

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 688**

Introduced by Wightman, 36.

Read first time January 06, 2010

Committee: Transportation and Telecommunications

A BILL

1 FOR AN ACT relating to motor vehicles; to amend sections 60-1903,  
2 60-1903.01, 60-1904, 60-1905, 60-1906, 60-1907, 60-1908,  
3 60-1909, 60-1910, and 60-1911, Reissue Revised Statutes  
4 of Nebraska, section 60-1902, Revised Statutes Cumulative  
5 Supplement, 2008, and sections 60-166 and 60-1901,  
6 Revised Statutes Supplement, 2009; to change and provide  
7 provisions relating to abandoned vehicles and vessels; to  
8 define terms; to harmonize provisions; and to repeal the  
9 original sections.

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

1           Section 1. Section 60-166, Revised Statutes Supplement,  
2 2009, is amended to read:

3           60-166 (1) In the event of (a) the transfer of ownership  
4 of a vehicle by operation of law as upon inheritance, devise, or  
5 bequest, order in bankruptcy, insolvency, replevin, or execution  
6 sale or as provided in sections 30-24,125, 52-601.01 to 52-605,  
7 60-1901 to 60-1911, and 60-2401 to 60-2411 and section 3 of this  
8 act, (b) the engine of a vehicle being replaced by another engine,  
9 (c) a vehicle being sold to satisfy storage or repair charges, or  
10 (d) repossession being had upon default in performance of the terms  
11 of a chattel mortgage, trust receipt, conditional sales contract,  
12 or other like agreement, the county clerk or designated county  
13 official of any county or the department, if the last certificate  
14 of title was issued by the department, upon the surrender of the  
15 prior certificate of title or the manufacturer's or importer's  
16 certificate, or when that is not possible, upon presentation  
17 of satisfactory proof of ownership and right of possession to  
18 such vehicle, and upon payment of the appropriate fee and the  
19 presentation of an application for certificate of title, may issue  
20 to the applicant a certificate of title thereto. If the prior  
21 certificate of title issued for such vehicle provided for joint  
22 ownership with right of survivorship, a new certificate of title  
23 shall be issued to a subsequent purchaser upon the assignment  
24 of the prior certificate of title by the surviving owner and  
25 presentation of satisfactory proof of death of the deceased owner.

1 Only an affidavit by the person or agent of the person to whom  
2 possession of such vehicle has so passed, setting forth facts  
3 entitling him or her to such possession and ownership, together  
4 with a copy of the journal entry, court order, or instrument  
5 upon which such claim of possession and ownership is founded,  
6 shall be considered satisfactory proof of ownership and right of  
7 possession, except that if the applicant cannot produce such proof  
8 of ownership, he or she may submit to the department such evidence  
9 as he or she may have, and the department may thereupon, if it  
10 finds the evidence sufficient, issue the certificate of title or  
11 authorize the county clerk or designated county official to issue a  
12 certificate of title, as the case may be.

13 (2) If from the records in the office of the county clerk  
14 or designated county official or the department there appear to be  
15 any liens on such vehicle, such certificate of title shall comply  
16 with section 60-164 or 60-165 regarding such liens unless the  
17 application is accompanied by proper evidence of their satisfaction  
18 or extinction.

19 Sec. 2. Section 60-1901, Revised Statutes Supplement,  
20 2009, is amended to read:

21 60-1901 (1) A ~~motor~~ vehicle or vessel is an abandoned  
22 vehicle or vessel:

23 (a) If left unattended for more than six hours on  
24 any public property, with no license plates or valid In Transit  
25 stickers issued pursuant to the Motor Vehicle Registration Act

1 affixed thereto, with no certificate of title issued pursuant to  
2 the Motor Vehicle Certificate of Title Act or the State Boat Act,  
3 or with no permit issued pursuant to sections 60-1801 to 60-1808;  
4 ~~for more than six hours on any public property;~~

5 (b) If left unattended for more than twenty-four hours on  
6 any public property, except a portion thereof on which parking is  
7 legally permitted;

8 (c) If left unattended for more than forty-eight hours,  
9 after the parking of such vehicle or vessel has become illegal,  
10 if left on a portion of any public property on which parking is  
11 legally permitted;

12 (d) If left unattended for more than six hours on private  
13 property with no license plates or valid In Transit stickers  
14 issued pursuant to the Motor Vehicle Registration Act affixed  
15 thereto, with no certificate of title issued pursuant to the Motor  
16 Vehicle Certificate of Title Act or the State Boat Act, or with  
17 no permit issued pursuant to sections 60-1801 to 60-1808, or if  
18 inoperable, partially dismantled, wrecked, junked, or discarded.  
19 This subdivision does not apply to operable all-terrain vehicles or  
20 minibikes;

21 ~~(d)~~ (e) If left unattended for more than seven days on  
22 private property if left initially without permission of the owner,  
23 or after permission of the owner is terminated;

24 ~~(e)~~ (f) If left for more than thirty days in the custody  
25 of a law enforcement agency after the agency has sent a letter to

1 the last-registered owner under section 60-1903.01; or

2 ~~(f)~~ (g) If removed from private property by a  
3 municipality political subdivision pursuant to a ~~municipal~~ an  
4 ordinance or a resolution.

5 ~~(2) An all-terrain vehicle or minibike is an abandoned~~  
6 ~~vehicle;~~

7 ~~(a) If left unattended for more than twenty-four hours on~~  
8 ~~any public property, except a portion thereof on which parking is~~  
9 ~~legally permitted;~~

10 ~~(b) If left unattended for more than forty-eight hours,~~  
11 ~~after the parking of such vehicle has become illegal, if left~~  
12 ~~on a portion of any public property on which parking is legally~~  
13 ~~permitted;~~

14 ~~(c) If left unattended for more than seven days on~~  
15 ~~private property if left initially without permission of the owner,~~  
16 ~~or after permission of the owner is terminated;~~

17 ~~(d) If left for more than thirty days in the custody of~~  
18 ~~a law enforcement agency after the agency has sent a letter to the~~  
19 ~~last-registered owner under section 60-1903.01; or~~

20 ~~(e) If removed from private property by a municipality~~  
21 ~~pursuant to a municipal ordinance.~~

22 ~~(3) For purposes of this section:~~

23 ~~(a) Public property means any public right-of-way,~~  
24 ~~street, highway, alley, or park or other state, county, or~~  
25 ~~municipally owned property; and~~

1           ~~(b) Private property means any privately owned property~~  
 2           ~~which is not included within the definition of public property.~~

3           (2) Nothing in this section shall limit the authority of  
 4           a political subdivision to regulate nuisances.

5           ~~(4) (3) No motor vehicle subject to forfeiture under~~  
 6           ~~section 28-431 shall be an abandoned vehicle under this section.~~

7           Sec. 3. For purposes of this section and sections 60-1901  
 8           to 60-1911:

9           (1) Private property means any privately owned property  
 10          which is not included within the definition of public property;

11          (2) Public property means any public right-of-way,  
 12          street, highway, alley, or park or other state, county, or  
 13          municipally owned property;

14          (3) Vehicle means every device in, upon, or by which any  
 15          person or property is or may be transported or drawn upon land  
 16          except devices moved solely by human power; and

17          (4) Vessel means every description of watercraft, other  
 18          than a seaplane on the water, used or capable of being used as a  
 19          means of transportation on water.

20          Sec. 4. Section 60-1902, Revised Statutes Cumulative  
 21          Supplement, 2008, is amended to read:

22                 60-1902 If an abandoned vehicle, at the time of  
 23          abandonment, the vehicle has no license plates of the current year  
 24          or valid In Transit stickers issued pursuant to section 60-376  
 25          affixed or, if an abandoned vessel, at the time of abandonment, the

1 vessel has no current certificate of number issued pursuant to the  
2 State Boat Act, and the vehicle or vessel is of a wholesale value,  
3 taking into consideration the condition of the vehicle or vessel,  
4 of two hundred fifty dollars or less, title shall immediately vest  
5 in the local authority or state agency having jurisdiction thereof  
6 as provided in section 60-1904. Any certificate of title issued  
7 under this section to the local authority or state agency shall be  
8 issued at no cost to such authority or agency.

9           Sec. 5. Section 60-1903, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           60-1903 (1) Except for vehicles or vessels governed by  
12 section 60-1902, the local authority or state agency having custody  
13 of an abandoned vehicle or vessel shall make an inquiry concerning  
14 the last-registered owner of such vehicle or vessel as follows:

15           (a) Abandoned vehicle with license plates affixed, to the  
16 jurisdiction which issued such license plates; ~~or~~

17           (b) Abandoned vehicle with no license plates affixed, to  
18 the Department of Motor Vehicles; ~~or~~

19           (c) Abandoned vessel with its number, issued pursuant to  
20 section 37-1216, affixed, to the jurisdiction which issued such  
21 number; or

22           (d) Abandoned vessel with no number, issued pursuant to  
23 section 37-1216, affixed, to the Department of Motor Vehicles.

24           (2) The local authority or state agency shall notify  
25 the last-registered owner, if any, that the vehicle or vessel in

1 question has been determined to be an abandoned vehicle or vessel  
2 and that, if unclaimed, either (a) it will be sold or will be  
3 offered at public auction after five days from the date such notice  
4 was mailed or (b) title will vest in the local authority or state  
5 agency thirty days after the date such notice was mailed. If the  
6 agency described in subdivision (1)(a) or (b) of this section  
7 also notifies the local authority or state agency that a lien or  
8 mortgage exists, such notice shall also be sent to the lienholder  
9 or mortgagee. Any person claiming such vehicle or vessel shall be  
10 required to pay the cost of removal and storage of such vehicle or  
11 vessel.

12 (3) Title to an abandoned vehicle or vessel, if  
13 unclaimed, shall vest in the local authority or state agency (a)  
14 five days after the date the notice is mailed if the vehicle or  
15 vessel will be sold or offered at public auction under subdivision  
16 (2)(a) of this section, (b) thirty days after the date the notice  
17 is mailed if the local authority or state agency will retain the  
18 vehicle or vessel, or (c) if the last-registered owner cannot be  
19 ascertained, when notice of such fact is received.

20 (4) After title to the abandoned vehicle or vessel vests  
21 pursuant to subsection (3) of this section, the local authority or  
22 state agency may retain for use, sell, or auction the abandoned  
23 vehicle or vessel. If the local authority or state agency has  
24 determined that the vehicle or vessel should be retained for use,  
25 the local authority or state agency shall, at the same time that

1 the notice, if any, is mailed, publish in a newspaper of general  
2 circulation in the jurisdiction an announcement that the local  
3 authority or state agency intends to retain the abandoned vehicle  
4 or vessel for its use and that title will vest in the local  
5 authority or state agency thirty days after the publication.

6 Sec. 6. Section 60-1903.01, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 60-1903.01 A state or local law enforcement agency which  
9 has custody of a ~~motor~~ vehicle or vessel for investigatory purposes  
10 and has no further need to keep it in custody shall send a  
11 certified letter to each of the last-registered owners stating that  
12 the vehicle or vessel is in the custody of the law enforcement  
13 agency, that the vehicle or vessel is no longer needed for  
14 law enforcement purposes, and that after thirty days the agency  
15 will dispose of the vehicle or vessel. This section shall not  
16 apply to ~~motor~~ vehicles or vessels subject to forfeiture under  
17 section 28-431. No storage fees shall be assessed against the  
18 registered owner of a ~~motor~~ vehicle or vessel held in custody for  
19 investigatory purposes under this section unless the registered  
20 owner or the person in possession of the vehicle or vessel when  
21 it is taken into custody is charged with a felony or misdemeanor  
22 related to the offense for which the law enforcement agency took  
23 the vehicle or vessel into custody. If a registered owner or the  
24 person in possession of the vehicle or vessel when it is taken  
25 into custody is charged with a felony or misdemeanor but is not

1 convicted, the registered owner shall be entitled to a refund of  
2 the storage fees.

3 Sec. 7. Section 60-1904, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 60-1904 If a state agency caused an abandoned vehicle  
6 or vessel described in subdivision ~~(1)(e)~~ ~~or~~ ~~(2)(d)~~ (1)(f) of  
7 section 60-1901 to be removed from public property, the state  
8 agency shall be entitled to custody of the vehicle or vessel. If  
9 a state agency caused an abandoned vehicle or vessel described in  
10 subdivision (1)(a), (b), (c), ~~or~~ (d), or ~~(2)(a)~~, ~~(b)~~, ~~or~~ ~~(c)~~ (e)  
11 of section 60-1901 to be removed from public property, the state  
12 agency shall deliver the vehicle or vessel to the local authority  
13 which shall have custody. The local authority entitled to custody  
14 of an abandoned vehicle or vessel shall be the county in which  
15 the vehicle or vessel was abandoned or, if abandoned in a city or  
16 village, the city or village in which the vehicle or vessel was  
17 abandoned.

18 Sec. 8. Section 60-1905, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20 60-1905 Any proceeds from the sale of an abandoned  
21 vehicle or vessel less any expenses incurred by the local  
22 authority or state agency shall be held by the local authority  
23 or state agency without interest, for the benefit of the owner or  
24 lienholders of such vehicle or vessel for a period of two years. If  
25 not claimed within such two-year period, the proceeds shall be paid

1 into the general fund of the local authority entitled to custody  
2 under section 60-1904 or the state General Fund if a state agency  
3 is entitled to custody under section 60-1904.

4           Sec. 9. Section 60-1906, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6           60-1906 Neither the owner, lessee, nor occupant of the  
7 premises from which any abandoned vehicle or vessel is removed,  
8 nor the state, city, village, or county, shall be liable for any  
9 loss or damage to such vehicle or vessel which occurs during its  
10 removal or while in the possession of the state, city, village, or  
11 county or its contractual agent or as a result of any subsequent  
12 disposition.

13           Sec. 10. Section 60-1907, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15           60-1907 No person shall cause any vehicle or vessel to be  
16 an abandoned vehicle or vessel as described in subdivision (1) (a),  
17 (b), (c), ~~or (d)~~, or ~~(2) (a), (b), or (c)~~ (e) of section 60-1901.

18           Sec. 11. Section 60-1908, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20           60-1908 No person other than one authorized by the  
21 appropriate local authority or state agency shall destroy, deface,  
22 or remove any part of a vehicle or vessel which is left unattended  
23 on a highway or other public place without license plates or  
24 numbers affixed or which is abandoned. Anyone violating this  
25 section ~~shall be~~ is guilty of a Class V misdemeanor.

1           Sec. 12. Section 60-1909, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           60-1909 The last-registered owner of an abandoned vehicle  
4 or vessel shall be liable to the local authority or state agency  
5 for the costs of removal and storage of such vehicle or vessel.

6           Sec. 13. Section 60-1910, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8           60-1910 The Director of Motor Vehicles shall adopt  
9 and promulgate rules and regulations providing for such forms  
10 and procedures as are necessary or desirable to effectuate the  
11 provisions of sections 60-1901 to 60-1911 and section 3 of  
12 this act. Such rules and regulations may include procedures for  
13 the removal and disposition of vehicle identification numbers  
14 of abandoned vehicles or vessels, forms for local records for  
15 abandoned vehicles or vessels, and inquiries relating to ownership  
16 of such vehicles or vessels.

17           Sec. 14. Section 60-1911, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19           60-1911 Except as provided in section 60-1908, any person  
20 violating the provisions of sections 60-1901 to 60-1911 and section  
21 3 of this act shall be guilty of a Class II misdemeanor.

22           Sec. 15. Original sections 60-1903, 60-1903.01, 60-1904,  
23 60-1905, 60-1906, 60-1907, 60-1908, 60-1909, 60-1910, and 60-1911,  
24 Reissue Revised Statutes of Nebraska, section 60-1902, Revised  
25 Statutes Cumulative Supplement, 2008, and sections 60-166 and

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1 60-1901, Revised Statutes Supplement, 2009, are repealed.