

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 295

Introduced by Lathrop, 12.

Read first time January 12, 2011

Committee: Transportation and Telecommunications

A BILL

1 FOR AN ACT relating to motor vehicles; to amend sections 60-2408 and
2 60-2410, Reissue Revised Statutes of Nebraska; to change
3 provisions relating to towing and storage; to provide
4 powers and duties for the Public Service Commission; and
5 to repeal the original sections.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 60-2408, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 60-2408 The owner or driver of any vehicle towed away
4 pursuant to sections 60-2401 to 60-2411 shall, upon regaining
5 possession of the vehicle from the tower, be given a written
6 statement by the tower fully detailing: (1) The name and address of
7 the person or persons who caused the vehicle to be towed; (2) under
8 what statutory authority the vehicle was towed; ~~and~~ (3) ~~his or her~~
9 the rights of the owner or driver under sections 60-2401 to 60-2411;
10 and (4) the process of filing a complaint with the Public Service
11 Commission regarding the reasonableness of the towing and storage
12 fees.

13 Sec. 2. Section 60-2410, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 60-2410 (1) The owner or other person lawfully entitled
16 to the possession of any vehicle towed or stored shall be charged
17 with the reasonable cost of towing and storage fees. Any such towing
18 or storage fee shall be a lien upon the vehicle under Chapter 52,
19 article 6, and, except as provided in subsection ~~(3)~~ (8) of this
20 section, shall be prior to all other claims. If the owner or other
21 person believes that the charges assessed for towing or storing the
22 vehicle are unreasonable, he or she may file a written complaint with
23 the Public Service Commission. The commission shall serve a copy of
24 the complaint on the person assessing the charges who may file an
25 answer with the commission within fifteen days after the date of

1 service of the complaint. An owner or other person who pays the
2 towing and storage fees or signs a release at the time of paying the
3 fees to obtain the vehicle does not give up the right to file a
4 complaint with the commission as provided in this section.

5 (2) The commission may hold a hearing on the complaint.
6 The person towing or storing the vehicle shall have the burden of
7 proving that the charges were reasonable.

8 (3) If the commission finds that the charges were
9 reasonable, the commission shall order the complainant to pay the
10 charges. If the commission finds that the charges were not
11 reasonable, the commission may adjust the charges owed by the
12 complainant, assess a civil penalty against the respondent, or both.

13 (4) In considering whether towing charges are reasonable,
14 the commission shall consider:

15 (a) Whether the type of vehicle being towed required
16 specialized equipment, procedures, or training;

17 (b) How the charges compare to charges for towing a
18 vehicle at the request of a vehicle owner;

19 (c) How the charges compare to similar charges assessed
20 by other persons engaged in the business of towing vehicles for
21 compensation; and

22 (d) The circumstances of the towing of the vehicle for
23 which the charges were assessed.

24 (5) In considering whether storage charges are
25 reasonable, the commission shall consider:

1 (a) Whether, prior to storage, notice was given to the
2 vehicle owner of the location of the vehicle and the terms under
3 which the owner could retrieve the vehicle; and

4 (b) Whether part of the charges assessed for storage
5 included charges for days during which the business is not open
6 during normal business hours for an owner to fulfill the terms and
7 retrieve the vehicle.

8 (6) Any person towing or storing a vehicle may retain
9 possession of such vehicle until such charges are paid or, after
10 ninety days, may dispose of such vehicle to satisfy the lien. Upon
11 payment of such charges, the person towing or storing the vehicle
12 shall return possession of the vehicle to the (a) owner, (b)
13 lienholder, or (c) any other person lawfully entitled to the
14 possession of such vehicle making payment of such charges. The lien
15 provided for in this section shall not apply to the contents of any
16 vehicle.

17 ~~(2)~~-(7) The person towing the vehicle shall, within
18 fifteen business days after towing, notify any lienholder appearing
19 on the certificate of title of the vehicle and the owner of the
20 vehicle of the towing of the vehicle. No storage charges shall accrue
21 prior to such notice. No storage charges shall accrue for days during
22 which the business is not open during normal business hours for a
23 person to pay the charges and retrieve the vehicle. The notice shall
24 be sent by certified mail, return receipt requested, to the last-
25 known address of the lienholder and owner of the vehicle. The notice

1 shall contain:

2 (a) The make, model, color, year, and vehicle
3 identification number of the vehicle;

4 (b) The name, address, and telephone number of the person
5 who towed the vehicle;

6 (c) The date of towing;

7 (d) The daily storage fee and the storage fee accrued as
8 of the date of the notification; and

9 (e) A statement that the vehicle is subject to lien and
10 disposition by sale or other manner ninety days after the date of
11 towing under Chapter 52, article 6.

12 ~~(3)~~ (8) Failure to provide notice as prescribed in
13 subsection ~~(2)~~ (7) of this section shall result in the lien of the
14 person who towed the vehicle being subordinate to the lien of the
15 lienholder appearing on the certificate of title and render void any
16 disposition of the vehicle by the person who towed the vehicle.

17 Sec. 3. Original sections 60-2408 and 60-2410, Reissue
18 Revised Statutes of Nebraska, are repealed.