

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 726

Introduced by Fischer, 43; Hadley, 37.

Read first time January 04, 2012

Committee: Transportation and Telecommunications

A BILL

1 FOR AN ACT relating to the Department of Motor Vehicles; to amend
2 sections 60-3,205, 60-486, 60-4,100, 60-4,130.03,
3 60-4,167, 60-4,167.01, 60-4,170, 60-4,184, 60-507, and
4 66-1406.02, Reissue Revised Statutes of Nebraska, and
5 section 60-4,114, Revised Statutes Supplement, 2011; to
6 eliminate certain certified and registered mail
7 requirements of the department; and to repeal the
8 original sections.

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

1 Section 1. Section 60-3,205, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 60-3,205 (1)(a) The director may suspend, revoke, cancel,
4 or refuse to issue or renew a registration certificate under the
5 International Registration Plan Act:

6 (i) If the applicant or certificate holder has had his or
7 her license issued under the International Fuel Tax Agreement Act
8 revoked or the director refused to issue or refused to renew such
9 license; or

10 (ii) If the applicant or certificate holder is in
11 violation of sections 75-392 to 75-399.

12 (b) Prior to taking action under this section, the
13 director shall notify and advise the applicant or certificate holder
14 of the proposed action and the reasons for such action in writing, by
15 ~~registered or certified~~ regular United States mail, to his or her
16 last-known business address as shown on the application for the
17 certificate or renewal. The notice shall also include an advisement
18 of the procedures in subdivision (c) of this subsection.

19 (c) The applicant or certificate holder may, within
20 thirty days after the date of the mailing of the notice, petition the
21 director for a hearing to contest the proposed action. The hearing
22 shall be commenced in accordance with the rules and regulations
23 adopted and promulgated by the department. If a petition is filed,
24 the director shall, within twenty days after receipt of the petition,
25 set a hearing date at which the applicant or certificate holder may

1 show cause why the proposed action should not be taken. The director
2 shall give the applicant or certificate holder reasonable notice of
3 the time and place of the hearing. If the director's decision is
4 adverse to the applicant or certificate holder, the applicant or
5 certificate holder may appeal the decision in accordance with the
6 Administrative Procedure Act.

7 (d) Except as provided in subsections (2) and (3) of this
8 section, the filing of the petition shall stay any action by the
9 director until a hearing is held and a final decision and order is
10 issued.

11 (e) Except as provided in subsections (2) and (3) of this
12 section, if no petition is filed at the expiration of thirty days
13 after the date on which the notification was mailed, the director may
14 take the proposed action described in the notice.

15 (f) If, in the judgment of the director, the applicant or
16 certificate holder has complied with or is no longer in violation of
17 the provisions for which the director took action under this
18 subsection, the director may reinstate the registration certificate
19 without delay.

20 (2)(a) The director may suspend, revoke, cancel, or
21 refuse to issue or renew a registration certificate under the
22 International Registration Plan Act or a license under the
23 International Fuel Tax Agreement Act if the applicant, licensee, or
24 certificate holder has issued to the department a check or draft
25 which has been returned because of insufficient funds, no funds, or a

1 stop-payment order. The director may take such action no sooner than
2 seven days after the written notice required in subdivision (1)(b) of
3 this section has been provided. Any petition to contest such action
4 filed pursuant to subdivision (1)(c) of this section shall not stay
5 such action of the director.

6 (b) If the director takes an action pursuant to this
7 subsection, the director shall reinstate the registration certificate
8 or license without delay upon the payment of certified funds by the
9 applicant, licensee, or certificate holder for any fees due and
10 reasonable administrative costs, not to exceed twenty-five dollars,
11 incurred in taking such action.

12 (c) The rules, regulations, and orders of the director
13 and the department that pertain to hearings commenced in accordance
14 with this section and that are in effect prior to March 17, 2006,
15 shall remain in effect, unless changed or eliminated by the director
16 or the department, except for those portions involving a stay upon
17 the filing of a petition to contest any action taken pursuant to this
18 subsection, in which case this subsection shall supersede those
19 provisions.

20 (3) Any person who receives notice from the director of
21 action taken pursuant to subsection (1) or (2) of this section shall,
22 within three business days, return such registration certificate and
23 license plates to the department as provided in this section. If any
24 person fails to return the registration certificate and license
25 plates to the department, the department shall notify the Nebraska

1 State Patrol that any such person is in violation of this section.

2 Sec. 2. Section 60-486, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 60-486 (1) No person shall be licensed to operate a motor
5 vehicle by the State of Nebraska if such person has an operator's
6 license currently under suspension or revocation in this state or any
7 other state or jurisdiction in the United States.

8 (2) If a license is issued to a person while his or her
9 operator's license was suspended or revoked in this state or any
10 other state or jurisdiction, the Department of Motor Vehicles may
11 cancel the license upon forty-five days' written notice by ~~registered~~
12 ~~or certified-regular United States~~ mail to the licensee's last-known
13 address. The cancellation may be appealed as provided in section
14 60-4,105.

15 (3) When such a person presents to the department an
16 official notice from the state or jurisdiction that suspended or
17 revoked his or her motor vehicle operator's license that such
18 suspension or revocation has been terminated, he or she may then be
19 licensed to operate a motor vehicle by the State of Nebraska.

20 Sec. 3. Section 60-4,100, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 60-4,100 (1) The director shall suspend the operator's
23 license of any resident of this state:

24 (a) Who has violated a promise to comply with the terms
25 of a traffic citation issued by a law enforcement officer for a

1 moving violation in any jurisdiction outside this state pursuant to
2 the Nonresident Violator Compact of 1977 until satisfactory evidence
3 of compliance with the terms of the citation has been furnished to
4 the director; or

5 (b) Who has violated a promise to comply with the terms
6 of a traffic citation issued by a law enforcement officer for a
7 moving violation in any jurisdiction inside this state until
8 satisfactory evidence of compliance with the terms of the citation
9 has been furnished to the director.

10 (2) The court having jurisdiction over the offense for
11 which the citation has been issued shall notify the director of a
12 violation of a promise to comply with the terms of the citation only
13 after twenty working days have elapsed from the date of the failure
14 to comply.

15 (3) Upon notice to the director that a resident has
16 violated a promise to comply with the terms of a traffic citation as
17 provided in this section, the director shall not suspend such
18 resident's license until he or she has sent written notice to such
19 resident by first-class mail to the person's last-known mailing
20 address or, if such address is unknown, to the last-known residence
21 address of such person as shown by the records of the Department of
22 Motor Vehicles. Such notice shall state that such resident has twenty
23 working days after the date of the notice to show the director that
24 the resident has complied with the terms of such traffic citation. No
25 suspension shall be entered by the director if the resident complies

1 with the terms of a citation during such twenty working days. If the
2 resident fails to comply on or before twenty working days after the
3 date of notice, the director shall summarily suspend the operator's
4 license and issue an order. The order shall be sent by ~~registered or~~
5 ~~certified~~ regular United States mail to the person's last-known
6 mailing address as shown by the records of the department.

7 (4) The reinstatement fee required under section
8 60-4,100.01 shall be waived if five years have passed since issuance
9 of the license suspension order under this section.

10 Sec. 4. Section 60-4,114, Revised Statutes Supplement,
11 2011, is amended to read:

12 60-4,114 (1) The county treasurer may employ such
13 additional clerical help as may be necessary to assist him or her in
14 the performance of the ministerial duties required of him or her
15 under the Motor Vehicle Operator's License Act and, for such
16 additional expense, shall be reimbursed as set out in section
17 60-4,115.

18 (2) The director may, in his or her discretion, appoint
19 department personnel to examine all applicants who apply for an
20 initial license or whose licenses have been revoked or canceled to
21 ascertain such person's ability to operate a motor vehicle properly
22 and safely.

23 (3) Except as otherwise provided in section 60-4,122, the
24 application process, in addition to the other requisites of the act,
25 shall include the following:

1 (a) An inquiry into the medical condition and visual
2 ability of the applicant to operate a motor vehicle;

3 (b) An inquiry into the applicant's ability to drive and
4 maneuver a motor vehicle; and

5 (c) An inquiry touching upon the applicant's knowledge of
6 the motor vehicle laws of this state, which shall include sufficient
7 questions to indicate familiarity with the provisions thereof.

8 (4) If an applicant is denied or refused a certificate
9 for license, such applicant shall have the right to an immediate
10 appeal to the director from the decision. It shall be the duty of the
11 director to review the appeal and issue a final order, to be made not
12 later than ten days after the receipt of the appeal by the director,
13 except that if the director requests the advice of the Health
14 Advisory Board on the matter, the director shall have up to forty-
15 five days after the day a medical or vision problem is referred to
16 him or her to consult with members of the board to obtain the medical
17 opinion necessary to make a decision and shall issue a final order
18 not later than ten days following receipt of the medical opinion.
19 After consideration of the advice of the board, the director shall
20 make a determination of the applicant's physical or mental ability to
21 operate a motor vehicle and shall issue a final order. The order
22 shall be in writing, shall be accompanied by findings of fact and
23 conclusions of law, and shall be sent by ~~registered or certified~~
24 regular United States mail to the applicant's last-known address. The
25 order may be appealed as provided in section 60-4,105.

1 Sec. 5. Section 60-4,130.03, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 60-4,130.03 (1) Any person less than twenty-one years of
4 age who holds an operator's license or a provisional operator's
5 permit and who has accumulated, within any twelve-month period, a
6 total of six or more points on his or her driving record pursuant to
7 section 60-4,182 shall be notified by the Department of Motor
8 Vehicles of that fact and ordered to attend and successfully complete
9 a driver improvement course consisting of at least eight hours of
10 department-approved instruction. Notice shall be sent by regular
11 United States mail to the last-known address as shown in the records
12 of the department. If such person fails to complete the driver
13 improvement course within three months after the date of
14 notification, he or she shall have his or her operator's license
15 suspended by the department.

16 (2) The director shall issue an order summarily
17 suspending an operator's license until the licensee turns twenty-one
18 years of age. Such order shall be sent by ~~certified or registered~~
19 regular United States mail to the last-known address as shown in the
20 records of the department. Such person shall not have his or her
21 operator's license reinstated until he or she (a) has successfully
22 completed the driver improvement course or has attained the age of
23 twenty-one years and (b) has complied with section 60-4,100.01.

24 Sec. 6. Section 60-4,167, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 60-4,167 Upon receipt of a law enforcement officer's
2 sworn report provided for in section 60-4,164, the director shall
3 serve the notice of disqualification to the person who is the subject
4 of the report by ~~registered or certified~~ regular United States mail
5 to the person's last-known address appearing on the records of the
6 director. If the address on the director's records differs from the
7 address on the arresting officer's report, the notice of
8 disqualification shall be sent to both addresses. The notice of
9 disqualification shall contain a statement explaining the operation
10 of the disqualification procedure and the rights of the person. The
11 director shall also provide to the person a self-addressed envelope
12 and a petition form which the person may use to request a hearing
13 before the director to contest the disqualification. The petition
14 form shall clearly state on its face that the petition must be
15 completed and delivered to the department or postmarked within ten
16 days after receipt or the person's right to a hearing to contest the
17 disqualification will be foreclosed. The director shall prescribe and
18 approve the form for the petition, the self-addressed envelope, and
19 the notice of disqualification. If not contested, the
20 disqualification shall automatically take effect thirty days after
21 the date of mailing of the notice of disqualification by the
22 director. Any chemical test or tests made under section 60-4,164, if
23 made in conformity with the requirements of section 60-6,201 shall be
24 competent evidence of the alcoholic content of such person's blood or
25 breath. The commercial driver's license of the person who is the

1 subject of the report shall be automatically disqualified upon the
2 expiration of thirty days after the date of the mailing of the notice
3 of disqualification by the director. The director shall conduct the
4 hearing in the county in which the violation occurred or in any
5 county agreed to by the parties. Upon receipt of a petition, the
6 director shall notify the petitioner of the date and location for the
7 hearing by ~~certified or registered~~ regular United States mail
8 postmarked at least seven days prior to the hearing date.

9 After granting the petitioner an opportunity to be heard
10 on such issue, if it is not shown to the director that the
11 petitioner's refusal to submit to such chemical test or tests was
12 reasonable or unless it is shown to the director that the petitioner
13 was not operating or in the actual physical control of a commercial
14 motor vehicle with an alcoholic concentration in his or her blood or
15 breath equal to or in excess of that specified in subsection (5) of
16 section 60-4,164, the director shall enter an order pursuant to
17 section 60-4,169 revoking the petitioner's commercial driver's
18 license and privilege to operate a commercial motor vehicle in this
19 state and disqualifying the person from operating a commercial motor
20 vehicle for the period specified by section 60-4,168.

21 Sec. 7. Section 60-4,167.01, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 60-4,167.01 (1) The director shall reduce the decision
24 disqualifying a commercial driver from operating a commercial motor
25 vehicle pursuant to a hearing under section 60-4,167 to writing and

1 the director shall notify the person in writing of the
2 disqualification within seven days following a hearing. The decision
3 shall set forth the period of disqualification and be served by
4 mailing it to such person by ~~certified or registered~~ regular United
5 States mail to the address provided to the director at the hearing
6 or, if the person does not appear at the hearing, to the address
7 appearing on the records of the director. If the address on the
8 director's records differs from the address on the arresting peace
9 officer's report, the notice shall be sent to both addresses.

10 (2) If the director does not disqualify the commercial
11 driver from operating a commercial motor vehicle, the director shall
12 notify the person in writing of the decision within seven days
13 following a hearing. The notice shall be mailed by ~~certified or~~
14 ~~registered~~ regular United States mail as provided in subsection (1)
15 of this section. No reinstatement fee shall be charged.

16 Sec. 8. Section 60-4,170, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 60-4,170 Within ten days after the revocation provided
19 for by section 60-4,169, the director shall notify in writing the
20 person whose commercial driver's license or privilege to operate a
21 commercial motor vehicle has been revoked that such license or
22 privilege has been revoked. Such notice shall: (1) Contain a list of
23 the disqualifying convictions or administrative determinations upon
24 which the director relies as his or her authority for the revocation,
25 with the dates on which such disqualifying violations occurred and

1 the dates of such convictions or administrative determinations and
2 the trial courts or administrative agencies in which such convictions
3 or administrative determinations were rendered; (2) state the term of
4 revocation; (3) include a demand that the commercial driver's license
5 be returned to the director immediately; and (4) be served by mailing
6 the notice to such person by ~~registered or certified regular United~~
7 States mail to the address of such person. If any person fails to
8 return a commercial driver's license following a demand by the
9 director, the director shall immediately direct any peace officer or
10 authorized representative of the director to secure possession of
11 such license and return the license to the director. Any person
12 refusing or failing to surrender a commercial driver's license as
13 required by this section shall, upon conviction, be guilty of a Class
14 III misdemeanor.

15 Any person who feels himself or herself aggrieved because
16 of a revocation pursuant to section 60-4,169 may appeal from such
17 revocation in the manner set forth in section 60-4,105. Such appeal
18 shall not suspend the order of revocation unless a stay of such
19 revocation shall be allowed by the court pending a final
20 determination of the review. The license of any person claiming to be
21 aggrieved shall not be restored to such person, in the event of a
22 final judgment of a court against such person, until the full time of
23 revocation, as fixed by the director, has elapsed.

24 Sec. 9. Section 60-4,184, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 60-4,184 Within ten days after the revocation provided
2 for by section 60-4,183, the director shall notify in writing the
3 person whose operator's license has been revoked that such license
4 has been revoked. Such notice shall:

5 (1) Contain a list of the convictions for violations upon
6 which the director relies as his or her authority for the revocation,
7 with the dates of such violations upon which convictions were had and
8 the dates of such convictions, the trial courts in which such
9 judgments of conviction were rendered, and the points charged for
10 each conviction;

11 (2) State the term of such revocation;

12 (3) Include a demand that the license be returned to the
13 director immediately; and

14 (4) Be served by mailing it to such person by ~~either~~
15 ~~registered or certified~~ regular United States mail to the last-known
16 residence of such person or, if such address is unknown, to the last-
17 known business address of such person.

18 If any person fails to return his or her license to the
19 director as demanded, the director shall immediately direct any peace
20 officer or authorized representative of the director to secure
21 possession of such license and return the license to the director. A
22 refusal to surrender an operator's license on demand shall be
23 unlawful, and any person failing to surrender his or her license as
24 required by this section shall be guilty of a Class III misdemeanor.

25 Any person who feels aggrieved because of such revocation

1 may appeal from such revocation in the manner set forth in section
2 60-4,105. Such appeal shall not suspend the order of revocation of
3 such license unless a stay of such order is allowed by a judge of
4 such court pending a final determination of the review. The license
5 of any person claiming to be aggrieved shall not be restored to such
6 person, in the event the final judgment of a court finds against such
7 person, until the full time of revocation, as fixed by the Department
8 of Motor Vehicles, has elapsed.

9 Sec. 10. Section 60-507, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 60-507 (1) Within ninety days after the receipt by the
12 Department of Roads of a report of a motor vehicle accident within
13 this state which has resulted in bodily injury or death, or damage to
14 the property of any one person, including such operator, to an
15 apparent extent in excess of one thousand dollars, the Department of
16 Motor Vehicles shall suspend (a) the license of each operator of a
17 motor vehicle in any manner involved in such accident and (b) the
18 privilege, if such operator is a nonresident, of operating a motor
19 vehicle within this state, unless such operator deposits security in
20 a sum which shall be sufficient, in the judgment of the Department of
21 Motor Vehicles, to satisfy any judgment or judgments for damages
22 resulting from such accident which may be recovered against such
23 operator and unless such operator gives proof of financial
24 responsibility.

25 Notice of such suspension shall be sent by the Department

1 of Motor Vehicles by first-class mail to such operator not less than
2 twenty days prior to the effective date of such suspension at his or
3 her last-known mailing address as shown by the records of the
4 department and shall state the amount required as security and the
5 requirement of proof of financial responsibility. In the event a
6 person involved in a motor vehicle accident within this state fails
7 to make a report to the Department of Motor Vehicles indicating the
8 extent of his or her injuries or the damage to his or her property
9 within thirty days after the accident, and the department does not
10 have sufficient information on which to base an evaluation of such
11 injury or damage, the department, after reasonable notice to such
12 person, may not require any deposit of security for the benefit or
13 protection of such person. If the operator fails to respond to the
14 notice on or before twenty days after the date of the notice, the
15 director shall summarily suspend the operator's license or privilege
16 and issue an order of suspension.

17 (2) The order of suspension provided for in subsection
18 (1) of this section shall not be entered by the Department of Motor
19 Vehicles if the department determines that in its judgment there is
20 no reasonable possibility of a judgment being rendered against such
21 operator.

22 (3) In determining whether there is a reasonable
23 possibility of judgment being rendered against such operator, the
24 department shall consider all reports and information filed in
25 connection with the accident.

1 (4) The order of suspension provided for in subsection
2 (1) of this section shall advise the operator that he or she has a
3 right to appeal the order of suspension in accordance with the
4 provisions set forth in section 60-503.

5 (5) The order of suspension provided for in subsection
6 (1) of this section shall be sent by ~~registered or certified regular~~
7 United States mail to the person's last-known mailing address as
8 shown by the records of the department.

9 Sec. 11. Section 66-1406.02, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 66-1406.02 (1) The director may suspend, revoke, cancel,
12 or refuse to issue or renew a license under the International Fuel
13 Tax Agreement Act:

14 (a) If the applicant's or licensee's registration
15 certificate issued pursuant to the International Registration Plan
16 Act has been suspended, revoked, or canceled or the director refused
17 to issue or renew such certificate;

18 (b) If the applicant or licensee is in violation of
19 sections 75-392 to 75-399;

20 (c) If the applicant's or licensee's security has been
21 canceled;

22 (d) If the applicant or licensee failed to provide
23 additional security as required;

24 (e) If the applicant or licensee failed to file any
25 report or return required by the motor fuel laws, filed an incomplete

1 report or return required by the motor fuel laws, did not file any
2 report or return required by the motor fuel laws electronically, or
3 did not file a report or return required by the motor fuel laws on
4 time;

5 (f) If the applicant or licensee failed to pay taxes
6 required by the motor fuel laws due within the time provided;

7 (g) If the applicant or licensee filed any false report,
8 return, statement, or affidavit, required by the motor fuel laws,
9 knowing it to be false;

10 (h) If the applicant or licensee would no longer be
11 eligible to obtain a license; or

12 (i) If the applicant or licensee committed any other
13 violation of the International Fuel Tax Agreement Act or the rules
14 and regulations adopted and promulgated under the act.

15 (2) Prior to taking any action pursuant to subsection (1)
16 of this section, the director shall notify and advise the applicant
17 or licensee of the proposed action and the reasons for such action in
18 writing, by ~~registered or certified~~ regular United States mail, to
19 his or her last-known business address as shown on the application or
20 license. The notice shall also include an advisement of the
21 procedures in subsection (3) of this section.

22 (3) The applicant or licensee may, within thirty days
23 after the mailing of the notice, petition the director in writing for
24 a hearing to contest the proposed action. The hearing shall be
25 commenced in accordance with the rules and regulations adopted and

1 promulgated by the Department of Motor Vehicles. If a petition is
2 filed, the director shall, within twenty days after receipt of the
3 petition, set a hearing date at which the applicant or licensee may
4 show cause why the proposed action should not be taken. The director
5 shall give the applicant or licensee reasonable notice of the time
6 and place of the hearing. If the director's decision is adverse to
7 the applicant or licensee, the applicant or licensee may appeal the
8 decision in accordance with the Administrative Procedure Act.

9 (4) Except as provided in subsection (2) of section
10 60-3,205 and subsection (8) of this section, the filing of the
11 petition shall stay any action by the director until a hearing is
12 held and a final decision and order is issued.

13 (5) Except as provided in subsection (2) of section
14 60-3,205 and subsection (8) of this section, if no petition is filed
15 at the expiration of thirty days after the date on which the
16 notification was mailed, the director may take the proposed action
17 described in the notice.

18 (6) Except as provided in subsection (2) of section
19 60-3,205 and subsection (8) of this section, if, in the judgment of
20 the director, the applicant or licensee has complied with or is no
21 longer in violation of the provisions for which the director took
22 action under this section, the director may reinstate the license
23 without delay. An applicant for reinstatement, issuance, or renewal
24 of a license within three years after the date of suspension,
25 revocation, cancellation, or refusal to issue or renew shall submit a

1 fee of one hundred dollars to the director. The director shall remit
2 the fee to the State Treasurer for credit to the Highway Cash Fund.

3 (7) Suspension of, revocation of, cancellation of, or
4 refusal to issue or renew a license by the director shall not relieve
5 any person from making or filing the reports or returns required by
6 the motor fuel laws in the manner or within the time required.

7 (8) Any person who receives notice from the director of
8 action taken pursuant to subsection (1) of this section shall, within
9 three business days, return such registration certificate and license
10 plates issued pursuant to section 60-3,198 to the department. If any
11 person fails to return the registration certificate and license
12 plates to the department, the department shall notify the Nebraska
13 State Patrol that any such person is in violation of this section.

14 Sec. 12. Original sections 60-3,205, 60-486, 60-4,100,
15 60-4,130.03, 60-4,167, 60-4,167.01, 60-4,170, 60-4,184, 60-507, and
16 66-1406.02, Reissue Revised Statutes of Nebraska, and section
17 60-4,114, Revised Statutes Supplement, 2011, are repealed.