

LEGISLATURE OF NEBRASKA  
NINETY-SIXTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 632**

Introduced by Dw. Pedersen, 39

Read first time January 19, 1999

Committee: Transportation

A BILL

1 FOR AN ACT relating to motor vehicle industry licensing; to amend  
2 sections 60-1406, 60-1407.01, 60-1411.01, 60-1411.02,  
3 60-1413, and 60-1419, Reissue Revised Statutes of  
4 Nebraska; to classify the trailer dealer's license; to  
5 provide an exemption from insurance requirements; to  
6 provide a fee; to change provisions relating to  
7 disciplinary actions and bond requirements; to harmonize  
8 provisions; and to repeal the original sections.  
9 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 60-1406, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           60-1406. Licenses issued by the board under Chapter 60,  
4 article 14, shall be of the classes set out in this section and  
5 shall permit the business activities described in this section:

6           (1) Motor vehicle dealer's license. This license permits  
7 the licensee to engage in the business of selling or exchanging  
8 new, used, or new and used motor vehicles and trailers at the  
9 established place of business designated in the license and another  
10 place or places of business located within three hundred feet of  
11 the designated place of business and within the city or county  
12 described in the original license. This license permits the sale  
13 of a trade-in or consignment mobile home greater than forty feet in  
14 length and eight feet in width and located at a place other than  
15 the dealer's established place of business. This license permits  
16 one person, either the licensee, if he or she is the individual  
17 owner of the licensed business, or a stockholder, officer, partner,  
18 or member of the licensee, to act as a motor vehicle and trailer  
19 salesperson and the name of the authorized person shall appear on  
20 the license;

21           (2) Motor vehicle, motorcycle, or trailer salesperson  
22 license. This license permits the licensee to engage in the  
23 activities of a motor vehicle, motorcycle, or trailer salesperson.  
24 This license permits the one person named on the license to act as  
25 a salesperson;

26           (3) Manufacturer license. This license permits the  
27 licensee to engage in the activities of a motor vehicle,  
28 motorcycle, or trailer manufacturer or manufacturer's factory

1 branch;

2 (4) Distributor license. This license permits the  
3 licensee to engage in the activities of a motor vehicle,  
4 motorcycle, or trailer distributor;

5 (5) Factory representative license. This license permits  
6 the licensee to engage in the activities of a factory branch  
7 representative;

8 (6) Factory branch license. This license permits the  
9 licensee to maintain a branch office in this state;

10 (7) Distributor representative license. This license  
11 permits the licensee to engage in the activities of a distributor  
12 representative;

13 (8) Finance company license. This license permits the  
14 licensee to engage in the activities of repossession of motor  
15 vehicles or trailers and the sale of such motor vehicles or  
16 trailers so repossessed;

17 (9) Wrecker or salvage dealer license. This license  
18 permits the licensee to engage in the business of acquiring motor  
19 vehicles or trailers for the purpose of dismantling the motor  
20 vehicles or trailers and selling or otherwise disposing of the  
21 parts and accessories of motor vehicles or trailers;

22 (10) Supplemental motor vehicle, motorcycle, or trailer  
23 dealer's license. This license permits the licensee to engage in  
24 the business of selling or exchanging motor vehicles, motorcycles,  
25 or trailers of the type designated in his or her dealer's license  
26 at a specified place of business which is located more than three  
27 hundred feet from any part of the place of business designated in  
28 the original motor vehicle, motorcycle, or trailer dealer's license

1 but which is located within the city or county described in such  
2 original license;

3 (11) Motorcycle dealer's license. This license permits  
4 the licensee to engage in the business of selling or exchanging  
5 new, used, or new and used motorcycles at the established place of  
6 business designated in the license and another place or places of  
7 business located within three hundred feet of the designated place  
8 of business and within the city or county described in the original  
9 license. This form of license permits one person named on the  
10 license, either the licensee, if he or she is the individual owner  
11 of the licensed business, or a stockholder, officer, partner, or  
12 member of the licensee, to act as a motorcycle salesperson and the  
13 name of the authorized person shall appear on the license; ~~and~~

14 (12) Motor vehicle auction dealer's license. This  
15 license permits the licensee to engage in the business of selling  
16 motor vehicles and trailers. This form of license permits one  
17 person named on the license, either the licensee, if he or she is  
18 the individual owner of the licensed business, or a stockholder,  
19 officer, partner, or member of the licensee, to act as a motor  
20 vehicle auction dealer's salesperson and the name of the authorized  
21 person shall appear on the license; and

22 (13) Trailer dealer's license. This license permits the  
23 licensee to engage in the business of selling or exchanging new,  
24 used, or new and used trailers at the established place of business  
25 designated in the license and another place or places of business  
26 located within three hundred feet of the designated place of  
27 business and within the city or county described in the original  
28 license. This form of license permits one person named on the

1 license, either the licensee, if he or she is the individual owner  
2 of the licensed business, or a stockholder, officer, partner, or  
3 member of the licensee, to act as a trailer salesperson and the  
4 name of the authorized person shall appear on the license.

5           Sec. 2. Section 60-1407.01, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7           60-1407.01. (1) Upon the filing of any application, a  
8 staff member of the board shall endorse on it the date of filing.  
9 If no patent disqualification of the applicant is disclosed or if  
10 no valid objection to the granting of the application is apparent  
11 and if all requirements relative to the filing of the application  
12 appear to have been complied with, the chairperson of the board or  
13 executive director shall refer the application to a staff member  
14 for investigation and report. The report shall include:

15           (a) A statement as to whether or not the applicant or any  
16 person holding any financial interest in the applicant is for any  
17 reason disqualified by Chapter 60, article 14, from obtaining or  
18 exercising a license and whether or not the applicant has complied  
19 with all the requirements of Chapter 60, article 14, relative to  
20 the making and filing of his or her application;

21           (b) Information relating to any and all other matters and  
22 things which in the judgment of the staff member pertain to or  
23 affect the matter of the application or the issuance or exercise of  
24 the license applied for; and

25           (c) In the case of an application for a dealer's license:

26           (i) A description of the premises intended to become the  
27 licensed premises and of the equipment and surrounding conditions;

28           (ii) If the applicant has held a prior dealer's license

1 for the same or any other premises within two years past, a  
2 statement as to the manner in which the premises have been operated  
3 and the business conducted under the previous license; and

4 (iii) If the applicant proposes to engage in the business  
5 of selling new motor vehicles, motorcycles, or trailers, a written  
6 statement from the applicable manufacturer, factory branch, factory  
7 representative, distributor, distributor branch, or distributor  
8 representative, or such other evidence as prescribed by the board,  
9 that the applicant is authorized to sell or distribute such new  
10 motor vehicles, motorcycles, or trailers.

11 (2) After the filing of the report, the board may  
12 interview the applicant. Notice of such interview shall be given at  
13 least ten days prior to the interview.

14 (3) The executive director shall not issue or renew a  
15 license if the applicant or licensee does not (a) maintain an  
16 established place of business, (b) meet the requirement for a bond  
17 pursuant to section 60-1419, (c) present a certificate or policy of  
18 insurance written by an insurance carrier duly authorized to do  
19 business in this state which gives the effective dates of coverage  
20 indicating that it is in force, which covers the fleet of motor  
21 vehicles owned by the applicant or licensee in the ordinary course  
22 of business, and which provides liability coverage as described in  
23 sections 60-534 and 60-538, and (d) present evidence of compliance  
24 with the insurance requirements of the Nebraska Workers'  
25 Compensation Act. The executive director shall refuse to renew a  
26 motor vehicle dealer's license if the dealer cannot prove that he  
27 or she sold at least five motor vehicles during the previous  
28 licensing period. The requirement under subdivision (c) of this

1 subsection for a certificate or policy of insurance shall not apply  
2 to trailer dealers.

3 (4) The board shall revoke the license of any licensee  
4 if, after December 31, 1991, it comes to the attention of the board  
5 that the policy of motor vehicle liability coverage required under  
6 subdivision (3)(c) of this section is no longer in force.

7 (5) Nothing in this section shall be construed to change  
8 any existing liability or to create any new liability.

9 Sec. 3. Section 60-1411.01, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11 60-1411.01. To pay the expenses of the administration,  
12 operation, maintenance, and enforcement of sections 60-1401.01 to  
13 60-1440, the board shall collect with each application for each  
14 class of license fees not exceeding the following amounts: (1)  
15 Motor vehicle dealer's license, two hundred dollars; (2)  
16 supplemental motor vehicle dealer's license, ten dollars; (3) motor  
17 vehicle or motorcycle salesperson's license, ten dollars; (4) motor  
18 vehicle, motorcycle, or trailer manufacturer's license, three  
19 hundred dollars; (5) distributor's license, three hundred dollars;  
20 (6) factory representative's license, ten dollars; (7) distributor  
21 representative's license, ten dollars; (8) finance company's  
22 license, two hundred dollars; (9) wrecker or salvage dealer's  
23 license, one hundred dollars; (10) factory branch license, one  
24 hundred dollars; (11) motorcycle dealer's license, two hundred  
25 dollars; ~~and~~ (12) motor vehicle auction dealer's license, two  
26 hundred dollars; and (13) trailer dealer's license, two hundred  
27 dollars; which fees shall be fixed by the board and shall not  
28 exceed the amount actually necessary to sustain the administration,

1 operation, maintenance, and enforcement of sections 60-1401.01 to  
2 60-1440.

3           Such licenses, if issued, shall expire on December 31  
4 next following the date of the issuance thereof. Any motor  
5 vehicle, motorcycle, or trailer dealer changing its location shall  
6 not be required to obtain a new license if the new location is  
7 within the same city limits or county, all requirements of law are  
8 complied with, and a fee of twenty-five dollars is paid, but any  
9 change of ownership of any licensee shall require a new application  
10 for a license and a new license. Change of name of licensee  
11 without change of ownership shall require the licensee to obtain a  
12 new license and pay a fee of five dollars. Applications shall be  
13 made each year for a new or renewal license. If the applicant is  
14 an individual, the application shall include the applicant's social  
15 security number.

16           Sec. 4. Section 60-1411.02, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18           60-1411.02. The board may, upon its own motion, and  
19 shall, upon a sworn complaint in writing of any person, investigate  
20 the actions of any person acting, registered, or licensed under  
21 Chapter 60, article 14, as a motor vehicle dealer, trailer dealer,  
22 motor vehicle or trailer salesperson, manufacturer, factory branch,  
23 distributor, factory representative, distributor representative,  
24 supplemental motor vehicle dealer, wrecker or salvage dealer,  
25 finance company, motorcycle dealer, or motor vehicle auction dealer  
26 or operating without a registration or license when such  
27 registration or license is required. The board may deny any  
28 application for a license, may revoke or suspend a license, may

1 place the licensee or registrant on probation, may assess an  
2 administrative fine in an amount not to exceed five thousand  
3 dollars per violation, or may take any combination of such actions  
4 if the violator, applicant, registrant, or licensee including any  
5 officer, stockholder, partner, or limited liability company member  
6 or any person having any financial interest in the violator,  
7 applicant, registrant, or licensee:

8 (1) Has had any license issued under Chapter 60, article  
9 14, revoked or suspended and, if the license has been suspended,  
10 has not complied with the terms of suspension;

11 (2) Has knowingly purchased, sold, or done business in  
12 stolen motor vehicles, motorcycles, or trailers or parts therefor;

13 (3) Has failed to provide and maintain an established  
14 place of business;

15 (4) Has been found guilty of any felony which has not  
16 been pardoned, has been found guilty of any misdemeanor concerning  
17 fraud or conversion, or has suffered any judgment in any civil  
18 action involving fraud, misrepresentation, or conversion. In the  
19 event felony charges are pending against an applicant, the board  
20 may refuse to issue a license to the applicant until there has been  
21 a final determination of the charges;

22 (5) Has made a false material statement in his or her  
23 application or any data attached to the application or to any  
24 investigator or employee of the board;

25 (6) Has willfully failed to perform any written agreement  
26 with any consumer or retail buyer;

27 (7) Has made a fraudulent sale, transaction, or  
28 repossession, or created a fraudulent security interest as defined

1 in the Uniform Commercial Code, in a motor vehicle, trailer, or  
2 motorcycle;

3 (8) Has failed to notify the board of a change in the  
4 location of his or her established place or places of business and  
5 in the case of a salesperson has failed to notify the board of any  
6 change in his or her employment;

7 (9) Has willfully failed to deliver to a purchaser a  
8 proper certificate of ownership for a motor vehicle, trailer, or  
9 motorcycle sold by the licensee or to refund the full purchase  
10 price if the purchaser cannot legally obtain proper certification  
11 of ownership within thirty days;

12 (10) Has forged the signature of the registered or legal  
13 owner on a certificate of title;

14 (11) Has failed to comply with Chapter 60, article 14,  
15 and any orders, rules, or regulations of the board adopted and  
16 promulgated under Chapter 60, article 14;

17 (12) Has failed to comply with the advertising and  
18 selling standards established in section 60-1411.03;

19 (13) Has failed to comply with any provisions of section  
20 60-320, Chapter 60, article 1 or 14, or the rules or regulations  
21 adopted and promulgated by the board pursuant to Chapter 60,  
22 article 14;

23 (14) Has failed to comply with any provision of Chapter  
24 71, article 46, or with any code, standard, rule, or regulation  
25 adopted or made under the authority of or pursuant to Chapter 71,  
26 article 46;

27 (15) Has willfully defrauded any retail buyer or other  
28 person in the conduct of the licensee's business;

1           (16) Has employed any unlicensed salesperson or  
2 salespersons;

3           (17) Has failed to comply with sections 60-132 to 60-138;

4           (18) Has engaged in any unfair methods of competition or  
5 unfair or deceptive acts or practices prohibited under Chapter 87,  
6 article 3; or

7           (19) Has conspired, as defined in section 28-202, with  
8 other persons to process titles in violation of Chapter 60, article  
9 1.

10           If the violator, applicant, registrant, or licensee is a  
11 publicly held corporation, the board's authority shall extend only  
12 to the corporation and its managing officers and directors.

13           Sec. 5. Section 60-1413, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15           60-1413. (1) Before the board denies any license or any  
16 registration as described in section 60-1417.02, revokes or  
17 suspends any such license or registration, places a licensee or  
18 registrant on probation, or assesses an administrative fine under  
19 section 60-1411.02, the board shall give the applicant, licensee,  
20 registrant, or violator a hearing on the matter. ~~The~~ unless the  
21 hearing is waived upon agreement between the applicant, licensee,  
22 registrant, or violator and the executive director, with the  
23 approval of the board. As a condition of the waiver, the  
24 applicant, licensee, registrant, or violator shall accept the fine  
25 or other administrative action. If the hearing is not waived, the  
26 board shall, at least thirty days prior to the date set for the  
27 hearing, notify the party in writing. Such notice in writing shall  
28 contain an exact statement of the charges against the party and the

1 date and place of hearing. The party shall have full authority to  
2 be heard in person or by counsel before the board in reference to  
3 the charges. The written notice may be served by delivery  
4 personally to the party or by mailing the notice by registered or  
5 certified mail to the last-known business address of the party. If  
6 the applicant is a salesperson, the board shall also notify the  
7 dealer employing him or her or whose employ he or she seeks to  
8 enter by mailing the notice to the dealer's last-known business  
9 address. A stenographic record of all testimony presented at the  
10 hearings shall be made and preserved pending final disposition of  
11 the complaint.

12 (2) When the licensee fails to maintain a bond as  
13 provided in section 60-1419, an established place of business, or  
14 liability insurance as prescribed by subsection (3) of section  
15 60-1407.01, the license shall immediately expire. The executive  
16 director shall notify the licensee personally or by mailing the  
17 notice by registered or certified mail to the last-known address of  
18 the licensee that his or her license is revoked until a bond as  
19 required by section 60-1419 or liability insurance as prescribed by  
20 subsection (3) of section 60-1407.01 is furnished and approved in  
21 which event the license may be reinstated.

22 (3) Upon notice of the revocation or suspension of the  
23 license, the licensee shall immediately surrender the expired  
24 license to the executive director or his or her representative. If  
25 the license is suspended, the executive director or his or her  
26 representative shall return the license to the licensee at the time  
27 of the conclusion of the period of suspension. Failure to  
28 surrender the license as required in this section shall subject the

1 licensee to the penalties provided in section 60-1416.

2           Sec. 6.     Section 60-1419, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           60-1419.   Applicants for a motor vehicle dealer's  
5 license, trailer dealer's license, or motorcycle dealer's license  
6 shall, at the time of making application, furnish a corporate  
7 surety bond in the penal sum of twenty thousand dollars, but for  
8 the year 1985 and thereafter shall, at the time of making  
9 application, furnish a corporate surety bond in the penal sum of  
10 twenty-five thousand dollars.   Applicants for a motor vehicle  
11 auction dealer's license shall, at the time of making application,  
12 furnish a corporate surety bond in the penal sum of not less than  
13 one hundred thousand dollars.   The bond shall be on a form  
14 prescribed by the Attorney General of the State of Nebraska and  
15 shall be signed by the Nebraska registered agent.   The bond shall  
16 provide: (1) That the applicant will faithfully perform all the  
17 terms and conditions of such license; (2) that the licensed dealer  
18 will first fully indemnify any holder of a lien or security  
19 interest created pursuant to section 60-110 or article 9, Uniform  
20 Commercial Code, whichever applies, in the order of its priority  
21 and then any person or other dealer by reason of any loss suffered  
22 because of (a) the substitution of any motor vehicle or trailer  
23 other than the one selected by the purchaser, (b) the dealer's  
24 failure to deliver to the purchaser a clear and marketable title,  
25 (c) the dealer's misappropriation of any funds belonging to the  
26 purchaser, (d) any alteration on the part of the dealer so as to  
27 deceive the purchaser as to the year model of any motor vehicle or  
28 trailer, (e) any false and fraudulent representations or deceitful

1 practices whatever in representing any motor vehicle or trailer,  
2 ~~and~~ (f) the dealer's failure to remit the proceeds from the sale of  
3 any motor vehicle which is subject to a lien or security interest  
4 to the holder of such lien or security interest, and (g) the  
5 dealer's failure to pay any person or other dealer for the purchase  
6 of a motor vehicle, motorcycle, trailer, or any part or other  
7 purchase; and (3) that the motor vehicle, motorcycle, motor vehicle  
8 auction, or trailer dealer or wholesaler shall well, truly, and  
9 faithfully comply with all the provisions of his or her license and  
10 the acts of the Legislature relating to such license. The  
11 aggregate liability of the surety shall in no event exceed the  
12 penalty of such bond.

13           Sec. 7.       Original sections 60-1406, 60-1407.01,  
14 60-1411.01, 60-1411.02, 60-1413, and 60-1419, Reissue Revised  
15 Statutes of Nebraska, are repealed.