-401.01 who were discharged or otherwise separated with a characterization of honorable or general (under honorable conditions) and who are totally disabled by a non-service-connected accident or illness;

(ii) Individuals who have a permanent physical disability and have lost all mobility so as to preclude locomotion without the use of a mechanical aid or a prosthetic device as defined in section 77-2704.09;

(iii) Individuals who have undergone amputation of both arms above the elbow or who have a permanent partial disability of both arms in excess of seventy-five percent; and

(iv) Beginning January 1, 2015, individuals who have a developmental disability as defined in section 83-1205.

(c) Application for the exemption described in subdivision (a) of this subsection shall include certification from a qualified medical physician, physician assistant, or advanced practice registered nurse for subdivisions (b)(i) through (b)(iii) of this subsection, certification from the United States Department of Veterans Affairs affirming that the homeowner is totally disabled due to non-service-connected accident or illness for subdivision (b)(i) of this subsection, or

certification from the Department of Health and Human Services for subdivision (b)(iv) of this subsection. Such certification from a qualified medical physician, physician assistant, or advanced practice registered nurse or from the Department of Health and Human Services shall be made on forms prescribed by the Department of Revenue. If an individual described in subdivision (b)(i), (ii), (iii), or (iv) of this subsection is granted a homestead exemption pursuant to this section for any year, such individual shall not be required to submit the certification required under this subdivision in succeeding years if no change in medical condition has occurred, except that the county assessor or the Tax Commissioner may request such certification to verify that no change in medical condition has occurred.

(2) For 2014, for a married or closely related claimant as described in subsection (1) of this section, the percentage of the exempt amount for which the claimant shall be eligible shall be the percentage in Column B which corresponds with the claimant's household income in Column A in the table found in this subsection.

Column A Household Income In Dollars	Column B Percentage Of Relief
0 through 34,700	100
34,701 through 36,400	90
36,401 through 38,100	80
38,101 through 39,800	70
39,801 through 41,500	60
41,501 through 43,200	50
43,201 through 44,900	40
44,901 through 46,600	30
46,601 through 48,300	20
48,301 through 50,000	10
50,001 and over	0

(3) For 2014, for a single claimant as described in subsection (1) of this section, the percentage of the exempt amount for which the claimant shall be eligible shall be the percentage in Column B which corresponds with the claimant's household income in Column A in the table found in this subsection.

Column A Household Income In Dollars	Column B Percentage Of Relief
0 through 30,300	100
30,301 through 31,700	90
31,701 through 33,100	80
33,101 through 34,500	70
34,501 through 35,900	60
35,901 through 37,300	50
37,301 through 38,700	40
38,701 through 40,100	30
40,101 through 41,500	20
41,501 through 42,900	10
42,901 and over	0

(4) For exemption applications filed in calendar years 2015 through 2017, the income eligibility amounts in subsections (2) and (3) of this section shall be

adjusted by the percentage determined pursuant to the provisions of section 1(f) of the Internal Revenue Code of 1986, as it existed prior to December 22, 2017. For exemption applications filed in calendar year 2018 and each calendar year thereafter, the income eligibility amounts in subsections (2) and (3) of this section shall be adjusted by the percentage change in the Consumer Price Index for All Urban Consumers published by the federal Bureau of Labor Statistics from the twelve months ending on August 31, 2016, to the twelve months ending on August 31 of the year preceding the applicable calendar year. The income eligibility amounts shall be adjusted for cumulative inflation since 2014. If any amount is not a multiple of one hundred dollars, the amount shall be rounded to the next lower multiple of one hundred dollars.

Source: Laws 1979, LB 65, § 8; Laws 1980, LB 647, § 5; Laws 1981, LB 478, § 1; Laws 1983, LB 195, § 2; Laws 1986, LB 1258, § 2; Laws 1987, LB 376A, § 5; Laws 1988, LB 1105, § 3; Laws 1991, LB 2, § 17; Laws 1994, LB 902, § 34; Laws 1995, LB 483, § 5; Laws 1997, LB 182, § 5; Laws 1999, LB 179, § 2; Laws 2000, LB 1279, § 2; Laws 2005, LB 17, § 1; Laws 2005, LB 54, § 17; Laws 2014, LB986, § 2; Laws 2016, LB776, § 6; Laws 2017, LB20, § 1; Laws 2018, LB1089, § 10; Laws 2019, LB512, § 26.

77-3519 Homestead; exemption; county assessor; rejection; applicant; complaint; contents; hearing; appeal.

In any case when the county assessor rejects an application for homestead exemption, such applicant may obtain a hearing before the county board of equalization by filing a written complaint with the county clerk. If the application for homestead exemption was rejected on the basis of value, the complaint must be filed by June 30. The county board of equalization may, by majority vote, extend such deadline to July 20. If the application for homestead exemption was rejected on any other basis, the complaint must be filed within thirty days from receipt of the notice from the county assessor showing such rejection. Such complaint shall specify his or her grievances and the pertinent facts in relation thereto, in ordinary and concise language and without repetition, and in such manner as to enable a person of common understanding to know what is intended. The board may take evidence pertinent to such complaint, and for that purpose may compel the attendance of witnesses and the production of books, records, and papers by subpoena. The board shall issue its decision on the complaint within thirty days after the filing of the complaint. Notice of the board's decision shall be mailed by the county clerk to the applicant within seven days after the decision. The taxpayer shall have the right to appeal from the board's decision with reference to the application for homestead exemption to the Tax Equalization and Review Commission in accordance with section 77-5013 within thirty days after the decision.

Source: Laws 1979, LB 65, § 19; Laws 1987, LB 376A, § 14; Laws 1995, LB 490, § 177; Laws 2004, LB 973, § 44; Laws 2011, LB384, § 19; Laws 2019, LB512, § 27.

ARTICLE 36

SCHOOL READINESS TAX CREDIT ACT

Section
77-3603. Terms, defined.

§ 77-3603

REVENUE AND TAXATION

Section

77-3604. Child care and education provider; income tax credit; application; contents; approval; distribution.

77-3603 Terms, defined.

For purposes of the School Readiness Tax Credit Act:

- (1) Child means an individual who is five years of age or less;
- (2) Child care and education provider means a person who owns or operates an eligible program;
- (3) Department means the Department of Revenue;
- (4) Eligible program means an applicable child care and early childhood education program as defined in section 71-1954 that has applied to participate in the quality rating and improvement system developed under the Step Up to Quality Child Care Act and has been assigned a quality scale rating;
- (5) Eligible staff member means an individual who is employed with, or who is a self-employed individual providing child care and early childhood education for, an eligible program for at least six months of the taxable year and who is listed in the Nebraska Early Childhood Professional Record System and classified as provided in subsection (4) of section 71-1962. Eligible staff member does not include certificated teaching and administrative staff employed by programs established pursuant to section 79-1104; and
- (6) Quality scale rating means the rating of an eligible program under the Step Up to Quality Child Care Act which is expressed in terms of steps, with step one being the lowest rating and step five being the highest rating.

Source: Laws 2016, LB889, § 3; Laws 2020, LB266, § 2.
Operative date January 1, 2020.

Cross References

Step Up to Quality Child Care Act, see section 71-1952.

77-3604 Child care and education provider; income tax credit; application; contents; approval; distribution.

(1) A child care and education provider whose eligible program provides services to children who participate in the child care subsidy program established pursuant to section 68-1202 may apply to the department to receive a nonrefundable tax credit against the income tax imposed by the Nebraska Revenue Act of 1967.

(2) The nonrefundable credit provided in this section shall be an amount equal to the average monthly number of children described in subsection (1) of this section who are attending the child care and education provider's eligible program, multiplied by an amount based upon the quality scale rating of such eligible program as follows:

Quality Scale Rating of Eligible Program	Tax Credit Per Child Attending Eligible Program
Step Five	\$750
Step Four	\$500
Step Three	\$250
Step Two	\$0
Step One	\$0

(3) A child care and education provider shall apply for the credit provided in this section by submitting an application to the department with the following information:

(a) The number of children described in subsection (1) of this section who attended the child care and education provider's eligible program during each month of the most recently completed taxable year;

(b) Documentation to show the quality scale rating of the child care and education provider's eligible program; and

(c) Any other documentation required by the department.

(4) Subject to subsection (5) of this section, if the department determines that the child care and education provider qualifies for tax credits under this section, it shall approve the application and certify the amount of credits approved to the child care and education provider.

(5) The department shall consider applications in the order in which they are received and may approve tax credits under this section in any taxable year until the aggregate limit allowed under subsection (1) of section 77-3606 has been reached.

(6) If the child care and education provider is (a) a partnership, (b) a limited liability company, (c) a corporation having an election in effect under subchapter S of the Internal Revenue Code of 1986, as amended, or (d) an estate or trust, the tax credit provided in this section may be distributed in the same manner and proportion as the partner, member, shareholder, or beneficiary reports the partnership, limited liability company, subchapter S corporation, estate, or trust income.

(7) The credit provided in this section shall be available for taxable years beginning or deemed to begin on or after January 1, 2017, and before January 1, 2022, under the Internal Revenue Code of 1986, as amended.

Source: Laws 2016, LB889, § 4; Laws 2020, LB266, § 3.
Operative date January 1, 2020.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

ARTICLE 38

FINANCIAL INSTITUTION TAXATION

Section

77-3806. Franchise tax; filing requirements; general provisions applicable; refunds; credit.

77-3806 Franchise tax; filing requirements; general provisions applicable; refunds; credit.

(1) The tax return shall be filed and the total amount of the franchise tax shall be due on the fifteenth day of the third month after the end of the taxable year. No extension of time to pay the tax shall be granted. If the Tax Commissioner determines that the amount of tax can be computed from available information filed by the financial institutions with either state or federal regulatory agencies, the Tax Commissioner may, by regulation, waive the requirement for the financial institutions to file returns.

(2) Sections 77-2714 to 77-27,135 relating to deficiencies, penalties, interest, the collection of delinquent amounts, and appeal procedures for the tax imposed by section 77-2734.02 shall also apply to the tax imposed by section 77-3802. If the filing of a return is waived by the Tax Commissioner, the payment of the tax shall be considered the filing of a return for purposes of sections 77-2714 to 77-27,135.

(3) No refund of the tax imposed by section 77-3802 shall be allowed unless a claim for such refund is filed within ninety days of the date on which (a) the tax is due or was paid, whichever is later, (b) a change is made to the amount of deposits or the net financial income of the financial institution by a state or federal regulatory agency, or (c) the Nebraska Investment Finance Authority issues an eligibility statement to the financial institution pursuant to the Affordable Housing Tax Credit Act.

(4) Any such financial institution shall receive a credit on the franchise tax as provided under the Affordable Housing Tax Credit Act, the Community Development Assistance Act, the Nebraska Job Creation and Mainstreet Revitalization Act, the Nebraska Property Tax Incentive Act, and the New Markets Job Growth Investment Act.

Source: Laws 1986, LB 774, § 6; Laws 1990, LB 1241, § 16; Laws 2001, LB 433, § 7; Laws 2007, LB367, § 25; Laws 2012, LB1128, § 25; Laws 2014, LB191, § 21; Laws 2016, LB884, § 22; Laws 2020, LB1107, § 135.

Operative date August 18, 2020.

Cross References

Affordable Housing Tax Credit Act, see section 77-2501.

Community Development Assistance Act, see section 13-201.

Nebraska Job Creation and Mainstreet Revitalization Act, see section 77-2901.

Nebraska Property Tax Incentive Act, see section 77-6701.

New Markets Job Growth Investment Act, see section 77-1101.

ARTICLE 39

UNIFORM STATE TAX LIEN REGISTRATION AND ENFORCEMENT

(a) **UNIFORM STATE TAX LIEN REGISTRATION AND ENFORCEMENT ACT**

Section

77-3903. Notice of lien; filing; requirements; fee; billing.

(a) **UNIFORM STATE TAX LIEN REGISTRATION
AND ENFORCEMENT ACT**

77-3903 Notice of lien; filing; requirements; fee; billing.

(1)(a) A notice of lien provided for in the Uniform State Tax Lien Registration and Enforcement Act upon real property shall be presented in the office of the Secretary of State. Such notice of lien shall be transmitted by the Secretary of State to and filed in the office of the register of deeds by the register of deeds of the county or counties in which the real property subject to the lien is situated as designated in the notice of lien. The register of deeds shall enter the notice in the alphabetical state tax lien index, showing on one line the name and residence of the person liable named in such notice, the last four digits of the social security number or the federal tax identification number of such person, the Tax Commissioner's or Commissioner of Labor's serial number of such

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notice, the date and hour of filing, and the amount due. Such presentments to the Secretary of State may be made by direct input to the Secretary of State's data base or by other electronic means. All such notices of lien shall be retained in numerical order in a file designated state tax lien notices, except that in offices filing by the roll form of microfilm pursuant to section 23-1517.01, the original notices need not be retained. A lien subject to this subsection shall be effective upon real property when filed by the register of deeds as provided in this subsection.

(b) A notice of lien provided for in the Uniform State Tax Lien Registration and Enforcement Act upon personal property shall be filed in the office of the Secretary of State. The Secretary of State shall enter the notice in the state's central tax lien index, showing on one line the name and residence of the person liable named in such notice, the last four digits of the social security number or the federal tax identification number of such person, the Tax Commissioner's or Commissioner of Labor's serial number of such notice, the date and hour of filing, and the amount due. Such filings with the Secretary of State may be filed by direct input to the Secretary of State's data base or by other electronic means. All such notices of lien shall be retained in numerical order in a file designated state tax lien notices.

(2) The uniform fee, payable to the Secretary of State, for presenting for filing, releasing, continuing, or subordinating or for filing, releasing, continuing, or subordinating each tax lien pursuant to the Uniform State Tax Lien Registration and Enforcement Act shall be two times the fee required for recording instruments with the register of deeds as provided in section 33-109. There shall be no fee for the filing of a termination statement. The uniform fee for each county more than one designated pursuant to subdivision (1)(a) of this section shall be the fee required for recording instruments with the register of deeds as provided in section 33-109. The Secretary of State shall remit each fee received pursuant to this subsection to the State Treasurer for credit to the Secretary of State Cash Fund, except that of the fees received pursuant to this subsection, the Secretary of State shall remit the fee required for recording instruments with the register of deeds as provided in section 33-109 to the register of deeds of a county for each designation of such county in a filing pursuant to subdivision (1)(a) of this section.

(3) The Secretary of State shall bill the Tax Commissioner or Commissioner of Labor on a monthly basis for fees for documents presented to or filed with the Secretary of State. No payment of any fee shall be required at the time of presenting or filing any such lien document.

Source: Laws 1986, LB 1027, § 216; Laws 1987, LB 523, § 32; Laws 1995, LB 490, § 179; Laws 1998, LB 1321, § 100; Laws 1999, LB 165, § 4; Laws 1999, LB 550, § 46; Laws 2007, LB223, § 23; Laws 2007, LB334, § 89; Laws 2012, LB14, § 7; Laws 2017, LB152, § 4; Laws 2017, LB268, § 17; Laws 2020, LB910, § 32. Operative date July 1, 2021.

ARTICLE 41

EMPLOYMENT AND INVESTMENT GROWTH ACT

Section
77-4111. Tax Commissioner; rules and regulations.

77-4111 Tax Commissioner; rules and regulations.

The Tax Commissioner may adopt and promulgate all rules and regulations necessary to carry out the purposes of the Employment and Investment Growth Act.

Source: Laws 1988, LB 1234, § 9; Laws 2019, LB512, § 28.

ARTICLE 42**PROPERTY TAX CREDIT ACT**

Section

77-4212. Property tax credit; county treasurer; duties; disbursement to counties; State Treasurer; duties.

77-4212 Property tax credit; county treasurer; duties; disbursement to counties; State Treasurer; duties.

(1) For tax year 2007, the amount of relief granted under the Property Tax Credit Act shall be one hundred five million dollars. For tax year 2008, the amount of relief granted under the act shall be one hundred fifteen million dollars. It is the intent of the Legislature to fund the Property Tax Credit Act for tax years after tax year 2008 using available revenue. For tax year 2017, the amount of relief granted under the act shall be two hundred twenty-four million dollars. For tax year 2020 and each tax year thereafter, the minimum amount of relief granted under the act shall be two hundred seventy-five million dollars. If money is transferred or credited to the Property Tax Credit Cash Fund pursuant to any other state law, such amount shall be added to the minimum amount required under this subsection when determining the total amount of relief granted under the act. The relief shall be in the form of a property tax credit which appears on the property tax statement.

(2)(a) For tax years prior to tax year 2017, to determine the amount of the property tax credit, the county treasurer shall multiply the amount disbursed to the county under subdivision (4)(a) of this section by the ratio of the real property valuation of the parcel to the total real property valuation in the county. The amount determined shall be the property tax credit for the property.

(b) Beginning with tax year 2017, to determine the amount of the property tax credit, the county treasurer shall multiply the amount disbursed to the county under subdivision (4)(b) of this section by the ratio of the credit allocation valuation of the parcel to the total credit allocation valuation in the county. The amount determined shall be the property tax credit for the property.

(3) If the real property owner qualifies for a homestead exemption under sections 77-3501 to 77-3529, the owner shall also be qualified for the relief provided in the act to the extent of any remaining liability after calculation of the relief provided by the homestead exemption. If the credit results in a property tax liability on the homestead that is less than zero, the amount of the credit which cannot be used by the taxpayer shall be returned to the State Treasurer by July 1 of the year the amount disbursed to the county was disbursed. The State Treasurer shall immediately credit any funds returned under this subsection to the Property Tax Credit Cash Fund. Upon the return of any funds under this subsection, the county treasurer shall electronically file a report with the Property Tax Administrator, on a form prescribed by the Tax

Commissioner, indicating the amount of funds distributed to each taxing unit in the county in the year the funds were returned, any collection fee retained by the county in such year, and the amount of unused credits returned.

(4)(a) For tax years prior to tax year 2017, the amount disbursed to each county shall be equal to the amount available for disbursement determined under subsection (1) of this section multiplied by the ratio of the real property valuation in the county to the real property valuation in the state. By September 15, the Property Tax Administrator shall determine the amount to be disbursed under this subdivision to each county and certify such amounts to the State Treasurer and to each county. The disbursements to the counties shall occur in two equal payments, the first on or before January 31 and the second on or before April 1. After retaining one percent of the receipts for costs, the county treasurer shall allocate the remaining receipts to each taxing unit levying taxes on taxable property in the tax district in which the real property is located in the same proportion that the levy of such taxing unit bears to the total levy on taxable property of all the taxing units in the tax district in which the real property is located.

(b) Beginning with tax year 2017, the amount disbursed to each county shall be equal to the amount available for disbursement determined under subsection (1) of this section multiplied by the ratio of the credit allocation valuation in the county to the credit allocation valuation in the state. By September 15, the Property Tax Administrator shall determine the amount to be disbursed under this subdivision to each county and certify such amounts to the State Treasurer and to each county. The disbursements to the counties shall occur in two equal payments, the first on or before January 31 and the second on or before April 1. After retaining one percent of the receipts for costs, the county treasurer shall allocate the remaining receipts to each taxing unit based on its share of the credits granted to all taxpayers in the taxing unit.

(5) For purposes of this section, credit allocation valuation means the taxable value for all real property except agricultural land and horticultural land, one hundred twenty percent of taxable value for agricultural land and horticultural land that is not subject to special valuation, and one hundred twenty percent of taxable value for agricultural land and horticultural land that is subject to special valuation.

(6) The State Treasurer shall transfer from the General Fund to the Property Tax Credit Cash Fund one hundred five million dollars by August 1, 2007, and one hundred fifteen million dollars by August 1, 2008.

(7) The Legislature shall have the power to transfer funds from the Property Tax Credit Cash Fund to the General Fund.

Source: Laws 2007, LB367, § 4; Laws 2014, LB1087, § 21; Laws 2016, LB958, § 1; Laws 2017, LB217, § 22; Laws 2020, LB1107, § 136.

Operative date August 18, 2020.

ARTICLE 46

REVENUE FORECASTING

Section

77-4602. Actual General Fund net receipts; public statement by Tax Commissioner; Tax Commissioner; duties; transfer of funds; when.

77-4602 Actual General Fund net receipts; public statement by Tax Commissioner; Tax Commissioner; duties; transfer of funds; when.

(1) Within fifteen days after the end of each month, the Tax Commissioner shall provide a public statement of actual General Fund net receipts and a comparison of such actual net receipts to the monthly estimate certified pursuant to section 77-4601.

(2) Within fifteen days after the end of each fiscal year, the public statement shall also include a summary of actual General Fund net receipts and estimated General Fund net receipts for the fiscal year.

(3)(a) Within fifteen days after the end of fiscal year 2020-21 and each fiscal year thereafter through fiscal year 2022-23, the Tax Commissioner shall determine the balance of the Cash Reserve Fund.

(b) If the balance of the Cash Reserve Fund is less than five hundred million dollars:

(i) The Tax Commissioner shall determine:

(A) Actual General Fund net receipts for the most recently completed fiscal year minus estimated General Fund net receipts for such fiscal year; and

(B) Actual General Fund net receipts for the most recently completed fiscal year minus one hundred three and one-half percent of actual General Fund net receipts for the prior fiscal year.

(ii) If the amounts calculated under subdivisions (3)(b)(i)(A) and (3)(b)(i)(B) of this section are both positive numbers, the Tax Commissioner shall certify (A) the amount determined under subdivision (3)(b)(i)(A) of this section and (B) fifty percent of the amount determined under subdivision (3)(b)(i)(B) of this section to the State Treasurer. The State Treasurer shall transfer the difference between the two certified amounts to the Cash Reserve Fund.

(iii) If the amount calculated under subdivision (3)(b)(i)(A) of this section is a positive number but the amount calculated under subdivision (3)(b)(i)(B) of this section is a negative number, the Tax Commissioner shall certify the amount determined under subdivision (3)(b)(i)(A) of this section to the State Treasurer and the State Treasurer shall transfer such certified amount to the Cash Reserve Fund.

(c) If the balance of the Cash Reserve Fund is five hundred million dollars or more:

(i) The Tax Commissioner shall determine:

(A) Actual General Fund net receipts for the most recently completed fiscal year minus estimated General Fund net receipts for such fiscal year; and

(B) Actual General Fund net receipts for the most recently completed fiscal year minus one hundred three and one-half percent of actual General Fund net receipts for the prior fiscal year.

(ii) If the amounts calculated under subdivisions (3)(c)(i)(A) and (3)(c)(i)(B) of this section are both positive numbers, the Tax Commissioner shall certify (A) the amount determined under subdivision (3)(c)(i)(A) of this section and (B) the amount determined under subdivision (3)(c)(i)(B) of this section to the State Treasurer. The State Treasurer shall transfer the difference between the two certified amounts to the Cash Reserve Fund.

(iii) If the amount calculated under subdivision (3)(c)(i)(A) of this section is a positive number but the amount calculated under subdivision (3)(c)(i)(B) of this section is a negative number, the Tax Commissioner shall certify the amount determined under subdivision (3)(c)(i)(A) of this section to the State Treasurer and the State Treasurer shall transfer such certified amount to the Cash Reserve Fund.

(4)(a) Within fifteen days after the end of fiscal year 2023-24 and each fiscal year thereafter, the Tax Commissioner shall determine the following:

(i) Actual General Fund net receipts for the most recently completed fiscal year minus estimated General Fund net receipts for such fiscal year; and

(ii) Fifty percent of the product of actual General Fund net receipts for the most recently completed fiscal year times the difference between the annual percentage increase in the actual General Fund net receipts for the most recently completed fiscal year and the average annual percentage increase in the actual General Fund net receipts over the twenty previous fiscal years, excluding the year in which the annual percentage change in actual General Fund net receipts is the lowest.

(b) If the number determined under subdivision (4)(a)(i) of this section is a positive number, the Tax Commissioner shall immediately certify the greater of the two numbers determined under subdivision (4)(a) of this section to the director. The State Treasurer shall transfer the certified amount from the General Fund to the Cash Reserve Fund upon certification by the director of such amount. The transfer shall be made according to the following schedule:

(i) An amount equal to the amount determined under subdivision (4)(a)(i) of this section shall be transferred immediately; and

(ii) The remainder, if any, shall be transferred by the end of the subsequent fiscal year.

(c) If the transfer required under subdivision (4)(b) of this section causes the balance in the Cash Reserve Fund to exceed sixteen percent of the total budgeted General Fund expenditures for the current fiscal year, such transfer shall be reduced so that the balance of the Cash Reserve Fund does not exceed such amount.

(d) Nothing in this subsection prohibits the balance in the Cash Reserve Fund from exceeding sixteen percent of the total budgeted General Fund expenditures each fiscal year if the Legislature determines it necessary to prepare for and respond to budgetary requirements which may include, but are not limited to, capital construction projects and responses to emergencies.

Source: Laws 1993, LB 38, § 2; Laws 1996, LB 1290, § 4; Laws 2019, LB638, § 1; Laws 2020, LB1107, § 137.

Operative date August 18, 2020.

ARTICLE 50

TAX EQUALIZATION AND REVIEW COMMISSION ACT

Section

77-5004. Commissioner; qualifications; conflict of interests; continuing education; expenses; mileage.

77-5013. Commission; jurisdiction; time for filing; filing fee.

77-5015.01. Repealed. Laws 2020, LB4, § 4.

77-5004 Commissioner; qualifications; conflict of interests; continuing education; expenses; mileage.

(1) Each commissioner shall be a qualified voter and resident of the state and a domiciliary of the district he or she represents.

(2) Each commissioner shall devote his or her full time and efforts to the discharge of his or her duties and shall not hold any other office under the laws of this state, any city or county in this state, or the United States Government while serving on the commission. Each commissioner shall possess:

(a) Appropriate knowledge of terms commonly used in or related to real property appraisal and of the writing of appraisal reports;

(b) Adequate knowledge of depreciation theories, cost estimating, methods of capitalization, and real property appraisal mathematics;

(c) An understanding of the principles of land economics, appraisal processes, and problems encountered in the gathering, interpreting, and evaluating of data involved in the valuation of real property, including complex industrial properties and mass appraisal techniques;

(d) Knowledge of the law relating to taxation, civil and administrative procedure, due process, and evidence in Nebraska;

(e) At least thirty hours of successfully completed class hours in courses of study, approved by the Real Property Appraiser Board, which relate to appraisal and which include the fifteen-hour National Uniform Standards of Professional Appraisal Practice Course. If a commissioner has not received such training prior to his or her appointment, such training shall be completed within one year after appointment; and

(f) Such other qualifications and skills as reasonably may be requisite for the effective and reliable performance of the commission's duties.

(3) At least one commissioner shall possess the certification or training required to become a licensed residential real property appraiser as set forth in section 76-2230.

(4) At least one commissioner shall have been engaged in the practice of law in the State of Nebraska for at least five years, which may include prior service as a judge, and shall be currently admitted to practice before the Nebraska Supreme Court.

(5) No commissioner or employee of the commission shall hold any position of profit or engage in any occupation or business interfering with or inconsistent with his or her duties as a commissioner or employee. A person is not eligible for appointment and may not hold the office of commissioner or be appointed by the commission to or hold any office or position under the commission if he or she holds any official office or position.

(6) Each commissioner shall annually attend a seminar or class of at least two days' duration that is:

(a) Sponsored by a recognized assessment or appraisal organization, in each of these areas: Utility and railroad appraisal; appraisal of complex industrial properties; appraisal of other hard to assess properties; and mass appraisal, residential or agricultural appraisal, or assessment administration; or

(b) Pertaining to management, law, civil or administrative procedure, or other knowledge or skill necessary for performing the duties of the office.

(7) Each commissioner shall within two years after his or her appointment attend at least thirty hours of instruction that constitutes training for judges or administrative law judges.

(8) The commissioners shall be considered employees of the state for purposes of sections 81-1320 to 81-1328 and 84-1601 to 84-1615.

(9) The commissioners shall be reimbursed as prescribed in sections 81-1174 to 81-1177 for expenses in the performance of their official duties pursuant to the Tax Equalization and Review Commission Act.

(10) Due to the domicile requirements of subsection (1) of this section and subsection (1) of section 77-5003, each commissioner shall be reimbursed for mileage at the rate provided in section 81-1176 for actual round trip travel from the commissioner's residence to the state office building described in section 81-1108.37 or to the location of any hearing or other official business of the commission. Reimbursements under this subsection shall be made from the Tax Equalization and Review Commission Cash Fund.

Source: Laws 1995, LB 490, § 4; Laws 1996, LB 1038, § 2; Laws 1999, LB 32, § 1; Laws 2001, LB 170, § 19; Laws 2001, LB 465, § 4; Laws 2002, LB 994, § 28; Laws 2003, LB 292, § 15; Laws 2004, LB 973, § 47; Laws 2006, LB 778, § 73; Laws 2007, LB186, § 25; Laws 2008, LB965, § 20; Laws 2010, LB931, § 25; Laws 2011, LB384, § 22; Laws 2020, LB4, § 1; Laws 2020, LB381, § 85.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB4, section 1, with LB381, section 85, to reflect all amendments.

Note: Changes made by LB4 became effective February 13, 2020. Changes made by LB381 became operative January 1, 2021.

77-5013 Commission; jurisdiction; time for filing; filing fee.

(1) The commission obtains exclusive jurisdiction over an appeal or petition when:

- (a) The commission has the power or authority to hear the appeal or petition;
- (b) An appeal or petition is timely filed;
- (c) The filing fee, if applicable, is timely received and thereafter paid; and
- (d) In the case of an appeal, a copy of the decision, order, determination, or action appealed from, or other information that documents the decision, order, determination, or action appealed from, is timely filed.

Only the requirements of this subsection shall be deemed jurisdictional.

(2) A petition, an appeal, or the information required by subdivision (1)(d) of this section is timely filed and the filing fee, if applicable, is timely received if placed in the United States mail, postage prepaid, with a legible postmark for delivery to the commission, or received by the commission, on or before the date specified by law for filing the appeal or petition. If no date is otherwise provided by law, then an appeal shall be filed within thirty days after the decision, order, determination, or action appealed from is made.

(3) Except as provided in subsection (4) of this section, filing fees shall be as follows:

- (a) For each appeal or petition regarding the taxable value of a parcel of real property, the filing fee shall be:
 - (i) Forty dollars if the taxable value of the parcel is less than two hundred fifty thousand dollars;
 - (ii) Fifty dollars if the taxable value of the parcel is at least two hundred fifty thousand dollars but less than five hundred thousand dollars;

(iii) Sixty dollars if the taxable value of the parcel is at least five hundred thousand dollars but less than one million dollars; or

(iv) Eighty-five dollars if the taxable value of the parcel is at least one million dollars; or

(b) For any other appeal or petition filed with the commission, the filing fee shall be forty dollars.

(4) No filing fee shall be required for an appeal by a county assessor, the Tax Commissioner, or the Property Tax Administrator acting in his or her official capacity or a county board of equalization acting in its official capacity.

(5) The form and requirements for execution of an appeal or petition may be specified by the commission in its rules and regulations.

Source: Laws 1995, LB 490, § 13; Laws 1998, LB 1104, § 28; Laws 2001, LB 170, § 21; Laws 2004, LB 973, § 49; Laws 2010, LB877, § 8; Laws 2020, LB4, § 2.
Effective date February 13, 2020.

77-5015.01 Repealed. Laws 2020, LB4, § 4.

ARTICLE 52

BEGINNING FARMER TAX CREDIT ACT

Section

- 77-5203. Terms, defined.
- 77-5206. Board; officers; expenses.
- 77-5209. Beginning farmer or livestock producer; qualifications.
- 77-5209.01. Tax credit for financial management program participation.
- 77-5211. Owner of agricultural assets; tax credit; when.
- 77-5212. Rental agreement; requirements; appeal.

77-5203 Terms, defined.

For purposes of the Beginning Farmer Tax Credit Act:

(1) Agricultural assets means agricultural land, livestock, farming, or livestock production facilities or buildings and machinery used for farming or livestock production located in Nebraska;

(2) Board means the Beginning Farmer Board created by section 77-5204;

(3) Cash rent agreement means a rental agreement in which the principal consideration given to the owner of agricultural assets is a predetermined amount of money. A flex or variable rent agreement is an alternative form of a cash rent agreement in which a predetermined base rent is adjusted for actual crop yield, crop price, or both according to a predetermined formula;

(4) Farm means any tract of land over ten acres in area used for or devoted to the commercial production of farm products;

(5) Farm product means those plants and animals useful to man and includes, but is not limited to, forages and sod crops, grains and feed crops, dairy and dairy products, poultry and poultry products, livestock, including breeding and grazing livestock, fruits, and vegetables;

(6) Farming or livestock production means the active use, management, and operation of real and personal property for the production of a farm product;

(7) Financial management program means a program for beginning farmers or livestock producers which includes, but is not limited to, assistance in the creation and proper use of record-keeping systems, periodic private consultations with licensed financial management personnel, year-end monthly cash flow analysis, and detailed enterprise analysis;

(8) Owner of agricultural assets means:

(a) An individual or a trustee having an ownership interest in an agricultural asset located within the State of Nebraska who meets any qualifications determined by the board;

(b) A spouse, child, or sibling who acquires an ownership interest in agricultural assets as a joint tenant, heir, or devisee of an individual or trustee who would qualify as an owner of agricultural assets under subdivision (8)(a) of this section; or

(c) A partnership, corporation, limited liability company, or other business entity having an ownership interest in an agricultural asset located within the State of Nebraska which meets any additional qualifications determined by the board;

(9) Qualified beginning farmer or livestock producer means an individual who is a resident individual as defined in section 77-2714.01, who has entered farming or livestock production or is seeking entry into farming or livestock production, who intends to farm or raise crops or livestock on land located within the state borders of Nebraska, and who meets the eligibility guidelines established in section 77-5209 and such other qualifications as determined by the board; and

(10) Share-rent agreement means a rental agreement in which the principal consideration given to the owner of agricultural assets is a predetermined portion of the production of farm products from the rented agricultural assets.

Source: Laws 1999, LB 630, § 4; Laws 2000, LB 1223, § 3; Laws 2006, LB 990, § 9; Laws 2008, LB1027, § 3; Laws 2019, LB560, § 2.

77-5206 Board; officers; expenses.

Once every two years, the members of the board shall elect a chairperson and a vice-chairperson. A member of the board may be reelected to the position of chairperson or vice-chairperson upon the discretion of the board. Members of the board shall be reimbursed for expenses as provided in sections 81-1174 to 81-1177.

Source: Laws 1999, LB 630, § 7; Laws 2020, LB381, § 86.
Operative date January 1, 2021.

77-5209 Beginning farmer or livestock producer; qualifications.

(1) The board shall determine who is qualified as a beginning farmer or livestock producer based on the qualifications found in this section. A qualified beginning farmer or livestock producer shall be an individual who: (a) Has a net worth of not more than two hundred thousand dollars, including any holdings by a spouse or dependent, based on fair market value; (b) provides the majority of the day-to-day physical labor and management of his or her farming or livestock production operations; (c) has, by the judgment of the board, adequate farming or livestock production experience or demonstrates knowledge in the type of farming or livestock production for which he or she seeks

assistance from the board; (d) demonstrates to the board a profit potential by submitting board-approved projected earnings statements and agrees that farming or livestock production is intended to become his or her principal source of income; (e) demonstrates to the board a need for assistance; (f) participates in a financial management program approved by the board; (g) submits a nutrient management plan and a soil conservation plan to the board on any applicable agricultural assets purchased or rented from an owner of agricultural assets; and (h) has such other qualifications as specified by the board. The qualified beginning farmer or livestock producer net worth thresholds in subdivision (a) of this subsection shall be adjusted annually beginning October 1, 2009, and each October 1 thereafter, by taking the average Producer Price Index for all commodities, published by the United States Department of Labor, Bureau of Labor Statistics, for the most recent twelve available periods divided by the Producer Price Index for 2008 and multiplying the result by the qualified beginning farmer's or livestock producer's net worth threshold. If the resulting amount is not a multiple of twenty-five thousand dollars, the amount shall be rounded to the next lowest twenty-five thousand dollars.

(2) A qualified beginning farmer or livestock producer who has participated in a board approved and certified three-year rental agreement with an owner of agricultural assets shall be eligible to file subsequent applications for different assets.

Source: Laws 1999, LB 630, § 10; Laws 2000, LB 1223, § 5; Laws 2006, LB 990, § 11; Laws 2008, LB1027, § 7; Laws 2009, LB447, § 1; Laws 2019, LB560, § 3.

77-5209.01 Tax credit for financial management program participation.

A qualified beginning farmer or livestock producer in the first, second, or third year of a qualifying three-year rental agreement shall be allowed a one-time refundable credit against the income tax imposed by the Nebraska Revenue Act of 1967 for the cost of participation in the financial management program required for eligibility under section 77-5209. The amount of the credit shall be the actual cost of participation in an approved program incurred during the tax year for which the credit is claimed, up to a maximum of five hundred dollars.

Source: Laws 2006, LB 990, § 12; Laws 2019, LB560, § 4.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

77-5211 Owner of agricultural assets; tax credit; when.

(1) Except as otherwise disallowed under subsection (7) of this section, an owner of agricultural assets shall be allowed a refundable credit against the income tax imposed by the Nebraska Revenue Act of 1967 for agricultural assets rented on a rental agreement basis, including cash rent of agricultural assets or cash equivalent of a share-rent rental, to qualified beginning farmers or livestock producers. Such asset shall be rented at prevailing community rates as determined by the board.

(2) An owner of agricultural assets who has participated in a board approved and certified three-year rental agreement with a beginning farmer or livestock producer shall be eligible to file subsequent applications for different assets.

(3) Except as allowed pursuant to subsection (5) of this section, tax credits for an agricultural asset may be issued for a maximum of three years.

(4) The credit allowed shall be for renting agricultural assets used for farming or livestock production. Such credit shall be granted by the Department of Revenue only after approval and certification by the board and a written three-year rental agreement for such assets is entered into between an owner of agricultural assets and a qualified beginning farmer or livestock producer. An owner of agricultural assets or qualified beginning farmer or livestock producer may terminate such agreement for reasonable cause upon approval by the board. If an agreement is terminated without fault on the part of the owner of agricultural assets as determined by the board, the tax credit shall not be retroactively disallowed. If an agreement is terminated with fault on the part of the owner of agricultural assets as determined by the board, any prior tax credits claimed by such owner shall be disallowed and recaptured and shall be immediately due and payable to the State of Nebraska.

(5) A credit may be granted to an owner of agricultural assets for renting agricultural assets, including cash rent of agricultural assets or cash equivalent of a share-rent agreement, to any qualified beginning farmer or livestock producer for a period of three years. An owner of agricultural assets shall be eligible for further credits for such assets under the Beginning Farmer Tax Credit Act when the rental agreement is terminated prior to the end of the three-year period through no fault of the owner of agricultural assets. If the board finds that such a termination was not the fault of the owner of the agricultural assets, it may approve the owner for credits arising from a subsequent qualifying rental agreement on the same asset with a different qualified beginning farmer or livestock producer.

(6) Any credit allowable to a partnership, a corporation, a limited liability company, or an estate or trust may be distributed to the partners, members, shareholders, or beneficiaries. Any credit distributed shall be distributed in the same manner as income is distributed.

(7) The credit allowed under this section shall not be allowed to an owner of agricultural assets for a rental agreement with a beginning farmer or livestock producer who is a relative, as defined in section 36-802, of the owner of agricultural assets or of a partner, member, shareholder, or trustee of the owner of agricultural assets unless the rental agreement is included in a written succession plan. Such succession plan shall be in the form of a written contract or other instrument legally binding the parties to a process and timetable for the transfer of agricultural assets from the owner of agricultural assets to the beginning farmer or livestock producer. The succession plan shall provide for the transfer of assets to be completed within a period of no longer than thirty years, except that when the asset to be transferred is land owned by an individual, the period of transfer may be for a period up to the date of death of the owner. The owner of agricultural assets shall be allowed the credit provided for qualified rental agreements under this section if the board certifies the plan as providing a reasonable manner and probability of successful transfer.

Source: Laws 1999, LB 630, § 12; Laws 2000, LB 1223, § 7; Laws 2006, LB 990, § 13; Laws 2008, LB1027, § 8; Laws 2009, LB165, § 15; Laws 2019, LB70, § 17; Laws 2019, LB560, § 5.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

77-5212 Rental agreement; requirements; appeal.

In evaluating a rental agreement between an owner of agricultural assets and a qualified beginning farmer or livestock producer, the board shall not approve and certify credit for an owner of agricultural assets who has, with fault, terminated a prior board approved and certified rental agreement with a qualified beginning farmer or livestock producer or if the agricultural assets have previously been approved in a qualifying rental agreement. Any person aggrieved by a decision of the board may appeal the decision, and the appeal shall be in accordance with the Administrative Procedure Act.

Source: Laws 1999, LB 630, § 13; Laws 2006, LB 990, § 14; Laws 2019, LB560, § 6.

Cross References

Administrative Procedure Act, see section 84-920.

ARTICLE 56**TAX AMNESTY PROGRAM**

Section

77-5601. Tax amnesty program; application; department; powers and duties; Department of Revenue Enforcement Fund; created; use; investment.

77-5601 Tax amnesty program; application; department; powers and duties; Department of Revenue Enforcement Fund; created; use; investment.

(1) From August 1, 2004, through October 31, 2004, there shall be conducted a tax amnesty program with regard to taxes due and owing that have not been reported to the Department of Revenue. Any person applying for tax amnesty shall pay all unreported taxes that were due on or before April 1, 2004. Any person that applies for tax amnesty and is accepted by the Tax Commissioner shall have any penalties and interest waived on unreported and delinquent taxes notwithstanding any other provisions of law to the contrary.

(2) To be eligible for the tax amnesty provided by this section, the person shall apply for amnesty within the amnesty period, file a return for each taxable period for which the amnesty is requested by December 31, 2004, if no return has been filed, and pay in full all taxes for which amnesty is sought with the return or within thirty days after the application if a return was filed prior to the amnesty period. Tax amnesty shall not be available for any person that is under civil or criminal audit, investigation, or prosecution for unreported or delinquent taxes by this state or the United States Government on or before April 16, 2004.

(3) The department shall not seek civil or criminal prosecution against any person for any taxable period for which amnesty has been granted. The Tax Commissioner shall develop forms for applying for the tax amnesty program, develop procedures for qualification for tax amnesty, and conduct a public awareness campaign publicizing the program.

(4) If a person elects to participate in the amnesty program, the election shall constitute an express and irrevocable relinquishment of all administrative and judicial rights to challenge the imposition of the tax or its amount. Nothing in this section shall prohibit the department from adjusting a return as a result of any state or federal audit.

(5)(a) Except for any local option sales tax collected and returned to the appropriate municipality and any motor vehicle fuel, diesel fuel, and compressed fuel taxes, which shall be deposited in the Highway Trust Fund or Highway Allocation Fund as provided by law, no less than eighty percent of all revenue received pursuant to the tax amnesty program shall be deposited in the General Fund and ten percent, not to exceed five hundred thousand dollars, shall be deposited in the Department of Revenue Enforcement Fund. Any amount that would otherwise be deposited in the Department of Revenue Enforcement Fund that is in excess of the five-hundred-thousand-dollar limitation shall be deposited in the General Fund.

(b) For fiscal year 2005-06, all proceeds in the Department of Revenue Enforcement Fund shall be appropriated to the department for purposes of employing investigators, agents, and auditors and otherwise increasing personnel for enforcement of the Nebraska Revenue Act of 1967.

(c) For fiscal years after fiscal year 2005-06, twenty percent of all proceeds received during the previous calendar year due to the efforts of auditors and investigators hired pursuant to subdivision (5)(b) of this section, not to exceed seven hundred fifty thousand dollars, shall be deposited in the Department of Revenue Enforcement Fund for purposes of employing investigators and auditors or continuing such employment for purposes of increasing enforcement of the act.

(d) Ten percent of all proceeds received during each calendar year due to the contracts entered into pursuant to section 77-367 shall be deposited in the Department of Revenue Enforcement Fund for purposes of identifying nonfilers of returns, underreporters, nonpayers of taxes, and improper or fraudulent payments.

(6)(a) The department shall prepare a report by April 1, 2005, and by February 1 of each year thereafter detailing the results of the tax amnesty program and the subsequent enforcement efforts. For the report due April 1, 2005, the report shall include (i) the amount of revenue obtained as a result of the tax amnesty program broken down by tax program, (ii) the amount obtained from in-state taxpayers and from out-of-state taxpayers, and (iii) the amount obtained from individual taxpayers and from business enterprises.

(b) For reports due in subsequent years, the report shall include (i) the number of personnel hired for purposes of subdivision (5)(b) of this section and their duties, (ii) a description of lists, software, programming, computer equipment, and other technological methods acquired and the purposes of each, and (iii) the amount of new revenue obtained as a result of the new personnel and acquisitions during the prior calendar year, broken down into the same categories as described in subdivision (6)(a) of this section.

(7) The Department of Revenue Enforcement Fund is created. Transfers may be made from the Department of Revenue Enforcement Fund to the General Fund at the direction of the Legislature. The Department of Revenue Enforcement Fund may receive transfers from the Civic and Community Center Financing Fund at the direction of the Legislature for the purpose of administering the Sports Arena Facility Financing Assistance Act. The Department of Revenue Enforcement Fund shall include any money credited to the fund (a) under section 77-2703, and such money shall be used by the Department of Revenue to defray the costs incurred to implement Laws 2019, LB237, (b) under the Mechanical Amusement Device Tax Act, and such money shall be

used by the department to defray the costs incurred to implement and enforce Laws 2019, LB538, and any rules and regulations adopted and promulgated to carry out Laws 2019, LB538, and (c) under section 77-2906, and such money shall be used by the Department of Revenue to defray the costs incurred to implement Laws 2020, LB310. Any money in the Department of Revenue Enforcement 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.

(8) For purposes of this section, taxes mean any taxes collected by the department, including, but not limited to state and local sales and use taxes, individual and corporate income taxes, financial institutions deposit taxes, motor vehicle fuel, diesel fuel, and compressed fuel taxes, cigarette taxes, transfer taxes, and charitable gaming taxes.

Source: Laws 2004, LB 1017, § 23; Laws 2009, First Spec. Sess., LB3, § 58; Laws 2010, LB779, § 18; Laws 2011, LB297, § 10; Laws 2011, LB642, § 2; Laws 2019, LB237, § 2; Laws 2019, LB538, § 10; Laws 2020, LB310, § 2.

Effective date November 14, 2020.

Cross References

Mechanical Amusement Device Tax Act, see section 77-3011.

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska Revenue Act of 1967, see section 77-2701.

Nebraska State Funds Investment Act, see section 72-1260.

Sports Arena Facility Financing Assistance Act, see section 13-3101.

ARTICLE 57

NEBRASKA ADVANTAGE ACT

Section

77-5725. Tiers; requirements; incentives; enumerated; deadlines.

77-5726. Credits; use; refund claims; procedures; interest; appointment of purchasing agent; protest; appeal.

77-5725 Tiers; requirements; incentives; enumerated; deadlines.

(1) Applicants may qualify for benefits under the Nebraska Advantage Act in one of six tiers:

(a) Tier 1, investment in qualified property of at least one million dollars and the hiring of at least ten new employees. There shall be no new project applications for benefits under this tier filed after December 31, 2020. All complete project applications filed on or before December 31, 2020, shall be considered by the Tax Commissioner and approved if the project and taxpayer qualify for benefits. Agreements may be executed with regard to completed project applications filed on or before December 31, 2020. All project agreements pending, approved, or entered into before such date shall continue in full force and effect;

(b) Tier 2, (i) investment in qualified property of at least three million dollars and the hiring of at least thirty new employees or (ii) for a large data center project, investment in qualified property for the data center of at least two hundred million dollars and the hiring for the data center of at least thirty new employees. There shall be no new project applications for benefits under this tier filed after December 31, 2020. All complete project applications filed on or

before December 31, 2020, shall be considered by the Tax Commissioner and approved if the project and taxpayer qualify for benefits. Agreements may be executed with regard to completed project applications filed on or before December 31, 2020. All project agreements pending, approved, or entered into before such date shall continue in full force and effect;

(c) Tier 3, the hiring of at least thirty new employees. There shall be no new project applications for benefits under this tier filed after December 31, 2020. All complete project applications filed on or before December 31, 2020, shall be considered by the Tax Commissioner and approved if the project and taxpayer qualify for benefits. Agreements may be executed with regard to completed project applications filed on or before December 31, 2020. All project agreements pending, approved, or entered into before such date shall continue in full force and effect;

(d) Tier 4, investment in qualified property of at least ten million dollars and the hiring of at least one hundred new employees. There shall be no new project applications for benefits under this tier filed after December 31, 2020. All complete project applications filed on or before December 31, 2020, shall be considered by the Tax Commissioner and approved if the project and taxpayer qualify for benefits. Agreements may be executed with regard to completed project applications filed on or before December 31, 2020. All project agreements pending, approved, or entered into before such date shall continue in full force and effect;

(e) Tier 5, (i) investment in qualified property of at least thirty million dollars or (ii) for the production of electricity by using one or more sources of renewable energy to produce electricity for sale as described in subdivision (1)(j) of section 77-5715, investment in qualified property of at least twenty million dollars. Failure to maintain an average number of equivalent employees as defined in section 77-5727 greater than or equal to the number of equivalent employees in the base year shall result in a partial recapture of benefits. There shall be no new project applications for benefits under this tier filed after December 31, 2020. All complete project applications filed on or before December 31, 2020, shall be considered by the Tax Commissioner and approved if the project and taxpayer qualify for benefits. Agreements may be executed with regard to completed project applications filed on or before December 31, 2020. All project agreements pending, approved, or entered into before such date shall continue in full force and effect; and

(f) Tier 6, investment in qualified property of at least ten million dollars and the hiring of at least seventy-five new employees or the investment in qualified property of at least one hundred million dollars and the hiring of at least fifty new employees. There shall be no new project applications for benefits under this tier filed after December 31, 2020. All complete project applications filed on or before December 31, 2020, shall be considered by the Tax Commissioner and approved if the project and taxpayer qualify for benefits. Agreements may be executed with regard to completed project applications filed on or before December 31, 2020. All project agreements pending, approved, or entered into before such date shall continue in full force and effect.

(2) When the taxpayer has met the required levels of employment and investment contained in the agreement for a tier 1, tier 2, tier 4, tier 5, or tier 6 project, the taxpayer shall be entitled to the following incentives:

(a) A refund of all sales and use taxes for a tier 2, tier 4, tier 5, or tier 6 project or a refund of one-half of all sales and use taxes for a tier 1 project paid under the Local Option Revenue Act, the Nebraska Revenue Act of 1967, and sections 13-319, 13-324, 13-2813, and 77-6403 from the date of the application through the meeting of the required levels of employment and investment for all purchases, including rentals, of:

(i) Qualified property used as a part of the project;

(ii) Property, excluding motor vehicles, based in this state and used in both this state and another state in connection with the project except when any such property is to be used for fundraising for or for the transportation of an elected official;

(iii) Tangible personal property by a contractor or repairperson after appointment as a purchasing agent of the owner of the improvement to real estate when such property is incorporated into real estate as a part of a project. The refund shall be based on fifty percent of the contract price, excluding any land, as the cost of materials subject to the sales and use tax;

(iv) Tangible personal property by a contractor or repairperson after appointment as a purchasing agent of the taxpayer when such property is annexed to, but not incorporated into, real estate as a part of a project. The refund shall be based on the cost of materials subject to the sales and use tax that were annexed to real estate; and

(v) Tangible personal property by a contractor or repairperson after appointment as a purchasing agent of the taxpayer when such property is both (A) incorporated into real estate as a part of a project and (B) annexed to, but not incorporated into, real estate as a part of a project. The refund shall be based on fifty percent of the contract price, excluding any land, as the cost of materials subject to the sales and use tax; and

(b) A refund of all sales and use taxes for a tier 2, tier 4, tier 5, or tier 6 project or a refund of one-half of all sales and use taxes for a tier 1 project paid under the Local Option Revenue Act, the Nebraska Revenue Act of 1967, and sections 13-319, 13-324, 13-2813, and 77-6403 on the types of purchases, including rentals, listed in subdivision (a) of this subsection for such taxes paid during each year of the entitlement period in which the taxpayer is at or above the required levels of employment and investment.

(3) Any taxpayer who qualifies for a tier 1, tier 2, tier 3, or tier 4 project shall be entitled to a credit equal to three percent times the average wage of new employees times the number of new employees if the average wage of the new employees equals at least sixty percent of the Nebraska average annual wage for the year of application. The credit shall equal four percent times the average wage of new employees times the number of new employees if the average wage of the new employees equals at least seventy-five percent of the Nebraska average annual wage for the year of application. The credit shall equal five percent times the average wage of new employees times the number of new employees if the average wage of the new employees equals at least one hundred percent of the Nebraska average annual wage for the year of application. The credit shall equal six percent times the average wage of new employees times the number of new employees if the average wage of the new employees equals at least one hundred twenty-five percent of the Nebraska average annual wage for the year of application. For computation of such credit:

(a) Average annual wage means the total compensation paid to employees during the year at the project who are not base-year employees and who are paid wages equal to at least sixty percent of the Nebraska average weekly wage for the year of application, excluding any compensation in excess of one million dollars paid to any one employee during the year, divided by the number of equivalent employees making up such total compensation;

(b) Average wage of new employees means the average annual wage paid to employees during the year at the project who are not base-year employees and who are paid wages equal to at least sixty percent of the Nebraska average weekly wage for the year of application, excluding any compensation in excess of one million dollars paid to any one employee during the year; and

(c) Nebraska average annual wage means the Nebraska average weekly wage times fifty-two.

(4) Any taxpayer who qualifies for a tier 6 project shall be entitled to a credit equal to ten percent times the total compensation paid to all employees, other than base-year employees, excluding any compensation in excess of one million dollars paid to any one employee during the year, employed at the project.

(5) Any taxpayer who has met the required levels of employment and investment for a tier 2 or tier 4 project shall receive a credit equal to ten percent of the investment made in qualified property at the project. Any taxpayer who has met the required levels of investment and employment for a tier 1 project shall receive a credit equal to three percent of the investment made in qualified property at the project. Any taxpayer who has met the required levels of investment and employment for a tier 6 project shall receive a credit equal to fifteen percent of the investment made in qualified property at the project.

(6) The credits prescribed in subsections (3), (4), and (5) of this section shall be allowable for compensation paid and investments made during each year of the entitlement period that the taxpayer is at or above the required levels of employment and investment.

(7) The credit prescribed in subsection (5) of this section shall also be allowable during the first year of the entitlement period for investment in qualified property at the project after the date of the application and before the required levels of employment and investment were met.

(8)(a) Property described in subdivisions (8)(c)(i) through (v) of this section used in connection with a project or projects, whether purchased or leased, and placed in service by the taxpayer after the date the application was filed shall constitute separate classes of property and are eligible for exemption under the conditions and for the time periods provided in subdivision (8)(b) of this section.

(b)(i) A taxpayer who has met the required levels of employment and investment for a tier 4 project shall receive the exemption of property in subdivisions (8)(c)(ii), (iii), and (iv) of this section. A taxpayer who has met the required levels of employment and investment for a tier 6 project shall receive the exemption of property in subdivisions (8)(c)(ii), (iii), (iv), and (v) of this section. Such property shall be eligible for the exemption from the first January 1 following the end of the year during which the required levels were exceeded through the ninth December 31 after the first year property included in subdivisions (8)(c)(ii), (iii), (iv), and (v) of this section qualifies for the exemption.

(ii) A taxpayer who has filed an application that describes a tier 2 large data center project or a project under tier 4 or tier 6 shall receive the exemption of property in subdivision (8)(c)(i) of this section beginning with the first January 1 following the date the property was placed in service. The exemption shall continue through the end of the period property included in subdivisions (8)(c)(ii), (iii), (iv), and (v) of this section qualifies for the exemption.

(iii) A taxpayer who has filed an application that describes a tier 2 large data center project or a tier 5 project that is sequential to a tier 2 large data center project for which the entitlement period has expired shall receive the exemption of all property in subdivision (8)(c) of this section beginning any January 1 after the date the property was placed in service. Such property shall be eligible for exemption from the tax on personal property from the January 1 preceding the first claim for exemption approved under this subdivision through the ninth December 31 after the year the first claim for exemption is approved.

(iv) A taxpayer who has a project for an Internet web portal or a data center and who has met the required levels of employment and investment for a tier 2 project or the required level of investment for a tier 5 project, taking into account only the employment and investment at the web portal or data center project, shall receive the exemption of property in subdivision (8)(c)(ii) of this section. Such property shall be eligible for the exemption from the first January 1 following the end of the year during which the required levels were exceeded through the ninth December 31 after the first year any property included in subdivisions (8)(c)(ii), (iii), (iv), and (v) of this section qualifies for the exemption.

(v) Such investment and hiring of new employees shall be considered a required level of investment and employment for this subsection and for the recapture of benefits under this subsection only.

(c) The following property used in connection with such project or projects, whether purchased or leased, and placed in service by the taxpayer after the date the application was filed shall constitute separate classes of personal property:

(i) Turbine-powered aircraft, including turboprop, turbojet, and turbofan aircraft, except when any such aircraft is used for fundraising for or for the transportation of an elected official;

(ii) Computer systems, made up of equipment that is interconnected in order to enable the acquisition, storage, manipulation, management, movement, control, display, transmission, or reception of data involving computer software and hardware, used for business information processing which require environmental controls of temperature and power and which are capable of simultaneously supporting more than one transaction and more than one user. A computer system includes peripheral components which require environmental controls of temperature and power connected to such computer systems. Peripheral components shall be limited to additional memory units, tape drives, disk drives, power supplies, cooling units, data switches, and communication controllers;

(iii) Depreciable personal property used for a distribution facility, including, but not limited to, storage racks, conveyor mechanisms, forklifts, and other property used to store or move products;

(iv) Personal property which is business equipment located in a single project if the business equipment is involved directly in the manufacture or processing of agricultural products; and

(v) For a tier 2 large data center project or tier 6 project, any other personal property located at the project.

(d) In order to receive the property tax exemptions allowed by subdivision (8)(c) of this section, the taxpayer shall annually file a claim for exemption with the Tax Commissioner on or before May 1. The form and supporting schedules shall be prescribed by the Tax Commissioner and shall list all property for which exemption is being sought under this section. A separate claim for exemption must be filed for each project and each county in which property is claimed to be exempt. A copy of this form must also be filed with the county assessor in each county in which the applicant is requesting exemption. The Tax Commissioner shall determine whether a taxpayer is eligible to obtain exemption for personal property based on the criteria for exemption and the eligibility of each item listed for exemption and, on or before August 1, certify such to the taxpayer and to the affected county assessor.

(9)(a) The investment thresholds in this section for a particular year of application shall be adjusted by the method provided in this subsection, except that the investment threshold for a tier 5 project described in subdivision (1)(e)(ii) of this section shall not be adjusted.

(b) For tier 1, tier 2, tier 4, and tier 5 projects other than tier 5 projects described in subdivision (1)(e)(ii) of this section, beginning October 1, 2006, and each October 1 thereafter, the average Producer Price Index for all commodities, published by the United States Department of Labor, Bureau of Labor Statistics, for the most recent twelve available periods shall be divided by the Producer Price Index for the first quarter of 2006 and the result multiplied by the applicable investment threshold. The investment thresholds shall be adjusted for cumulative inflation since 2006.

(c) For tier 6, beginning October 1, 2008, and each October 1 thereafter, the average Producer Price Index for all commodities, published by the United States Department of Labor, Bureau of Labor Statistics, for the most recent twelve available periods shall be divided by the Producer Price Index for the first quarter of 2008 and the result multiplied by the applicable investment threshold. The investment thresholds shall be adjusted for cumulative inflation since 2008.

(d) For a tier 2 large data center project, beginning October 1, 2012, and each October 1 thereafter, the average Producer Price Index for all commodities, published by the United States Department of Labor, Bureau of Labor Statistics, for the most recent twelve available periods shall be divided by the Producer Price Index for the first quarter of 2012 and the result multiplied by the applicable investment threshold. The investment thresholds shall be adjusted for cumulative inflation since 2012.

(e) If the resulting amount is not a multiple of one million dollars, the amount shall be rounded to the next lowest one million dollars.

(f) The investment thresholds established by this subsection apply for purposes of project qualifications for all applications filed on or after January 1 of

the following year for all years of the project. Adjustments do not apply to projects after the year of application.

Source: Laws 2005, LB 312, § 47; Laws 2006, LB 1003, § 14; Laws 2007, LB223, § 30; Laws 2007, LB334, § 98; Laws 2008, LB895, § 16; Laws 2008, LB965, § 22; Laws 2009, LB164, § 6; Laws 2010, LB879, § 18; Laws 2010, LB918, § 4; Laws 2012, LB1118, § 7; Laws 2013, LB104, § 4; Laws 2014, LB1067, § 2; Laws 2015, LB538, § 13; Laws 2016, LB1022, § 9; Laws 2017, LB217, § 23; Laws 2019, LB472, § 16.

Cross References

Local Option Revenue Act, see section 77-27,148.

Nebraska Revenue Act of 1967, see section 77-2701.

77-5726 Credits; use; refund claims; procedures; interest; appointment of purchasing agent; protest; appeal.

(1)(a) The credits prescribed in section 77-5725 for a year shall be established by filing the forms required by the Tax Commissioner with the income tax return for the taxable year which includes the end of the year the credits were earned. The credits may be used and shall be applied in the order in which they were first allowed. The credits may be used after any other nonrefundable credits to reduce the taxpayer's income tax liability imposed by sections 77-2714 to 77-27,135. Credits may be used beginning with the taxable year which includes December 31 of the year the required minimum levels were reached. The last year for which credits may be used is the taxable year which includes December 31 of the last year of the carryover period. Any decision on how part of the credit is applied shall not limit how the remaining credit could be applied under this section.

(b) The taxpayer may use the credit provided in subsection (3) of section 77-5725 to reduce the taxpayer's income tax withholding employer or payor tax liability under section 77-2756 or 77-2757 to the extent such liability is attributable to the number of new employees at the project, excluding any compensation in excess of one million dollars paid to any one employee during the year. The taxpayer may use the credit provided in subsection (4) of section 77-5725 to reduce the taxpayer's income tax withholding employer or payor tax liability under section 77-2756 or 77-2757 to the extent such liability is attributable to all employees employed at the project, other than base-year employees and excluding any compensation in excess of one million dollars paid to any one employee during the year. To the extent of the credit used, such withholding shall not constitute public funds or state tax revenue and shall not constitute a trust fund or be owned by the state. The use by the taxpayer of the credit shall not change the amount that otherwise would be reported by the taxpayer to the employee under section 77-2754 as income tax withheld and shall not reduce the amount that otherwise would be allowed by the state as a refundable credit on an employee's income tax return as income tax withheld under section 77-2755.

For a tier 1, tier 2, tier 3, or tier 4 project, the amount of credits used against income tax withholding shall not exceed the withholding attributable to new employees employed at the project, excluding any compensation in excess of one million dollars paid to any one employee during the year.

For a tier 6 project, the amount of credits used against income tax withholding shall not exceed the withholding attributable to all employees employed at the project, other than base-year employees and excluding any compensation in excess of one million dollars paid to any one employee during the year.

If the amount of credit used by the taxpayer against income tax withholding exceeds this amount, the excess withholding shall be returned to the Department of Revenue in the manner provided in section 77-2756, such excess amount returned shall be considered unused, and the amount of unused credits may be used as otherwise permitted in this section or shall carry over to the extent authorized in subdivision (1)(e) of this section.

(c) Credits may be used to obtain a refund of sales and use taxes under the Local Option Revenue Act, the Nebraska Revenue Act of 1967, and sections 13-319, 13-324, 13-2813, and 77-6403 which are not otherwise refundable that are paid on purchases, including rentals, for use at the project for a tier 1, tier 2, tier 3, or tier 4 project or for use within this state for a tier 2 large data center project or a tier 6 project.

(d) The credits earned for a tier 6 project may be used to obtain a payment from the state equal to the real property taxes due after the year the required levels of employment and investment were met and before the end of the carryover period, for real property that is included in such project and acquired by the taxpayer, whether by lease or purchase, after the date the application was filed. Once the required levels of employment and investment for a tier 2 large data center project have been met, the credits earned for a tier 2 large data center project may be used to obtain a payment from the state equal to the real property taxes due after the year of application and before the end of the carryover period, for real property that is included in such project and acquired by the taxpayer, whether by lease or purchase, after the date the application was filed. The payment from the state shall be made only after payment of the real property taxes have been made to the county as required by law. Payments shall not be allowed for any taxes paid on real property for which the taxes are divided under section 18-2147 or 58-507.

(e) Credits may be carried over until fully utilized, except that such credits may not be carried over more than nine years after the year of application for a tier 1 or tier 3 project, fourteen years after the year of application for a tier 2 or tier 4 project, or more than sixteen years past the end of the entitlement period for a tier 6 project.

(2)(a) No refund claims shall be filed until after the required levels of employment and investment have been met.

(b) Refund claims shall be filed no more than once each quarter for refunds under the Nebraska Advantage Act, except that any claim for a refund in excess of twenty-five thousand dollars may be filed at any time.

(c) Refund claims for materials purchased by a purchasing agent shall include:

(i) A copy of the purchasing agent appointment;

(ii) The contract price; and

(iii)(A) For refunds under subdivision (2)(a)(iii) or (2)(a)(v) of section 77-5725, a certification by the contractor or repairperson of the percentage of the materials incorporated into or annexed to the project on which sales and use taxes were paid to Nebraska after appointment as purchasing agent; or

(B) For refunds under subdivision (2)(a)(iv) of section 77-5725, a certification by the contractor or repairperson of the percentage of the contract price that represents the cost of materials annexed to the project and the percentage of the materials annexed to the project on which sales and use taxes were paid to Nebraska after appointment as purchasing agent.

(d) All refund claims shall be filed, processed, and allowed as any other claim under section 77-2708, except that the amounts allowed to be refunded under the Nebraska Advantage Act shall be deemed to be overpayments and shall be refunded notwithstanding any limitation in subdivision (2)(a) of section 77-2708. The refund may be allowed if the claim is filed within three years from the end of the year the required levels of employment and investment are met or within the period set forth in section 77-2708.

(e) If a claim for a refund of sales and use taxes under the Local Option Revenue Act or sections 13-319, 13-324, 13-2813, and 77-6403 of more than twenty-five thousand dollars is filed by June 15 of a given year, the refund shall be made on or after November 15 of the same year. If such a claim is filed on or after June 16 of a given year, the refund shall not be made until on or after November 15 of the following year. The Tax Commissioner shall notify the affected city, village, county, or municipal county of the amount of refund claims of sales and use taxes under the Local Option Revenue Act or sections 13-319, 13-324, 13-2813, and 77-6403 that are in excess of twenty-five thousand dollars on or before July 1 of the year before the claims will be paid under this section.

(f) Interest shall not be allowed on any taxes refunded under the Nebraska Advantage Act.

(3) The appointment of purchasing agents shall be recognized for the purpose of changing the status of a contractor or repairperson as the ultimate consumer of tangible personal property purchased after the date of the appointment which is physically incorporated into or annexed to the project and becomes the property of the owner of the improvement to real estate or the taxpayer. The purchasing agent shall be jointly liable for the payment of the sales and use tax on the purchases with the owner of the property.

(4) A determination that a taxpayer is not engaged in a qualified business or has failed to meet or maintain the required levels of employment or investment for incentives, exemptions, or recapture may be protested within sixty days after the mailing of the written notice of the proposed determination. If the notice of proposed determination is not protested within the sixty-day period, the proposed determination is a final determination. If the notice is protested, the Tax Commissioner shall issue a written order resolving such protests. The written order of the Tax Commissioner resolving a protest may be appealed to the district court of Lancaster County within thirty days after the issuance of the order.

Source: Laws 2005, LB 312, § 48; Laws 2008, LB895, § 17; Laws 2008, LB914, § 23; Laws 2009, LB164, § 7; Laws 2010, LB879, § 19; Laws 2012, LB1118, § 8; Laws 2013, LB34, § 7; Laws 2017, LB161, § 1; Laws 2019, LB472, § 17.

Cross References

Local Option Revenue Act, see section 77-27,148.
Nebraska Revenue Act of 1967, see section 77-2701.

ARTICLE 59**NEBRASKA ADVANTAGE MICROENTERPRISE TAX CREDIT ACT**

Section

77-5905. Applications; approval; limit.

77-5905 Applications; approval; limit.

(1) If the Department of Revenue determines that an application meets the requirements of section 77-5904 and that the investment or employment is eligible for the credit and (a) the applicant is actively engaged in the operation of the microbusiness or will be actively engaged in the operation upon its establishment, (b) the applicant will make new investment or employment in the microbusiness, and (c) the new investment or employment will create new income or jobs, the department shall approve the application and authorize tentative tax credits to the applicant within the limits set forth in this section and certify the amount of tentative tax credits approved for the applicant. Applications for tax credits shall be considered in the order in which they are received.

(2) The department may approve applications up to the adjusted limit for each calendar year beginning January 1, 2006, through December 31, 2022. After applications totaling the adjusted limit have been approved for a calendar year, no further applications shall be approved for that year. The adjusted limit in a given year is two million dollars plus tentative tax credits that were not granted by the end of the preceding year. Tax credits shall not be allowed for a taxpayer receiving benefits under the Employment and Investment Growth Act, the Nebraska Advantage Act, the Nebraska Advantage Rural Development Act, or the ImagiNE Nebraska Act.

Source: Laws 2005, LB 312, § 70; Laws 2009, LB164, § 11; Laws 2014, LB1067, § 4; Laws 2015, LB538, § 15; Laws 2016, LB1022, § 11; Laws 2017, LB217, § 27; Laws 2020, LB1107, § 138.

Operative date January 1, 2021.

Cross References

Employment and Investment Growth Act, see section 77-4101.

ImagiNE Nebraska Act, see section 77-6801.

Nebraska Advantage Act, see section 77-5701.

Nebraska Advantage Rural Development Act, see section 77-27,187.

ARTICLE 62**NAMEPLATE CAPACITY TAX**

Section

77-6202. Terms, defined.

77-6203. Nameplate capacity tax; annual payment; exemptions; Department of Revenue; duties; owner; file report; interest; penalties.

77-6202 Terms, defined.

For purposes of sections 77-6201 to 77-6204:

(1) Commissioned means the renewable energy generation facility has been in commercial operation for at least twenty-four hours. A renewable energy generation facility is not in commercial operation unless the renewable energy generation facility is connected to the electrical grid or to the end user if the

renewable energy generation facility is a customer-generator as defined in section 70-2002;

(2) Nameplate capacity means the capacity of a renewable energy generation facility to generate electricity as measured in megawatts, including fractions of a megawatt. Nameplate capacity shall be determined based on the facility's alternating current capacity; and

(3) Renewable energy generation facility means (a) a facility that generates electricity using wind as the fuel source or (b) a facility that generates electricity using solar, biomass, or landfill gas as the fuel source if such facility was installed on or after January 1, 2016, and has a nameplate capacity of one hundred kilowatts or more.

Source: Laws 2010, LB1048, § 13; Laws 2015, LB424, § 5; Laws 2020, LB76, § 1.

Operative date January 1, 2021.

77-6203 Nameplate capacity tax; annual payment; exemptions; Department of Revenue; duties; owner; file report; interest; penalties.

(1) The owner of a renewable energy generation facility annually shall pay a nameplate capacity tax equal to the total nameplate capacity of the commissioned renewable energy generation facility multiplied by a tax rate of three thousand five hundred eighteen dollars per megawatt.

(2) No tax shall be imposed on a renewable energy generation facility:

(a) Owned or operated by the federal government, the State of Nebraska, a public power district, a public power and irrigation district, an individual municipality, a registered group of municipalities, an electric membership association, or a cooperative; or

(b) That is a customer-generator as defined in section 70-2002.

(3) No tax levied pursuant to this section shall be construed to constitute restricted funds as defined in section 13-518 for the first five years after the renewable energy generation facility is commissioned.

(4) The presence of one or more renewable energy generation facilities or supporting infrastructure shall not be a factor in the assessment, determination of actual value, or classification under section 77-201 of the real property underlying or adjacent to such facilities or infrastructure.

(5)(a) The Department of Revenue shall collect the tax due under this section.

(b) The tax shall be imposed beginning the first calendar year the renewable energy generation facility is commissioned. A renewable energy generation facility that uses wind as the fuel source which was commissioned prior to July 15, 2010, shall be subject to the tax levied pursuant to sections 77-6201 to 77-6204 on and after January 1, 2010. The amount of property tax on depreciable tangible personal property previously paid on a renewable energy generation facility that uses wind as the fuel source which was commissioned prior to July 15, 2010, which is greater than the amount that would have been paid pursuant to sections 77-6201 to 77-6204 from the date of commissioning until January 1, 2010, shall be credited against any tax due under Chapter 77, and any amount so credited that is unused in any tax year shall be carried over to subsequent tax years until fully utilized.

(c)(i) The tax for the first calendar year shall be prorated based upon the number of days remaining in the calendar year after the renewable energy generation facility is commissioned.

(ii) In the first year in which a renewable energy generation facility is taxed or in any year in which additional commissioned nameplate capacity is added to a renewable energy generation facility, the taxes on the initial or additional nameplate capacity shall be prorated for the number of days remaining in the calendar year.

(iii) When a renewable energy generation facility is decommissioned or made nonoperational by a change in law during a tax year, the taxes shall be prorated for the number of days during which the renewable energy generation facility was not decommissioned or was operational.

(iv) When the capacity of a renewable energy generation facility to produce electricity is reduced but the renewable energy generation facility is not decommissioned, the nameplate capacity of the renewable energy generation facility is deemed to be unchanged.

(6)(a) On March 1 of each year, the owner of a renewable energy generation facility shall file with the Department of Revenue a report on the nameplate capacity of the facility for the previous year from January 1 through December 31. All taxes shall be due on April 1 and shall be delinquent if not paid on a quarterly basis on April 1 and each quarter thereafter. Delinquent quarterly payments shall draw interest at the rate provided for in section 45-104.02, as such rate may from time to time be adjusted.

(b) The owner of a renewable energy generation facility is liable for the taxes under this section with respect to the facility, whether or not the owner of the facility is the owner of the land on which the facility is situated.

(7) Failure to file a report required by subsection (6) of this section, filing such report late, failure to pay taxes due, or underpayment of such taxes shall result in a penalty of five percent of the amount due being imposed for each quarter the report is overdue or the payment is delinquent, except that the penalty shall not exceed ten thousand dollars.

(8) The Department of Revenue shall enforce the provisions of this section. The department may adopt and promulgate rules and regulations necessary for the implementation and enforcement of this section.

(9) The Department of Revenue shall separately identify the proceeds from the tax imposed by this section and shall pay all such proceeds over to the county treasurer of the county where the renewable energy generation facility is located within thirty days after receipt of such proceeds.

Source: Laws 2010, LB1048, § 14; Laws 2011, LB360, § 4; Laws 2015, LB424, § 6; Laws 2016, LB824, § 14; Laws 2019, LB512, § 29.

ARTICLE 63

ANGEL INVESTMENT TAX CREDIT ACT

Section

77-6306. Tax credit; amount; director; allocation; limitation; reallocation; when; notice to director; tax credit certificates issued; holding period.

77-6306 Tax credit; amount; director; allocation; limitation; reallocation; when; notice to director; tax credit certificates issued; holding period.

(1) A qualified investor or qualified fund is eligible for a refundable tax credit equal to forty percent of its qualified investment in a qualified small business. The director shall not allocate more than four million dollars in tax credits to all qualified investors or qualified funds in a calendar year, except that for calendar year 2019, the director shall not allocate more than three million nine hundred thousand dollars in tax credits in such calendar year. If the director does not allocate the entire amount of tax credits authorized for a calendar year, the tax credits that are not allocated shall not carry forward to subsequent years. The director shall not allocate any amount for tax credits for calendar years after 2019.

(2) The director shall not allocate more than a total maximum amount in tax credits for a calendar year to a qualified investor for the investor's cumulative qualified investments as an individual qualified investor and as an investor in a qualified fund as provided in this subsection. For married couples filing joint returns the maximum is three hundred fifty thousand dollars, and for all other filers the maximum is three hundred thousand dollars. The director shall not allocate more than a total of one million dollars in tax credits for qualified investments in any one qualified small business.

(3) The director shall not allocate a tax credit to a qualified investor either as an individual qualified investor or as an investor in a qualified fund if the investor receives more than forty-nine percent of the investor's gross annual income from the qualified small business in which the qualified investment is proposed. A family member of an individual disqualified by this subsection is not eligible for a tax credit under this section. For a married couple filing a joint return, the limitations in this subsection apply collectively to the investor and spouse. For purposes of determining the ownership interest of an investor under this subsection, the rules under section 267(c) and (e) of the Internal Revenue Code of 1986, as amended, apply.

(4) Tax credits shall be allocated to qualified investors or qualified funds in the order that the tax credit applications are filed with the director. Once tax credits have been approved and allocated by the director, the qualified investors and qualified funds shall implement the qualified investment specified within ninety days after allocation of the tax credits. Qualified investors and qualified funds shall notify the director no later than thirty days after the expiration of the ninety-day period that the qualified investment has been made. If the qualified investment is not made within ninety days after allocation of the tax credits, or the director has not, within thirty days following expiration of the ninety-day period, received notification that the qualified investment was made, the tax credit allocation is canceled and available for reallocation. A qualified investor or qualified fund that fails to invest as specified in the application within ninety days after allocation of the tax credits shall notify the director of the failure to invest within five business days after the expiration of the ninety-day investment period.

(5) All tax credit applications filed with the director on the same day shall be treated as having been filed contemporaneously. If two or more qualified investors or qualified funds file tax credit applications on the same day and the aggregate amount of tax credit allocation requests exceeds the aggregate limit of tax credits under this section or the lesser amount of tax credits that remain unallocated on that day, then the tax credits shall be allocated among the qualified investors or qualified funds who filed on that day on a pro rata basis with respect to the amounts requested. The pro rata allocation for any one

qualified investor or qualified fund shall be the product obtained by multiplying a fraction, the numerator of which is the amount of the tax credit allocation request filed on behalf of a qualified investor or qualified fund and the denominator of which is the total of all tax credit allocation requests filed on behalf of all applicants on that day, by the amount of tax credits that remain unallocated on that day for the taxable year.

(6) A qualified investor or qualified fund, or a qualified small business acting on behalf of the investor or fund, shall notify the director when an investment for which tax credits were allocated has been made and shall furnish the director with documentation of the investment date. A qualified fund shall also provide the director with a statement indicating the amount invested by each investor in the qualified fund based on each investor’s share of the assets of the qualified fund at the time of the qualified investment. After receiving notification that the qualified investment was made, the director shall issue tax credit certificates for the taxable year in which the qualified investment was made to the qualified investor or, for a qualified investment made by a qualified fund, to each qualified investor who is an investor in the fund. The certificate shall state that the tax credit is subject to revocation if the qualified investor or qualified fund does not hold the investment in the qualified small business for at least three years, consisting of the calendar year in which the investment was made and the two following calendar years. The three-year holding period does not apply if:

- (a) The qualified investment by the qualified investor or qualified fund becomes worthless before the end of the three-year period;
- (b) Eighty percent or more of the assets of the qualified small business are sold before the end of the three-year period;
- (c) The qualified small business is sold or merges with another business before the end of the three-year period;
- (d) The qualified small business’s common stock begins trading on a public exchange before the end of the three-year period; or
- (e) In the case of an individual qualified investor, such investor becomes deceased before the end of the three-year period.

(7) The director shall notify the Tax Commissioner that tax credit certificates have been issued, including the amount of tax credits and all other pertinent tax information.

Source: Laws 2011, LB389, § 6; Laws 2014, LB1067, § 8; Laws 2015, LB156, § 1; Laws 2016, LB1022, § 12; Laws 2017, LB217, § 29; Laws 2019, LB334, § 6.

ARTICLE 64

QUALIFIED JUDGMENT PAYMENT ACT

Section

- 77-6401. Act, how cited.
- 77-6402. Qualified judgment, defined.
- 77-6403. Imposition of sales and use tax; procedure; Tax Commissioner; duties.
- 77-6404. Imposition of sales and use tax; limitation.
- 77-6405. Property tax levy; required.
- 77-6406. Act, termination.

77-6401 Act, how cited.

Sections 77-6401 to 77-6406 shall be known and may be cited as the Qualified Judgment Payment Act.

Source: Laws 2019, LB472, § 1.
Termination date January 1, 2027.

77-6402 Qualified judgment, defined.

For purposes of the Qualified Judgment Payment Act, qualified judgment means a judgment that is rendered against a county by a federal court for a violation of federal law.

Source: Laws 2019, LB472, § 2.
Termination date January 1, 2027.

77-6403 Imposition of sales and use tax; procedure; Tax Commissioner; duties.

(1) Any county that has a qualified judgment in excess of twenty-five million dollars rendered against it may, upon adoption of a resolution by the affirmative vote of at least a two-thirds majority of all elected members of the county board, impose a sales and use tax of one-half of one percent on transactions that are subject to the state sales and use tax under the Nebraska Revenue Act of 1967, as amended from time to time, and that are sourced as provided in sections 77-2703.01 to 77-2703.04 within the county. Any sales and use tax imposed pursuant to this section shall be used to pay the qualified judgment.

(2) The Tax Commissioner shall administer all sales and use taxes imposed pursuant to this section. The Tax Commissioner may prescribe forms and adopt and promulgate rules and regulations in conformity with the Nebraska Revenue Act of 1967, as amended, for the making of returns and for the ascertainment, assessment, and collection of taxes. The county shall furnish a certified copy of the resolution imposing the tax to the Tax Commissioner. The tax shall begin on the first day of the first calendar quarter which begins at least sixty days after receipt by the Tax Commissioner of the certified copy of the resolution. The Tax Commissioner shall provide at least thirty days' notice of the adoption of the tax to retailers within the county. Such notice may be provided through the web site of the Department of Revenue or by other electronic means.

(3) Any sales and use tax imposed pursuant to this section shall terminate on the first day of the first calendar quarter which begins after the qualified judgment has been paid in full or after seven years, whichever is earlier. The county shall notify the Tax Commissioner of the anticipated termination date at least one hundred twenty days in advance. The Tax Commissioner shall provide at least sixty days' notice of the termination date to retailers within the county. Such notice may be provided through the web site of the Department of Revenue or by other electronic means.

(4) The Tax Commissioner shall collect any sales and use tax imposed pursuant to this section concurrently with collection of a state sales and use tax in the same manner as the state tax is collected. The Tax Commissioner shall remit monthly the proceeds of the tax to the county imposing the tax, after deducting the amount of refunds made and three percent of the remainder as an administrative fee necessary to defray the cost of collecting the tax and the expenses incident thereto. The Tax Commissioner shall keep full and accurate records of all money received and distributed. All receipts from the three-percent administrative fee shall be deposited in the state General Fund.

(5) Upon any claim of illegal assessment and collection of any sales and use tax imposed pursuant to this section, the taxpayer has the same remedies provided for claims of illegal assessment and collection of the state sales and use tax.

(6) All relevant provisions of the Nebraska Revenue Act of 1967, as amended, not inconsistent with this section, shall govern transactions, proceedings, and activities related to any sales and use tax imposed pursuant to this section.

(7) For purposes of any sales and use tax imposed pursuant to this section, all retail sales, rentals, and leases, as defined and described in the Nebraska Revenue Act of 1967, shall be sourced as provided in sections 77-2703.01 to 77-2703.04.

Source: Laws 2019, LB472, § 3.
Termination date January 1, 2027.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

77-6404 Imposition of sales and use tax; limitation.

A county shall not impose a sales and use tax pursuant to the Qualified Judgment Payment Act if such county is imposing a tax pursuant to section 13-319.

Source: Laws 2019, LB472, § 4.
Termination date January 1, 2027.

77-6405 Property tax levy; required.

Any county that imposes a sales and use tax pursuant to the Qualified Judgment Payment Act shall set its property tax levy at the maximum levy authorized in section 77-3442 for each year that the county is imposing such sales and use tax. The county shall use any available revenue from the imposition of such levy to pay the qualified judgment.

Source: Laws 2019, LB472, § 5.
Termination date January 1, 2027.

77-6406 Act, termination.

The Qualified Judgment Payment Act terminates on January 1, 2027.

Source: Laws 2019, LB472, § 6.

ARTICLE 65

KEY EMPLOYER AND JOBS RETENTION ACT

Section

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§ 77-6501**REVENUE AND TAXATION**

Section

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- 77-6522. Application; valid; when; director; Tax Commissioner; powers and duties.
- 77-6523. Applications; deadline.

77-6501 Act, how cited.

Sections 77-6501 to 77-6523 shall be known and may be cited as the Key Employer and Jobs Retention Act.

Source: Laws 2020, LB1107, § 44.
Operative date January 1, 2021.

77-6502 Purpose of act.

The purpose of the Key Employer and Jobs Retention Act is to provide incentives to encourage key employers to remain in the state and retain well-paid employees in the state when there is a change in ownership and control of the key employer and the new owners are considering moving some or all of the key employer's jobs to other states.

Source: Laws 2020, LB1107, § 45.
Operative date January 1, 2021.

77-6503 Definitions, where found.

For purposes of the Key Employer and Jobs Retention Act, the definitions found in sections 77-6504 to 77-6515 shall be used.

Source: Laws 2020, LB1107, § 46.
Operative date January 1, 2021.

77-6504 Additional definitions.

Any term defined in the Nebraska Revenue Act of 1967 or in the ImagiNE Nebraska Act has the same meaning in the Key Employer and Jobs Retention Act unless the context or the express language of the Key Employer and Jobs Retention Act requires a different meaning.

Source: Laws 2020, LB1107, § 47.
Operative date January 1, 2021.

Cross References

ImagiNE Nebraska Act, see section 77-6801.
Nebraska Revenue Act of 1967, see section 77-2701.

77-6505 Base year, defined.

Base year means the year immediately preceding the year during which the change in ownership and control occurred.

Source: Laws 2020, LB1107, § 48.
Operative date January 1, 2021.

77-6506 Base-year employees, defined.

Base-year employees means the number of equivalent employees employed by the taxpayer during the base year in Nebraska who (1) are paid wages at a rate equal to at least one hundred percent of the Nebraska statewide average hourly wage for the year of application and (2) receive a sufficient package of benefits as specified in the ImagiNE Nebraska Act.

Source: Laws 2020, LB1107, § 49.
Operative date January 1, 2021.

Cross References

ImagiNE Nebraska Act, see section 77-6801.

77-6507 Change in ownership and control, defined.

Change in ownership and control has the same meaning as described in 34 C.F.R. 600.31, which shall mean the regulation as amended on November 1, 2019, and which took effect on July 1, 2020.

Source: Laws 2020, LB1107, § 50.
Operative date January 1, 2021.

77-6508 Equivalent employees, defined.

Equivalent employees means the number of employees computed by dividing the total hours paid in a year by the product of forty times the number of weeks in a year. A salaried employee who receives a predetermined amount of compensation each pay period on a weekly or less frequent basis is deemed to have been paid for forty hours per week during the pay period.

Source: Laws 2020, LB1107, § 51.
Operative date January 1, 2021.

77-6509 Key employer, defined.

Key employer means a taxpayer that:

(1) Employs at least one thousand equivalent employees in Nebraska during the base year;

(2) Offers all full-time employees, as defined and described in section 4980H of the Internal Revenue Code of 1986, as amended, the opportunity to enroll in minimum essential coverage under an eligible employer-sponsored plan, as those terms are defined and described in section 5000A of the Internal Revenue Code of 1986, as amended;

(3) Offers all full-time employees, as defined and described in section 4980H of the Internal Revenue Code of 1986, as amended, a sufficient package of benefits as specified in the ImagiNE Nebraska Act;

(4) Enforces a company policy against any discrimination that is prohibited by federal or state law;

(5) Electronically verifies the work eligibility status of all new employees employed in Nebraska within ninety days after the date of hire during the entire performance period;

(6) Has gone through a change in ownership and control within the twenty-four months immediately prior to the application;

(7) Is at risk of moving more than one thousand existing equivalent employees from the state, as determined by the director;

(8) Retains at least ninety percent of its equivalent base-year employment; and

(9) Is a qualified business.

Source: Laws 2020, LB1107, § 52.

Operative date January 1, 2021.

Cross References

ImagiNE Nebraska Act, see section 77-6801.

77-6510 Nebraska statewide average hourly wage for any year, defined.

Nebraska statewide average hourly wage for any year means the most recent statewide average hourly wage paid by all employers in all counties in Nebraska as calculated by the Office of Labor Market Information of the Department of Labor using annual data from the Quarterly Census of Employment and Wages by October 1 of the year prior to application. Hourly wages shall be calculated by dividing the reported average annual weekly wage by forty.

Source: Laws 2020, LB1107, § 53.

Operative date January 1, 2021.

77-6511 Performance period, defined.

Performance period means the year of application plus the next nine years.

Source: Laws 2020, LB1107, § 54.

Operative date January 1, 2021.

77-6512 Qualified business, defined.

Qualified business means any business if the majority of the business activities conducted throughout Nebraska by such business meet the requirements for a qualified location as defined in subsection (1) or (2) of section 77-6818. For purposes of this section, the majority of business activities conducted shall be determined based on the number of equivalent employees working in the respective business activities.

Source: Laws 2020, LB1107, § 55.

Operative date January 1, 2021.

77-6513 Taxpayer, defined.

Taxpayer means any person subject to sales and use taxes under the Nebraska Revenue Act of 1967 and subject to withholding under section 77-2753 and any entity that is or would otherwise be a member of the same unitary group, if incorporated, that is subject to such sales and use taxes and such withholding. Taxpayer does not include a political subdivision or an organization that is exempt from income taxes under section 501(a) of the Internal Revenue Code of 1986, as amended. For purposes of this section, political subdivision includes

any public corporation created for the benefit of a political subdivision and any group of political subdivisions forming a joint public agency, organized by interlocal agreement, or utilizing any other method of joint action.

Source: Laws 2020, LB1107, § 56.

Operative date January 1, 2021.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

77-6514 Wage retention credit, defined.

Wage retention credit means the credit described in the Key Employer and Jobs Retention Act.

Source: Laws 2020, LB1107, § 57.

Operative date January 1, 2021.

77-6515 Year, defined.

Year means calendar year.

Source: Laws 2020, LB1107, § 58.

Operative date January 1, 2021.

77-6516 Wage retention credit; amount; use.

(1) If a key employer has entered into an agreement with the state pursuant to section 77-6517, the key employer shall during each year of the performance period receive the wage retention credit approved by the director in the manner provided in the Key Employer and Jobs Retention Act.

(2) The wage retention credit shall equal five percent of the total compensation paid by the key employer in the year to all retained employees of the key employer in Nebraska who are paid wages for services rendered at a rate equal to at least one hundred percent of the Nebraska statewide average hourly wage for the year of application. The wage retention credit earned for all qualified key employers shall not exceed four million dollars in any year. If two or more key employers qualify for benefits in any given year, the one with the earlier approval will be fully funded first.

(3) The wage retention credits shall be allowed for each year in the performance period. Unused credits may carry over only to the end of the performance period.

(4) The total amount all key employers may receive in credits pursuant to the Key Employer and Jobs Retention Act shall not exceed forty million dollars. If two or more key employers qualify for benefits, the one with the earlier approval will be fully funded first. This benefit is in addition to any benefits the key employer may otherwise qualify for under the ImagiNE Nebraska Act or may have qualified for previously under the Nebraska Advantage Act or the Employment and Investment Growth Act.

(5) The wage retention credit shall be claimed by filing the forms required by the Tax Commissioner with the income tax return for the taxable year which includes the end of the year the credits were earned. The credits may be used after any other nonrefundable credits to reduce the key employer's income tax liability imposed by sections 77-2714 to 77-27,135. Credits may be used beginning with the taxable year which includes December 31 of the first year in the

performance period. The last year for which credits may be used is the taxable year which includes December 31 of the last year of the performance period. Any decision on how part of the credit is applied shall not limit how the remaining credit could be applied under this section.

(6) The key employer may use the wage retention credit to reduce the key employer's income tax withholding employer or payor tax liability under section 77-2756 or 77-2757. To the extent of the credit used, such withholding shall not constitute public funds or state tax revenue and shall not constitute a trust fund or be owned by the state. The use by the key employer of the credit shall not change the amount that otherwise would be reported by the key employer to the employee under section 77-2754 as income tax withheld and shall not reduce the amount that otherwise would be allowed by the state as a refundable credit on an employee's income tax return as income tax withheld under section 77-2755.

Source: Laws 2020, LB1107, § 59.
Operative date January 1, 2021.

Cross References

Employment and Investment Growth Act, see section 77-4101.

Imagine Nebraska Act, see section 77-6801.

Nebraska Advantage Act, see section 77-5701.

77-6517 Wage retention credit; application; fee; confidentiality; approval of application; conditions; notice; agreement.

(1) In order for the key employer to be eligible for the wage retention credit, the key employer shall file an application for an agreement with the director.

(2) The application shall:

(a) State the exact name of the taxpayer and any related companies;

(b) Include a description, in detail, of the nature of the company's business, including the products sold and respective markets;

(c) Request that the company be considered for approval under the Key Employer and Jobs Retention Act;

(d) Acknowledge that the key employer understands and complies with the requirements for providing health insurance, providing a sufficient package of benefits, enforcing a policy against discrimination, and verifying the work eligibility status of all new employees;

(e) State the number of base-year employees; and

(f) Include a nonrefundable application fee of five thousand dollars. The fee shall be remitted to the State Treasurer for credit to the Nebraska Incentives Fund.

(3) The application and all supporting information is confidential except for the name of the taxpayer, the number of employees retained, and whether the application has been approved.

(4) The director shall determine whether to approve the application based upon whether the applicant meets the definition of a key employer which is at risk for moving more than one thousand existing full-time jobs from the state and whether the director believes the applicant would leave the state if the application is not approved.

(5) The director shall notify the applicant in writing as to whether the application has been approved or not. The director shall decide and mail the notice within thirty days after receiving the application, regardless of whether he or she approves or disapproves the application, unless the time is extended by mutual written consent of the director and the applicant.

(6) An application may be approved only if it is consistent with the legislative purposes contained in section 77-6502 and the key employer will retain at least ninety percent of the base-year employees in the state throughout the performance period. This threshold constitutes the required level of employment for purposes of the Key Employer and Jobs Retention Act.

(7) If the application is approved by the director, the key employer and the state shall enter into a written agreement, which shall be executed on behalf of the state by the director. In the agreement, the key employer shall agree to retain at least ninety percent of the base-year employees and, in consideration of the key employer's agreement, the state shall agree to allow the wage retention credits as provided in the Key Employer and Jobs Retention Act. The application, and all supporting documentation, to the extent approved, shall be considered a part of the agreement. The agreement may contain such terms and conditions as the director specifies in order to carry out the legislative purposes of the Key Employer and Jobs Retention Act. The agreement shall contain provisions to allow the Department of Revenue to verify that the required levels of employment have been maintained.

Source: Laws 2020, LB1107, § 60.

Operative date January 1, 2021.

77-6518 Wage retention credit; recapture or disallowance; interest; penalties.

(1) If the taxpayer fails to retain the required level of employment through the entire performance period, all or a portion of the wage retention credits shall be recaptured directly by the state from the taxpayer or shall be disallowed. In no event shall any wage retention credits be required to be paid back directly or indirectly by the employees. All such credits must be repaid by the taxpayer.

(2) The recapture or disallowance shall be as follows:

(a) No wage retention credits shall be allowed, and if already allowed shall be recaptured, for the actual year or years in which the required level of employment was not maintained;

(b) For wage retention credits allowed in prior years, one-tenth of the credits shall be recaptured from the taxpayer for each year the required level of employment was not maintained; and

(c) For wage retention credits for future years, one-tenth of the credits shall be disallowed for each year the required level of employment was not maintained in previous years.

(3) Any amounts required to be recaptured shall be deemed to be an underpayment of tax, immediately due and payable, and shall constitute a lien on the assets of the taxpayer. When wage retention credits were received in more than one year, the credits received in the most recent year shall be recovered first and then the credits received in earlier years shall be recovered up to the extent of the required recapture.

(4) Interest shall accrue from the due date for the return for the year in which the taxpayer failed to maintain the required level of employment.

(5) Penalties shall not accrue until ninety days after the requirement for recapture or disallowance becomes known or should have become known to the taxpayer.

(6) The recapture or disallowance required by this section may be waived by the Tax Commissioner if he or she finds the failure to maintain the required level of employment was caused by unavoidable circumstances such as an act of God or a national emergency.

Source: Laws 2020, LB1107, § 61.

Operative date January 1, 2021.

77-6519 Wage retention credit; transferable; when; effect.

(1) The wage retention credits allowed under the Key Employer and Jobs Retention Act shall not be transferable except in the following situations:

(a) Any credit allowable to a partnership, a limited liability company, a subchapter S corporation, a cooperative, including a cooperative exempt under section 521 of the Internal Revenue Code of 1986, as amended, a limited cooperative association, or an estate or trust may be distributed to the partners, members, shareholders, patrons, or beneficiaries in the same manner as income is distributed for use against their income tax liabilities, and such partners, members, shareholders, or beneficiaries shall be deemed to have made an underpayment of their income taxes for any recapture required by section 77-6518. A credit distributed shall be considered a credit used and the partnership, limited liability company, subchapter S corporation, cooperative, including a cooperative exempt under section 521 of the Internal Revenue Code of 1986, as amended, limited cooperative association, estate, or trust shall be liable for any repayment required by section 77-6518;

(b) The credit may be transferred to a qualified employee leasing company from a taxpayer who is a client-lessee of the qualified employee leasing company with employees performing services at the qualified location or locations of the client-lessee. The credits transferred must be designated for a specific year and cannot be carried forward by the qualified employee leasing company. The credits may only be used by the qualified employee leasing company to offset the income tax withholding liability under section 77-2756 or 77-2757 for withholding for employees performing services for the client-lessee in Nebraska. The offset to such withholding liability must be computed in accordance with subsection (6) of section 77-6516 based on wages paid to the employees by the qualified employee leasing company, and not the amount paid to the qualified employee leasing company by the client-lessee; and

(c) The credits previously allowed and future credits may be transferred when an agreement is transferred in its entirety by sale or lease to another taxpayer or in an acquisition of assets qualifying under section 381 of the Internal Revenue Code of 1986, as amended.

(2) The acquiring taxpayer, as of the date of notification to the director of the completed transfer, shall be entitled to any unused credits and to any future credits allowable under the Key Employer and Jobs Retention Act.

(3) The acquiring taxpayer shall be liable for any recapture that becomes due after the date of the transfer for the repayment of any credits received either before or after the transfer.

(4) If a taxpayer dies and there is a credit remaining after the filing of the final return for the taxpayer, the personal representative shall determine the distribution of the credit or any remaining carryover with the initial fiduciary return filed for the estate. The determination of the distribution of the credit may be changed only after obtaining the permission of the Tax Commissioner.

(5) The director and the Tax Commissioner may disclose information to the acquiring taxpayer about the agreement and prior credits that is reasonably necessary to determine the future credits and liabilities of the taxpayer.

Source: Laws 2020, LB1107, § 62.

Operative date January 1, 2021.

77-6520 Rules and regulations.

The Department of Economic Development and the Department of Revenue, in consultation with the Governor, may adopt and promulgate rules and regulations necessary or appropriate to carry out the purposes of the Key Employer and Jobs Retention Act.

Source: Laws 2020, LB1107, § 63.

Operative date January 1, 2021.

77-6521 Reports; joint hearing.

(1) The Department of Economic Development and the Department of Revenue shall jointly submit electronically an annual report to the Legislature no later than October 31 of each year. The report shall be on a fiscal year, accrual basis that satisfies the requirements set by the Governmental Accounting Standards Board. The Department of Economic Development and the Department of Revenue shall together, on or before December 15 of each year, appear at a joint hearing of the Appropriations Committee of the Legislature and the Revenue Committee of the Legislature and present the report. Any supplemental information requested by three or more committee members must be provided within thirty days after the request.

(2) The report shall list (a) the agreements which have been signed during the previous calendar year, (b) the agreements which are still in effect, and (c) the identity of each taxpayer that is a party to an agreement.

(3) The report shall provide information on agreement-specific total credits used every two years for each agreement. The report shall disclose the identity of the taxpayer and the total credits used during the immediately preceding two years, expressed as a single, aggregated total. The information required to be reported under this subsection shall not be reported for the first year the taxpayer maintains the required employment threshold. The information on first-year credits used shall be combined with and reported as part of the second year. Thereafter, the information on credits used for succeeding years shall be reported for each agreement every two years containing information on two years of credits used.

(4) No information shall be provided in the report that is protected by state or federal confidentiality laws.

Source: Laws 2020, LB1107, § 64.

Operative date January 1, 2021.

77-6522 Application; valid; when; director; Tax Commissioner; powers and duties.

(1) Any complete application shall be considered a valid application on the date submitted for the purposes of the Key Employer and Jobs Retention Act.

(2) The director shall be allowed access, by the Tax Commissioner, to information associated with the Nebraska Advantage Act, the Nebraska Advantage Rural Development Act, the ImagiNE Nebraska Act, and the Employment and Investment Growth Act to meet the director's obligations under the Key Employer and Jobs Retention Act.

(3) The director may contract with the Tax Commissioner for services that the director determines are necessary to fulfill the director's responsibilities under the Key Employer and Jobs Retention Act, other than services which constitute the actual actions and decisions required to be taken or made by the director under the Key Employer and Jobs Retention Act.

Source: Laws 2020, LB1107, § 65.

Operative date January 1, 2021.

Cross References

Employment and Investment Growth Act, see section 77-4101.

ImagiNE Nebraska Act, see section 77-6801.

Nebraska Advantage Act, see section 77-5701.

Nebraska Advantage Rural Development Act, see section 77-27,187.

77-6523 Applications; deadline.

There shall be no new applications under the Key Employer and Jobs Retention Act filed after May 31, 2021, without further authorization of the Legislature. All applications and all agreements pending, approved, or entered into on or before May 31, 2021, shall continue in full force and effect.

Source: Laws 2020, LB1107, § 66.

Operative date January 1, 2021.

ARTICLE 66**RENEWABLE CHEMICAL PRODUCTION TAX CREDIT ACT****Section**

77-6601. Act, how cited.

77-6602. Legislative findings.

77-6603. Terms, defined.

77-6604. Eligible business; program certification application; approval; requirements; agreement.

77-6605. Program certification application; consideration; limitation.

77-6606. Tax credit; application; contents; requirements; approval; effect.

77-6607. Tax credit; amount; use; how claimed.

77-6608. Tax credit; reduction, termination, or rescission; repayment or recapture of tax credit.

77-6609. Trade secret; confidentiality.

77-6610. Reports.

77-6611. Rules and regulations.

77-6601 Act, how cited.

Sections 77-6601 to 77-6611 shall be known and may be cited as the Renewable Chemical Production Tax Credit Act.

Source: Laws 2020, LB1107, § 67.

Operative date January 1, 2021.

77-6602 Legislative findings.

The Legislature finds and declares that Nebraska is home to an emerging biotechnology and bioproducts sector that yields important innovations and collaborative opportunities with the existing agricultural sector. The Legislature further finds that advances in biotechnology and bioproducts will play a critical role in addressing global challenges, reducing our environmental footprint, and creating sustainable materials including renewable chemicals made from Nebraska-based agricultural products.

Source: Laws 2020, LB1107, § 68.

Operative date January 1, 2021.

77-6603 Terms, defined.

For purposes of the Renewable Chemical Production Tax Credit Act, unless the context otherwise requires:

(1) Biomass feedstock means sugar, starch, polysaccharide, glycerin, lignin, fat, grease, or oil derived from plants, animals, or algae or a protein capable of being converted to a building block chemical by means of a biological or chemical conversion process;

(2) Building block chemical means a molecule that is converted from biomass feedstock as a first product or a secondarily derived product that can be further refined into a higher-value chemical, material, or consumer product;

(3) Director means the Director of Economic Development;

(4) Eligible business means a business that has been certified by the director under section 77-6604;

(5) Food additive means a building block chemical that is not primarily consumed as food but which, when combined with other components, improves the taste, appearance, odor, texture, shelf life, or nutritional content of food. The director, in his or her discretion, shall determine whether or not a biobased chemical is primarily consumed as food;

(6) Pre-eligibility production threshold means, with respect to each eligible business, the number of pounds of renewable chemicals produced, if any, by an eligible business during the calendar year prior to the calendar year in which the business first qualified as an eligible business pursuant to section 77-6604; and

(7)(a) Renewable chemical means a building block chemical with a significant biobased content that can be used for products including polymers, plastics, food additives, solvents, intermediate chemicals, or other formulated products with a significant nonfossil carbon content.

(b) Renewable chemical includes:

(i) Biobased chemicals that can be a food, feed, or fuel additive; and

(ii) Supplements, vitamins, nutraceuticals, and pharmaceuticals.

(c) The director may include additional chemicals or materials in the definition of renewable chemical by rule and regulation after consulting with appropriate experts from the University of Nebraska, including, but not limited to, the Industrial Agricultural Products Center.

(d) Renewable chemical does not include a chemical sold or used as fuel.

Source: Laws 2020, LB1107, § 69.

Operative date January 1, 2021.

77-6604 Eligible business; program certification application; approval; requirements; agreement.

(1) A business may apply to the director for certification as an eligible business. The program certification application shall be in the form and be made under the procedures specified by the director.

(2) Within thirty days after receiving a program certification application under this section, the director shall certify the business as satisfying the conditions required of an eligible business, request additional information, or deny the program certification application. If the director requests additional information, the director shall certify the business or deny the program certification application within thirty days after receiving the additional information. If the director neither certifies the business nor denies the program certification application within thirty days after receiving the original program certification application or within thirty days after receiving the additional information requested, whichever is later, then the program certification application is deemed approved if the business meets the requirements in subsection (3) of this section. A business that applies for program certification and is denied may reapply.

(3) To be certified as an eligible business under the Renewable Chemical Production Tax Credit Act, a business shall meet all of the following requirements:

(a) The business produced at least one million pounds of renewable chemicals in this state during the calendar year for which tax credits are sought;

(b) The business is physically located in this state;

(c) The business organized, expanded, or located in this state on or after January 1, 2021; and

(d) The business is in compliance with all agreements entered into under the act and pursuant to any other tax credits or programs administered by the Department of Economic Development or the Department of Revenue.

(4)(a) An eligible business shall enter into an agreement with the director for the successful completion of all requirements of the act. The agreement may certify the business to receive tax credits under the act for up to four years.

(b) As part of the agreement, the eligible business shall agree to collect and provide any information reasonably required by the director or the Department of Revenue in order to allow the director and department to fulfill their reporting obligations under section 77-6610.

Source: Laws 2020, LB1107, § 70.

Operative date January 1, 2021.

77-6605 Program certification application; consideration; limitation.

The director shall consider program certification applications under section 77-6604 in the order in which they are received. The director may accept program certification applications on a continuous basis or may establish, by rule and regulation, an annual program certification application deadline. The

director may approve program certification applications for eligible businesses for a total of up to three million dollars in tax credits for calendar years 2022 and 2023 and up to six million dollars per calendar year for calendar years 2024 and beyond. Program certification applications approved after such annual limit has been reached shall be placed on a wait list in the order in which they are received.

Source: Laws 2020, LB1107, § 71.

Operative date January 1, 2021.

77-6606 Tax credit; application; contents; requirements; approval; effect.

(1) An eligible business may apply to the Department of Revenue for tax credits under the Renewable Chemical Production Tax Credit Act.

(2) To receive tax credits, the eligible business shall submit a tax credit application to the Department of Revenue on a form prescribed by the department. The tax credit application shall be made during the calendar year following the calendar year in which the eligible business produced the renewable chemicals for which it seeks tax credits. The tax credit application shall include the following information:

(a) The number of pounds of renewable chemicals produced in the state by the eligible business during the calendar year for which tax credits are sought; and

(b) Any other information reasonably required by the department in order to establish and verify the amount of credits earned under the act.

(3) An eligible business shall fulfill all the requirements of the act and its agreement with the director under section 77-6604 before receiving tax credits under the act or entering into a subsequent agreement. If an agreement is not successfully fulfilled, the director may decline to enter into a subsequent agreement and the Department of Revenue may decline to issue a tax credit.

(4) If the department determines that a tax credit application is complete, that an eligible business qualifies for tax credits, and that the eligible business has fulfilled all requirements of its agreement with the director, the department shall approve the tax credit application within the limits set forth in sections 77-6605 and 77-6607 and shall certify the amount of tax credits approved to the eligible business.

Source: Laws 2020, LB1107, § 72.

Operative date January 1, 2021.

77-6607 Tax credit; amount; use; how claimed.

(1) The tax credit under the Renewable Chemical Production Tax Credit Act shall be in an amount equal to the product of seven and one-half cents multiplied by the number of pounds of renewable chemicals produced in this state by the eligible business during each calendar year in excess of the eligible business's pre-eligibility production threshold. The maximum amount of tax credits that may be issued to an eligible business under a single tax credit application shall not exceed one million five hundred thousand dollars per year.

(2) The tax credit shall be a refundable credit that may be used against any income tax imposed by the Nebraska Revenue Act of 1967. Any credit in excess of the eligible business' tax liability shall be refunded to the taxpayer.

(3) An eligible business shall not receive a tax credit for renewable chemicals produced before the date the business first qualified as an eligible business.

(4) The tax credit shall not be available for any renewable chemicals produced before the 2022 calendar year.

(5) Any tax credit allowable to a partnership, a limited liability company, a subchapter S corporation, or an estate or trust may be distributed to the partners, limited liability company members, shareholders, or beneficiaries in the same manner as income is distributed.

(6) An eligible business shall claim the tax credit by attaching the tax credit certification received from the department under section 77-6606 to its tax return for the tax year in which the credit was approved.

Source: Laws 2020, LB1107, § 73.

Operative date January 1, 2021.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

77-6608 Tax credit; reduction, termination, or rescission; repayment or recapture of tax credit.

The failure by an eligible business in fulfilling any requirement of the Renewable Chemical Production Tax Credit Act or any of the terms and obligations of an agreement entered into pursuant to section 77-6604 may result in the reduction, termination, or rescission of the tax credits under the act and may subject the eligible business to the repayment or recapture of tax credits claimed.

Source: Laws 2020, LB1107, § 74.

Operative date January 1, 2021.

77-6609 Trade secret; confidentiality.

Except for the identity of a recipient of tax credits under the Renewable Chemical Production Tax Credit Act and the amount of such credits, any information or record in the possession of the Department of Economic Development or Department of Revenue with respect to the act shall be presumed by such departments to be a trade secret and shall be kept confidential by such departments unless otherwise ordered by a court.

Source: Laws 2020, LB1107, § 75.

Operative date January 1, 2021.

77-6610 Reports.

(1) On or before January 31, 2024, and on or before each January 31 thereafter, the director and the Department of Revenue shall electronically submit a report on the Renewable Chemical Production Tax Credit Act to the Revenue Committee of the Legislature. At a minimum, the report shall include the following information regarding tax credits and the recipients of such credits:

(a) The aggregate number of pounds, and a list of each type, of renewable chemicals produced in Nebraska by all recipients (i) during the calendar year prior to the calendar year for which each recipient first received tax credits and (ii) for each calendar year thereafter;

(b) The aggregate sales of all renewable chemicals produced by all recipients in each calendar year for which there are at least five recipients;

(c) The aggregate number of pounds, and a list of each type, of biomass feedstock used in the production of renewable chemicals in Nebraska by all recipients (i) during the calendar year prior to the calendar year for which each recipient first received tax credits and (ii) for each calendar year thereafter;

(d) The number of employees located in Nebraska of all recipients (i) during the calendar year prior to the calendar year for which each recipient first received tax credits and (ii) for each calendar year thereafter;

(e) The number and aggregate amount of tax credits issued for each calendar year;

(f) The number of eligible businesses placed on the wait list for each calendar year and the total number of eligible businesses remaining on the wait list at the end of that calendar year;

(g) The dollar amount of tax credit claims placed on the wait list for each calendar year and the total dollar amount of tax credit claims remaining on the wait list at the end of that calendar year;

(h) For each eligible business which received tax credits during each calendar year: (i) The identity of the eligible business; (ii) the amount of the tax credits; and (iii) the manner in which the eligible business first qualified as an eligible business, whether by organizing, expanding, or locating in the state; and

(i) The total amount of all tax credits claimed during each calendar year, and the portion issued as refunds.

(2) In order to protect the presumption of confidentiality provided for in section 77-6609, the director and Department of Revenue shall report all information in an aggregate form to prevent, to the extent reasonably possible, information being attributable to any particular eligible business, except as provided in subdivision (1)(h) of this section.

Source: Laws 2020, LB1107, § 76.

Operative date January 1, 2021.

77-6611 Rules and regulations.

The Department of Economic Development and Department of Revenue may adopt and promulgate rules and regulations necessary to carry out the Renewable Chemical Production Tax Credit Act.

Source: Laws 2020, LB1107, § 77.

Operative date January 1, 2021.

ARTICLE 67

NEBRASKA PROPERTY TAX INCENTIVE ACT

Section

77-6701. Act, how cited.

77-6702. Terms, defined.

77-6703. Tax credit for school district taxes paid.

77-6704. Tax credit; refundable; procedure for certain taxpayers.

77-6705. Rules and regulations.

77-6701 Act, how cited.

Sections 77-6701 to 77-6705 shall be known and may be cited as the Nebraska Property Tax Incentive Act.

Source: Laws 2020, LB1107, § 111.
Operative date August 18, 2020.

77-6702 Terms, defined.

For purposes of the Nebraska Property Tax Incentive Act:

(1) Allowable growth percentage means the percentage increase, if any, in the total assessed value of all real property in the state from the prior year to the current year, as determined by the department, except that in no case shall the allowable growth percentage exceed five percent in any one year;

(2) Department means the Department of Revenue;

(3) Eligible taxpayer means any individual, corporation, partnership, limited liability company, trust, estate, or other entity that pays school district taxes during a taxable year; and

(4) School district taxes means property taxes levied on real property in this state by a school district or multiple-district school system, excluding any property taxes levied for bonded indebtedness and any property taxes levied as a result of an override of limits on property tax levies approved by voters pursuant to section 77-3444.

Source: Laws 2020, LB1107, § 112.
Operative date August 18, 2020.

77-6703 Tax credit for school district taxes paid.

(1) For taxable years beginning or deemed to begin on or after January 1, 2020, under the Internal Revenue Code of 1986, as amended, there shall be allowed to each eligible taxpayer a refundable credit against the income tax imposed by the Nebraska Revenue Act of 1967 or against the franchise tax imposed by sections 77-3801 to 77-3807. The credit shall be equal to the credit percentage for the taxable year, as set by the department under subsection (2) of this section, multiplied by the amount of school district taxes paid by the eligible taxpayer during such taxable year.

(2)(a) For taxable years beginning or deemed to begin during calendar year 2020, the department shall set the credit percentage so that the total amount of credits for such taxable years shall be one hundred twenty-five million dollars;

(b) For taxable years beginning or deemed to begin during calendar year 2021, the department shall set the credit percentage so that the total amount of credits for such taxable years shall be one hundred twenty-five million dollars plus either (i) the amount calculated for such calendar year under subdivision (3)(b)(ii)(B) of section 77-4602 or (ii) the amount calculated for such calendar year under subdivision (3)(c)(ii)(B) of section 77-4602, whichever is applicable;

(c) For taxable years beginning or deemed to begin during calendar year 2022, the department shall set the credit percentage so that the total amount of credits for such taxable years shall be the maximum amount of credits allowed under subdivision (2)(b) of this section plus either (i) the amount calculated for such calendar year under subdivision (3)(b)(ii)(B) of section 77-4602 or (ii) the amount calculated for such calendar year under subdivision (3)(c)(ii)(B) of section 77-4602, whichever is applicable;

(d) For taxable years beginning or deemed to begin during calendar year 2023, the department shall set the credit percentage so that the total amount of credits for such taxable years shall be the maximum amount of credits allowed under subdivision (2)(c) of this section plus either (i) the amount calculated for such calendar year under subdivision (3)(b)(ii)(B) of section 77-4602 or (ii) the amount calculated for such calendar year under subdivision (3)(c)(ii)(B) of section 77-4602, whichever is applicable;

(e) For taxable years beginning or deemed to begin during calendar year 2024, the department shall set the credit percentage so that the total amount of credits for such taxable years shall be three hundred seventy-five million dollars; and

(f) For taxable years beginning or deemed to begin during calendar year 2025 and each calendar year thereafter, the department shall set the credit percentage so that the total amount of credits for such taxable years shall be the maximum amount of credits allowed in the prior year increased by the allowable growth percentage.

(3) If the school district taxes are paid by a corporation having an election in effect under subchapter S of the Internal Revenue Code, a partnership, a limited liability company, a trust, or an estate, the amount of school district taxes paid during the taxable year shall be allocated to the shareholders, partners, members, or beneficiaries in the same proportion that income is distributed. The department shall provide forms and schedules necessary for verifying eligibility for the credit provided in this section and for allocating the school district taxes paid.

Source: Laws 2020, LB1107, § 113.
Operative date August 18, 2020.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

77-6704 Tax credit; refundable; procedure for certain taxpayers.

The department shall develop a procedure which will allow eligible taxpayers who are not subject to Nebraska income tax or franchise tax to be able to claim and receive the refundable credits allowed under the Nebraska Property Tax Incentive Act.

Source: Laws 2020, LB1107, § 114.
Operative date August 18, 2020.

77-6705 Rules and regulations.

The department may adopt and promulgate rules and regulations to carry out the Nebraska Property Tax Incentive Act.

Source: Laws 2020, LB1107, § 115.
Operative date August 18, 2020.

ARTICLE 68

IMAGINE NEBRASKA ACT

Section
77-6801. Act, how cited.
77-6802. Policy.
77-6803. Definitions, where found.

§ 77-6801**REVENUE AND TAXATION**

Section

- 77-6804. Additional definitions.
- 77-6805. Base year, defined.
- 77-6806. Base-year employee, defined.
- 77-6807. Carryover period, defined.
- 77-6808. Compensation, defined.
- 77-6809. Director, defined.
- 77-6810. Equivalent employees, defined.
- 77-6811. Investment, defined.
- 77-6812. Motor vehicle, defined.
- 77-6813. NAICS, defined.
- 77-6814. Nebraska statewide average hourly wage for any year, defined.
- 77-6815. Number of new employees, defined.
- 77-6816. Performance period, defined.
- 77-6817. Qualified employee leasing company, defined.
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- 77-6819. Qualified property, defined.
- 77-6820. Ramp-up period, defined.
- 77-6821. Related persons, defined.
- 77-6822. Taxpayer, defined.
- 77-6823. Wages, defined.
- 77-6824. Year, defined.
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- 77-6827. Incentives; application; contents; fee; approval; when; application; deadlines.
- 77-6828. Agreement; requirements; contents; confidentiality; exceptions; duration of agreement; incentives; use.
- 77-6829. Qualified locations; base-year employment, compensation, and wage levels; review and certification; effect.
- 77-6830. Transactions and activities excluded.
- 77-6831. Tax incentives; amount; conditions; fee; ImagiNE Nebraska Cash Fund; created; use; investment.
- 77-6832. Income tax credits; use; tax incentive credits; use; refund claims; filing requirements; audit; director; Tax Commissioner; powers and duties; appeal.
- 77-6833. Incentives; recapture or disallowance; conditions; procedure.
- 77-6834. Incentives; transferable; when; effect.
- 77-6835. Refunds; interest not allowable.
- 77-6836. Application; valid; when; director; Tax Commissioner; powers and duties.
- 77-6837. Reports; joint hearing.
- 77-6838. Rules and regulations.
- 77-6839. Tax incentives; estimates required; when; exceed base authority; limit on applications.
- 77-6840. Employment and wage data information; Department of Labor; duty.
- 77-6841. Workforce training and infrastructure development; revolving loan program; legislative findings; Department of Economic Development; duties; ImagiNE Nebraska Revolving Loan Fund; created; use; investment.
- 77-6842. Workforce training loan; application; partnering entities; loan approval; factors considered.
- 77-6843. Infrastructure development loan; application; approval; factors considered.

77-6801 Act, how cited.

Sections 77-6801 to 77-6843 shall be known and may be cited as the ImagiNE Nebraska Act.

Source: Laws 2020, LB1107, § 1.

Operative date January 1, 2021.

77-6802 Policy.

The Legislature hereby finds and declares that it is the policy of this state to modernize its economic development platform in order to (1) encourage new

businesses to relocate to Nebraska, (2) encourage existing businesses to remain and grow in Nebraska, (3) encourage the creation and retention of new, high-paying jobs in Nebraska, (4) attract and retain investment capital in Nebraska, (5) develop the Nebraska workforce, (6) simplify the administration of the tax incentive program created in the ImagiNE Nebraska Act for both businesses and the state, and (7) improve the transparency and accountability of such program.

Source: Laws 2020, LB1107, § 2.
Operative date January 1, 2021.

77-6803 Definitions, where found.

For purposes of the ImagiNE Nebraska Act, the definitions found in sections 77-6804 to 77-6825 shall be used.

Source: Laws 2020, LB1107, § 3.
Operative date January 1, 2021.

77-6804 Additional definitions.

Any term shall have the same meaning as used in Chapter 77, article 27, except as otherwise defined in the ImagiNE Nebraska Act.

Source: Laws 2020, LB1107, § 4.
Operative date January 1, 2021.

77-6805 Base year, defined.

Base year means the year immediately preceding the year of application, except that if the year of application is 2021, the base year is either 2019 or 2020, whichever year the applicant had the larger number of equivalent employees at the qualified location or locations.

Source: Laws 2020, LB1107, § 5.
Operative date January 1, 2021.

77-6806 Base-year employee, defined.

Base-year employee means any individual who was employed in Nebraska and subject to the Nebraska income tax on compensation received from the taxpayer or its predecessors during the base year and who is employed at the qualified location or locations.

Source: Laws 2020, LB1107, § 6.
Operative date January 1, 2021.

77-6807 Carryover period, defined.

Carryover period means the period of three years immediately following the end of the performance period.

Source: Laws 2020, LB1107, § 7.
Operative date January 1, 2021.

77-6808 Compensation, defined.

Compensation means the wages and other payments subject to the federal medicare tax.

Source: Laws 2020, LB1107, § 8.
Operative date January 1, 2021.

77-6809 Director, defined.

Director means the Director of Economic Development.

Source: Laws 2020, LB1107, § 9.
Operative date January 1, 2021.

77-6810 Equivalent employees, defined.

Equivalent employees means the number of employees computed by dividing the total hours paid in a year by the product of forty times the number of weeks in a year. Only the hours paid to employees who are residents of this state shall be included in such computation. A salaried employee who receives a predetermined amount of compensation each pay period on a weekly or less frequent basis is deemed to have been paid for forty hours per week during the pay period.

Source: Laws 2020, LB1107, § 10.
Operative date January 1, 2021.

77-6811 Investment, defined.

Investment means the value of qualified property incorporated into or used at the qualified location or locations. For qualified property owned by the taxpayer, the value shall be the original cost of the property. For qualified property rented by the taxpayer, the average net annual rent shall be multiplied by the number of years of the lease for which the taxpayer was originally bound, not to exceed ten years. The rental of land included in and incidental to the leasing of a building shall not be excluded from the computation. For purposes of this section, original cost means the amount required to be capitalized for depreciation, amortization, or other recovery under the Internal Revenue Code of 1986, as amended. Any amount, including the labor of the taxpayer, that is capitalized as a part of the cost of the qualified property or that is written off under section 179 of the Internal Revenue Code of 1986, as amended, shall be considered part of the original cost.

Source: Laws 2020, LB1107, § 11.
Operative date January 1, 2021.

77-6812 Motor vehicle, defined.

Motor vehicle means any motor vehicle, trailer, or semitrailer as defined in the Motor Vehicle Registration Act and subject to registration for operation on the highways.

Source: Laws 2020, LB1107, § 12.
Operative date January 1, 2021.

Cross References

Motor Vehicle Registration Act, see section 60-301.

77-6813 NAICS, defined.

NAICS means the North American Industry Classification System established by the United States Department of Commerce and applied to classify the locations owned or leased by the taxpayer, including the specific NAICS codes and code definitions in effect on January 1, 2020.

Source: Laws 2020, LB1107, § 13.
Operative date January 1, 2021.

77-6814 Nebraska statewide average hourly wage for any year, defined.

Nebraska statewide average hourly wage for any year means the most recent statewide average hourly wage paid by all employers in all counties in Nebraska as calculated by the Office of Labor Market Information of the Department of Labor using annual data from the Quarterly Census of Employment and Wages by October 1 of the year prior to application. Hourly wages shall be calculated by dividing the reported average annual weekly wage by forty.

Source: Laws 2020, LB1107, § 14.
Operative date January 1, 2021.

77-6815 Number of new employees, defined.

(1) Number of new employees, for purposes of subdivisions (1)(b), (4)(d), (5)(c), and (8)(b)(iii) of section 77-6831, means the lesser of:

(a) The number of equivalent employees that are employed at the qualified location or locations during a year that are in excess of the number of equivalent employees during the base year; or

(b) The sum of:

(i) The number of equivalent employees employed full-time at the qualified location or locations during a year who are not base-year employees, who meet the health coverage requirement of subsection (7) of this section, and who are paid compensation at a rate equal to at least one hundred fifty percent of the Nebraska statewide average hourly wage for the year of application; and

(ii) The number of equivalent employees who were not employed full-time at the qualified location during the base year and became employed full-time at the qualified location after the base year, after subtracting the hours worked by such employees in the base year, who meet the health coverage requirement of subsection (7) of this section, and who are paid compensation at a rate equal to at least one hundred fifty percent of the Nebraska statewide average hourly wage for the year of application.

(2) Number of new employees, for purposes of subdivisions (4)(a)(i) and (5)(a)(i) of section 77-6831, means the lesser of:

(a) The number of equivalent employees that are employed at the qualified location or locations during a year that are in excess of the number of equivalent employees during the base year; or

(b) The sum of:

(i) The number of equivalent employees employed full-time at the qualified location or locations during a year who are not base-year employees, who meet the health coverage requirement of subsection (7) of this section, and who are paid compensation at a rate equal to at least ninety percent of the Nebraska statewide average hourly wage for the year of application; and

(ii) The number of equivalent employees who were not employed full-time at the qualified location during the base year and became employed full-time at the qualified location after the base year, after subtracting the hours worked by such employees in the base year, who meet the health coverage requirement of subsection (7) of this section, and who are paid compensation at a rate equal to at least ninety percent of the Nebraska statewide average hourly wage for the year of application.

(3) Number of new employees, for purposes of subdivisions (4)(a)(ii) and (5)(a)(ii) of section 77-6831, means the lesser of:

(a) The number of equivalent employees that are employed at the qualified location or locations during a year that are in excess of the number of equivalent employees during the base year; or

(b) The sum of:

(i) The number of equivalent employees employed full-time at the qualified location or locations during a year who are not base-year employees, who meet the health coverage requirement of subsection (7) of this section, and who are paid compensation at a rate equal to at least seventy-five percent of the Nebraska statewide average hourly wage for the year of application; and

(ii) The number of equivalent employees who were not employed full-time at the qualified location during the base year and became employed full-time at the qualified location after the base year, after subtracting the hours worked by such employees in the base year, who meet the health coverage requirement of subsection (7) of this section, and who are paid compensation at a rate equal to at least seventy-five percent of the Nebraska statewide average hourly wage for the year of application.

(4) Number of new employees, for purposes of subdivisions (4)(a)(iii), (4)(e), (5)(a)(iii), and (5)(d) of section 77-6831, means the lesser of:

(a) The number of equivalent employees that are employed at the qualified location or locations during a year that are in excess of the number of equivalent employees during the base year; or

(b) The sum of:

(i) The number of equivalent employees employed full-time at the qualified location or locations during a year who are not base-year employees, who meet the health coverage requirement of subsection (7) of this section, and who are paid compensation at a rate equal to at least seventy percent of the Nebraska statewide average hourly wage for the year of application; and

(ii) The number of equivalent employees who were not employed full-time at the qualified location during the base year and became employed full-time at the qualified location after the base year, after subtracting the hours worked by such employees in the base year, who meet the health coverage requirement of subsection (7) of this section, and who are paid compensation at a rate equal to at least seventy percent of the Nebraska statewide average hourly wage for the year of application.

(5) Number of new employees, for all other purposes, except as otherwise provided in the ImagiNE Nebraska Act, means the lesser of:

(a) The number of equivalent employees that are employed at the qualified location or locations during a year that are in excess of the number of equivalent employees during the base year; or

(b) The sum of:

(i) The number of equivalent employees employed full-time at the qualified location or locations during a year who are not base-year employees, who meet the health coverage requirement of subsection (7) of this section, and who are paid compensation at a rate equal to at least the Nebraska statewide average hourly wage for the year of application; and

(ii) The number of equivalent employees who were not employed full-time at the qualified location during the base year and became employed full-time at the qualified location after the base year, after subtracting the hours worked by such employees in the base year, who meet the health coverage requirement of subsection (7) of this section, and who are paid compensation at a rate equal to at least the Nebraska statewide average hourly wage for the year of application.

(6) For employees who work both at a qualified location and also perform services for the taxpayer at other nonqualified locations, they will be included in determining the number of new employees if more than fifty percent of the time for which they are compensated is spent at the qualified location. For any year other than the base year, employees who work at the qualified location fifty percent or less of the time for which they are compensated are not considered employed at the qualified location.

(7) An employee meets the health coverage requirement if the taxpayer offers to that employee, for that year, the opportunity to enroll in minimum essential coverage under an eligible employer-sponsored plan, as those terms are defined and described in section 5000A of the Internal Revenue Code of 1986, as amended, and the regulations for such section.

(8) For purposes of this section, employed full-time means that the employee is a full-time employee as defined and described in section 4980H of the Internal Revenue Code of 1986, as amended, and the regulations for such section.

Source: Laws 2020, LB1107, § 15.
Operative date January 1, 2021.

77-6816 Performance period, defined.

Performance period means the year during which the required increases in employment and investment were met or exceeded and each year thereafter until the end of the sixth year after the year the required increases were met or exceeded.

Source: Laws 2020, LB1107, § 16.
Operative date January 1, 2021.

77-6817 Qualified employee leasing company, defined.

Qualified employee leasing company means a company which places all employees of a client-lessee on its payroll and leases such employees to the client-lessee on an ongoing basis for a fee and, by written agreement between the employee leasing company and a client-lessee, grants to the client-lessee input into the hiring and firing of the employees leased to the client-lessee.

Source: Laws 2020, LB1107, § 17.
Operative date January 1, 2021.

77-6818 Qualified location, defined.

(1) Qualified location means a location at which the majority of the business activities conducted are within one or more of the following NAICS codes or the following descriptions:

- (a) Manufacturing - 31, 32, or 33, including pre-production services;
- (b) Testing Laboratories - 541380;
- (c) Rail Transportation - 482;
- (d) Truck Transportation - 484;
- (e) Insurance Carriers - 5241;
- (f) Wired Telecommunications Carriers - 517311;
- (g) Wireless Telecommunications Carriers (except Satellite) - 517312;
- (h) Telemarketing Bureaus and Other Contact Centers - 561422;
- (i) Data Processing, Hosting, and Related Services - 518210;
- (j) Computer Facilities Management Services - 541513;
- (k) Warehousing and Storage - 4931;
- (l) The administrative management of the taxpayer's activities, including headquarter facilities relating to such activities, or the administrative management of any of the activities of any business entity or entities in which the taxpayer or a group of its owners hold any direct or indirect ownership interest of at least ten percent, including headquarter facilities relating to such activities;
- (m) Logistics Facilities - Portions of NAICS 488210, 488310, and 488490 dealing with independently operated trucking terminals, independently operated railroad and railway terminals, and waterfront terminal and port facility operations;
- (n) Services provided on aircraft brought into this state by an individual who is a resident of another state or any other person who has a business location in another state when the aircraft is not to be registered or based in this state and will not remain in this state more than ten days after the service is completed;
- (o) The conducting of research, development, or testing, or any combination thereof, for scientific, agricultural, animal husbandry, food product, industrial, or technology purposes;
- (p) The production of electricity by using one or more sources of renewable energy to produce electricity for sale. For purposes of this subdivision, sources of renewable energy includes, but is not limited to, wind, solar, energy storage, geothermal, hydroelectric, biomass, and transmutation of elements;
- (q) Computer Systems Design and Related Services - 5415; or
- (r) The performance of financial services. For purposes of this subdivision, financial services includes only financial services provided by any financial institution subject to tax under Chapter 77, article 38, or any person or entity licensed by the Department of Banking and Finance or the federal Securities and Exchange Commission.

(2)(a) Qualified location also includes any other business location if at least seventy-five percent of the revenue derived at the location is from sales to customers who are not related persons which are delivered or provided from the qualified location to a location that is not within Nebraska according to the sourcing rules in subsections (2) and (3) of section 77-2734.14. Intermediate sales to related persons are included as sales to customers delivered or

provided to a location outside Nebraska if the related person delivers or provides the goods or services to a location outside Nebraska. Even if a location meets the seventy-five percent requirement of this subdivision, such location shall not constitute a qualified location under this subdivision if the majority of the business activities conducted at such location are within any of the following NAICS codes or any combination thereof:

- (i) Agriculture, Forestry, Fishing and Hunting - 11;
- (ii) Transportation and Warehousing - 48-49;
- (iii) Information - 51;
- (iv) Utilities - 22;
- (v) Mining, Quarrying, and Oil and Gas Extraction - 21;
- (vi) Public Administration - 92; or
- (vii) Construction - 23.

(b) The director may adopt and promulgate rules and regulations establishing an alternative method in circumstances in which subdivision (2)(a) of this section does not accurately reflect the out-of-state sales taking place at locations within Nebraska for a particular industry.

(3) The determination of the majority of the business activities shall be made based on the number of employees working in the respective business activities. The director may adopt and promulgate rules and regulations establishing an alternative method in circumstances in which other factors provide a better reflection of business activities.

(4) The delineation of the types of business activities which enable a location to constitute a qualified location is based on the state's intention to attract certain types of business activities and to responsibly accomplish the purposes of the Imagine Nebraska Act by directing the state's incentive capabilities towards business activities which, due to their national nature, could locate outside of Nebraska and which therefore would, through the use of incentives, be motivated to locate in Nebraska. By listing specific types of business activities in subsection (1) of this section, the state has determined such business activities by their nature meet these objectives. By specifying the national nature of a taxpayer's revenue in subsection (2) of this section, the state has determined that certain other types of business activities can meet these objectives.

Source: Laws 2020, LB1107, § 18.
Operative date January 1, 2021.

77-6819 Qualified property, defined.

Qualified property means any tangible property of a type subject to depreciation, amortization, or other recovery under the Internal Revenue Code of 1986, as amended, or the components of such property, that will be located and used at the project. Qualified property does not include (1) aircraft, barges, motor vehicles, railroad rolling stock, or watercraft or (2) property that is rented by the taxpayer qualifying under the Imagine Nebraska Act to another person. Qualified property of the taxpayer located at the residence of an employee working in Nebraska from his or her residence on tasks interdependent with

the work performed at the project shall be deemed located and used at the project.

Source: Laws 2020, LB1107, § 19.
Operative date January 1, 2021.

77-6820 Ramp-up period, defined.

Ramp-up period means the period of time from the date of the complete application through the end of the fourth year after the year in which the complete application was filed with the director.

Source: Laws 2020, LB1107, § 20.
Operative date January 1, 2021.

77-6821 Related persons, defined.

Related persons means any corporations, partnerships, limited liability companies, or joint ventures which are or would otherwise be members of the same unitary group, if incorporated, or any persons who are considered to be related persons under either section 267(b) and (c) or section 707(b) of the Internal Revenue Code of 1986, as amended.

Source: Laws 2020, LB1107, § 21.
Operative date January 1, 2021.

77-6822 Taxpayer, defined.

Taxpayer means any person subject to sales and use taxes under the Nebraska Revenue Act of 1967 and subject to withholding under section 77-2753 and any entity that is or would otherwise be a member of the same unitary group, if incorporated, that is subject to such sales and use taxes and such withholding. Taxpayer does not include a political subdivision or an organization that is exempt from income taxes under section 501(a) of the Internal Revenue Code of 1986, as amended. For purposes of this section, political subdivision includes any public corporation created for the benefit of a political subdivision and any group of political subdivisions forming a joint public agency, organized by interlocal agreement, or utilizing any other method of joint action.

Source: Laws 2020, LB1107, § 22.
Operative date January 1, 2021.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

77-6823 Wages, defined.

Wages means compensation, not to exceed one million dollars per year for any employee.

Source: Laws 2020, LB1107, § 23.
Operative date January 1, 2021.

77-6824 Year, defined.

Year means calendar year.

Source: Laws 2020, LB1107, § 24.
Operative date January 1, 2021.

77-6825 Year of application, defined.

Year of application means the year that a completed application is filed under the ImagiNE Nebraska Act.

Source: Laws 2020, LB1107, § 25.
Operative date January 1, 2021.

77-6826 Qualified employee leasing company; employees; duty.

An employee of a qualified employee leasing company shall be considered to be an employee of the client-lessee for purposes of the ImagiNE Nebraska Act if the employee performs services for the client-lessee. A qualified employee leasing company shall provide the Department of Revenue with access to the records of employees leased to the client-lessee.

Source: Laws 2020, LB1107, § 26.
Operative date January 1, 2021.

77-6827 Incentives; application; contents; fee; approval; when; application; deadlines.

(1) In order to utilize the incentives allowed in the ImagiNE Nebraska Act, the taxpayer shall file an application with the director, on a form developed by the director, requesting an agreement.

(2) The application shall:

- (a) Identify the taxpayer applying for incentives;
- (b) Identify all locations sought to be within the agreement and the reason each such location constitutes or is expected to constitute a qualified location;
- (c) State the estimated, projected amount of new investment and the estimated, projected number of new employees;
- (d) Identify the required levels of employment and investment for the various incentives listed within section 77-6831 that will govern the agreement. The taxpayer may identify different levels of employment and investment until the first December 31 following the end of the ramp-up period on a form approved by the director. The identified levels of employment and investment will govern all years covered under the agreement;
- (e) Identify whether the agreement is for a single qualified location, all qualified locations within a county, all qualified locations in more than one county, or all qualified locations within the state;
- (f) Acknowledge that the taxpayer understands the requirements for offering health coverage, and for reporting the value of such coverage, as specified in the ImagiNE Nebraska Act;
- (g) Acknowledge that the taxpayer does not violate any state or federal law against discrimination;
- (h) Acknowledge that the taxpayer understands the requirements for providing a sufficient package of benefits to its employees as specified in the ImagiNE Nebraska Act; and
- (i) Contain a nonrefundable application fee of five thousand dollars. The fee shall be remitted to the State Treasurer for credit to the Nebraska Incentives Fund.

(3) An application must be complete to establish the date of the application. An application shall be considered complete once it contains the items listed in subsection (2) of this section.

(4) Once satisfied that the application is consistent with the purposes stated in the ImagiNE Nebraska Act for one or more qualified locations within this state, the director shall approve the application, subject to the base authority limitations provided in section 77-6839.

(5) The director shall make his or her determination to approve or not approve an application within ninety days after the date of the application. If the director requests, by mail or by electronic means, additional information or clarification from the taxpayer in order to make his or her determination, such ninety-day period shall be tolled from the time the director makes the request to the time he or she receives the requested information or clarification from the taxpayer. The taxpayer and the director may also agree to extend the ninety-day period. If the director fails to make his or her determination within the prescribed ninety-day period, the application is deemed approved, subject to the base authority limitations provided in section 77-6839.

(6) There shall be no new applications for incentives filed under this section after December 31, 2030. All complete applications filed on or before December 31, 2030, shall be considered by the director and approved if the location or locations and taxpayer qualify for benefits, subject to the base authority limitations provided in section 77-6839. Agreements may be executed with regard to complete applications filed on or before December 31, 2030. All agreements pending, approved, or entered into before such date shall continue in full force and effect.

Source: Laws 2020, LB1107, § 27.

Operative date January 1, 2021.

77-6828 Agreement; requirements; contents; confidentiality; exceptions; duration of agreement; incentives; use.

(1) Within ninety days after approval of the application, the director shall prepare and deliver a written agreement to the taxpayer for the taxpayer's signature. The taxpayer and the director shall enter into such written agreement. Under the agreement, the taxpayer shall agree to increase employment or investment at the qualified location or locations, report compensation, wage, and hour data at the qualified location or locations to the Department of Revenue annually, and report all qualified property at the qualified location or locations to the Department of Revenue annually. The director, on behalf of the State of Nebraska, shall agree to allow the taxpayer to use the incentives contained in the ImagiNE Nebraska Act. The application, and all supporting documentation, to the extent approved, shall be considered a part of the agreement. The agreement shall state:

(a) The qualified location or locations. If a location or locations are to be qualified under subsection (2) of section 77-6818, the agreement must include a commitment by the taxpayer that the seventy-five percent requirement of such subsection will be met;

(b) The type of documentation the taxpayer will need to supply to support its claim for incentives under the act;

(c) The date the application was complete;

(d) The E-verify number or numbers for the qualified location or locations provided by the United States Citizenship and Immigration Services;

(e) A requirement that the taxpayer provide any information needed by the director or the Tax Commissioner to perform their respective responsibilities under the ImagiNE Nebraska Act, in the manner specified by the director or Tax Commissioner;

(f) A requirement that the taxpayer provide an annually updated timetable showing the expected sales and use tax refunds and what year they are expected to be claimed, in the manner specified by the Tax Commissioner. The timetable shall include both direct refunds due to investment and credits taken as sales and use tax refunds as accurately as reasonably possible;

(g) A requirement that the taxpayer update the Tax Commissioner annually, with its income tax return or in the manner specified by the Tax Commissioner, on any changes in plans or circumstances which it reasonably expects will affect the level of new investment and number of new employees at the qualified location or locations. If the taxpayer fails to comply with this requirement, the Tax Commissioner may defer any pending incentive utilization until the taxpayer does comply;

(h) A requirement that the taxpayer provide information regarding the value of health coverage provided to employees during the year who are not base-year employees and who are paid the required compensation as needed by the director or the Tax Commissioner to perform their respective responsibilities under the ImagiNE Nebraska Act, in the manner specified by the director or Tax Commissioner;

(i) A requirement that the taxpayer not violate any state or federal law against discrimination; and

(j) A requirement that the taxpayer offer a sufficient package of benefits to the employees employed full-time at the qualified location or locations during the year who are not base-year employees and who are paid the required compensation. If a taxpayer does not offer a sufficient package of benefits to any such employee for any year during the performance period, that employee shall not count toward the number of new employees for such year. For purposes of this subdivision, benefits means nonwage remuneration offered to an employee, including medical and dental insurance plans, pension, retirement, and profit-sharing plans, child care services, life insurance coverage, vision insurance coverage, disability insurance coverage, and any other nonwage remuneration as determined by the director. The director may adopt and promulgate rules and regulations to specify what constitutes a sufficient package of benefits. In determining what constitutes a sufficient package of benefits, the director shall consider (i) benefit packages customarily offered in Nebraska by private employers to full-time employees, (ii) the impact of the cost of such benefits on the ability to attract new employment and investment under the ImagiNE Nebraska Act, and (iii) the costs that employees must bear to obtain benefits not offered by an employer.

(2) The application, the agreement, all supporting information, and all other information reported to the director or the Tax Commissioner shall be kept confidential by the director and the Tax Commissioner, except for the name of the taxpayer, the qualified location or locations in the agreement, the estimated amounts of increased employment and investment stated in the application, the date of complete application, the date the agreement was signed, and the

information required to be reported by section 77-6837. The application, the agreement, and all supporting information shall be provided by the director to the Department of Revenue. The director shall disclose, to any municipalities in which project locations exist, the approval of an application and the execution of an agreement under this section. The Tax Commissioner shall also notify each municipality of the amount and taxpayer identity for each refund of local option sales and use taxes of the municipality within thirty days after the refund is allowed or approved. Disclosures shall be kept confidential by the municipality unless publicly disclosed previously by the taxpayer or by the State of Nebraska.

(3) An agreement under the ImagiNE Nebraska Act shall have a duration of no more than fifteen years. A taxpayer with an existing agreement may apply for and receive a new agreement for any qualified location or locations that are not part of an existing agreement under the ImagiNE Nebraska Act, but cannot apply for a new agreement for a qualified location designated in an existing agreement until after the end of the performance period for the existing agreement.

(4) The incentives contained in the ImagiNE Nebraska Act shall be in lieu of the tax credits allowed by the Nebraska Advantage Rural Development Act for any project. In computing credits under the Nebraska Advantage Rural Development Act, any investment or employment which is eligible for benefits or used in determining benefits under the ImagiNE Nebraska Act shall be subtracted from the increases computed for determining the credits under section 77-27,188. New investment or employment at a project location that results in the meeting or maintenance of the employment or investment requirements, the creation of credits, or refunds of taxes under the Nebraska Advantage Act shall not be considered new investment or employment for purposes of the ImagiNE Nebraska Act. The use of carryover credits under the Nebraska Advantage Act, the Employment and Investment Growth Act, the Invest Nebraska Act, the Nebraska Advantage Rural Development Act, or the Quality Jobs Act shall not preclude investment and employment from being considered new investment or employment under the ImagiNE Nebraska Act. The use of property tax exemptions at the project under the Employment and Investment Growth Act or the Nebraska Advantage Act does not preclude investment not eligible for such property tax exemptions from being considered new investment under the ImagiNE Nebraska Act.

Source: Laws 2020, LB1107, § 28.

Operative date January 1, 2021.

Cross References

Employment and Investment Growth Act, see section 77-4101.

Invest Nebraska Act, see section 77-5501.

Nebraska Advantage Act, see section 77-5701.

Nebraska Advantage Rural Development Act, see section 77-27,187.

Quality Jobs Act, see section 77-4901.

77-6829 Qualified locations; base-year employment, compensation, and wage levels; review and certification; effect.

(1) The taxpayer may request the director to review and certify that the location or locations designated in the application are qualified locations under the ImagiNE Nebraska Act. The taxpayer shall describe in detail the activities taking place at the location or locations or the activities that will be taking

place at the location or locations. The director shall make the determination based on the information provided by the taxpayer. The director must complete the review within ninety days after the request. If the director requests, by mail or by electronic means, additional information or clarification from the taxpayer in order to make his or her determination, the ninety-day period shall be tolled from the time the director makes the request to the time he or she receives the requested information or clarification from the taxpayer. The taxpayer and the director may also agree to extend the ninety-day period. If the director fails to make his or her determination within the prescribed ninety-day period, the certification is deemed approved for the disclosed activities.

(2) The taxpayer may request the Tax Commissioner to review and certify that the base-year employment, compensation, and wage levels are as reported by the taxpayer pursuant to subsection (1) of section 77-6828. Upon a request for such review, the Tax Commissioner shall be given access to the employment and business records of the proposed location or locations and must complete the review within one hundred eighty days after the request. If the Tax Commissioner requests, by mail or by electronic means, additional information or clarification from the taxpayer in order to make his or her determination, the one-hundred-eighty-day period shall be tolled from the time the Tax Commissioner makes the request to the time he or she receives the requested information or clarification from the taxpayer. The taxpayer and the Tax Commissioner may also agree to extend the one-hundred-eighty-day period. If the Tax Commissioner fails to make his or her determination within the prescribed one-hundred-eighty-day period, the certification is deemed approved.

(3) Upon review, the director may approve, reject, or amend the qualified locations sought in the application contingent upon the accuracy of the information or plans disclosed by the taxpayer that describe the expected activity at the qualified location or locations. Upon review, the Tax Commissioner may also approve or amend the base-year employment, compensation, or wage levels reported pursuant to subsection (1) of section 77-6828 based upon the payroll information and other financial records provided by the taxpayer. Once the director or Tax Commissioner certifies the qualified location or locations and the employment, compensation, and wage levels at the qualified location or locations, the certification is binding on the Department of Revenue when the taxpayer claims benefits on a return to the extent the activities performed at the location or locations are as described in the application, the information and plans provided by the taxpayer were accurate, and the base-year information is not affected by transfers of employees from another location in Nebraska, the acquisition of a business, or moving businesses or entities to or from the qualified location or locations.

(4) If the taxpayer does not request review and certification of whether the designated location or locations are qualified, or the base-year employment, compensation, and wage levels, those items are subject to later audit by the Department of Revenue.

Source: Laws 2020, LB1107, § 29.

Operative date January 1, 2021.

77-6830 Transactions and activities excluded.

The following transactions or activities shall not create any credits or allow any benefits under the ImagiNE Nebraska Act except as specifically allowed by this section:

(1) The acquisition of a business after the date of application which is continued by the taxpayer as a part of the agreement and which was operated in this state during the three hundred sixty-six days prior to the date of acquisition. All employees of the entities added to the taxpayer by the acquisition during the three hundred sixty-six days prior to the date of acquisition shall be considered employees during the base year. Any investment prior to the date of acquisition made by the entities added to the taxpayer by the acquisition or any investment in the acquisition of such business shall be considered as being made before the date of application;

(2) The moving of a business from one location to another, which business was operated in this state during the three hundred sixty-six days prior to the date of application. All employees of the business during such three hundred sixty-six days shall be considered base-year employees;

(3) The purchase or lease of any property which was previously owned by the taxpayer or a related person. The first purchase by either the taxpayer or a related person shall be treated as investment if the item was first placed in service in the state after the date of the application;

(4) The renegotiation of any lease in existence on the date of application which does not materially change any of the terms of the lease, other than the expiration date, shall be presumed to be a transaction entered into for the purpose of generating benefits under the act and shall not be allowed in the computation of any benefit or the meeting of any required levels under the agreement;

(5) Any purchase or lease of property from a related person, except that the taxpayer will be allowed any benefits under the act to which the related person would have been entitled on the purchase or lease of the property if the related person was considered the taxpayer;

(6) Any transaction entered into primarily for the purpose of receiving benefits under the act which is without a business purpose and does not result in increased economic activity in the state; and

(7) Any activity that results in benefits under the Ethanol Development Act.

Source: Laws 2020, LB1107, § 30.

Operative date January 1, 2021.

Cross References

Ethanol Development Act, see section 66-1330.

77-6831 Tax incentives; amount; conditions; fee; ImagiNE Nebraska Cash Fund; created; use; investment.

(1) A taxpayer shall be entitled to the sales and use tax incentives contained in subsection (2) of this section if the taxpayer:

(a) Attains a cumulative investment in qualified property of at least five million dollars and hires at least thirty new employees at the qualified location or locations before the end of the ramp-up period;

(b) Attains a cumulative investment in qualified property of at least two hundred fifty million dollars and hires at least two hundred fifty new employees at the qualified location or locations before the end of the ramp-up period; or

(c) Attains a cumulative investment in qualified property of at least fifty million dollars at the qualified location or locations before the end of the ramp-up period. To receive incentives under this subdivision, the taxpayer must meet the following conditions:

(i) The average compensation of the taxpayer's employees at the qualified location or locations for each year of the performance period must equal at least one hundred fifty percent of the Nebraska statewide average hourly wage for the year of application;

(ii) The taxpayer must offer to its employees who constitute full-time employees as defined and described in section 4980H of the Internal Revenue Code of 1986, as amended, and the regulations for such section, at the qualified location or locations for each year of the performance period, the opportunity to enroll in minimum essential coverage under an eligible employer-sponsored plan, as those terms are defined and described in section 5000A of the Internal Revenue Code of 1986, as amended, and the regulations for such section; and

(iii) The taxpayer must offer a sufficient package of benefits as described in subdivision (1)(j) of section 77-6828.

(2) A taxpayer meeting the requirements of subsection (1) of this section shall be entitled to the following sales and use tax incentives:

(a) A refund of all sales and use taxes paid under the Local Option Revenue Act, the Nebraska Revenue Act of 1967, the Qualified Judgment Payment Act, and sections 13-319, 13-324, and 13-2813 from the date of the complete application through the meeting of the required levels of employment and investment for all purchases, including rentals, of:

(i) Qualified property used at the qualified location or locations;

(ii) Property, excluding motor vehicles, based in this state and used in both this state and another state in connection with the qualified location or locations except when any such property is to be used for fundraising for or for the transportation of an elected official;

(iii) Tangible personal property by a contractor or repairperson after appointment as a purchasing agent of the owner of the improvement to real estate when such property is incorporated into real estate at the qualified location or locations. The refund shall be based on fifty percent of the contract price, excluding any land, as the cost of materials subject to the sales and use tax;

(iv) Tangible personal property by a contractor or repairperson after appointment as a purchasing agent of the taxpayer when such property is annexed to, but not incorporated into, real estate at the qualified location or locations. The refund shall be based on the cost of materials subject to the sales and use tax that were annexed to real estate; and

(v) Tangible personal property by a contractor or repairperson after appointment as a purchasing agent of the taxpayer when such property is both (A) incorporated into real estate at the qualified location or locations and (B) annexed to, but not incorporated into, real estate at the qualified location or locations. The refund shall be based on fifty percent of the contract price, excluding any land, as the cost of materials subject to the sales and use tax; and

(b) An exemption from all sales and use taxes under the Local Option Revenue Act, the Nebraska Revenue Act of 1967, the Qualified Judgment Payment Act, and sections 13-319, 13-324, and 13-2813 on the types of purchases, including rentals, listed in subdivision (a) of this subsection for such purchases, including rentals, occurring during each year of the performance period in which the taxpayer is at or above the required levels of employment and investment, except that the exemption shall be for the actual materials purchased with respect to subdivisions (2)(a)(iii), (iv), and (v) of this section. The Tax Commissioner shall issue such rules, regulations, certificates, and forms as are appropriate to implement the efficient use of this exemption.

(3)(a) Upon execution of the agreement, the taxpayer shall be issued a direct payment permit under section 77-2705.01, notwithstanding the three million dollars in purchases limitation in subsection (1) of section 77-2705.01, for each qualified location specified in the agreement, unless the taxpayer has opted out of this requirement in the agreement. For any taxpayer who is issued a direct payment permit, until such taxpayer makes the investment in qualified property and hires the new employees at the qualified location or locations as specified in subsection (1) of this section, the taxpayer must pay and remit any applicable sales and use taxes as required by the Tax Commissioner.

(b) If the taxpayer makes the investment in qualified property and hires the new employees at the qualified location or locations as specified in subsection (1) of this section, the taxpayer shall receive the sales tax refunds described in subdivision (2)(a) of this section. For any year in which the taxpayer is not at the required levels of employment and investment, the taxpayer shall report all sales and use taxes owed for the period on the taxpayer's income tax return for the year.

(4) The taxpayer shall be entitled to one of the following credits for payment of wages to new employees:

(a)(i) If a taxpayer attains a cumulative investment in qualified property of at least one million dollars and hires at least ten new employees at the qualified location or locations before the end of the ramp-up period, the taxpayer shall be entitled to a credit equal to four percent times the average wage of new employees times the number of new employees. Wages in excess of one million dollars paid to any one employee during the year shall be excluded from the calculations under this subdivision;

(ii) If the taxpayer attains a cumulative investment in qualified property of at least one million dollars and hires at least ten new employees at the qualified location or locations before the end of the ramp-up period and the number of new employees and investment are at a qualified location in a county in Nebraska with a population of one hundred thousand or greater, and at which the majority of the business activities conducted are described in subdivision (1)(a) or (1)(n) of section 77-6818, the taxpayer shall be entitled to a credit equal to four percent times the average wage of new employees times the number of new employees. Wages in excess of one million dollars paid to any one employee during the year shall be excluded from the calculations under this subdivision; or

(iii) If the taxpayer attains a cumulative investment in qualified property of at least one million dollars and hires at least ten new employees at the qualified location or locations before the end of the ramp-up period and the number of new employees and investment are at a qualified location entirely within a

county in Nebraska with a population of less than one hundred thousand, and at which the majority of the business activities conducted are described in subdivision (1)(a) or (1)(n) of section 77-6818, the taxpayer shall be entitled to a credit equal to six percent times the average wage of new employees times the number of new employees. For purposes of meeting the ten-employee requirement of this subdivision, the number of new employees shall be multiplied by two. Wages in excess of one million dollars paid to any one employee during the year shall be excluded from the calculations under this subdivision;

(b) If a taxpayer hires at least twenty new employees at the qualified location or locations before the end of the ramp-up period, the taxpayer shall be entitled to a credit equal to five percent times the average wage of new employees times the number of new employees if the average wage of the new employees equals at least one hundred percent of the Nebraska statewide average hourly wage for the year of application. The credit shall equal seven percent times the average wage of new employees times the number of new employees if the average wage of the new employees equals at least one hundred fifty percent of the Nebraska statewide average hourly wage for the year of application. The credit shall equal nine percent times the average wage of new employees times the number of new employees if the average wage of the new employees equals at least two hundred percent of the Nebraska statewide average hourly wage for the year of application. Wages in excess of one million dollars paid to any one employee during the year shall be excluded from the calculations under this subdivision;

(c) If a taxpayer attains a cumulative investment in qualified property of at least five million dollars and hires at least thirty new employees at the qualified location or locations before the end of the ramp-up period, the taxpayer shall be entitled to a credit equal to five percent times the average wage of new employees times the number of new employees if the average wage of the new employees equals at least one hundred percent of the Nebraska statewide average hourly wage for the year of application. The credit shall equal seven percent times the average wage of new employees times the number of new employees if the average wage of the new employees equals at least one hundred fifty percent of the Nebraska statewide average hourly wage for the year of application. The credit shall equal nine percent times the average wage of new employees times the number of new employees if the average wage of the new employees equals at least two hundred percent of the Nebraska statewide average hourly wage for the year of application. Wages in excess of one million dollars paid to any one employee during the year shall be excluded from the calculations under this subdivision;

(d) If a taxpayer attains a cumulative investment in qualified property of at least two hundred fifty million dollars and hires at least two hundred fifty new employees at the qualified location or locations before the end of the ramp-up period, the taxpayer shall be entitled to a credit equal to seven percent times the average wage of new employees times the number of new employees if the average wage of the new employees equals at least one hundred fifty percent of the Nebraska statewide average hourly wage for the year of application. The credit shall equal nine percent times the average wage of new employees times the number of new employees if the average wage of the new employees equals at least two hundred percent of the Nebraska statewide average hourly wage for the year of application. Wages in excess of one million dollars paid to any

one employee during the year shall be excluded from the calculations under this subdivision; or

(e) If a taxpayer attains a cumulative investment in qualified property of at least two hundred fifty thousand dollars but less than one million dollars and hires at least five new employees at the qualified location or locations before the end of the ramp-up period and the number of new employees and investment are at a qualified location within an economic redevelopment area, the taxpayer shall be entitled to a credit equal to six percent times the average wage of new employees times the number of new employees if the average wage of the new employees equals at least seventy percent of the Nebraska statewide average hourly wage for the year of application. Wages in excess of one million dollars paid to any one employee during the year shall be excluded from the calculations under this subdivision. For purposes of this subdivision, economic redevelopment area means an area in which (i) the average rate of unemployment in the area during the period covered by the most recent federal decennial census or American Community Survey 5-Year Estimate is at least one hundred fifty percent of the average rate of unemployment in the state during the same period and (ii) the average poverty rate in the area exceeds twenty percent for the total federal census tract or tracts or federal census block group or block groups in the area.

(5) The taxpayer shall be entitled to one of the following credits for new investment:

(a)(i) If a taxpayer attains a cumulative investment in qualified property of at least one million dollars and hires at least ten new employees at the qualified location or locations before the end of the ramp-up period, the taxpayer shall be entitled to a credit equal to four percent of the investment made in qualified property at the qualified location or locations;

(ii) If the taxpayer attains a cumulative investment in qualified property of at least one million dollars and hires at least ten new employees at the qualified location or locations before the end of the ramp-up period and the number of new employees and investment are at a qualified location in a county in Nebraska with a population of one hundred thousand or greater, and at which the majority of the business activities conducted are described in subdivision (1)(a) or (1)(n) of section 77-6818, the taxpayer shall be entitled to a credit equal to four percent of the investment made in qualified property at the qualified location or locations unless the cumulative investment exceeds ten million dollars, in which case the taxpayer shall be entitled to a credit equal to seven percent of the investment made in qualified property at the qualified location or locations; or

(iii) If the taxpayer attains a cumulative investment in qualified property of at least one million dollars and hires at least ten new employees at the qualified location or locations before the end of the ramp-up period and the number of new employees and investment are at a qualified location entirely within a county in Nebraska with a population of less than one hundred thousand, and at which the majority of the business activities conducted are described in subdivision (1)(a) or (1)(n) of section 77-6818, the taxpayer shall be entitled to a credit equal to four percent of the investment made in qualified property at the qualified location or locations unless the cumulative investment exceeds ten million dollars, in which case the taxpayer shall be entitled to a credit equal to seven percent of the investment made in qualified property at the qualified

location or locations. For purposes of meeting the ten-employee requirement of this subdivision, the number of new employees shall be multiplied by two;

(b) If a taxpayer attains a cumulative investment in qualified property of at least five million dollars and hires at least thirty new employees at the qualified location or locations before the end of the ramp-up period, the taxpayer shall be entitled to a credit equal to seven percent of the investment made in qualified property at the qualified location or locations;

(c) If a taxpayer attains a cumulative investment in qualified property of at least two hundred fifty million dollars and hires at least two hundred fifty new employees at the qualified location or locations before the end of the ramp-up period, the taxpayer shall be entitled to a credit equal to seven percent of the investment made in qualified property at the qualified location or locations; or

(d) If a taxpayer attains a cumulative investment in qualified property of at least two hundred fifty thousand dollars but less than one million dollars and hires at least five new employees at the qualified location or locations before the end of the ramp-up period and the number of new employees and investment are at a qualified location within an economic redevelopment area, the taxpayer shall be entitled to a credit equal to four percent of the investment made in qualified property at the qualified location or locations. For purposes of this subdivision, economic redevelopment area means an area in which (i) the average rate of unemployment in the area during the period covered by the most recent federal decennial census or American Community Survey 5-Year Estimate is at least one hundred fifty percent of the average rate of unemployment in the state during the same period and (ii) the average poverty rate in the area exceeds twenty percent for the total federal census tract or tracts or federal census block group or block groups in the area.

(6)(a) The credit percentages prescribed in subdivisions (4)(a), (b), (c), and (d) and subdivisions (5)(a), (b), and (c) of this section shall be increased by one percentage point for wages paid and investments made at qualified locations in an extremely blighted area. For purposes of this subdivision, extremely blighted area means an area which, before the end of the ramp-up period, has been declared an extremely blighted area under section 18-2101.02.

(b) The credit percentages prescribed in subsections (4) and (5) of this section shall be increased by one percentage point if the taxpayer:

(i) Is a benefit corporation as defined in section 21-403 and has been such a corporation for at least one year prior to submitting an application under the ImagiNE Nebraska Act; and

(ii) Remains a benefit corporation as defined in section 21-403 for the duration of the taxpayer's agreement under the ImagiNE Nebraska Act.

(c) A taxpayer may, if qualified, receive one or both of the increases provided in this subsection.

(7)(a) The credits prescribed in subsections (4) and (5) of this section shall be allowable for wages paid and investments made during each year of the performance period that the taxpayer is at or above the required levels of employment and investment.

(b) The credits prescribed in subsection (5) of this section shall also be allowable during the first year of the performance period for investment in qualified property at the qualified location or locations after the date of the complete application and before the beginning of the performance period.

(8)(a) Property described in subdivision (8)(c) of this section used at the qualified location or locations, whether purchased or leased, and placed in service by the taxpayer after the date of the complete application, shall constitute separate classes of property and are eligible for exemption under the conditions and for the time periods provided in subdivision (8)(b) of this section.

(b) A taxpayer shall receive the exemption of property in subdivision (8)(c) of this section if the taxpayer attains one of the following employment and investment levels: (i) Cumulative investment in qualified property of at least five million dollars and the hiring of at least thirty new employees at the qualified location or locations before the end of the ramp-up period; (ii) cumulative investment in qualified property of at least fifty million dollars at the qualified location or locations before the end of the ramp-up period, provided the average compensation of the taxpayer's employees at the qualified location or locations for the year in which such investment level was attained equals at least one hundred fifty percent of the Nebraska statewide average hourly wage for the year of application and the taxpayer offers to its employees who constitute full-time employees as defined and described in section 4980H of the Internal Revenue Code of 1986, as amended, and the regulations for such section, at the qualified location or locations for the year in which such investment level was attained, the opportunity to enroll in minimum essential coverage under an eligible employer-sponsored plan, as those terms are defined and described in section 5000A of the Internal Revenue Code of 1986, as amended, and the regulations for such section; or (iii) cumulative investment in qualified property of at least two hundred fifty million dollars and the hiring of at least two hundred fifty new employees at the qualified location or locations before the end of the ramp-up period. Such property shall be eligible for the exemption from the first January 1 following the end of the year during which the required levels were exceeded through the ninth December 31 after the first year property included in subdivision (8)(c) of this section qualifies for the exemption, except that for a taxpayer who has filed an application under NAICS code 518210 for Data Processing, Hosting, and Related Services and who files a separate sequential application for the same NAICS code for which the ramp-up period begins with the year immediately after the end of the previous project's performance period or a taxpayer who has a project qualifying under subdivision (1)(b)(ii) of section 77-5725 and who files a separate sequential application for NAICS code 518210 for Data Processing, Hosting, and Related Services for which the ramp-up period begins with the year immediately after the end of the previous project's entitlement period, such property described in subdivision (8)(c)(i) of this section shall be eligible for the exemption from the first January 1 following the placement in service of such property through the ninth December 31 after the year the first claim for exemption is approved.

(c) The following personal property used at the qualified location or locations, whether purchased or leased, and placed in service by the taxpayer after the date of the complete application shall constitute separate classes of personal property:

(i) All personal property that constitutes a data center if the taxpayer qualifies under subdivision (8)(b)(i) or (8)(b)(ii) of this section;

(ii) Business equipment that is located at a qualified location or locations and that is involved directly in the manufacture or processing of agricultural

products if the taxpayer qualifies under subdivision (8)(b)(i) or (8)(b)(ii) of this section; or

(iii) All personal property if the taxpayer qualifies under subdivision (8)(b)(iii) of this section.

(d) In order to receive the property tax exemptions allowed by subdivision (8)(c) of this section, the taxpayer shall annually file a claim for exemption with the Tax Commissioner on or before May 1. The form and supporting schedules shall be prescribed by the Tax Commissioner and shall list all property for which exemption is being sought under this section. A separate claim for exemption must be filed for each agreement and each county in which property is claimed to be exempt. A copy of this form must also be filed with the county assessor in each county in which the applicant is requesting exemption. The Tax Commissioner shall determine whether a taxpayer is eligible to obtain exemption for personal property based on the criteria for exemption and the eligibility of each item listed for exemption and, on or before August 1, certify such determination to the taxpayer and to the affected county assessor.

(9) The taxpayer shall, on or before the receipt or use of any incentives under this section, pay to the director a fee of one-half percent of such incentives, except for the exemption on personal property, for administering the ImagiNE Nebraska Act, except that the fee on any sales tax exemption may be paid by the taxpayer with the filing of its sales and use tax return. Such fee may be paid by direct payment to the director or through withholding of available refunds. A credit shall be allowed against such fee for the amount of the fee paid with the application. All fees collected under this subsection shall be remitted to the State Treasurer for credit to the ImagiNE Nebraska Cash Fund, which fund is hereby created. The fund shall consist of fees credited under this subsection and any other money appropriated to the fund by the Legislature. The fund shall be administered by the Department of Economic Development and shall be used for administration of the ImagiNE Nebraska Act. 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.

Source: Laws 2020, LB1107, § 31.

Operative date January 1, 2021.

Cross References

Local Option Revenue Act, see section 77-27,148.

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska Revenue Act of 1967, see section 77-2701.

Nebraska State Funds Investment Act, see section 72-1260.

Qualified Judgment Payment Act, see section 77-6401.

77-6832 Income tax credits; use; tax incentive credits; use; refund claims; filing requirements; audit; director; Tax Commissioner; powers and duties; appeal.

(1)(a) The credits prescribed in section 77-6831 for a year shall be established by filing the forms required by the Tax Commissioner with the income tax return for the taxable year which includes the end of the year the credits were earned. The credits may be used and shall be applied in the order in which they were first allowable under the ImagiNE Nebraska Act. To the extent the taxpayer has credits under the Nebraska Advantage Act or the Employment and Investment Growth Act still available for use in a year or years which overlap

the performance period or carryover period of the ImagiNE Nebraska Act, the credits may be used and shall be applied in the order in which they were first allowable, and when there are credits of the same age, the older tax incentive program's credits shall be applied first. The credits may be used after any other nonrefundable credits to reduce the taxpayer's income tax liability imposed by sections 77-2714 to 77-27,135. Credits may be used beginning with the taxable year which includes December 31 of the year the required minimum levels were reached. The last year for which credits may be used is the taxable year which includes December 31 of the last year of the carryover period. Any decision on how part of the credit is applied shall not limit how the remaining credit could be applied under this section.

(b) The taxpayer may use the credit provided in subsection (4) of section 77-6831 to reduce the taxpayer's income tax withholding employer or payor tax liability under section 77-2756 or 77-2757, or to reduce a qualified employee leasing company's income tax withholding employer or payor tax liability under such sections, when the taxpayer is the client-lessee of such company, to the extent such liability is attributable to the number of new employees employed at the qualified location or locations, excluding any wages in excess of one million dollars paid to any one employee during the year. To the extent of the credit used, such withholding shall not constitute public funds or state tax revenue and shall not constitute a trust fund or be owned by the state. The use by the taxpayer or the qualified employee leasing company of the credit shall not change the amount that otherwise would be reported by the taxpayer, or such qualified employee leasing company, to the employee under section 77-2754 as income tax withheld and shall not reduce the amount that otherwise would be allowed by the state as a refundable credit on an employee's income tax return as income tax withheld under section 77-2755. The amount of credits used against income tax withholding shall not exceed the withholding attributable to the number of new employees employed at the qualified location or locations, excluding any wages in excess of one million dollars paid to any one employee during the year. If the amount of credit used by the taxpayer or the qualified employee leasing company against income tax withholding exceeds such amount, the excess withholding shall be returned to the Department of Revenue in the manner provided in section 77-2756, such excess amount returned shall be considered unused, and the amount of unused credits may be used as otherwise permitted in this section or shall carry over to the extent authorized in subdivision (1)(g) of this section.

(c) Credits may be used to obtain a refund of sales and use taxes under the Local Option Revenue Act, the Nebraska Revenue Act of 1967, the Qualified Judgment Payment Act, and sections 13-319, 13-324, and 13-2813 that are not subject to direct refund under section 77-6831 and that are paid on purchases, including rentals, for use at a qualified location.

(d) The credits provided in subsections (4) and (5) of section 77-6831 may be used to repay a loan for job training or infrastructure development as provided in section 77-6841.

(e) Credits may be used to obtain a payment from the state equal to the amount which the taxpayer demonstrates to the director was paid by the taxpayer after the date of the complete application for job training and talent recruitment of employees who qualify in the number of new employees, to the extent that proceeds from a loan described in section 77-6841 were not used to make such payments. For purposes of this subdivision:

(i) Job training means training for a prospective or new employee that is provided after the date of the complete application by a Nebraska nonprofit college or university, a Nebraska public or private secondary school, a Nebraska educational service unit, or a company that is not a member of the taxpayer's unitary group or a related person to the taxpayer; and

(ii) Talent recruitment means talent recruitment activities that result in a newly recruited employee who is hired by the taxpayer after the date of the complete application and who is paid compensation during the year of hire at a rate equal to at least one hundred percent of the Nebraska statewide average hourly wage for the year of application, including marketing, relocation expenses, and search-firm fees. Talent recruitment payments that may be reimbursed include, without limitation, payment by the taxpayer, without repayment by the employee, of an employee's student loans, an employee's tuition, and an employee's downpayment on a primary residence in Nebraska. Talent recruitment payments that may be reimbursed shall not include payments for the recruitment of a person who constitutes a related person to the taxpayer when the taxpayer is an individual or recruitment of a person who constitutes a related person to an owner of the taxpayer when the taxpayer is a partnership, a limited liability company, or a subchapter S corporation.

(f) The credits provided in subsections (4) and (5) of section 77-6831 may be used to obtain a payment from the state equal to the amount which the taxpayer demonstrates to the director was paid for taxpayer-sponsored child care at the qualified location or locations during the performance period and the carryover period.

(g) Credits may be carried over until fully utilized through the end of the carryover period.

(2)(a) No refund claims shall be filed until after the required levels of employment and investment have been met.

(b) Refund claims shall be filed no more than once each quarter for refunds under the ImagiNE Nebraska Act, except that any claim for a refund in excess of twenty-five thousand dollars may be filed at any time.

(c) Refund claims for materials purchased by a purchasing agent shall include:

(i) A copy of the purchasing agent appointment;

(ii) The contract price; and

(iii)(A) For refunds under subdivision (2)(a)(iii) or (2)(a)(v) of section 77-6831, a certification by the contractor or repairperson of the percentage of the materials incorporated into or annexed to the qualified location on which sales and use taxes were paid to Nebraska after appointment as purchasing agent; or

(B) For refunds under subdivision (2)(a)(iv) of section 77-6831, a certification by the contractor or repairperson of the percentage of the contract price that represents the cost of materials annexed to the qualified location and the percentage of the materials annexed to the qualified location on which sales and use taxes were paid to Nebraska after appointment as purchasing agent.

(d) All refund claims shall be filed, processed, and allowed as any other claim under section 77-2708, except that the amounts allowed to be refunded under the ImagiNE Nebraska Act shall be deemed to be overpayments and shall be refunded notwithstanding any limitation in subdivision (2)(a) of section 77-2708. The refund may be allowed if the claim is filed within three years from

the end of the year the required levels of employment and investment are met or within the period set forth in section 77-2708. Refunds shall be paid by the Tax Commissioner within one hundred eighty days after receipt of the refund claim. Such payments shall be subject to later recovery by the Tax Commissioner upon audit.

(e) If a claim for a refund of sales and use taxes under the Local Option Revenue Act, the Qualified Judgment Payment Act, or sections 13-319, 13-324, and 13-2813 of more than twenty-five thousand dollars is filed by June 15 of a given year, the refund shall be made on or after November 15 of the same year. If such a claim is filed on or after June 16 of a given year, the refund shall not be made until on or after November 15 of the following year. The Tax Commissioner shall notify the affected city, village, county, or municipal county of the amount of refund claims of sales and use taxes under the Local Option Revenue Act, the Qualified Judgment Payment Act, or sections 13-319, 13-324, and 13-2813 that are in excess of twenty-five thousand dollars on or before July 1 of the year before the claims will be paid under this section.

(f) For refunds of sales and use taxes under the Local Option Revenue Act, the deductions made by the Tax Commissioner for such refunds shall be delayed in accordance with section 77-27,144.

(g) Interest shall not be allowed on any taxes refunded under the ImagiNE Nebraska Act.

(3) The appointment of purchasing agents shall be recognized for the purpose of changing the status of a contractor or repairperson as the ultimate consumer of tangible personal property purchased after the date of the appointment which is physically incorporated into or annexed at a qualified location and becomes the property of the owner of the improvement to real estate or the taxpayer. The purchasing agent shall be jointly liable for the payment of the sales and use tax on the purchases with the owner of the property.

(4) The determination of whether the application is complete, whether a location is a qualified location, and whether to approve the application and sign the agreement shall be made by the director. All other interpretations of the ImagiNE Nebraska Act shall be made by the Tax Commissioner. The Commissioner of Labor shall provide the director with such information as the Department of Labor regularly receives with respect to the taxpayer which the director requests from the Commissioner of Labor in order to fulfill the director's duties under the act. The director shall use such information to achieve efficiency in the administration of the act.

(5) Once the director and the taxpayer have signed the agreement under section 77-6828, the taxpayer, and its owners or members where applicable, may report and claim and shall receive all incentives allowed by the ImagiNE Nebraska Act, subject to the base authority limitations provided in section 77-6839, without waiting for a determination by the director or the Tax Commissioner or other taxing authority that the taxpayer has met the required employment and investment levels or otherwise qualifies, has qualified, or continues to qualify for such incentives, provided that the tax return or claim has been signed by an owner, member, manager, or officer of the taxpayer who declares under penalties of perjury that he or she has examined the tax return or claim, including accompanying schedules and statements, and to the best of his or her knowledge and belief (a) the tax return or claim is correct and complete in all material respects, (b) payment of the claim has not been

previously made by the state to the taxpayer, and (c) with respect to sales or use tax refund claims, the taxpayer has not claimed or received a refund of such tax from a retailer. The payment or allowance of such a claim shall not prevent the director or the Tax Commissioner or other taxing authority from recovering such payment, exemption, or allowance, within the normal period provided by law, subject to normal appeal rights of a taxpayer, if the director or Tax Commissioner or other taxing authority determines upon review or audit that the taxpayer did not qualify for such incentive or exemption.

(6) An audit of employment and investment thresholds and incentive amounts shall be made by the Tax Commissioner to the extent and in the manner determined by the Tax Commissioner. Upon request by the director or the Tax Commissioner, the Commissioner of Labor shall report to the director and the Tax Commissioner the employment data regularly reported to the Department of Labor relating to number of employees and wages paid for each taxpayer. The director and Tax Commissioner, to the extent they determine appropriate, shall use such information to achieve efficiency in the administration of the ImagiNE Nebraska Act. The Tax Commissioner may recover any refund or part thereof which is erroneously made and any credit or part thereof which is erroneously allowed by issuing a deficiency determination within three years from the date of refund or credit or within the period otherwise allowed for issuing a deficiency determination, whichever expires later. The director shall not enter into an agreement with any taxpayer unless the taxpayer agrees to electronically verify the work eligibility status of all newly hired employees employed in Nebraska within ninety days after the date of hire. For purposes of calculating any tax incentive under the act, the hours worked and compensation paid to an employee who has not been electronically verified or who is not eligible to work in Nebraska shall be excluded.

(7) A determination by the director that a location is not a qualified location or a determination by the Tax Commissioner that a taxpayer has failed to meet or maintain the required levels of employment or investment for incentives, exemptions, or recapture, or does not otherwise qualify for incentives or exemptions, may be protested by the taxpayer to the Tax Commissioner within sixty days after the mailing to the taxpayer of the written notice of the proposed determination by the director or the Tax Commissioner, as applicable. If the notice of proposed determination is not protested in writing by the taxpayer within the sixty-day period, the proposed determination is a final determination. If the notice is protested, the Tax Commissioner, after a formal hearing by the Tax Commissioner or by an independent hearing officer appointed by the Tax Commissioner, if requested by the taxpayer in such protest, shall issue a written order resolving such protest. The written order of the Tax Commissioner resolving a protest may be appealed to the district court of Lancaster County in accordance with the Administrative Procedure Act within thirty days after the issuance of the order.

Source: Laws 2020, LB1107, § 32.
Operative date January 1, 2021.

Cross References

Administrative Procedure Act, see section 84-920.
Employment and Investment Growth Act, see section 77-4101.
Local Option Revenue Act, see section 77-27,148.
Nebraska Advantage Act, see section 77-5701.
Nebraska Revenue Act of 1967, see section 77-2701.
Qualified Judgment Payment Act, see section 77-6401.

77-6833 Incentives; recapture or disallowance; conditions; procedure.

(1) If the taxpayer fails to maintain employment and investment levels at or above the levels required in the agreement for the entire performance period, all or a portion of the incentives set forth in the ImagiNE Nebraska Act shall be recaptured or disallowed. For purposes of this section, the average compensation and health coverage requirements of subdivision (1)(c) of section 77-6831 shall be treated as a required level of employment for each year of the performance period.

(2) In the case of a taxpayer who has failed to maintain the required levels of employment or investment for the entire performance period, any reduction in the personal property tax, any refunds in tax or exemptions from tax allowed under section 77-6831, and any refunds or reduction in tax allowed because of the use of a credit allowed under section 77-6831 shall be partially recaptured from either the taxpayer, the owner of the improvement to real estate, or the qualified employee leasing company, and any carryovers of credits shall be partially disallowed. The amount of the recapture for each benefit shall be a percentage equal to the number of years the taxpayer did not maintain the required levels of investment or employment divided by the number of years of the performance period multiplied by the refunds, exemptions, or reductions in tax allowed, reduction in personal property tax, credits used, and the remaining carryovers. In addition, the last remaining year of personal property tax exemption shall be disallowed for each year the taxpayer did not maintain the qualified location or locations at or above the required levels of employment or investment.

(3) If the taxpayer receives any refund, exemption, or reduction in tax to which the taxpayer was not entitled or which was in excess of the amount to which the taxpayer was entitled, the refund, exemption, or reduction in tax shall be recaptured separate from any other recapture otherwise required by this section. Any amount recaptured under this subsection shall be excluded from the amounts subject to recapture under other subsections of this section.

(4) Any refunds, exemptions, or reduction in tax due, to the extent required to be recaptured, shall be deemed to be an underpayment of the tax and shall be immediately due and payable. When tax benefits were received in more than one year, the tax benefits received in the most recent year shall be recovered first and then the benefits received in earlier years up to the extent of the required recapture.

(5)(a) Any personal property tax that would have been due except for the exemption allowed under the ImagiNE Nebraska Act, to the extent it becomes due under this section, shall be considered delinquent and shall be immediately due and payable to the county or counties in which the property was located when exempted.

(b) All amounts received by a county under this section shall be allocated to each taxing unit levying taxes on tangible personal property in the county in the same proportion that the levy on tangible personal property of such taxing unit bears to the total levy of all of such taxing units.

(6) Notwithstanding any other limitations contained in the laws of this state, collection of any taxes deemed to be underpayments by this section shall be allowed for a period of three years after the end of the performance period or three calendar years after the benefit was allowed, whichever is later.

(7) Any amounts due under this section shall be recaptured notwithstanding other allowable credits and shall not be subsequently refunded under any provision of the ImagiNE Nebraska Act unless the recapture was in error.

(8) The recapture required by this section shall not occur if the failure to maintain the required levels of employment or investment was caused by an act of God or a national emergency.

Source: Laws 2020, LB1107, § 33.

Operative date January 1, 2021.

77-6834 Incentives; transferable; when; effect.

(1) The incentives allowed under the ImagiNE Nebraska Act shall not be transferable except in the following situations:

(a) Any credit allowable to a partnership, a limited liability company, a subchapter S corporation, a cooperative, including a cooperative exempt under section 521 of the Internal Revenue Code of 1986, as amended, a limited cooperative association, or an estate or trust may be distributed to the partners, members, shareholders, patrons, or beneficiaries in the same manner as income is distributed for use against their income tax liabilities, and such partners, members, shareholders, or beneficiaries shall be deemed to have made an underpayment of their income taxes for any recapture required by section 77-6833. A credit distributed shall be considered a credit used and the partnership, limited liability company, subchapter S corporation, cooperative, including a cooperative exempt under section 521 of the Internal Revenue Code of 1986, as amended, limited cooperative association, estate, or trust shall be liable for any repayment required by section 77-6833;

(b) The credit prescribed in subsection (4) of section 77-6831 may be transferred to a qualified employee leasing company from a taxpayer who is a client-lessee of the qualified employee leasing company with employees performing services at the qualified location or locations of the client-lessee. The credits transferred must be designated for a specific year and cannot be carried forward by the qualified employee leasing company. The credits may only be used by the qualified employee leasing company to offset the income tax withholding liability under section 77-2756 or 77-2757 for withholding for employees performing services for the client-lessee at the qualified location or locations. The offset to such withholding liability must be computed in accordance with subdivision (1)(b) of section 77-6832 based on wages paid to the employees by the qualified employee leasing company, and not the amount paid to the qualified employee leasing company by the client-lessee; and

(c) The incentives previously allowed and the future allowance of incentives may be transferred when an agreement is transferred in its entirety by sale or lease to another taxpayer or in an acquisition of assets qualifying under section 381 of the Internal Revenue Code of 1986, as amended.

(2) The acquiring taxpayer, as of the date of notification to the director of the completed transfer, shall be entitled to any unused credits and to any future incentives allowable under the ImagiNE Nebraska Act.

(3) The acquiring taxpayer shall be liable for any recapture that becomes due after the date of the transfer for the repayment of any benefits received either before or after the transfer.

(4) If a taxpayer dies and there is a credit remaining after the filing of the final return for the taxpayer, the personal representative shall determine the distribution of the credit or any remaining carryover with the initial fiduciary return filed for the estate. The determination of the distribution of the credit may be changed only after obtaining the permission of the director.

(5) The director may disclose information to the acquiring taxpayer about the agreement and prior benefits that is reasonably necessary to determine the future incentives and liabilities of the taxpayer.

Source: Laws 2020, LB1107, § 34.
Operative date January 1, 2021.

77-6835 Refunds; interest not allowable.

Interest shall not be allowable on any refunds paid because of benefits earned under the ImagiNE Nebraska Act.

Source: Laws 2020, LB1107, § 35.
Operative date January 1, 2021.

77-6836 Application; valid; when; director; Tax Commissioner; powers and duties.

(1) Any complete application shall be considered a valid application on the date submitted for the purposes of the ImagiNE Nebraska Act.

(2) The director shall be allowed access, by the Tax Commissioner, to information associated with the Nebraska Advantage Act, the Nebraska Advantage Rural Development Act, and the Employment and Investment Growth Act to meet the director's obligations under the ImagiNE Nebraska Act.

(3) The director may contract with the Tax Commissioner for services that the director determines are necessary to fulfill the director's responsibilities under the ImagiNE Nebraska Act, other than services which constitute the actual actions and decisions required to be taken or made by the director under the ImagiNE Nebraska Act.

(4) The Tax Commissioner shall develop and maintain an electronic application and reporting system to be used by the director and Tax Commissioner to administer the ImagiNE Nebraska Act.

Source: Laws 2020, LB1107, § 36.
Operative date January 1, 2021.

Cross References

Employment and Investment Growth Act, see section 77-4101.

Nebraska Advantage Act, see section 77-5701.

Nebraska Advantage Rural Development Act, see section 77-27,187.

77-6837 Reports; joint hearing.

(1) Beginning in 2021, the director and the Tax Commissioner shall jointly submit electronically an annual report for the previous fiscal year to the Legislature no later than October 31 of each year. The report shall be on a fiscal year, accrual basis that satisfies the requirements set by the Governmental Accounting Standards Board. The Department of Economic Development and the Department of Revenue shall together, on or before December 15 of each year, appear at a joint hearing of the Appropriations Committee of the Legislature and the Revenue Committee of the Legislature and present the

report. Any supplemental information requested by three or more committee members shall be presented within thirty days after the request.

(2) The report shall list (a) the agreements which have been signed during the previous year, (b) the agreements which are still in effect, (c) the identity of each taxpayer who is party to an agreement, and (d) the qualified location or locations.

(3) The report shall also state, for taxpayers who are parties to agreements, by industry group (a) the specific incentive options applied for under the ImagiNE Nebraska Act, (b) the refunds and reductions in tax allowed on the investment, (c) the credits earned, (d) the credits used to reduce the corporate income tax and the credits used to reduce the individual income tax, (e) the credits used to obtain sales and use tax refunds, (f) the credits used against withholding liability, (g) the credits used for job training, (h) the credits used for infrastructure development, (i) the number of jobs created under the act, (j) the expansion of capital investment, (k) the estimated wage levels of jobs created under the act subsequent to the application date, (l) the total number of qualified applicants, (m) the projected future state revenue gains and losses, (n) the sales tax refunds owed, (o) the credits outstanding under the act, (p) the value of personal property exempted by class in each county under the act, (q) the total amount of the payments, (r) the amount of workforce training and infrastructure development loans issued, outstanding, repaid, and delinquent, and (s) the value of health coverage provided to employees at qualified locations during the year who are not base-year employees and who are paid the required compensation. The report shall include the estimate of the amount of sales and use tax refunds to be paid and tax credits to be used as were required for the October forecast under section 77-6839.

(4) In estimating the projected future state revenue gains and losses, the report shall detail the methodology utilized, state the economic multipliers and industry multipliers used to determine the amount of economic growth and positive tax revenue, describe the analysis used to determine the percentage of new jobs attributable to the ImagiNE Nebraska Act, and identify limitations that are inherent in the analysis method.

(5) The report shall provide an explanation of the audit and review processes of the Department of Economic Development and the Department of Revenue, as applicable, in approving and rejecting applications or the grant of incentives and in enforcing incentive recapture. The report shall also specify the median period of time between the date of application and the date the agreement is executed for all agreements executed by December 31 of the prior year.

(6) The report shall provide information on agreement-specific total incentives used every two years for each agreement. The report shall disclose (a) the identity of the taxpayer, (b) the qualified location or locations, and (c) the total credits used and refunds approved during the immediately preceding two years expressed as a single, aggregated total. The incentive information required to be reported under this subsection shall not be reported for the first year the taxpayer attains the required employment and investment thresholds. The information on first-year incentives used shall be combined with and reported as part of the second year. Thereafter, the information on incentives used for succeeding years shall be reported for each agreement every two years containing information on two years of credits used and refunds approved. The incentives used shall include incentives which have been approved by the

director or Tax Commissioner, as applicable, but not necessarily received, during the previous two years.

(7) The report shall include an executive summary which shows aggregate information for all agreements for which the information on incentives used in subsection (6) of this section is reported as follows: (a) The total incentives used by all taxpayers for agreements detailed in subsection (6) of this section during the previous two years; (b) the number of agreements; (c) the new jobs at the qualified location or locations for which credits have been granted; (d) the average compensation paid to employees in the state in the year of application and for the new jobs at the qualified location or locations; and (e) the total investment for which incentives were granted. The executive summary shall summarize the number of states which grant investment tax credits, job tax credits, sales and use tax refunds for qualified investment, and personal property tax exemptions and the investment and employment requirements under which they may be granted.

(8) No information shall be provided in the report or in supplemental information that is protected by state or federal confidentiality laws.

Source: Laws 2020, LB1107, § 37.

Operative date January 1, 2021.

77-6838 Rules and regulations.

Except as otherwise stated in the ImagiNE Nebraska Act, the director, with input from the Tax Commissioner, may adopt and promulgate all procedures and rules and regulations necessary to carry out the purposes of the ImagiNE Nebraska Act.

Source: Laws 2020, LB1107, § 38.

Operative date January 1, 2021.

77-6839 Tax incentives; estimates required; when; exceed base authority; limit on applications.

(1) The Department of Economic Development and the Department of Revenue shall jointly, on or before the fifteenth day of October and February of every year and the fifteenth day of April in odd-numbered years, make an estimate of the amount of sales and use tax refunds to be paid and tax credits to be used under the ImagiNE Nebraska Act during the fiscal years to be forecast under section 77-27,158. The estimate shall be based on the most recent data available, including pending and approved applications and updates thereof as are required by subdivision (1)(f) of section 77-6828. The estimate shall be forwarded to the Legislative Fiscal Analyst and the Nebraska Economic Forecasting Advisory Board and made a part of the advisory forecast required by section 77-27,158.

(2)(a) In addition to the estimates required under subsection (1) of this section, the Department of Economic Development shall, on or before the fifteenth day of October and February of every year, make an estimate of the amount of sales and use tax refunds to be paid and tax credits to be used under the ImagiNE Nebraska Act for each of the upcoming three calendar years and shall report such estimate to the Governor. The estimate shall be based on the most recent data available, including pending and approved applications and updates thereof as are required by subdivision (1)(f) of section 77-6828. If the estimate for any such calendar year exceeds the base authority:

(i) The Department of Economic Development shall prepare an analysis explaining why the estimate exceeds the base authority. The department shall include such analysis in the report it submits to the Governor under this subsection; and

(ii) The director shall not approve any additional applications under the ImagiNE Nebraska Act that would include refunds or credits in the calendar year in which the base authority is projected to be exceeded. Applications shall be considered in the order in which they are received. Any applications that are not approved because the base authority has been exceeded shall be placed on a wait list in the order in which they were received and shall be given first priority once applications may again be approved.

(b) For purposes of this section, base authority means the total amount of refunds and credits that may be approved in any calendar year. Notwithstanding any other provision of the ImagiNE Nebraska Act to the contrary, no refunds may be paid and no credits may be used in any calendar year in excess of the base authority for such calendar year. The base authority shall be equal to twenty-five million dollars for calendar years 2021 and 2022, one hundred million dollars for calendar years 2023 and 2024, and one hundred fifty million dollars for calendar year 2025. Beginning with calendar year 2026 and every three years thereafter, the director shall adjust the base authority to an amount equal to three percent of the actual General Fund net receipts for the most recent fiscal year for which such information is available. Any amount of base authority that is unused in a calendar year shall carry forward to the following calendar year and shall be added to the limit applicable to such following calendar year, except that in no case shall the base authority for any calendar year prior to 2026 exceed four hundred million dollars.

Source: Laws 2020, LB1107, § 39.

Operative date January 1, 2021.

77-6840 Employment and wage data information; Department of Labor; duty.

The Department of Labor shall, as requested, provide to the director and the Tax Commissioner the employment and wage data information necessary to meet the responsibilities of the director and Tax Commissioner under the ImagiNE Nebraska Act, to the extent the Department of Labor collects such information.

Source: Laws 2020, LB1107, § 40.

Operative date January 1, 2021.

77-6841 Workforce training and infrastructure development; revolving loan program; legislative findings; Department of Economic Development; duties; ImagiNE Nebraska Revolving Loan Fund; created; use; investment.

(1) The Legislature finds that providing job training is critical to the public purpose of attracting and retaining businesses and that the growth of high-paying jobs in Nebraska is limited by an unmet need for workforce training and infrastructure development. The Legislature further finds that many communities in Nebraska lack the infrastructure, including broadband access, necessary to provide high-paying jobs for residents. The Legislature further finds that workforce training and infrastructure development help businesses and improve the quality of life for workers and communities in Nebraska. Because

there is a statewide benefit from workforce training and infrastructure development, the Legislature intends to provide a revolving loan program as a rational means to address these needs.

(2) The Department of Economic Development shall establish and administer a revolving loan program for workforce training and infrastructure development expenses to be incurred by applicants for incentives under the ImagiNE Nebraska Act.

(3) The ImagiNE Nebraska Revolving Loan Fund is hereby created. The fund shall receive money from appropriations from the Legislature, grants, private contributions, repayment of loans, and all other sources. 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. It is the intent of the Legislature to transfer five million dollars from the General Fund to the ImagiNE Nebraska Revolving Loan Fund for fiscal years 2022-23 and 2023-24 for purposes of carrying out the workforce training and infrastructure development revolving loan program pursuant to the ImagiNE Nebraska Act. It is the intent of the Legislature to appropriate five million dollars for fiscal years 2022-23 and 2023-24 for purposes of carrying out the workforce training and infrastructure development revolving loan program pursuant to the ImagiNE Nebraska Act.

(4) The Department of Economic Development, as part of its comprehensive business development strategy, shall administer the ImagiNE Nebraska Revolving Loan Fund and may loan funds to applicants under the ImagiNE Nebraska Act to secure new, high-paying jobs in Nebraska based on the criteria established in sections 77-6842 and 77-6843. Loans made to applicants under the ImagiNE Nebraska Act and interest on such loans may be repaid using credits earned under the ImagiNE Nebraska Act. If that occurs, the Department of Revenue shall certify the credit usage to the State Treasurer, who shall, within thirty days, transfer the amount of the credit used from the General Fund to the ImagiNE Nebraska Revolving Loan Fund.

(5) If a taxpayer with an agreement under the ImagiNE Nebraska Act obtains a loan under this section and fails to attain the required minimum number of new employees, minimum compensation, and minimum required cumulative investment necessary for that taxpayer to earn a credit, the principal and interest of the loan shall be considered an underpayment of tax and may be recovered by the Department of Revenue.

(6) Whether repaid using credits or repaid directly by the recipient of the loan, loans made from the ImagiNE Nebraska Revolving Loan Fund shall be repaid with interest at the rate established in section 45-102.

Source: Laws 2020, LB1107, § 41.

Operative date January 1, 2021.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

77-6842 Workforce training loan; application; partnering entities; loan approval; factors considered.

(1) A taxpayer with an application under the ImagiNE Nebraska Act may apply for a workforce training loan by submitting an application to the Department of Economic Development which includes, but is not limited to:

(a) The number of jobs to be created that will require training or the number of existing positions that will be trained;

(b) The nature of the business and the type of jobs to be created that will require training or positions to be trained;

(c) The estimated wage levels of the jobs to be created or positions to be trained; and

(d) A program schedule for the workforce training project.

(2) A taxpayer may partner with a postsecondary educational institution in Nebraska, a private, nonprofit educational organization in Nebraska holding a certificate of exemption under section 501(c)(3) of the Internal Revenue Code of 1986, as amended, a Nebraska educational service unit, or a school district in Nebraska to assist in providing the workforce training. The application shall specify the role of the partnering entity in identifying and training potential job applicants for the applicant business.

(3) The director shall determine whether to approve the taxpayer's application for a workforce training loan under the ImagiNE Nebraska Act based upon the director's determination as to whether the loan will help enable the state to accomplish the purposes stated in section 77-6841. The director shall be governed by and shall take into consideration all of the following factors in making such determination:

(a) The department's comprehensive business development strategy;

(b) The necessity of the loan to assure that the applicant will expand employment in Nebraska;

(c) The number of jobs to be created; and

(d) The expected pay of the jobs to be created.

Source: Laws 2020, LB1107, § 42.

Operative date January 1, 2021.

77-6843 Infrastructure development loan; application; approval; factors considered.

(1) A taxpayer with an application under the ImagiNE Nebraska Act may apply for an infrastructure development loan by submitting an application to the Department of Economic Development which includes, but is not limited to:

(a) The nature of the business and the type and number of jobs to be created or retained;

(b) The estimated wage levels of the jobs to be created or retained; and

(c) A brief description of the infrastructure need that the loan is intended to fill.

(2) The director shall determine whether to approve the taxpayer's application for an infrastructure development loan under the ImagiNE Nebraska Act based upon the director's determination as to whether the loan will help enable the state to accomplish the purposes stated in section 77-6841. The director shall be governed by and shall take into consideration all of the following factors in making such determination:

(a) The department's comprehensive business development strategy;

(b) The necessity of the loan to assure that the applicant will expand employment in Nebraska;

- (c) The number of jobs to be created; and
- (d) The expected pay of the jobs to be created.

Source: Laws 2020, LB1107, § 43.
Operative date January 1, 2021.