

LEGISLATIVE BILL 4

Approved by the Governor January 26, 1979

Introduced by Marvel, 33, Chmn., Executive Board

AN ACT to amend section 71-162, Reissue Revised Statutes of Nebraska, 1943, as amended by Laws 1978, LB 406, section 12 and LB 689, section 1; to correlate sections (1) 46-612.01, Reissue Revised Statutes of Nebraska, 1943, as amended by Laws 1977, LB 40, section 267 and LB 421, section 1, (2) 48-511, Reissue Revised Statutes of Nebraska, 1943, as amended by Laws 1977, LB 40, section 288 and LB 162, section 9, (3) 48-513, Reissue Revised Statutes of Nebraska, 1943, as amended by Laws 1977, LB 40, section 289 and LB 162, section 11, (4) 48-1118, Reissue Revised Statutes of Nebraska, 1943, as amended by Laws 1977, LB 40, section 301 and LB 161, section 12, (5) 60-407, Reissue Revised Statutes of Nebraska, 1943, as amended by Laws 1977, LB 39, section 76 and LB 314, section 6, and (6) 77-3009, Reissue Revised Statutes of Nebraska, 1943, as amended by Laws 1977, LB 39, section 245 and LB 353, section 4; to harmonize provisions with the Nebraska Criminal Code; to repeal the original sections, and also Laws 1977, LB 305, section 8; and to declare an emergency.

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

Section 1. That section 46-612.01, Reissue Revised Statutes of Nebraska, 1943, as amended by Laws 1977, LB 40, section 267 and LB 421, section 1, be correlated to read as follows:

46-612.01. Any person who shall place or permit any fertilizer material as defined in section 81-2, 162.02 or pesticide chemical as defined in section 81-217.12, in an irrigation system without a mechanical device on the well pump to protect the underground water supply from contamination in the event such well pump ceases to operate shall be guilty of a Class IV misdemeanor.

Sec. 2. That section 48-511, Reissue Revised Statutes of Nebraska, 1943, as amended by Laws 1977, LB 40, section 288 and LB 162, section 9, be correlated to read as follows:

48-511. Any private employment agency, or agent thereof, who shall be guilty of dividing fees with any

superintendent, manager, foreman or other employees of any person, company, corporation or association, for whom employees are furnished shall be guilty of a Class III misdemeanor. Upon conviction, his license shall be revoked at once by the Commissioner of Labor.

Sec. 3. That section 48-513, Reissue Revised Statutes of Nebraska, 1943, as amended by Laws 1977, LB 40, section 289 and LB 162, section 11, be correlated to read as follows:

48-513. It shall be the duty of the Commissioner of Labor to enforce sections 48-503 to 48-508 and 48-510 to 48-514. When informed of any violation thereof it shall be his duty to investigate the same, as hereinbefore provided, and he may institute criminal proceedings for enforcement of its penalties before any court of competent jurisdiction. Any person convicted of a violation of the provisions of said sections, not otherwise provided for, shall be guilty of a Class III misdemeanor. For a conviction of a second offense his license shall be revoked. Any person or persons who shall knowingly send any female help or servant to any place of bad repute, house of ill fame or assignation house, or to any house or place of amusement kept for immoral purposes, shall be guilty of a Class III misdemeanor and no license to operate a private employment agency shall be issued to such party and any such existing license shall be permanently canceled.

Sec. 4. That section 48-1118, Reissue Revised Statutes of Nebraska, 1943, as amended by Laws 1977, LB 40, section 301 and LB 161, section 12, be correlated to read as follows:

48-1118. (1) Whenever it is charged in writing under oath by or on behalf of a person or persons claiming to be aggrieved, and such charge sets forth the facts upon which it is based, that an employer, employment agency, or labor organization has engaged in an unlawful employment practice, the commission shall furnish such employer, employment agency, or labor organization with a copy of such charge within ten days, including a statement of the date, place, and circumstances of the alleged unlawful employment practice, and shall make an investigation of such charge, but such charge shall not be made public by the commission. If the commission shall determine, after such investigation, that there is reasonable cause to believe that the charge is true, the commission shall endeavor to eliminate any such alleged unlawful employment practice by informal methods of conference, conciliation, and persuasion. Nothing said or done

during and as a part of such endeavors may be made public by the commission without the written consent of the parties, or used as evidence in a subsequent proceeding. Any officer or employee of the commission, who shall make public in any manner whatever any information in violation of this subsection shall be guilty of a Class III misdemeanor, except as provided in subdivision (3) of section 48-1117.

(2) A written charge of violation of sections 48-1101 to 48-1125 shall be filed within one hundred eighty days after the occurrence of the alleged unlawful employment practice and notice of the charge, including a statement of the date, place, and circumstances of the alleged unlawful employment practice, shall be served upon the person against whom such charge is made within ten days thereafter.

(3) In connection with any investigation of a charge filed under this section, the commission or its authorized agents may, at any time after a complaint is filed, issue or cause to be served interrogatories and shall have at all reasonable times access to, for the purposes of examination, and the right to copy, any evidence or records of any person being investigated or proceeded against that relates to unlawful employment practices covered by sections 48-1101 to 48-1125 and is relevant to the charge under investigation. The commission may seek judicial enforcement through the office of the Attorney General to require the answering of interrogatories and in order to gain access to evidence or records.

Sec. 5. That section 60-407, Reissue Revised Statutes of Nebraska, 1943, as amended by Laws 1977, LB 39, section 76 and LB 314, section 6, be correlated to read as follows:

60-407. (1) No license or permit to operate a motor vehicle shall be granted to any applicant until such applicant satisfies the examiner that he possesses, with or without the aid of glasses, sufficient powers of eyesight to enable him to operate a motor vehicle on the highways of this state with a reasonable degree of safety. If, from the examination given any applicant, it appears that the applicant's powers of eyesight are such that he cannot operate a motor vehicle on the highways of this state with a reasonable degree of safety, the examiner shall require the applicant to present a doctor's or optometrist's certificate to the effect that the applicant has sufficient powers of eyesight for such purpose before issuing a license to such applicant. If it is indicated by such examination by the examiner or by

the doctor's or optometrist's certificate that the applicant must wear glasses to meet the minimum visual standards set by the department, then the applicant shall have the use of any license issued to him restricted to wearing glasses while operating a motor vehicle. If the application to operate a motor vehicle required by this act discloses that the applicant for such license suffers from any other physical defect or defects of a character which may affect the safety of operation by such applicant of a motor vehicle, the examiner shall require such applicant to show cause why such license should be granted, and shall require such applicant, 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 public highways. If the examiner is satisfied, after such demonstration, that such applicant has the ability to safely operate such 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. The director may, at the request of a law enforcement officer, or when he has reason to believe that such person may be physically or mentally incompetent to operate a motor vehicle or whose driving record appears to the department to justify such examination, give notice to the holder of an operator's license to appear before an examiner for examination to operate a motor vehicle safely. A refusal to appear before an examiner for such examination shall be unlawful. If such license holder cannot qualify at such examination, his operator's license shall be immediately surrendered to such examiner and forwarded to the director who shall cancel his license and privilege to operate a motor vehicle; provided, that a refusal to appear before an examiner for examination after notice to do so or to surrender an operator's license on demand, shall be unlawful and any person failing to surrender his operator's license as required by the provisions of this section shall be guilty of a Class III misdemeanor. No operator's license referred to in this subsection shall, under any circumstances, be issued to any person who has not attained the age of sixteen years but, upon application therefor and proof of age in the manner provided in subsection (3) of this section, any such person may take the examination required by this subsection at any time within sixty days prior to his sixteenth birthday.

(2) A person who has not attained the age set forth in subsection (1) of this section but is over the age of fourteen years, except within metropolitan, primary, and first-class cities, may be issued, by the

county treasurer, a limited permit to drive a motor vehicle or motorcycle to and from the school building where he attends school, by the nearest highway or street from his place of residence, if such child lives a distance of one and one half miles or more from such school. Such limited permit shall be used for the sole purpose of transporting such person to attend school, except that the holder of such a permit may drive under the personal supervision of his parents or guardian; Provided, such a permit shall not be issued until such person has appeared before an examiner to demonstrate that he is capable of successfully operating a motor vehicle or motorcycle and has in his possession an examiner's certificate authorizing the county treasurer to issue a school permit. Any such person desiring such limited permit may first obtain a learner's permit from the county treasurer, which permit shall be valid for a period of two months. While holding such a permit, the person may operate a motor vehicle on the highways of this state if he has seated next to him a person who is a licensed operator or, in the case of a motorcycle, if he is within visual contact with and is under the supervision of a person who is a licensed motorcycle operator. Such licensed motor vehicle or motorcycle operator shall either be a parent or guardian of the child or a person over the age of nineteen years who is authorized in writing by the child's parent or guardian to supervise the actions of the child in operating the vehicle. Prior to issuance of such learner's permit it shall be required that such person demonstrate that he has sufficient powers of eyesight to safely operate a motor vehicle or motorcycle.

(3) Each individual, under the age of nineteen years, who is making an application for his first operator's license or a limited or learner's permit, must furnish proof of age, either by birth certificate or written information signed by one of his parents or his guardian, to show that such applicant has attained the age, respectively, as required by subsection (1) or (2) of this section. All licenses and limited permits issued, as provided by subsection (2) of this section, shall be subject to revocation under the terms of section 60-427, and any person who shall violate the terms of such license or limited permit shall be deemed guilty of a Class III misdemeanor.

(4) Any person who shall have attained the age of fifteen years or more may obtain a learner's permit from the county treasurer which shall be valid for a period of twelve months and he may operate a motor vehicle on the highways of this state if he is accompanied at all times by a licensed operator who is at least nineteen years of

age and who is actually occupying the seat beside the driver or, in the case of a motorcycle, if he is within visual contact with and under the supervision of a licensed motorcycle operator. Any person who shall have attained the age of fourteen years may operate a motor vehicle over the highways of the state if he is accompanied or, in the case of a motorcycle, supervised, at all times by a licensed operator who shall be a high school driver training instructor certified by the Commissioner of Education.

(5) Any person who is thirteen years of age or older and resides upon a farm in this state or who is fourteen years of age or older and who is employed for compensation upon a farm in this state may obtain a special permit authorizing the operation of farm tractors and other motorized implements of farm husbandry upon the public highways and roads of this state, if the applicant for such a restricted permit furnishes to a license examiner satisfactory proof of age and satisfactorily demonstrates to the examiner that he 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 and public roads 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 Motor Vehicles of a request for such temporary permit signed by such person's parent or guardian and payment of one dollar. After the expiration of such six-month period it shall be unlawful for any person under sixteen years of age to operate such equipment upon the public highways and roads of this state unless he has been issued a special permit under the provisions of this subsection. The fee for such special permit shall be two dollars, and such special permit shall be subject to revocation for cause.

(6) The county treasurer shall collect a fee of one dollar from each successful applicant for a school or learner's permit.

Sec. 6. That section 71-162, Reissue Revised Statutes of Nebraska, 1943, as amended by Laws 1973, LB 406, section 12 and LB 689, section 1, be amended to read as follows:

71-162. The following fees shall be collected by the Department of Health and turned in to the state treasury as is now provided by law:

(1) For a license to practice osteopathy and dental hygiene issued upon the basis of an examination

given by the board of examiners, twenty-five dollars:

(2) For a license to practice medicine and surgery issued upon the basis of an examination given by the board of examiners or without examination based on a license granted in another state, territory, or the District of Columbia, one hundred dollars and this may be adjusted by the Department of Health upon recommendation of the Board of Examiners in Medicine and Surgery to cover necessary expenses;

(3) For a license to practice embalming issued upon the basis of an examination given by the board of examiners, thirty dollars;

(4) For a license to practice physical therapy issued upon the basis of an examination given by the board of examiners, thirty-five dollars;

(5) For a license to practice dentistry, podiatry, or optometry issued upon the basis of an examination given by the board of examiners, fifty dollars;

(6) For a license to practice pharmacy issued upon the basis of an examination given by the board of examiners, sixty-five dollars;

(7) For a license to practice chiropractic issued upon the basis of an examination given by the board of examiners, seventy-five dollars;

(8) For a license to practice any of the professions enumerated in subdivisions (1), (3), (4), (5), and (7) of this section, except podiatry, dentistry, and dental hygiene, issued without examination upon a license granted in another state, territory, or the District of Columbia, fifty dollars;

(9) For a license issued to practice dentistry without examination upon a license granted in another state, territory, or the District of Columbia, fifty dollars;

(10) For a license issued to practice podiatry when based upon an examination held by the National Board of Podiatry Examiners, fifty dollars;

~~(10)~~ (11) For a license to practice audiology or speech pathology issued upon the basis of an examination given by the board of examiners, seventy-five dollars;

{41} 112 For a license to practice podiatry issued without an examination based upon a license granted in another state, territory, or the District of Columbia, one hundred dollars;

{42} 113 For a license to practice pharmacy issued without an examination upon a license granted in another state, territory, or the District of Columbia, one hundred dollars;

{43} 114 For a license to practice dental hygiene issued without examination upon a license granted in another state, territory, or the District of Columbia, twenty-five dollars;

{44} 115 For a license to practice audiology or speech pathology issued without examination upon a license granted in another state, territory, or the District of Columbia, or when examination is waived or a national examination is used, seventy-five dollars;

{44} 116 For the annual renewal of a license to practice any of the professions enumerated in this section the fee shall be as follows: Dental hygiene, osteopathy, physical therapy, and embalming, ten dollars; optometry, audiology, and speech pathology, twenty-five dollars; and chiropractic, podiatry, pharmacy, dentistry, and medicine and surgery, fifteen dollars. All money paid as license and renewal fees shall be kept in a separate fund to be used for the benefit of the profession so paying such fees;

{45} 117 For a certified statement that a licensee is licensed in this state, two dollars; and

{46} 118 For a duplicate original license, two dollars.

Sec. 7. That section 77-3009, Reissue Revised Statutes of Nebraska, 1943, as amended by Laws 1977, LB 39, section 245 and LB 353, section 4, be correlated to read as follows:

77-3009. (1) Any person who places a mechanical amusement device in operation in the State of Nebraska without the necessary decal being placed conspicuously upon it shall be subject to an administrative penalty of thirty dollars for each violation.

(2) Any mechanical amusement device which does not have the necessary decal conspicuously displayed upon it shall be subject to being sealed by the Tax Commissioner or his delegate. If such seal is broken

prior to payment of the occupation tax upon such device, the device shall be subject to forfeiture and sale by the Tax Commissioner.

(3) Any person violating any of the provisions of sections 77-3001 to 77-3011 shall be deemed guilty of a Class II misdemeanor. Each day on which any person shall engage in or conduct the business of operating or distributing the machines or devices subject to the provisions of sections 77-3001 to 77-3011, without having paid the tax as provided, shall constitute a separate offense.

Sec. 8. That original section 71-162, Reissue Revised Statutes of Nebraska, 1943, as amended by Laws 1978, LB 406, section 12 and LB 689, section 1, and sections (1) 46-612.01, Reissue Revised Statutes of Nebraska, 1943, as amended by Laws 1977, LB 40, section 267 and LB 421, section 1, (2) 48-511, Reissue Revised Statutes of Nebraska, 1943, as amended by Laws 1977, LB 40, section 288 and LB 162, section 9, (3) 48-513, Reissue Revised Statutes of Nebraska, 1943, as amended by Laws 1977, LB 40, section 289 and LB 162, section 11, (4) 48-1118, Reissue Revised Statutes of Nebraska, 1943, as amended by Laws 1977, LB 40, section 301 and LB 161, section 12, (5) 60-407, Reissue Revised Statutes of Nebraska, 1943, as amended by Laws 1977, LB 39, section 76 and LB 314, section 6, and (6) 77-3009, Reissue Revised Statutes of Nebraska, 1943, as amended by Laws 1977, LB 39, section 245 and LB 353, section 4, and also Laws 1977, LB 305, section 8, are repealed.

Sec. 9. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.