

LEGISLATURE OF NEBRASKA
NINETY-EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 498

Introduced by Dw. Pedersen, 39

Read first time January 17, 2003

Committee: Transportation and Telecommunications

A BILL

1 FOR AN ACT relating to motor vehicle industry licensing; to amend
2 sections 60-1407, 60-1410, 60-1411, and 60-1416, Reissue
3 Revised Statutes of Nebraska, and sections 60-1401.02,
4 60-1403,01, 60-1406, 60-1411.01, 60-1411.02, and 60-1413,
5 Revised Statutes Supplement, 2002; to provide for a
6 dealer's agent license; to provide duties, fees, and
7 penalties; to harmonize provisions; and to repeal the
8 original sections.

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

1 Section 1. Section 60-1401.02, Revised Statutes
2 Supplement, 2002, is amended to read:

3 60-1401.02. For purposes of sections 60-1401.01 to
4 60-1440 and 60-2601 to 60-2607, unless the context otherwise
5 requires:

6 (1) Person means every natural person, firm, partnership,
7 limited liability company, association, or corporation;

8 (2) Association means any two or more persons acting with
9 a common purpose, regardless of the relative degrees of
10 involvement, and includes, but is not limited to, the following
11 persons so acting:

12 (a) A person and one or more of his or her family
13 members. For purposes of this subdivision, family member means an
14 individual related to the person by blood, marriage, adoption, or
15 legal guardianship as the person's spouse, child, parent, brother,
16 sister, grandchild, grandparent, ward, or legal guardian or any
17 individual so related to the person's spouse; and

18 (b) Two or more persons living in the same dwelling unit,
19 whether or not related to each other;

20 (3) Motor vehicle dealer means any person, other than a
21 bona fide consumer, actively and regularly engaged in the act of
22 selling, leasing for a period of thirty or more days, or exchanging
23 new or used motor vehicles, trailers, and manufactured homes who
24 buys, sells, exchanges, causes the sale of, or offers or attempts
25 to sell new or used motor vehicles. Such person is a motor vehicle
26 dealer and subject to sections 60-1401.01 to 60-1440. Motor
27 vehicle dealer does not include a lessor who was not involved in or
28 associated with the selection, location, acquisition, or supply of

1 a motor vehicle which is the subject of a lease agreement;

2 (4) Trailer dealer means any person, other than a bona
3 fide consumer, actively and regularly engaged in the business of
4 selling or exchanging new or used trailers and manufactured homes;

5 (5) Wrecker or salvage dealer means any person who
6 acquires one or more motor vehicles or trailers for the purpose of
7 dismantling them for the purpose of reselling the parts or
8 reselling the vehicles as scrap;

9 (6) Motor vehicle means any vehicle for which evidence of
10 title is required as a condition precedent to registration under
11 the laws of this state but does not include trailers;

12 (7) Used motor vehicle means every motor vehicle which
13 has been sold, bargained, exchanged, or given away or for which
14 title has been transferred from the person who first acquired it
15 from the manufacturer, importer, dealer, or agent of the
16 manufacturer or importer. A new motor vehicle is not considered a
17 used motor vehicle until it has been placed in use by a bona fide
18 consumer, notwithstanding the number of transfers of the motor
19 vehicle;

20 (8) New motor vehicle means all motor vehicles which are
21 not included within the definition of a used motor vehicle in this
22 section;

23 (9) Trailer means trailers and semitrailers as defined in
24 section 60-301 which are required to be licensed as commercial
25 trailers, other vehicles without motive power constructed so as to
26 permit their being used as conveyances upon the public streets and
27 highways and so constructed as not to be attached to real estate
28 and to permit the vehicle to be used for human habitation by one or

1 more persons, and camping trailers, slide-in campers, fold-down
2 campers, and fold-down tent trailers. Machinery and equipment to
3 which wheels are attached and designed for being drawn by a motor
4 vehicle are excluded from the provisions of sections 60-1401.01 to
5 60-1440;

6 (10) Motorcycle dealer means any person, other than a
7 bona fide consumer, actively and regularly engaged in the business
8 of selling or exchanging new or used motorcycles;

9 (11) Motorcycle means every motor vehicle, except a
10 tractor, having a seat or saddle for use of the rider and designed
11 to travel on not more than three wheels in contact with the ground
12 and for which evidence of title is required as a condition
13 precedent to registration under the laws of this state;

14 (12) Auction means a sale of motor vehicles and trailers
15 of types required to be registered in this state, except such
16 vehicles as are eligible for registration pursuant to section
17 60-305.09, sold or offered for sale at which the price offered is
18 increased by the prospective buyers who bid against one another,
19 the highest bidder becoming the purchaser. The holding of a farm
20 auction or an occasional motor vehicle or trailer auction of not
21 more than two auctions in a calendar year does not constitute an
22 auction subject to sections 60-1401.01 to 60-1440;

23 (13) Auction dealer means any person engaged in the
24 business of conducting an auction for the sale of motor vehicles
25 and trailers;

26 (14) Supplemental motor vehicle, trailer, motorcycle, or
27 motor vehicle auction dealer means any person holding either a
28 motor vehicle, trailer, motorcycle, or motor vehicle auction

1 dealer's license engaging in the business authorized by such
2 license at a place of business that is more than three hundred feet
3 from any part of the place of business designated in the dealer's
4 original license but which is located within the city or county
5 described in such original license;

6 (15) Motor vehicle, motorcycle, or trailer salesperson
7 means any person who, for a salary, commission, or compensation of
8 any kind, is employed directly by only one specified licensed
9 Nebraska motor vehicle dealer, motorcycle dealer, or trailer
10 dealer, except when the salesperson is working for two or more
11 dealerships with common ownership, to sell, purchase, or exchange
12 or to negotiate for the sale, purchase, or exchange of motor
13 vehicles, motorcycles, or trailers. A person owning any part of
14 more than one dealership may be a salesperson for each of such
15 dealerships. For purposes of this section, common ownership means
16 that there is at least an eighty percent interest in each
17 dealership by one or more persons having ownership in such
18 dealership;

19 (16) Manufacturer means any person, resident or
20 nonresident of this state, who is engaged in the business of
21 distributing, manufacturing, or assembling new motor vehicles,
22 trailers, or motorcycles and also has the same meaning as the term
23 franchisor as used in sections 60-1401.01 to 60-1440;

24 (17) Factory representative means a representative
25 employed by a person who manufactures or assembles motor vehicles,
26 motorcycles, or trailers, or by a factory branch, for the purpose
27 of promoting the sale of its motor vehicles, motorcycles, or
28 trailers to, or for supervising or contacting, its dealers or

1 prospective dealers in this state;

2 (18) Distributor means a person, resident or nonresident
3 of this state, who in whole or in part sells or distributes new
4 motor vehicles, trailers, or motorcycles to dealers or who
5 maintains distributors or representatives who sell or distribute
6 motor vehicles, trailers, or motorcycles to dealers and also has
7 the same meaning as the term franchisor as used in sections
8 60-1401.01 to 60-1440;

9 (19) Finance company means any person engaged in the
10 business of financing sales of motor vehicles, motorcycles, or
11 trailers, or purchasing or acquiring promissory notes, secured
12 instruments, or other documents by which the motor vehicles,
13 motorcycles, or trailers are pledged as security for payment of
14 obligations arising from such sales and who may find it necessary
15 to engage in the activity of repossession and the sale of the motor
16 vehicles, motorcycles, or trailers so pledged;

17 (20) Franchise means a contract between two or more
18 persons when all of the following conditions are included:

19 (a) A commercial relationship of definite duration or
20 continuing indefinite duration is involved;

21 (b) The franchisee is granted the right to offer and sell
22 motor vehicles manufactured or distributed by the franchisor;

23 (c) The franchisee, as an independent business,
24 constitutes a component of the franchisor's distribution system;

25 (d) The operation of the franchisee's business is
26 substantially associated with the franchisor's trademark, service
27 mark, trade name, advertising, or other commercial symbol
28 designating the franchisor; and

1 (e) The operation of the franchisee's business is
2 substantially reliant on the franchisor for the continued supply of
3 motor vehicles, parts, and accessories;

4 (21) Franchisee means a new motor vehicle dealer who
5 receives motor vehicles from the franchisor under a franchise and
6 who offers and sells such motor vehicles to the general public;

7 (22) Franchisor means a person who manufactures or
8 distributes motor vehicles and who may enter into a franchise;

9 (23) Community means a franchisee's area of
10 responsibility as stipulated in the franchise;

11 (24) Line-make means the motor vehicles that are offered
12 for sale, lease, or distribution under a common name, trademark,
13 service mark, or brand name of the franchisor or manufacturer of
14 the motor vehicle;

15 (25) Consumer care means the performance, for the public,
16 of necessary maintenance and repairs to motor vehicles;

17 (26) Sale, selling, and equivalent expressions mean the
18 attempted act or acts either as principal, agent, or salesperson or
19 in any capacity whatsoever of selling, bartering, exchanging, or
20 otherwise disposing of or negotiating or offering or attempting to
21 negotiate the sale, purchase, or exchange of or interest in any
22 motor vehicle, trailer, or motorcycle, including the leasing of any
23 motor vehicle, trailer, or motorcycle for a period of thirty or
24 more days with a right or option to purchase under the terms of the
25 lease;

26 (27) Established place of business means a permanent
27 location within this state, easily accessible to the public, owned
28 or leased by the applicant or a licensee for at least the term of

1 the license year, and conforming with applicable zoning laws, at
2 which the licensee conducts the business for which he or she is
3 licensed and may be contacted by the public during posted
4 reasonable business hours which shall be not less than forty hours
5 per week. The established place of business shall have the
6 following facilities: (a) Office space in a building or mobile
7 home, which space shall be clean, dry, safe, and well lighted and
8 in which shall be kept and maintained all books, records, and files
9 necessary for the conduct of the licensed business, which premises,
10 books, records, and files shall be available for inspection during
11 regular business hours by any peace officer or investigator
12 employed or designated by the board. Dealers shall, upon demand of
13 the board's investigator, furnish copies of records so required
14 when conducting any investigation of a complaint; (b) a sound and
15 well-maintained sign which is legible from a public road and
16 displayed with letters not less than eight inches in height and one
17 contiguous area to display ten or more motor vehicles, motorcycles,
18 or trailers in a presentable manner; (c) adequate repair facilities
19 and tools to properly and actually service warranties on motor
20 vehicles, motorcycles, or trailers sold at such place of business
21 and to make other repairs arising out of the conduct of the
22 licensee's business or, in lieu of such repair facilities, the
23 licensee may enter into a contract for the provision of such
24 service and file a copy thereof annually with the board and shall
25 furnish to each buyer a written statement as to where such service
26 will be provided as required by section 60-1417. The service
27 facility shall be located in the same county as the licensee unless
28 the board specifically authorizes the facility to be located

1 elsewhere. Such facility shall maintain regular business hours and
2 shall have suitable repair equipment and facilities to service and
3 inspect the type of vehicles sold by the licensee. Investigators
4 of the board may certify ongoing compliance with the service and
5 inspection facilities or repair facilities; and (d) an operating
6 telephone connected with a public telephone exchange and located on
7 the premises of the established place of business with a telephone
8 number listed by the public telephone exchange and available to the
9 public during the required posted business hours. A mobile truck
10 equipped with repair facilities to properly perform warranty
11 functions and other repairs shall be deemed adequate repair
12 facilities for trailers. The requirements of this subdivision
13 shall apply to the place of business authorized under a
14 supplemental motor vehicle, motorcycle, or trailer dealer's
15 license;

16 (28) Retail, when used to describe a sale, means a sale
17 to any person other than a licensed dealer of any kind within the
18 definitions of this section;

19 (29) Factory branch means a branch office maintained in
20 this state by a person who manufactures, assembles, or distributes
21 motor vehicles, motorcycles, or trailers for the sale of such motor
22 vehicles, motorcycles, or trailers to distributors or dealers or
23 for directing or supervising, in whole or in part, its
24 representatives in this state;

25 (30) Distributor representative means a representative
26 employed by a distributor or distributor branch for the same
27 purpose as set forth in the definition of factory representative in
28 this section;

1 (31) Board means the Nebraska Motor Vehicle Industry
2 Licensing Board;

3 (32) Scrap metal processor means any person engaged in
4 the business of buying vehicles, motorcycles, or parts thereof for
5 the purpose of remelting or processing into scrap metal or who
6 otherwise processes ferrous or nonferrous metallic scrap for
7 resale. No scrap metal processor shall sell vehicles or
8 motorcycles without obtaining a wrecker or salvage dealer license;

9 (33) Designated family member means the spouse, child,
10 grandchild, parent, brother, or sister of the owner of a new motor
11 vehicle dealership who, in the case of the owner's death, is
12 entitled to inherit the ownership interest in the new motor vehicle
13 dealership under the terms of the owner's will, who has been
14 nominated in any other written instrument, or who, in the case of
15 an incapacitated owner of such dealership, has been appointed by a
16 court as the legal representative of the new motor vehicle dealer's
17 property;

18 (34) Bona fide consumer means an owner of a motor
19 vehicle, motorcycle, or trailer who has acquired such vehicle for
20 use in business or for pleasure purposes, who has been granted a
21 certificate of title on such motor vehicle, motorcycle, or trailer,
22 and who has registered such motor vehicle, motorcycle, or trailer,
23 all in accordance with the laws of the residence of the owner,
24 except that no owner who sells more than eight registered motor
25 vehicles, motorcycles, or trailers within a twelve-month period
26 shall qualify as a bona fide consumer;

27 (35) Violator means a person acting without a license or
28 registration as required by sections 60-1401.01 to 60-1440; ~~and~~

1 (36) Manufactured home means a structure, transportable
2 in one or more sections, which in the traveling mode is eight body
3 feet or more in width or forty body feet or more in length or when
4 erected on site is three hundred twenty or more square feet and
5 which is built on a permanent chassis and designed to be used as a
6 dwelling with or without a permanent foundation when connected to
7 the required utilities and includes the plumbing, heating, air
8 conditioning, and electrical systems contained in the structure,
9 except that manufactured home includes any structure that meets all
10 of the requirements of this subdivision other than the size
11 requirements and with respect to which the manufacturer voluntarily
12 files a certification required by the United States Secretary of
13 Housing and Urban Development and complies with the standards
14 established under the National Manufactured Housing Construction
15 and Safety Standards Act of 1974, as amended, 42 U.S.C. 5401 et
16 seq. Manufactured home also includes any manufactured home
17 designed and manufactured with more than one separate living unit
18 for the purpose of multifamily living; and

19 (37) Dealer's agent means a person who acts as a buying
20 agent for one or more motor vehicle dealers, motorcycle dealers, or
21 trailer dealers.

22 Nothing in sections 60-1401.01 to 60-1440 shall apply to
23 the State of Nebraska or any of its agencies or subdivisions. No
24 insurance company, finance company, public utility company, fleet
25 owner, or other person coming into possession of any motor vehicle,
26 motorcycle, or trailer, as an incident to its regular business, who
27 sells or exchanges the motor vehicle, motorcycle, or trailer shall
28 be considered a dealer except persons whose regular business is

1 leasing or renting motor vehicles, motorcycles, or trailers.

2 Sec. 2. Section 60-1403.01, Revised Statutes Supplement,
3 2002, is amended to read:

4 60-1403.01. (1) No person shall engage in the business
5 as, ~~or~~ serve in the capacity of, or act as a motor vehicle,
6 trailer, or motorcycle dealer, wrecker or salvage dealer,
7 salesperson, auction dealer, dealer's agent, manufacturer, factory
8 branch, factory representative, distributor, distributor branch, or
9 distributor representative in this state without being licensed by
10 the board under the provisions of sections 60-1401.01 to 60-1440.
11 No salesperson's license shall be issued to any person under the
12 age of sixteen, and no dealer's license shall be issued to any
13 minor. No wrecker or salvage dealer's license shall be issued or
14 renewed unless the applicant has a permanent place of business at
15 which the activity requiring licensing is performed and which
16 conforms to all local laws.

17 (2) A license issued under sections 60-1401.01 to 60-1440
18 shall authorize the holder thereof to engage in the business or
19 activities permitted by the license subject to sections 60-1401.01
20 to 60-1440 and the rules and regulations adopted and promulgated by
21 the board under such sections.

22 (3) This section shall not apply to a licensed real
23 estate salesperson or broker who negotiates for sale or sells a
24 trailer for any individual who is the owner of not more than two
25 trailers.

26 Sec. 3. Section 60-1406, Revised Statutes Supplement,
27 2002, is amended to read:

28 60-1406. Licenses issued by the board under Chapter 60,

1 article 14, shall be of the classes set out in this section and
2 shall permit the business activities described in this section:

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

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

23 (3) Manufacturer license. This license permits the
24 licensee to engage in the activities of a motor vehicle,
25 motorcycle, or trailer manufacturer or manufacturer's factory
26 branch;

27 (4) Distributor license. This license permits the
28 licensee to engage in the activities of a motor vehicle,

1 motorcycle, or trailer distributor;

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

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

7 (7) Distributor representative license. This license
8 permits the licensee to engage in the activities of a distributor
9 representative;

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

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

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

28 (11) Motorcycle dealer's license. This license permits

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

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

19 (13) Trailer dealer's license. This license permits the
20 licensee to engage in the business of selling or exchanging new,
21 used, or new and used trailers and manufactured homes at the
22 established place of business designated in the license and another
23 place or places of business located within three hundred feet of
24 the designated place of business and within the city or county
25 described in the original license. This form of license permits
26 one person named on the license, either the licensee, if he or she
27 is the individual owner of the licensed business, or a stockholder,
28 officer, partner, or member of the licensee, to act as a trailer

1 and manufactured home salesperson and the name of the authorized
2 person shall appear on the license; and

3 (14) Dealer's agent license. This license permits the
4 licensee to act as the buying agent for one or more licensed motor
5 vehicle dealers, motorcycle dealers, or trailer dealers. The agent
6 shall act in accordance with a written contract and file a copy of
7 the contract with the board. The dealer shall be bound by and
8 liable for the actions of the agent. The dealer's agent shall
9 disclose in writing to each dealer with which the agent contracts
10 as an agent the names of all other dealers contracting with the
11 agent. The agent shall make each purchase on behalf of and in the
12 name of only one dealer and may purchase for dealers only at
13 auctions and only from licensed dealers. The agent shall not act
14 as a licensed dealer and is not authorized to sell any vehicle
15 pursuant to this license.

16 Sec. 4. Section 60-1407, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 60-1407. Any person desiring to apply for one or more of
19 the types of licenses described in Chapter 60, article 14, shall
20 submit to the board, in writing, the following required
21 information: (1) The name and address of the applicant, if the
22 applicant is an individual, his or her social security number, and
23 the name under which he or she intends to conduct business. If the
24 applicant is a partnership or limited liability company, it shall
25 set forth the name and address of each partner or member thereof
26 and the name under which the business is to be conducted. If the
27 applicant is a corporation, it shall set forth the name of the
28 corporation and the name and address of each of its principal

1 officers; (2) the place or places, including the city or village
2 and the street and street number, if any, where the business is to
3 be conducted or the salesperson employed; (3) if the application is
4 for a motor vehicle dealer's license, trailer dealer's license, or
5 motorcycle dealer's license the name or names of the new motor
6 vehicle or vehicles, new trailer or trailers, new motorcycle or
7 motorcycles which the applicant has been enfranchised to sell or
8 exchange and the name or names and address or addresses of the
9 manufacturer or distributor who has enfranchised the applicant and
10 a current copy of each existing franchise; (4) if the application
11 is for any of the above-named classes of dealer's licenses, the
12 name and address of the person who is to act as a motor vehicle,
13 trailer, or motorcycle salesperson under such license if issued;
14 (5) if the application is for a dealer's agent, the dealers for
15 which the agent will be buying; and ~~(5)~~ (6) a description of the
16 proposed place or places of business proposed to be operated in the
17 event a license is granted together with (a) a statement whether
18 the applicant owns or leases the proposed established place of
19 business as defined in section 60-1401.02 and, if the proposed
20 established place of business is leased, the applicant shall file a
21 true and correct copy of the lease agreement, and (b) a description
22 of the facilities for the display of motor vehicles, trailers, and
23 motorcycles.

24 Sec. 5. Section 60-1410, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 60-1410. The board shall prescribe the form of the
27 license and each license shall have printed thereon the seal of its
28 office. All licenses shall be mailed to each licensee except the

1 license of each motor vehicle, motorcycle, or trailer ~~salesman~~
 2 salesperson which shall be delivered or mailed to the motor
 3 vehicle, motorcycle, or trailer dealer by whom the motor vehicle,
 4 motorcycle, or trailer ~~salesman~~ salesperson is employed and be kept
 5 in the custody and control of such dealer. It shall be the duty of
 6 each dealer to conspicuously display his or her own license or
 7 licenses in his or her place or places of business.

8 The board shall prepare and deliver a pocket card for
 9 ~~salesmen~~ salespersons, dealer's agents, factory representatives,
 10 and distributor representatives. Such card shall certify that the
 11 person whose name appears thereon is a licensed motor vehicle,
 12 motorcycle, or trailer ~~salesman~~ salesperson, dealer's agent,
 13 factory representative, or distributor representative, as the case
 14 may be. Such motor vehicle or trailer ~~salesman's~~ salesperson's
 15 card shall also contain the name and address of the dealer
 16 employing ~~him~~ the salesperson.

17 Sec. 6. Section 60-1411, Reissue Revised Statutes of
 18 Nebraska, is amended to read:

19 60-1411. If ~~Should~~ a motor vehicle dealer, motorcycle
 20 dealer, or trailer dealer ~~change~~ changes the address of his or her
 21 place of business, ~~change~~ changes franchise, ~~add~~ adds another
 22 franchise, or ~~lose~~ loses a franchise for sale of new motor
 23 vehicles, motorcycles, or trailers, ~~he must~~ the dealer shall notify
 24 the board of such change within ten days prior to such change.
 25 Thereupon the license shall be corrected for the unexpired portion
 26 of the term at no additional fee except as provided in section
 27 60-1411.01.

28 If ~~Should~~ any motor vehicle, trailer, or motorcycle

1 ~~salesman~~ be salesperson is discharged, leave his leaves his or her
 2 employer, or change his changes his or her place of employment, the
 3 employer who last employed ~~such salesman~~ the salesperson shall
 4 forthwith return the license to the board. The ~~salesman's~~
 5 salesperson's pocket card shall thereupon be returned by the
 6 ~~salesman~~ salesperson. The ~~salesman~~ salesperson shall be notified
 7 at his or her last-known place of residence that his or her license
 8 has been returned to the board. It shall be unlawful for ~~him~~ the
 9 salesperson to act as a motor vehicle, motorcycle, or trailer
 10 ~~salesman~~ salesperson until a new license is secured.

11 If a dealer's agent changes his or her agent's status
 12 with any dealer, the agent shall notify the board. If the agent is
 13 no longer contracting with any dealer, the dealer's agent license
 14 shall lapse and the license and pocket card shall be returned to
 15 the board.

16 Sec. 7. Section 60-1411.01, Revised Statutes Supplement,
 17 2002, is amended to read:

18 60-1411.01. (1) To pay the expenses of the
 19 administration, operation, maintenance, and enforcement of sections
 20 60-1401.01 to 60-1440, the board shall collect with each
 21 application for each class of license fees not exceeding the
 22 following amounts:

23 (a) ~~(1)~~ Motor vehicle dealer's license, two hundred
 24 dollars;

25 (b) Supplemental ~~(2) supplemental~~ motor vehicle dealer's
 26 license, ten dollars;

27 (c) Motor ~~(3) motor~~ vehicle or motorcycle salesperson's
 28 license, ten dollars;

- 1 (d) Dealer's agent license, fifty dollars;
- 2 (e) Motor ~~(4) motor~~ vehicle, motorcycle, or trailer
3 manufacturer's license, three hundred dollars;
- 4 (f) Distributor's ~~(5) distributor's~~ license, three
5 hundred dollars;
- 6 (g) Factory ~~(6) factory~~ representative's license, ten
7 dollars;
- 8 (h) Distributor ~~(7) distributor~~ representative's license,
9 ten dollars;
- 10 (i) Finance ~~(8) finance~~ company's license, two hundred
11 dollars;
- 12 (j) Wrecker ~~(9) wrecker~~ or salvage dealer's license, one
13 hundred dollars;
- 14 (k) Factory ~~(10) factory~~ branch license, one hundred
15 dollars;
- 16 (l) Motorcycle ~~(11) motorcycle~~ dealer's license, two
17 hundred dollars;
- 18 (m) Motor ~~(12) motor~~ vehicle auction dealer's license,
19 two hundred dollars; and
- 20 (n) Trailer ~~(13) trailer~~ dealer's license, two hundred
21 dollars.
- 22 (2) The + which fees shall be fixed by the board and
23 shall not exceed the amount actually necessary to sustain the
24 administration, operation, maintenance, and enforcement of sections
25 60-1401.01 to 60-1440.
- 26 (3) Such licenses, if issued, shall expire on December 31
27 next following the date of the issuance thereof. Any motor
28 vehicle, motorcycle, or trailer dealer changing its location shall

1 not be required to obtain a new license if the new location is
2 within the same city limits or county, all requirements of law are
3 complied with, and a fee of twenty-five dollars is paid, but any
4 change of ownership of any licensee shall require a new application
5 for a license and a new license. Change of name of licensee
6 without change of ownership shall require the licensee to obtain a
7 new license and pay a fee of five dollars. Applications shall be
8 made each year for a new or renewal license. If the applicant is
9 an individual, the application shall include the applicant's social
10 security number.

11 Sec. 8. Section 60-1411.02, Revised Statutes Supplement,
12 2002, is amended to read:

13 60-1411.02. The board may, upon its own motion, and
14 shall, upon a sworn complaint in writing of any person, investigate
15 the actions of any person acting, registered, or licensed under
16 Chapter 60, article 14, as a motor vehicle dealer, trailer dealer,
17 motor vehicle or trailer salesperson, dealer's agent, manufacturer,
18 factory branch, distributor, factory representative, distributor
19 representative, supplemental motor vehicle dealer, wrecker or
20 salvage dealer, finance company, motorcycle dealer, or motor
21 vehicle auction dealer or operating without a registration or
22 license when such registration or license is required. The board
23 may deny any application for a license, may revoke or suspend a
24 license, may place the licensee or registrant on probation, may
25 assess an administrative fine in an amount not to exceed five
26 thousand dollars per violation, or may take any combination of such
27 actions if the violator, applicant, registrant, or licensee
28 including any officer, stockholder, partner, or limited liability

1 company member or any person having any financial interest in the
2 violator, applicant, registrant, or licensee:

3 (1) Has had any license issued under Chapter 60, article
4 14, revoked or suspended and, if the license has been suspended,
5 has not complied with the terms of suspension;

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

8 (3) Has failed to provide and maintain an established
9 place of business;

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

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

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

22 (7) Has made a fraudulent sale, transaction, or
23 repossession, or created a fraudulent security interest as defined
24 in the Uniform Commercial Code, in a motor vehicle, trailer, or
25 motorcycle;

26 (8) Has failed to notify the board of a change in the
27 location of his or her established place or places of business and
28 in the case of a salesperson has failed to notify the board of any

1 change in his or her employment;

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

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

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

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

14 (13) Has failed to comply with any provisions of section
15 60-320, Chapter 60, article 1 or 14, or the rules or regulations
16 adopted and promulgated by the board pursuant to Chapter 60,
17 article 14;

18 (14) Has failed to comply with any provision of Chapter
19 71, article 46, or with any code, standard, rule, or regulation
20 adopted or made under the authority of or pursuant to Chapter 71,
21 article 46;

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

24 (16) Has employed any unlicensed salesperson or
25 salespersons;

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

27 (18) Has engaged in any unfair methods of competition or
28 unfair or deceptive acts or practices prohibited under the Uniform

1 Deceptive Trade Practices Act; or

2 (19) Has conspired, as defined in section 28-202, with
3 other persons to process titles in violation of Chapter 60, article
4 1.

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

8 Sec. 9. Section 60-1413, Revised Statutes Supplement,
9 2002, is amended to read:

10 60-1413. (1) Before the board denies any license or any
11 registration as described in section 60-1417.02, revokes or
12 suspends any such license or registration, places a licensee or
13 registrant on probation, or assesses an administrative fine under
14 section 60-1411.02, the board shall give the applicant, licensee,
15 registrant, or violator a hearing on the matter unless the hearing
16 is waived upon agreement between the applicant, licensee,
17 registrant, or violator and the executive director, with the
18 approval of the board. As a condition of the waiver, the
19 applicant, licensee, registrant, or violator shall accept the fine
20 or other administrative action. If the hearing is not waived, the
21 board shall, at least thirty days prior to the date set for the
22 hearing, notify the party in writing. Such notice in writing shall
23 contain an exact statement of the charges against the party and the
24 date and place of hearing. The party shall have full authority to
25 be heard in person or by counsel before the board in reference to
26 the charges. The written notice may be served by delivery
27 personally to the party or by mailing the notice by registered or
28 certified mail to the last-known business address of the party. If

1 the applicant is a salesperson or dealer's agent, the board shall
2 also notify the dealer employing or contracting with him or her or
3 whose employ he or she seeks to enter by mailing the notice to the
4 dealer's last-known business address. A stenographic record of all
5 testimony presented at the hearings shall be made and preserved
6 pending final disposition of the complaint.

7 (2) When the licensee fails to maintain a bond as
8 provided in section 60-1419, an established place of business, or
9 liability insurance as prescribed by subsection (3) of section
10 60-1407.01, the license shall immediately expire. The executive
11 director shall notify the licensee personally or by mailing the
12 notice by registered or certified mail to the last-known address of
13 the licensee that his or her license is revoked until a bond as
14 required by section 60-1419 or liability insurance as prescribed by
15 subsection (3) of section 60-1407.01 is furnished and approved in
16 which event the license may be reinstated.

17 (3) Upon notice of the revocation or suspension of the
18 license, the licensee shall immediately surrender the expired
19 license to the executive director or his or her representative. If
20 the license is suspended, the executive director or his or her
21 representative shall return the license to the licensee at the time
22 of the conclusion of the period of suspension. Failure to
23 surrender the license as required in this section shall subject the
24 licensee to the penalties provided in section 60-1416.

25 Sec. 10. Section 60-1416, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 60-1416. Any person acting as a motor vehicle dealer,
28 trailer dealer, wrecker or salvage dealer, motorcycle dealer,

1 auction dealer, motor vehicle, motorcycle, or trailer salesperson,
2 dealer's agent, manufacturer, factory representative, distributor,
3 or distributor representative without having first obtained the
4 license provided in section 60-1406 is guilty of a Class IV felony
5 and is subject to the civil penalty provisions of section
6 60-1411.02.

7 Sec. 11. Original sections 60-1407, 60-1410, 60-1411,
8 and 60-1416, Reissue Revised Statutes of Nebraska, and sections
9 60-1401.02, 60-1403,01, 60-1406, 60-1411.01, 60-1411.02, and
10 60-1413, Revised Statutes Supplement, 2002, are repealed.