

## LEGISLATIVE BILL 797

Approved by the Governor March 31, 2008

Introduced by Health and Human Services Committee: Johnson, 37, Chairperson; Erdman, 47; Gay, 14; Hansen, 42; Howard, 9; Pankonin, 2; Stuthman, 22.

FOR AN ACT relating to health and human services; to amend sections 60-1301, 71-1557, 71-1558, 71-1559, 71-1563, 71-1564, 71-1567, 71-1901, 71-4603, 71-4604, 71-4623, 71-4631, 71-7003.01, 71-7010, and 71-7013, Reissue Revised Statutes of Nebraska, sections 60-107, 60-1401.02, 71-409, 71-4604.01, 71-4608, 71-5663, 71-5665, and 71-5668, Revised Statutes Cumulative Supplement, 2006, and sections 68-906, 71-5662, 71-7012, 71-8249, 81-671, and 86-570, Revised Statutes Supplement, 2007; to redefine terms; to change a date within the Medical Assistance Act relating to acceptance of federal provisions; to change provisions relating to the Nebraska Uniform Standards for Modular Housing Units Act, the Uniform Standard Code for Manufactured Homes and Recreational Vehicles, and the Uniform Standard Code for Mobile Home Parks; to provide for civil penalties and administrative fines; to change and eliminate provisions relating to organization of the Department of Health and Human Services, the Rural Health Systems and Professional Incentive Act, mammography, the statewide trauma registry, and release of health information; to provide for disqualification for certain public assistance programs; to eliminate the Governor's Roundtable and repeal obsolete provisions; to harmonize provisions; to provide operative dates; to repeal the original sections; to outright repeal sections 68-1736, 68-1737, 71-4628, 71-7002, 71-7003, 71-7004, 71-7005, 71-7006, 71-7007, 71-7008, 71-7009, and 71-7011, Reissue Revised Statutes of Nebraska, and section 71-7001, Revised Statutes Supplement, 2007; and to declare an emergency.

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

Section 1. Section 60-107, Revised Statutes Cumulative Supplement, 2006, is amended to read:

60-107 Cabin trailer means a trailer or a semitrailer, which is designed, constructed, and equipped as a dwelling place, living abode, or sleeping place, whether used for such purposes or instead permanently or temporarily for the advertising, sale, display, or promotion of merchandise or services or for any other commercial purpose except transportation of property for hire or transportation of property for distribution by a private carrier. Cabin trailer does not mean a trailer or semitrailer which is permanently attached to real estate. There are four classes of cabin trailers:

(1) Camping trailer which includes cabin trailers one hundred two inches or less in width and forty feet or less in length and adjusted mechanically smaller for towing;

(2) Mobile home which includes cabin trailers more than one hundred two inches in width or more than forty feet in length;

(3) Travel trailer which includes cabin trailers not more than one hundred two inches in width nor more than forty feet in length from front hitch to rear bumper, except as provided in subdivision (2)(k) of section 60-6,288; and

(4) Manufactured home means a structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or forty body feet or more in length or when erected on site is three hundred twenty or more square feet and which is built on a permanent frame and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure, except that manufactured home includes any structure that meets all of the requirements of this subdivision other than the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States Secretary of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, as such act existed on September 1, 2001, 42 U.S.C. 5401 et seq. ~~Manufactured home also includes any manufactured home designed and manufactured with more than one separate living unit for the purpose of multifamily living.~~

Sec. 2. Section 60-1301, Reissue Revised Statutes of Nebraska, is amended to read:

60-1301 In order to promote public safety, to preserve and protect the state highways and bridges and prevent immoderate and destructive use of the same, and to enforce the motor vehicle registration laws, the Department of Roads shall have the responsibility to construct, maintain, provide, and contract with the Nebraska State Patrol for the operation of weighing stations and provide the funding for the same. The Nebraska State Patrol shall operate the weighing stations, including portable scales, for the weighing and inspection of buses, motor trucks, truck-tractors, semitrailers, trailers, and towed vehicles. Each of the weighing stations shall be located near, on, or adjacent to a state highway upon real estate owned by the State of Nebraska or upon real estate acquired for that purpose. Weights determined on such weighing stations and portable scales shall be presumed to be accurate and shall be accepted in court as prima facie evidence of a violation of the laws relating to the size, weight, load, and registration of buses, motor trucks, truck-tractors, semitrailers, trailers, and towed vehicles. The owner or driver of a vehicle found to be in violation of such laws by the use of portable scales shall be advised by the officer operating the portable scale that he or she has the right to demand an immediate reweighing at his or her expense at the nearest permanent state-approved scale capable of weighing the vehicle, and if a variance exists between the weights of the permanent and portable scales, then the weights determined on the permanent scale shall prevail. Sections 60-1301 to 60-1309 shall not apply to pickup trucks with a factory-rated capacity of one ton or less, except as may be provided by rules and regulations of the Nebraska State Patrol, or to recreational vehicles as defined in ~~subdivision (2) of~~ section 71-4603. The Nebraska State Patrol may adopt and promulgate rules and regulations concerning the weighing of pickup trucks with a factory-rated capacity of one ton or less which tow vehicles. Such rules and regulations shall require trucks towing vehicles to comply with sections 60-1301 to 60-1309 when it is necessary to promote the public safety and preserve and protect the state highways and bridges.

Sec. 3. Section 60-1401.02, Revised Statutes Cumulative Supplement, 2006, is amended to read:

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

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

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

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

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

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

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

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

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

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

(8) New motor vehicle means all motor vehicles which are not

included within the definition of a used motor vehicle in this section;

(9) Trailer means semitrailers and trailers as defined in sections 60-348 and 60-354, respectively, which are required to be licensed as commercial trailers, other vehicles without motive power constructed so as to permit their being used as conveyances upon the public streets and highways and so constructed as not to be attached to real estate and to permit the vehicle to be used for human habitation by one or more persons, and camping trailers, slide-in campers, fold-down campers, and fold-down tent trailers. Machinery and equipment to which wheels are attached and designed for being towed by a motor vehicle are excluded from the provisions of sections 60-1401.01 to 60-1440;

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

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

(12) Auction means a sale of motor vehicles and trailers of types required to be registered in this state, except such vehicles as are eligible for registration pursuant to section 60-3,198, sold or offered for sale at which the price offered is increased by the prospective buyers who bid against one another, the highest bidder becoming the purchaser. The holding of a farm auction or an occasional motor vehicle or trailer auction of not more than two auctions in a calendar year does not constitute an auction subject to sections 60-1401.01 to 60-1440;

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

(14) Supplemental motor vehicle, trailer, motorcycle, or motor vehicle auction dealer means any person holding either a motor vehicle, trailer, motorcycle, or motor vehicle auction dealer's license engaging in the business authorized by such license at a place of business that is more than three hundred feet from any part of the place of business designated in the dealer's original license but which is located within the city or county described in such original license;

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

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

(17) Factory representative means a representative employed by a person who manufactures or assembles motor vehicles, motorcycles, or trailers, or by a factory branch, for the purpose of promoting the sale of its motor vehicles, motorcycles, or trailers to, or for supervising or contacting, its dealers or prospective dealers in this state;

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

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

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

(a) A commercial relationship of definite duration or continuing

indefinite duration is involved;

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

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

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

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

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

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

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

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

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

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

(27) Established place of business means a permanent location within this state, easily accessible to the public, owned or leased by the applicant or a licensee for at least the term of the license year, and conforming with applicable zoning laws, at which the licensee conducts the business for which he or she is licensed and may be contacted by the public during posted reasonable business hours which shall be not less than forty hours per week. The established place of business shall have the following facilities:

(a) Office space in a building or mobile home, which space shall be clean, dry, safe, and well lighted and in which shall be kept and maintained all books, records, and files necessary for the conduct of the licensed business, which premises, books, records, and files shall be available for inspection during regular business hours by any peace officer or investigator employed or designated by the board. Dealers shall, upon demand of the board's investigator, furnish copies of records so required when conducting any investigation of a complaint; (b) a sound and well-maintained sign which is legible from a public road and displayed with letters not less than eight inches in height and one contiguous area to display ten or more motor vehicles, motorcycles, or trailers in a presentable manner; (c) adequate repair facilities and tools to properly and actually service warranties on motor vehicles, motorcycles, or trailers sold at such place of business and to make other repairs arising out of the conduct of the licensee's business or, in lieu of such repair facilities, the licensee may enter into a contract for the provision of such service and file a copy thereof annually with the board and shall furnish to each buyer a written statement as to where such service will be provided as required by section 60-1417. The service facility shall be located in the same county as the licensee unless the board specifically authorizes the facility to be located elsewhere. Such facility shall maintain regular business hours and shall have suitable repair equipment and facilities to service and inspect the type of vehicles sold by the licensee. Investigators of the board may certify ongoing compliance with the service and inspection facilities or repair facilities; and (d) an operating telephone connected with a public telephone exchange and located on the premises of the established place of business with a telephone number listed by the public telephone exchange and available to the public during the required posted business hours. A mobile truck equipped with repair facilities to properly perform warranty functions and other repairs shall be deemed adequate repair facilities for trailers. The requirements of this subdivision shall apply to the place of business authorized under a supplemental motor vehicle, motorcycle, or trailer dealer's license;

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

section;

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

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

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

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

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

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

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

(36) Manufactured home means a structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or forty body feet or more in length or when erected on site is three hundred twenty or more square feet and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure, except that manufactured home includes any structure that meets all of the requirements of this subdivision other than the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States Secretary of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended, such act existed on September 1, 2001, 42 U.S.C. 5401 et seq.; ~~Manufactured home also includes any manufactured home designed and manufactured with more than one separate living unit for the purpose of multifamily living; and~~

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

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

Sec. 4. Section 68-906, Revised Statutes Supplement, 2007, is amended to read:

68-906 For purposes of paying medical assistance under the Medical Assistance Act and sections 68-1002 and 68-1006, the State of Nebraska accepts and assents to all applicable provisions of Title XIX and Title XXI of the federal Social Security Act. Any reference in the Medical Assistance Act to the federal Social Security Act or other acts or sections of federal law shall be to such federal acts or sections as they existed on ~~April~~ January 1, 2007-2008.

Sec. 5. Section 71-409, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-409 Critical access hospital means a facility (1) with acute care inpatient beds where care or treatment is provided on an outpatient basis or on an inpatient basis to persons for an average period of not more than

ninety-six hours and emergency services are provided on a twenty-four-hour basis, ~~and~~ (2) which has formal agreements with at least one hospital and other appropriate providers for services such as patient referral and transfer, communications systems, provision of emergency and nonemergency transportation, and backup medical and emergency services, and (3) which is located in a rural area. For purposes of this section, rural area means a county with a population of less than one hundred thousand residents. A facility licensed as a critical access hospital shall have no more than twenty-five acute care inpatient beds.

Sec. 6. Section 71-1557, Reissue Revised Statutes of Nebraska, is amended to read:

71-1557 As used in the Nebraska Uniform Standards for Modular Housing Units Act, unless the context otherwise requires:

(1) Modular housing unit means any dwelling whose construction consists entirely of or the major portions of its construction consist of a unit or units, containing facilities for no more than one family, not fabricated on the final site for the dwelling unit, which units are movable or portable until placed on a permanent foundation and connected to utilities. Modular housing units shall be taxed as real estate;

~~(2) Living unit means any portion of a modular housing unit which contains living facilities including provisions for sleeping, eating, cooking, and sanitation for no more than one family;~~

~~(3) (2) Seal means a device or insignia issued by the Department of Health and Human Services Regulation and Licensure prior to May 1, 1998, or by the Public Service Commission on or after May 1, 1998, to be displayed on the exterior of the modular housing unit as determined by the commission to evidence compliance with state standards;~~

~~(4) (3) Dealer means any person other than a manufacturer who sells, offers to sell, distributes, or leases modular housing units primarily to persons who in good faith purchase or lease a modular housing unit for purposes other than resale;~~

~~(5) (4) Manufacturer means any person who manufactures or produces modular housing units;~~

~~(6) (5) Person means any individual, partnership, limited liability company, company, corporation, or association engaged in manufacturing, selling, offering to sell, or leasing modular housing units; and~~

~~(7) (6) Commission means the Public Service Commission.~~

Sec. 7. Section 71-1558, Reissue Revised Statutes of Nebraska, is amended to read:

71-1558 (1) All construction of and all plumbing, heating, and electrical systems installed in modular housing units manufactured, sold, offered for sale, or leased in this state more than six months after July 10, 1976, and before May 1, 1998, ~~and sold, offered for sale, or leased in this state~~ shall comply with the standards of the state agency responsible for regulation of modular housing units as such standards existed on the date of manufacture.

(2) All construction of and all plumbing, heating, and electrical systems installed in modular housing units manufactured, ~~on or after May 1, 1998,~~ and sold, offered for sale, or leased in this state on or after May 1, 1998, shall be at least equal to the standards adopted and approved by the commission pursuant to its rules and regulations as such standards existed on the date of manufacture. The standards shall (a) protect the health and safety of persons living in modular housing units, (b) assure reciprocity with other states that have adopted standards which protect the health and safety of persons living in modular housing units the purpose of which is to make uniform the law of those states which adopt them, (c) allow variations from such uniform standards as will reduce unnecessary costs of construction or increase safety, durability, or efficiency, including energy efficiency, of the modular housing unit without jeopardizing such reciprocity, (d) assure changes in those uniform standards which reflect new technology making possible greater safety, efficiency, including energy efficiency, economy, or durability than earlier standards, and (e) allow for reduced energy and snow live load requirements for those modular housing units destined for out-of-state siting if the receiving jurisdiction has such reduced requirements. The commission shall adopt as standards relating to electrical systems in modular housing units those applicable standards adopted and amended by the State Electrical Board under section 81-2104.

(3) Whenever practical, the standards shall be stated in terms of required levels of performance so as to facilitate the prompt acceptance of new building materials and methods. If generally recognized standards of performance are not available, the standards shall provide for acceptance of materials and methods whose performance has been found by the commission on

the basis of reliable test and evaluation data presented by the proponent to be substantially equal to those specified.

Sec. 8. Section 71-1559, Reissue Revised Statutes of Nebraska, is amended to read:

71-1559 (1) Every modular housing unit, except those constructed or manufactured by any school district or community college area as a part of a buildings trade or other instructional program offered by such district or area, manufactured, sold, offered for sale, or leased in this state more than six months after July 10, 1976, and before May 1, 1998, ~~which is sold, offered for sale, or leased in this state~~ shall comply with the seal requirements of the state agency responsible for regulation of modular housing units as such requirements existed on the date of manufacture.

(2) Every modular housing unit, except those constructed or manufactured by any school district or community college area as part of a buildings trade or other instructional program offered by such district or area, manufactured, on or after May 1, 1998, which is sold, offered for sale, or leased in this state on or after May 1, 1998, shall bear a seal issued by the commission certifying that the construction and the structural, plumbing, heating, and electrical systems of such modular housing unit have been installed in compliance with its standards applicable at the time of manufacture. Each manufacturer of such modular housing units, except those constructed or manufactured by such school district or community college area, shall submit its plans to the commission for the purposes of inspection. The commission shall establish a compliance assurance program consisting of an application form and a compliance assurance manual. Such manual shall identify and list all procedures which the manufacturer and the inspection agency propose to implement to assure that the finished modular housing unit conforms to the approved building system and the applicable codes adopted by the commission. The compliance assurance program requirements shall apply to all inspection agencies, whether commission or authorized third party, and shall define duties and responsibilities in the process of inspecting, monitoring, and issuing seals for modular housing units. The commission shall issue the seal only after ascertaining that the manufacturer is in full compliance with the compliance assurance program through inspections at the plant by the commission or authorized third-party inspection agency. Such inspections shall be of an unannounced frequency such that the required level of code compliance performance is implemented and maintained throughout all areas of plant and site operations that affect regulatory aspects of the construction. Each seal issued by the state shall remain the property of the commission and may be revoked by the commission in the event of violation of the conditions of issuance.

(3) Modular housing units constructed or manufactured by any school district or community college area as a part of a buildings trade or other instructional program offered by such district or area shall be inspected by the local inspection authority or, upon request of the district or area, by the commission. If the commission inspects a unit and finds that it is in compliance, the commission shall issue a seal certifying that the construction and the structural, plumbing, heating, and electrical systems of such unit have been installed in compliance with the standards applicable at the time of manufacture.

(4) The commission shall charge a seal fee of not less than eighty one hundred and not more than ~~four hundred one thousand~~ dollars per living modular housing unit, as determined annually by the commission after published notice and a hearing, for seals issued by the commission under subsection (2) or (3) of this section.

(5) Inspection fees shall be paid for all inspections by the commission of manufacturing plants located outside of the State of Nebraska. Such fees shall consist of a reimbursement by the manufacturer of actual travel and inspection expenses only and shall be paid prior to any issuance of seals.

(6) All fees collected under the Nebraska Uniform Standards for Modular Housing Units Act shall be remitted to the State Treasurer for credit to the Modular Housing Units Cash Fund which is hereby created. Money credited to the fund pursuant to this section shall be used by the commission for the purpose of administering the act. Transfers from the fund to the General Fund may be made at the direction of the Legislature. Any money in the Modular Housing Units Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 9. Section 71-1563, Reissue Revised Statutes of Nebraska, is amended to read:

71-1563 (1) Any person who manufactures, sells, offers for sale,

or leases in this state any modular housing unit ~~manufactured more than six months after July 10, 1976,~~ which does not bear the seal required by the provisions of the Nebraska Uniform Standards for Modular Housing Units Act shall be guilty of a Class IV misdemeanor.

(2) The commission may, in accordance with the laws governing injunctions and other processes, maintain an action in the name of the state against any person who manufactures, sells, offers for sale, or leases in this state any modular housing unit ~~manufactured more than six months after July 10, 1976,~~ which does not bear the seal required by the provisions of such act.

(3) The commission may administratively fine pursuant to section 75-156 any person who violates the act or any rule or regulation adopted and promulgated under the act.

Sec. 10. Section 71-1564, Reissue Revised Statutes of Nebraska, is amended to read:

71-1564 (1) The commission is hereby charged with the administration of the provisions of the Nebraska Uniform Standards for Modular Housing Units Act. The commission may adopt, amend, alter, or repeal general rules and regulations of procedure for carrying out and administering the provisions of such act in regard to ~~(1)~~ (a) the issuance of seals, ~~(2)~~ (b) the submission of plans and specifications of modular housing units, ~~(3)~~ (c) the obtaining of statistical data respecting the manufacture and sale of modular housing units, and ~~(4)~~ (d) the prescribing of means, methods, and practices to make effective such provisions. In adopting such rules and regulations, the commission may require that plans and specifications of modular housing units submitted to the commission be prepared and submitted only by a Nebraska architect or professional engineer.

(2) A person intending to manufacture, sell, offer for sale, or lease a modular housing unit in the State of Nebraska shall submit plans, specifications, and a compliance assurance program in accordance with the act and shall be charged for engineering services of the commission provided for performing the review of such initial submittal at a rate of not less than fifteen dollars per hour and not more than ~~thirty~~ sixty dollars per hour based upon sixty hours of review time as determined by rules and regulations of the commission based upon sixty hours of review time, annually by the commission after published notice and a hearing.

Sec. 11. Section 71-1567, Reissue Revised Statutes of Nebraska, is amended to read:

71-1567 (1) The commission shall refuse to issue a seal to a manufacturer for any modular housing unit not found to be in compliance with its standards governing the construction of or the structural, plumbing, heating, or electrical systems for modular housing units or for which fees have not been paid. Except in case of failure to pay the required fees, any such manufacturer may request a hearing before the commission on the issue of such refusal. Procedures for notice and opportunity for a hearing before the commission shall be pursuant to the Administrative Procedure Act. The refusal may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

(2) The issuance of seals may be suspended as to any manufacturer who is convicted of violating section 71-1563 or as to any manufacturer who violates any other provision of the Nebraska Uniform Standards for Modular Housing Units Act or any rule, regulation, commission order, or standard adopted pursuant thereto, and issuance of the seals shall not be resumed until such manufacturer submits sufficient proof that the conditions which caused the violation have been remedied. Any such manufacturer may request a hearing before the commission on the issue of such suspension. Procedures for notice and opportunity for a hearing before the commission shall be pursuant to the Administrative Procedure Act. The suspension may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

Sec. 12. Section 71-1901, Reissue Revised Statutes of Nebraska, is amended to read:

71-1901 For purposes of sections 71-1901 to 71-1906.01:

(1) Person includes a partnership, limited liability company, firm, agency, association, or corporation;

(2) Child means an unemancipated minor;

(3) Department means the Division of Public Health of the Department of Health and Human Services;

(4) Foster care means engaged in the service of exercising twenty-four-hour daily care, supervision, custody, or control over children, for compensation or hire, in lieu of the care or supervision normally exercised by parents in their own home. Foster care does not include casual care at irregular intervals or programs as defined in section 71-1910; and

(5) Native American means a person who is a member of an Indian



tribe or eligible for membership in an Indian tribe.

Sec. 13. Section 71-4603, Reissue Revised Statutes of Nebraska, is amended to read:

71-4603 For purposes of the Uniform Standard Code for Manufactured Homes and Recreational Vehicles, unless the context otherwise requires:

(1) Camping trailer means a vehicular portable unit mounted on wheels and constructed with collapsible partial side walls which fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters for recreational, camping, or travel use;

(2) Commission means the Public Service Commission;

(3) Dealer means a person licensed by the state pursuant to Chapter 60, article 14, as a dealer in manufactured homes or recreational vehicles or any other person, other than a manufacturer, who sells, offers to sell, distributes, or leases manufactured homes or recreational vehicles primarily to persons who in good faith purchase or lease a manufactured home or recreational vehicle for purposes other than resale;

(4) Defect means a failure to conform to an applicable construction standard that renders the manufactured home or recreational vehicle or any component of the manufactured home or recreational vehicle not fit for the ordinary use for which it was intended but does not result in an unreasonable risk of injury or death to occupants;

(5) Distributor means any person engaged in the sale and distribution of manufactured homes or recreational vehicles for resale;

(6) Failure to conform means a defect, a serious defect, noncompliance, or an imminent safety hazard related to the code;

(7) Fifth-wheel trailer means a unit mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, of such size or weight as not to require a special highway movement permit, of gross trailer area not to exceed four hundred square feet in the setup mode, and designed to be towed by a motorized vehicle that contains a towing mechanism that is mounted above or forward of the tow vehicle's rear axle;

(8) Gross trailer area means the total plan area measured on the exterior to the maximum horizontal projections of exterior wall in the setup mode and includes all siding, corner trims, moldings, storage spaces, expandable room sections regardless of height, and areas enclosed by windows but does not include roof overhangs. Storage lofts contained within the basic unit shall have ceiling heights less than five feet and shall not constitute additional square footage. Appurtenances, as defined in subdivision (2)(k) of section 60-6,288, shall not be considered in calculating the gross trailer area as provided in such subdivision;

(9) Imminent safety hazard means a hazard that presents an imminent and unreasonable risk of death or severe personal injury;

(10) Manufactured home means a structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or forty body feet or more in length or when erected on site is three hundred twenty or more square feet and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure, except that manufactured home includes any structure that meets all of the requirements of this subdivision other than the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States Secretary of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, as such act existed on September 1, 2001, 42 U.S.C. 5401 et seq.;

(11) Manufactured-home construction means all activities relating to the assembly and manufacture of a manufactured home, including, but not limited to, activities relating to durability, quality, and safety;

(12) Manufactured-home safety means the performance of a manufactured home in such a manner that the public is protected against any unreasonable risk of the occurrence of accidents due to the design or construction of such manufactured home or any unreasonable risk of death or injury to the user or to the public if such accidents do occur;

(13) Manufacturer means any person engaged in manufacturing, assembling, or completing manufactured homes or recreational vehicles;

(14) Motor home means a vehicular unit primarily designed to provide temporary living quarters which are built into an integral part of, or permanently attached to, a self-propelled motor vehicle chassis or van, containing permanently installed independent life-support systems that meet the state standard for recreational vehicles and providing at least four of the following facilities: Cooking; refrigeration or ice box; self-contained

toilet; heating, air conditioning, or both; a potable water supply system including a faucet and sink; separate one-hundred-twenty-nominal-volt electrical power supply; or LP gas supply;

(15) Noncompliance means a failure to comply with an applicable construction standard that does not constitute a defect, a serious defect, or an imminent safety hazard;

(16) Park trailer means a vehicular unit which meets the following criteria:

(a) Built on a single chassis mounted on wheels;

(b) Designed to provide seasonal or temporary living quarters which may be connected to utilities necessary for operation of installed fixtures and appliances;

(c) Constructed to permit setup by persons without special skills using only hand tools which may include lifting, pulling, and supporting devices; and

(d) Having a gross trailer area not exceeding four hundred square feet when in the setup mode;

(17) Person means any individual, partnership, limited liability company, company, corporation, or association engaged in manufacturing, selling, offering to sell, or leasing manufactured homes or recreational vehicles;

(18) Purchaser means the first person purchasing a manufactured home or recreational vehicle in good faith for purposes other than resale;

(19) Recreational vehicle means a vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which unit either has its own motive power or is mounted on or towed by another vehicle. Recreational vehicle includes, but is not limited to, travel trailer, park trailer, camping trailer, truck camper, motor home, and van conversion;

(20) Seal means a device or insignia issued by the Department of Health and Human Services Regulation and Licensure prior to May 1, 1998, or by the Public Service Commission on or after May 1, 1998, to be displayed on the exterior of a manufactured home or recreational vehicle to evidence compliance with state standards. The federal manufactured-home label shall be recognized as a seal;

(21) Serious defect means a failure to conform to an applicable construction standard that renders the manufactured home or recreational vehicle or any component of the manufactured home or recreational vehicle not fit for the ordinary use for which it was intended and which results in an unreasonable risk of injury or death to the occupants;

(22) Travel trailer means a vehicular unit mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use of such size or weight as not to require special highway movement permits when towed by a motorized vehicle and of gross trailer area less than four hundred square feet;

(23) Truck camper means a portable unit constructed to provide temporary living quarters for recreational, travel, or camping use, consisting of a roof, floor, and sides and designed to be loaded onto and unloaded from the bed of a pickup truck; and

(24) Van conversion means a completed vehicle permanently altered cosmetically, structurally, or both which has been recertified by the state as a multipurpose passenger vehicle but which does not conform to or otherwise meet the definition of a motor home in this section and which contains at least one plumbing, heating, or one-hundred-twenty-nominal-volt electrical component subject to the provisions of the state standard for recreational vehicles. Van conversion does not include any such vehicle that lacks any plumbing, heating, or one-hundred-twenty-nominal-volt electrical system but contains an extension of the low-voltage automotive circuitry.

(1) Manufactured home means a structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or forty body feet or more in length or when erected on site is three hundred twenty or more square feet and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure, except that manufactured home includes any structure that meets all of the requirements of this subdivision other than the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States Secretary of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, as such act existed on September 1, 2001, 42 U.S.C. 5401 et seq. Manufactured home also includes any manufactured home

designed and manufactured with more than one separate living unit for the purpose of multifamily living;

(2) Recreational vehicle means a vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which unit either has its own motive power or is mounted on or towed by another vehicle. Recreational vehicle includes, but is not limited to, travel trailer, park trailer, camping trailer, truck camper, motor home, and van conversion;

(3) Travel trailer means a vehicular unit mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use of such size or weight as not to require special highway movement permits when towed by a motorized vehicle and of gross trailer area less than three hundred twenty square feet;

(4) Camping trailer means a vehicular portable unit mounted on wheels and constructed with collapsible partial side walls which fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters for recreational, camping, or travel use;

(5) Truck camper means a portable unit constructed to provide temporary living quarters for recreational, travel, or camping use, consisting of a roof, floor, and sides and designed to be loaded onto and unloaded from the bed of a pickup truck;

(6) Motor home means a vehicular unit primarily designed to provide temporary living quarters which are built into an integral part of, or permanently attached to, a self-propelled motor vehicle chassis or van, containing permanently installed independent life-support systems that meet the state standard for recreational vehicles and providing at least four of the following facilities: Cooking, refrigeration or ice box, self-contained toilet, heating, air conditioning, or both, a potable water supply system including a faucet and sink, separate one-hundred-twenty-nominal-volt electrical power supply, or LP gas supply;

(7) Park trailer means a vehicular unit which meets the following criteria:

(a) Built on a single chassis mounted on wheels;

(b) Designed to provide seasonal or temporary living quarters which may be connected to utilities necessary for operation of installed fixtures and appliances;

(c) Constructed to permit setup by persons without special skills using only hand tools which may include lifting, pulling, and supporting devices; and

(d) Having a gross trailer area not exceeding four hundred square feet when in the setup mode;

(8) Van conversion means a completed vehicle permanently altered cosmetically, structurally, or both which has been recertified by the state as a multipurpose passenger vehicle but which does not conform to or otherwise meet the definition of a motor home in this section and which contains at least one plumbing, heating, or one-hundred-twenty-nominal-volt electrical component subject to the provisions of the state standard for recreational vehicles. Van conversion does not include any such vehicle that lacks any plumbing, heating, or one-hundred-twenty-nominal-volt electrical system but contains an extension of the low-voltage automotive circuitry;

(9) Seal means a device or insignia issued by the Department of Health and Human Services Regulation and Licensure prior to May 1, 1998, or by the Public Service Commission on or after May 1, 1998, to be displayed on the exterior of a manufactured home or recreational vehicle to evidence compliance with state standards. The federal manufactured-home label shall be recognized as a seal;

(10) Dealer means a person licensed by the state pursuant to Chapter 60, article 14, as a dealer in manufactured homes or recreational vehicles or any other person, other than a manufacturer, who sells, offers to sell, distributes, or leases manufactured homes or recreational vehicles primarily to persons who in good faith purchase or lease a manufactured home or recreational vehicle for purposes other than resale;

(11) Distributor means any person engaged in the sale and distribution of manufactured homes or recreational vehicles for resale;

(12) Manufacturer means any person engaged in manufacturing, assembling, or completing manufactured homes or recreational vehicles;

(13) Manufactured-home construction means all activities relating to the assembly and manufacture of a manufactured home, including, but not limited to, activities relating to durability, quality, and safety;

(14) Manufactured-home safety means the performance of a manufactured home in such a manner that the public is protected against any unreasonable risk of the occurrence of accidents due to the design or

construction of such manufactured home or any unreasonable risk of death or injury to the user or to the public if such accidents do occur;

(15) Defect means a failure to conform to an applicable construction standard that renders the manufactured home or recreational vehicle or any component of the manufactured home or recreational vehicle not fit for the ordinary use for which it was intended but does not result in an unreasonable risk of injury or death to occupants;

(16) Imminent safety hazard means a hazard that presents an imminent and unreasonable risk of death or severe personal injury;

(17) Purchaser means the first person purchasing a manufactured home or recreational vehicle in good faith for purposes other than resale;

(18) Person means any individual, partnership, limited liability company, company, corporation, or association engaged in manufacturing, selling, offering to sell, or leasing manufactured homes or recreational vehicles;

(19) Commission means the Public Service Commission;

(20) Serious defect means a failure to conform to an applicable construction standard that renders the manufactured home or recreational vehicle or any component of the manufactured home or recreational vehicle not fit for the ordinary use for which it was intended and which results in an unreasonable risk of injury or death to the occupants;

(21) Noncompliance means a failure to comply with an applicable construction standard that does not constitute a defect, a serious defect, or an imminent safety hazard;

(22) Failure to conform means a defect, a serious defect, noncompliance, or an imminent safety hazard related to the code;

(23) Fifth-wheel trailer means a unit mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, of such size or weight as not to require a special highway movement permit, of gross trailer area not to exceed four hundred square feet in the setup mode, and designed to be towed by a motorized vehicle that contains a towing mechanism that is mounted above or forward of the tow vehicle's rear axle; and

(24) Gross trailer area means the total plan area measured on the exterior to the maximum horizontal projections of exterior wall in the setup mode and includes all siding, corner trims, moldings, storage spaces, expandable room sections regardless of height, and areas enclosed by windows but does not include roof overhangs. Storage lofts contained within the basic unit shall have ceiling heights less than five feet and shall not constitute additional square footage. Appurtenances, as defined in subdivision (2)(k) of section 60-6,288, shall not be considered in calculating the gross trailer area as provided in such subdivision.

Sec. 14. Section 71-4604, Reissue Revised Statutes of Nebraska, is amended to read:

71-4604 (1) All body and frame design and construction and all plumbing, heating, and electrical systems installed in manufactured homes or recreational vehicles manufactured, sold, offered for sale, or leased in this state more than four months after May 27, 1975, and before May 1, 1998, and ~~sold, offered for sale, or leased in this state~~ shall comply with the standards of the state agency responsible for regulation of manufactured homes or recreational vehicles as such standards existed on the date of manufacture.

(2) All body and frame design and construction and all plumbing, heating, and electrical systems installed in manufactured homes or recreational vehicles manufactured, ~~on or after May 1, 1998,~~ and sold, offered for sale, or leased in this state on or after May 1, 1998, shall be at least equal to the standards adopted and approved by the commission by pursuant to its rules and regulations as such standards existed on the date of manufacture. The standards pertaining to manufactured homes shall conform to the Manufactured Home Construction and Safety Standards, 24 C.F.R. 3280, and the Manufactured Home Procedural and Enforcement Regulations, 24 C.F.R. 3282, adopted by the United States Department of Housing and Urban Development pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended, 42 U.S.C. 5401 et seq. Manufactured homes and recreational vehicles destined for sale outside the United States shall be exempt from such regulations if sufficient proof of such delivery is submitted to the commission for review. The commission may adopt standards pertaining to manufactured homes designed and manufactured for the purpose of multifamily living, which standards shall protect the health and safety of persons living in multifamily manufactured homes and may include, but need not be limited to, requirements for fire safety, thermal protection, water and fuel shutoff valves, fuel supply inlets, circulation air systems, and electrical systems. Multifamily manufactured homes manufactured in this state solely for purposes of sale in any other state or jurisdiction shall be exempt

from the requirements of the Uniform Standard Code for Manufactured Homes and Recreational Vehicles. The standards pertaining to recreational vehicles shall (a) protect the health and safety of persons living in recreational vehicles, (b) assure reciprocity with other states that have adopted standards which protect the health and safety of persons living in recreational vehicles the purpose of which is to make uniform the law of those states which adopt them, and (c) allow variations from such uniform standards as will reduce unnecessary costs of construction or increase safety, durability, or efficiency, including energy efficiency, of the recreational vehicle without jeopardizing such reciprocity.

Sec. 15. Section 71-4604.01, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-4604.01 (1)(a) Every manufactured home or recreational vehicle manufactured, sold, offered for sale, or leased in this state more than four months after May 27, 1975, and before May 1, 1998, which is sold, offered for sale, or leased in this state shall comply with the seal requirements of the state agency responsible for regulation of manufactured homes or recreational vehicles as such requirements existed on the date of manufacture.

(b) Every manufactured home or recreational vehicle manufactured, on or after May 1, 1998, which is sold, offered for sale, or leased in this state on or after May 1, 1998, shall bear a seal issued by the commission certifying that the body and frame design and construction and the plumbing, heating, and electrical systems of such manufactured home or recreational vehicle have been installed in compliance with the standards adopted by the commission, applicable at the time of manufacture. Manufactured homes destined for sale outside the United States shall be exempt from displaying the seal issued by the state if sufficient proof of such delivery is submitted to the commission for review. Recreational vehicles destined for sale or lease outside this state or the United States shall be exempt from displaying the seal issued by the state if sufficient proof of such delivery is submitted to the commission for review. The commission shall issue the recreational-vehicle seal upon an inspection of the plans and specifications for the recreational vehicle or upon an actual inspection of the recreational vehicle during or after construction if the recreational vehicle is in compliance with state standards. The commission shall issue the manufactured-home seal in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. 5401 et seq., as such act existed on January 1, 2005. Each seal issued by the state shall remain the property of the commission and may be revoked by the commission in the event of a violation of the conditions of issuance.

(2) The commission shall charge a fee of not less than ten dollars ~~nor~~ and not more than fifty seventy-five dollars, as determined annually by the commission after published notice and a hearing, for seals issued by the commission. A seal shall be placed on each living unit within a multifamily manufactured home. The commission shall assess any costs of inspections conducted outside of Nebraska to the manufacturer in control of the inspected facility or to a manufacturer requesting such inspection. ~~and the seal fee assessed for each living unit shall be one-half of the seal fee for a single-family manufactured home. Inspection fees shall be paid for all inspections by the commission of manufacturing plants located outside of the State of Nebraska. Such fees costs shall consist of a reimbursement by the manufacturer of include, but not be limited to, actual travel, personnel, and inspection expenses only~~ and shall be paid prior to any issuance of seals.

(3) The commission shall adopt and promulgate rules and regulations governing the submission of plans and specifications of manufactured homes and recreational vehicles. A person who submits recreational-vehicle plans and specifications to the commission for review and approval shall be ~~charged for engineering services of the commission provided for~~ assessed an hourly rate by the commission for performing the review of the plans and specifications and related functions. The hourly at a rate of shall be not less than fifteen dollars per hour ~~nor~~ and not more than fifty seventy-five dollars per hour as determined annually by the commission after published notice and hearing based on the number of hours of review time as follows:

- (a) New model, one hour;
- (b) Quality control manual, two hours;
- (c) Typicals, one-half hour;
- (d) Revisions, three-fourths hour;
- (e) Engineering calculations, three-fourths hour;
- (f) Initial package, fifteen hours; and
- (g) Yearly renewal, two hours plus the three-fourths hour for revisions.

(4) The commission shall charge each manufacturer a an inspection

fee of ~~seventy-five~~ two hundred fifty dollars for each inspection of any new recreational vehicle manufactured by such manufacturer and not bearing a seal issued by the State of Nebraska or some reciprocal state.

(5) All fees collected pursuant to the Uniform Standard Code for Manufactured Homes and Recreational Vehicles shall be remitted to the State Treasurer for credit to the Manufactured Homes and Recreational Vehicles Cash Fund which is hereby created. Money credited to the fund pursuant to this section shall be used by the commission for the purpose of administering the code. Any money in the Manufactured Homes and Recreational Vehicles Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 16. Section 71-4608, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-4608 (1) Any person who is in violation of any provision of the Uniform Standard Code for Manufactured Homes and Recreational Vehicles regarding a used manufactured home ~~or new or used multifamily manufactured home~~ or recreational vehicle or who manufactures unless destined for sale outside the United States, sells, offers for sale, or leases in this state any used manufactured home ~~or new or used multifamily manufactured home~~ or recreational vehicle manufactured more than four months after May 27, 1975, which does not bear the federal manufactured-home label or the recreational-vehicle seal issued by this state or by a state which has been placed on the reciprocity list as required by the code shall be guilty of a Class I misdemeanor. Nothing in the Uniform Standard Code for Manufactured Homes and Recreational Vehicles shall be construed to require a seal for any recreational vehicle manufactured in this state which is sold or leased outside this state.

(2) No person shall:

(a) Manufacture for sale, lease, sell, offer for sale or lease, or introduce, deliver, or import into this state any manufactured home or recreational vehicle which is manufactured on or after the effective date of any applicable standard of the commission which does not comply with such standard;

(b) Fail or refuse to permit access to or copying of records, fail to make reports or provide information, or fail or refuse to permit entry or inspection as provided in section 71-4610;

(c) Fail to furnish notification to the purchaser of any manufactured home of any defect as required by 42 U.S.C. 5414 or to the purchaser of any recreational vehicle as provided in section 71-4616;

(d) Fail to issue a certification required by 42 U.S.C. 5415 or issue a certification to the effect that a manufactured home conforms to all applicable Manufactured Home Construction and Safety Standards, 24 C.F.R. 3280, if such person in the exercise of due care has reason to know that such certification is false or misleading in a material respect;

(e) Fail to establish and maintain such records, make such reports, and provide such information as the commission may reasonably require to enable it to determine whether there is compliance with the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended, 42 U.S.C. 5401 et seq., or the standards adopted by the commission for recreational-vehicle construction or fail to permit, upon request of a person duly authorized by the commission, inspection of appropriate books, papers, records, and documents relative to determining whether a manufacturer, distributor, or dealer has acted or is acting in compliance with the Uniform Standard Code for Manufactured Homes and Recreational Vehicles or with the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended, 42 U.S.C. 5401 et seq.; or

(f) Issue a certification pursuant to 42 U.S.C. 5403(a) if such person in the exercise of due care has reason to know that such certification is false or misleading in a material respect.

(3) Subdivision (2)(a) of this section shall not apply to the sale or the offer for sale of any manufactured home or recreational vehicle after the first purchase of it in good faith for purposes other than resale.

(4) Subdivision (2)(a) of this section shall not apply to any person who establishes that he or she did not have reason to know in the exercise of due care that such manufactured home or recreational vehicle was not in conformity with applicable Manufactured Home Construction and Safety Standards, 24 C.F.R. 3280, or the standards adopted by the commission for recreational-vehicle construction or any person who, prior to such first purchase, holds a certificate by the manufacturer or importer of such manufactured home or recreational vehicle to the effect that such manufactured home conforms to all applicable Manufactured Home Construction and Safety

Standards, 24 C.F.R. 3280, or that such recreational vehicle conforms to the standards adopted by the commission for recreational-vehicle construction unless such person knows that such manufactured home or recreational vehicle does not so conform.

(5) Any person or officer, director, or agent of a corporation who willfully or knowingly violates subsection (2) of this section in any manner which threatens the health or safety of any purchaser shall be guilty of a Class I misdemeanor.

(6) The commission may administratively fine pursuant to section 75-156 any person who violates the Uniform Standard Code for Manufactured Homes and Recreational Vehicles or any rule or regulation adopted and promulgated under the code.

Sec. 17. Section 71-4623, Reissue Revised Statutes of Nebraska, is amended to read:

71-4623 The application for such annual license to conduct, operate, and maintain a mobile home park shall be submitted in writing or by electronic format and upon such form as the department shall provide and shall include the full name and address of the applicant or applicants, the names and addresses of the ~~partner~~ partners if the applicant is a partnership, the names and addresses of the members if the applicant is a limited liability company, or the names and addresses of the officers if the applicant is a corporation, and the current or most recent occupation of the applicant at the time of the filing of the application, and such other pertinent data as the department may require by regulation. If the applicant is an individual, the application shall include the applicant's social security number.

Sec. 18. Section 71-4631, Reissue Revised Statutes of Nebraska, is amended to read:

71-4631 (1) The department shall issue licenses for the establishment, operation, and maintenance of mobile home parks which are found to comply with the Uniform Standard Code for Mobile Home Parks and such rules, regulations, and standards as are lawfully adopted and promulgated by the department pursuant thereto.

(2) The department shall deny, refuse renewal of, suspend, or revoke licenses or impose a civil penalty not to exceed two thousand dollars per day on any of the following grounds:

~~(1)~~ (a) Violation of any of the provisions of the code or the rules, regulations, and standards lawfully adopted and promulgated pursuant thereto;

~~(2)~~ (b) Permitting, aiding, or abetting the commission of any unlawful act; or

~~(3)~~ (c) Conduct or utility or sanitation practices detrimental to the health or safety of residents of a mobile home park.

(3) Should the department determine to deny, refuse renewal of, suspend, or revoke a license or impose a civil penalty, it shall send to the applicant or licensee, by either certified or registered mail, a notice setting forth the specific reasons for the determination.

(4) The denial, refusal of renewal, suspension, ~~or revocation~~, or imposition of a civil penalty shall become final thirty days after the mailing of the notice in all cases of failure to pay the required licensure fee if not paid by the end of such period, and in all other instances unless the applicant or licensee, within such thirty-day period, shall give written notice of a desire for a hearing. Thereupon the applicant or licensee shall be given opportunity for a formal hearing before the department and shall have the right to present evidence on his or her own behalf.

(5) The procedure governing hearings authorized by this section shall be in accordance with the Administrative Procedure Act. On the basis of the evidence presented, the determination involved shall be affirmed or set aside, and a copy of such decision setting forth the findings of facts and the specific reasons upon which it is based shall be sent by either certified or registered mail to the applicant or licensee. The applicant or licensee may appeal such decision, and the appeal shall be in accordance with the Administrative Procedure Act.

(6) The department shall remit any collected civil penalty to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

Sec. 19. Section 71-5662, Revised Statutes Supplement, 2007, is amended to read:

71-5662 (1) To be eligible for a student loan under the Rural Health Systems and Professional Incentive Act, an applicant or a recipient shall be enrolled or accepted for enrollment in an accredited medical or dental education program or physician assistant education program or an approved mental health practice program in Nebraska.

(2) To be eligible for loan repayment under the act, an applicant

or a recipient shall be a pharmacist, a dentist, a physical therapist, an occupational therapist, a mental health practitioner, a psychologist licensed before December 1, 2008, under the requirements of the Uniform Licensing Law or on or after December 1, 2008, under the requirements of section 38-3114 or the equivalent thereof, an advanced practice registered nurse, a nurse practitioner, a physician assistant, or a physician in an approved specialty and shall be licensed to practice in Nebraska, not be enrolled in a residency program, not be practicing under a provisional or temporary license, and enter practice in a designated health profession shortage area in Nebraska.

Sec. 20. Section 71-5663, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-5663 (1) The amount of financial assistance provided through student loans pursuant to the Rural Health Systems and Professional Incentive Act shall be limited to twenty thousand dollars for each recipient for each academic year and shall not exceed eighty thousand dollars per medical, dental, or doctorate-level mental health student or twenty thousand dollars per master's level mental health or physician assistant student.

(2) The amount of financial assistance provided by the state through loan repayments pursuant to the act (a) for physicians, dentists, and psychologists shall be limited to twenty thousand dollars per recipient per year of full-time practice in a designated health profession shortage area and shall not exceed sixty thousand dollars per recipient and (b) for physician assistants, ~~advanced practice registered nurses,~~ nurse practitioners, pharmacists, physical therapists, occupational therapists, and mental health practitioners shall be limited to ten thousand dollars per recipient per year of full-time practice in a designated health profession shortage area and shall not exceed thirty thousand dollars per recipient.

Sec. 21. Section 71-5665, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-5665 The commission shall periodically designate health profession shortage areas within the state for the following professions: Medicine and surgery, physician assistants' practice, ~~advanced practice registered nurses'~~ nurse practitioners' practice, psychology, and mental health practitioner's practice. The commission shall also periodically designate separate health profession shortage areas for each of the following professions: Pharmacy, dentistry, physical therapy, and occupational therapy. In making such designations the commission shall consider, after consultation with other appropriate agencies concerned with health services and with appropriate professional organizations, among other factors:

(1) The latest reliable statistical data available regarding the number of health professionals practicing in an area and the population to be served by such practitioners;

(2) Inaccessibility of health care services to residents of an area;

(3) Particular local health problems;

(4) Age or incapacity of local practitioners rendering services; and

(5) Demographic trends in an area both past and future.

Sec. 22. Section 71-5668, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-5668 Each loan repayment recipient shall execute an agreement with the department and a local entity. Such agreement shall include, at a minimum, the following terms:

(1) The loan repayment recipient agrees to practice his or her profession, and a physician, dentist, ~~advanced practice registered nurse,~~ nurse practitioner, or physician assistant also agrees to practice an approved specialty, in a designated health profession shortage area for at least three years and to accept medicaid patients in his or her practice;

(2) In consideration of the agreement by the recipient, the State of Nebraska and a local entity within the designated health profession shortage area will provide equal funding for the repayment of the recipient's qualified educational debts, in amounts up to twenty thousand dollars per year per recipient for physicians, dentists, and psychologists and up to ten thousand dollars per year per recipient for physician assistants, ~~advanced practice registered nurses,~~ nurse practitioners, pharmacists, physical therapists, occupational therapists, and mental health practitioners toward qualified educational debts for up to three years. The department shall make payments directly to the recipient; and

(3) If the loan repayment recipient discontinues practice in the shortage area prior to completion of the three-year requirement, the recipient shall repay to the state one hundred twenty-five percent of the total amount of funds provided to the recipient for loan repayment. Upon repayment by the recipient to the department, the department shall reimburse the local entity its share of the funds.



Sec. 23. Section 71-7003.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-7003.01 The department may apply for, receive, and administer funds received from private sources to pay for definitive diagnostic procedures for women enrolled in the breast and cervical cancer screening mammography program authorized under sections ~~71-7001~~ 71-7001.01 to 71-7013 and in the early detection of breast and cervical cancer program funded through a grant from the United States Department of Health and Human Services.

This section does not create an entitlement for enrollees in the programs. Payments may be made to the extent funds are available in the order requests are received by the department.

The funds obtained for definitive diagnostic procedures shall be remitted to the State Treasurer for credit to the Breast and Cervical Cancer Cash Fund. Money credited to the fund for purposes of this section shall be used to reimburse the costs of definitive diagnostic procedures as provided in this section.

Sec. 24. Section 71-7010, Reissue Revised Statutes of Nebraska, is amended to read:

71-7010 The Breast and Cervical Cancer Cash Fund is created. The fund shall consist of any money appropriated to it by the Legislature, any money received by the department for the program, including federal and other public and private funds, and funds credited under section 71-7003.01, ~~and all fees received pursuant to section 71-7009.~~ Money in the fund shall be used to reimburse mammogram suppliers pursuant to section 71-7003 and may be used to reimburse expenses of members of the Breast and Cervical Cancer Advisory Committee, expenses of the program for early detection of breast and cervical cancer funded through a grant from the United States Department of Health and Human Services, and funds received under section 71-7003.01. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. ~~Any money in the Mammography Screening Cash Fund on September 9, 1995, shall be transferred to the Breast and Cervical Cancer Cash Fund on such date.~~

Sec. 25. Section 71-7012, Revised Statutes Supplement, 2007, is amended to read:

71-7012 The Breast and Cervical Cancer Advisory Committee is established. The committee consists of the members of the Mammography Screening Committee serving immediately prior to September 9, 1995, and eight additional members appointed by the chief executive officer of the department or his or her designee who have expertise or a personal interest in cervical cancer. The committee shall consist of not more than twenty-four volunteer members, at least eight of whom are women, appointed by the chief executive officer or his or her designee. Members of the committee shall be persons interested in health care, the promotion of breast cancer screening, and cervical cancer and shall be drawn from both the private sector and the public sector. At least one member shall be a person who has or who has had breast cancer, ~~one member shall be a radiologist, and one member shall be a medical radiographer.~~

Of the initial members of the committee, four shall be appointed for terms of one year and four shall be appointed for terms of two years. Thereafter all appointments shall be for terms of two years. All members shall serve until their successors are appointed. No member shall serve more than two successive two-year terms. Vacancies in the membership of the committee for any cause shall be filled by appointment by the chief executive officer or his or her designee for the unexpired term.

Duties of the committee shall include, but not be limited to, ~~recommending guidelines for the program established under section 71-7002, developing and monitoring the schedule of fees established pursuant to section 71-7009,~~ encouraging payment of public and private funds to the Breast and Cervical Cancer Cash Fund, researching and recommending to the department reimbursement limits, planning and implementing outreach and educational programs to Nebraska women, advising the department on its operation of the early detection of breast and cervical cancer grant from the United States Department of Health and Human Services, and encouraging payment of public and private funds to the fund, ~~and researching and recommending to the department appropriate definitive diagnostic procedures which may be reimbursed.~~ Members of the committee shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177.

Sec. 26. Section 71-7013, Reissue Revised Statutes of Nebraska, is amended to read:

71-7013 The State of Nebraska, the department and its employees,

members of the Mammography Screening Committee, and members of the Breast and Cervical Cancer Advisory Committee shall not be liable for any damage or injury resulting from: ~~(1) Failure to issue a certificate of eligibility under section 71-7009, (2) failure to certify a mammogram supplier under section 71-7004, (3) failure to waive the fee pursuant to section 71-7009, (4) a (1) a false negative result or a false positive result interpretation or any other act or omission of an interpreting physician with respect to any screening mammogram performed under the program established pursuant to section 71-7002, or (5) pursuant to sections 71-7001.01 to 71-7012 or (2) any act or omission of a mammogram screening supplier or person acting on behalf of such supplier with respect to the provisions of such sections. 71-7001.01 to 71-7011.~~

Sec. 27. Section 71-8249, Revised Statutes Supplement, 2007, is amended to read:

71-8249 (1) All data collected under section 71-8248 shall be held confidential pursuant to sections 81-663 to 81-675. Confidential patient medical record data shall only be released as (a) Class I, II, or IV medical records under sections 81-663 to 81-675, (b) aggregate or case-specific data to the regional trauma system quality assurance program and the regional trauma advisory boards, (c) ~~as~~ protected health information to a public health authority, as such terms are defined under the federal Health Insurance Portability and Accountability Act of 1996, as such act existed on January 1, 2007, 2008, and (d) ~~as~~ protected health information, as defined under the federal Health Insurance Portability and Accountability Act of 1996, as such act existed on January 1, 2007, 2008, to an emergency medical service, to an out-of-hospital emergency care provider, to a licensed health care facility, or to a center that will treat or has treated a specific patient.

A record may be shared with the emergency medical service, the out-of-hospital emergency provider, the licensed health care facility, or center that reported that specific record.

(2) Patient care quality assurance proceedings, records, and reports developed pursuant to this section and section 71-8248 are confidential and are not subject to discovery by subpoena or admissible as evidence in any civil action, except pursuant to a court order which provides for the protection of sensitive information of interested parties, including the department, pursuant to section 25-12,123.

Sec. 28. Section 81-671, Revised Statutes Supplement, 2007, is amended to read:

81-671 (1) Except as otherwise provided by the law governing a specific medical record and health information registry, the department may release information contained in a registry to official public health departments and agencies as follows:

(a) Upon request by an official local health department within the State of Nebraska, the department may release such data to the requesting local health department. The official local health department shall not contact patients using data received under sections 81-663 to 81-675 without approval by the department of an application made pursuant to section 81-666; and

(b) Upon approval of an application by federal, state, or local official public health agencies made pursuant to section 81-666, the department may release such data.

(2) ~~The~~ Except as provided in subsection (3) of this section, the receiving agency shall not further disclose such data to any third party but may publish aggregate statistical reports, except that no patient-identifying data shall be divulged, made public, or released to any public or private person or entity. The receiving agency shall comply with the patient contact provisions of sections 81-663 to 81-675. The receiving agency shall acknowledge the department and its medical record and health information registries in any publication in which information obtained from the medical record and health information registries is used.

(3) The release and acknowledgment provisions of this section do not apply to the Centers for Disease Control and Prevention of the United States Public Health Service of the United States Department of Health and Human Services, the North American Association of Central Cancer Registries, or cancer registries located outside Nebraska which receive data through approved data exchange agreements.

Sec. 29. Section 86-570, Revised Statutes Supplement, 2007, is amended to read:

86-570 (1) The Geographic Information System Steering Committee is hereby created and shall consist of nineteen members as follows:

(a) The Chief Information Officer or his or her designee, the chief executive officer or designee of the Department of Health and Human Services, and the director or designee of the Department of Environmental Quality, ~~the~~

~~Department of Health and Human Services~~, the Conservation and Survey Division of the University of Nebraska, the Department of Natural Resources, and the Governor's Policy Research Office;

- (b) The Director-State Engineer or designee;
- (c) The State Surveyor or designee;
- (d) The Clerk of the Legislature or designee;
- (e) The secretary of the Game and Parks Commission or designee;
- (f) The Property Tax Administrator or designee;
- (g) One representative of federal agencies appointed by the Governor;

(h) One representative of the natural resources districts nominated by the Nebraska Association of Resources Districts and appointed by the Governor;

(i) One representative of the public power districts appointed by the Governor;

(j) Two representatives of the counties nominated by the Nebraska Association of County Officials and appointed by the Governor;

(k) One representative of the municipalities nominated by the League of Nebraska Municipalities and appointed by the Governor; and

- (1) Two members at large appointed by the Governor.

(2) The appointed members shall serve for terms of four years, except that of the initial members appointed by the Governor, one of the representatives of the counties shall be appointed for one year and the other shall be appointed for three years, one of the members at large shall be appointed for one year and the other for three years, and the representative of the public power districts shall be appointed for two years. Their successors shall be appointed for four-year terms. Any vacancy on the committee shall be filled in the same manner as the original appointment, and the person selected to fill such vacancy shall have the same qualifications as the member whose vacancy is being filled.

(3) The members shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177.

Sec. 30. (1) The Department of Health and Human Services shall establish an administrative disqualification process for the aid to dependent children program described in section 43-512 and the child care subsidy program established pursuant to section 68-1202. The department may initiate an administrative disqualification proceeding when it has reason to believe, on the basis of sufficient documentary evidence, that an individual has committed an intentional program violation. Proceedings under this section shall be subject to the Administrative Procedure Act.

(2) If an individual is found to have committed an intentional program violation, a period of disqualification shall be imposed. The period may be determined by the Department of Health and Human Services after an administrative disqualification hearing or without a hearing if the individual waives his or her right to such hearing. The period of disqualification shall be: (a) For a first violation, up to one year; (b) for a second violation, up to two years; and (c) for a third violation, permanent disqualification. The penalties described in this subsection shall also be imposed if the individual is found by a court to have violated section 68-1017.

(3) For the aid to dependent children program, only the individual found to have committed the intentional program violation shall be disqualified under this section. For the child care subsidy program, the individual found to have committed the intentional violation shall disqualify such individual and his or her family under this section. The department shall inform each applicant in writing of the penalties described in this section for intentional program violations each time an application for benefits is made to either program.

(4) For purposes of this section, intentional program violation means any action by an individual to intentionally (a) make a false statement, either verbally or in writing, to obtain benefits to which the individual is not entitled, (b) conceal information to obtain benefits to which the individual is not entitled, or (c) alter one or more documents to obtain benefits to which the individual is not entitled.

(5) The department may adopt and promulgate rules and regulations to carry out this section.

Sec. 31. Sections 12, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 33, and 35 of this act become operative three calendar months after the adjournment of this legislative session. The other sections of this act become operative on their effective date.

Sec. 32. Original sections 60-1301, 71-1557, 71-1558, 71-1559, 71-1563, 71-1564, 71-1567, 71-4603, 71-4604, 71-4623, and 71-4631, Reissue Revised Statutes of Nebraska, sections 60-107, 60-1401.02, 71-409, 71-4604.01,

and 71-4608, Revised Statutes Cumulative Supplement, 2006, and section 68-906, Revised Statutes Supplement, 2007, are repealed.

Sec. 33. Original sections 71-1901, 71-7003.01, 71-7010, and 71-7013, Reissue Revised Statutes of Nebraska, sections 71-5663, 71-5665, and 71-5668, Revised Statutes Cumulative Supplement, 2006, and sections 71-5662, 71-7012, 71-8249, 81-671, and 86-570, Revised Statutes Supplement, 2007, are repealed.

Sec. 34. The following section is outright repealed: Section 71-4628, Reissue Revised Statutes of Nebraska.

Sec. 35. The following sections are outright repealed: Sections 68-1736, 68-1737, 71-7002, 71-7003, 71-7004, 71-7005, 71-7006, 71-7007, 71-7008, 71-7009, and 71-7011, Reissue Revised Statutes of Nebraska, and section 71-7001, Revised Statutes Supplement, 2007.

Sec. 36. Since an emergency exists, this act takes effect when passed and approved according to law.