

## LEGISLATIVE BILL 170

Approved by the Governor May 18, 2011

Introduced by Fischer, 43.

FOR AN ACT relating to the Motorcycle Safety Education Act; to amend sections 39-2215, 60-4,115, 60-4,127, 60-2120, 60-2121, 60-2125, 60-2126, 60-2127, 60-2128, 60-2129, 60-2130, 60-2131, and 60-2139, Reissue Revised Statutes of Nebraska; to eliminate a fund; to eliminate funding and grants to motorcycle instructors and motorcycle courses; to change provisions relating to regulation of motorcycle safety instructors, motorcycle trainers, and motorcycle safety courses; to change and provide powers and duties for the Department of Motor Vehicles and the Director of Motor Vehicles; to harmonize provisions; to provide an operative date; to repeal the original sections; and to outright repeal sections 60-2132, 60-2133, 60-2134, 60-2135, 60-2136, 60-2137, and 60-2138, Reissue Revised Statutes of Nebraska.

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

Section 1. Section 39-2215, Reissue Revised Statutes of Nebraska, is amended to read:

39-2215 (1) There is hereby created in the state treasury a special fund to be known as the Highway Trust Fund.

(2) All funds credited to the Highway Trust Fund pursuant to sections 66-489.02, 66-499, 66-4,140, 66-4,147, 66-6,108, and 66-6,109.02, and related penalties and interest, shall be allocated as provided in such sections.

(3) All other motor vehicle fuel taxes, diesel fuel taxes, compressed fuel taxes, and alternative fuel taxes related to highway use retained by the state, all motor vehicle registration fees retained by the state other than those fees credited to the State Recreation Road Fund pursuant to subdivision (3) of section 60-3,156, and other highway-user taxes imposed by state law and allocated to the Highway Trust Fund, except for the proceeds of the sales and use taxes derived from motor vehicles, trailers, and semitrailers credited to the fund pursuant to section 77-27,132, are hereby irrevocably pledged for the terms of the bonds issued prior to January 1, 1988, to the payment of the principal, interest, and redemption premium, if any, of such bonds as they mature and become due at maturity or prior redemption and for any reserves therefor and shall, as received by the State Treasurer, be deposited in the fund for such purpose.

(4) Of the money in the fund specified in subsection (3) of this section which is not required for the use specified in such subsection, (a) ~~an amount equal to three dollars times the number of motorcycles registered during the previous month shall be placed in the Motorcycle Safety Education Fund,~~ (b) an amount to be determined annually by the Legislature through the appropriations process may be transferred to the Motor Fuel Tax Enforcement and Collection Cash Fund for use as provided in section 66-738 on a monthly or other less frequent basis as determined by the appropriation language, ~~(c)~~ (b) an amount to be determined annually by the Legislature through the appropriations process shall be transferred to the License Plate Cash Fund as certified by the Director of Motor Vehicles, and ~~(d)~~ (c) the remaining money may be used for the purchase for retirement of the bonds issued prior to January 1, 1988, in the open market.

(5) The State Treasurer shall monthly transfer, from the proceeds of the sales and use taxes credited to the Highway Trust Fund and any money remaining in the fund after the requirements of subsections (2) through (4) of this section are satisfied, thirty thousand dollars to the Grade Crossing Protection Fund.

(6) Except as provided in subsection (7) of this section, the balance of the Highway Trust Fund shall be allocated fifty-three and one-third percent, less the amount provided for in section 39-847.01, to the Department of Roads, twenty-three and one-third percent, less the amount provided for in section 39-847.01, to the various counties for road purposes, and twenty-three and one-third percent to the various municipalities for street purposes. If bonds are issued pursuant to subsection (2) of section 39-2223, the portion allocated to the Department of Roads shall be credited monthly to the Highway Restoration and Improvement Bond Fund, and if no bonds are issued pursuant to such subsection, the portion allocated to the department shall be credited monthly to the Highway Cash Fund. The portions allocated to the counties and municipalities shall be credited monthly to the Highway

Allocation Fund and distributed monthly as provided by law. Vehicles accorded prorated registration pursuant to section 60-3,198 shall not be included in any formula involving motor vehicle registrations used to determine the allocation and distribution of state funds for highway purposes to political subdivisions.

(7) If it is determined by December 20 of any year that a county will receive from its allocation of state-collected highway revenue and from any funds relinquished to it by municipalities within its boundaries an amount in such year which is less than such county received in state-collected highway revenue in calendar year 1969, based upon the 1976 tax rates for highway-user fuels and registration fees, the Department of Roads shall notify the State Treasurer that an amount equal to the sum necessary to provide such county with funds equal to such county's 1969 highway allocation for such year shall be transferred to such county from the Highway Trust Fund. Such makeup funds shall be matched by the county as provided in sections 39-2501 to 39-2510. The balance remaining in the fund after such transfer shall then be reallocated as provided in subsection (6) of this section.

(8) The State Treasurer shall disburse the money in the Highway Trust Fund as directed by resolution of the commission. All disbursements from the fund shall be made upon warrants drawn by the Director of Administrative Services. 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 and the earnings, if any, credited to the fund.

Sec. 2. Section 60-4,115, Reissue Revised Statutes of Nebraska, is amended to read:

60-4,115 (1) Fees for operators' licenses and state identification cards shall be collected and distributed according to the table in subsection (2) of this section, except for the ignition interlock permit and associated fees as outlined in subsection (4) of this section. County officials shall remit the county portion of the fees collected to the county treasurer for placement in the county general fund. All other fees collected shall be remitted to the State Treasurer for credit to the appropriate fund. ~~The State Treasurer shall transfer an amount equal to three dollars and fifty cents times the number of original or renewal Class M licenses issued pursuant to section 60-4,127 during the previous year from the Department of Motor Vehicles Cash Fund to the Motorcycle Safety Education Fund.~~

(2) The fees provided in this subsection in the following dollar amounts apply for operators' licenses and state identification cards.

Document	Total Fee	Department		
		County General Fund	of Motor Vehicles Cash Fund	State General Fund
State identification card:				
Valid for 1 year or less	5.00	2.75	1.25	1.00
Valid for more than 1 year but not more than 2 years	10.00	2.75	4.00	3.25
Valid for more than 2 years but not more than 3 years	14.00	2.75	5.25	6.00
Valid for more than 3 years but not more than 4 years	19.00	2.75	8.00	8.25
Valid for more than 4 years for person under 21	24.00	2.75	10.25	11.00
Valid for 5 years	24.00	3.50	10.25	10.25
Duplicate or replacement	11.00	2.75	6.00	2.25

## Class O or M operator's license:

Valid for 1 year or less	5.00	2.75	1.25	1.00
Valid for more than 1 year but not more than 2 years	10.00	2.75	4.00	3.25
Valid for more than 2 years but not more than 3 years	14.00	2.75	5.25	6.00
Valid for more than 3 years but not more than 4 years	19.00	2.75	8.00	8.25
Valid for 5 years	24.00	3.50	10.25	10.25

## Bioptic or telescopic lens restriction:

Valid for 1 year or less	5.00	0	5.00	0
Valid for more than 1 year but not more than 2 years	10.00	2.75	4.00	3.25
Duplicate or replacement	11.00	2.75	6.00	2.25
Add, change, or remove class, endorsement, or restriction	5.00	0	5.00	0

## Provisional operator's permit:

Original	15.00	2.75	12.25	0
Bioptic or telescopic lens restriction:				
Valid for 1 year or less	5.00	0	5.00	0
Valid for more than 1 year but not more than 2 years	15.00	2.75	12.25	0
Duplicate or replacement	11.00	2.75	6.00	2.25
Add, change, or remove class, endorsement, or restriction	5.00	0	5.00	0

## LPD-learner's permit:

Original	8.00	.25	5.00	2.75
Duplicate or replacement	11.00	2.75	6.00	2.25
Add, change, or remove class, endorsement, or restriction	5.00	0	5.00	0

## LPE-learner's permit:

Original	8.00	.25	5.00	2.75
Duplicate or replacement	11.00	2.75	6.00	2.25
Add, change, or remove class, endorsement, or restriction	5.00	0	5.00	0

## School permit:

Original	8.00	.25	5.00	2.75
Duplicate or replacement	11.00	2.75	6.00	2.25

Add, change, or remove class, endorsement, or restriction	5.00	0	5.00	0
Farm permit:				
Original or renewal	5.00	.25	0	4.75
Duplicate or replacement	5.00	.25	0	4.75
Temporary	5.00	.25	0	4.75
Add, change, or remove class, endorsement, or restriction	5.00	0	5.00	0
Driving permits:				
Employment	45.00	0	5.00	40.00
Medical hardship	45.00	0	5.00	40.00
Duplicate or replacement	10.00	.25	5.00	4.75
Add, change, or remove class, endorsement, or restriction	5.00	0	5.00	0
Commercial driver's license:				
Valid for 1 year or less	11.00	1.75	5.00	4.25
Valid for more than 1 year but not more than 2 years	22.00	1.75	5.00	15.25
Valid for more than 2 years but not more than 3 years	33.00	1.75	5.00	26.25
Valid for more than 3 years but not more than 4 years	44.00	1.75	5.00	37.25
Valid for 5 years	55.00	1.75	5.00	48.25
Bioptic or telescopic lens restriction:				
Valid for one year or less	11.00	1.75	5.00	4.25
Valid for more than 1 year but not more than 2 years	22.00	1.75	5.00	15.25
Duplicate or replacement	11.00	2.75	6.00	2.25
Add, change, or remove class, endorsement, or restriction	10.00	1.75	5.00	3.25
LPC-learner's permit:				
Original or renewal	10.00	.25	5.00	4.75
Duplicate or replacement	10.00	.25	5.00	4.75
Add, change, or remove class, endorsement, or restriction	10.00	.25	5.00	4.75
Seasonal permit:				
Original or renewal	10.00	.25	5.00	4.75
Duplicate or replacement	10.00	.25	5.00	4.75

Add, change, or remove class, endorsement, or restriction	10.00	.25	5.00	4.75
School bus permit:				
Original or renewal	5.00	0	5.00	0
Duplicate or replacement	5.00	0	5.00	0
Add, change, or remove class, endorsement, or restriction	5.00	0	5.00	0

(3) If the department issues an operator's license or a state identification card, the department shall remit the county portion of the fees to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

(4) (a) The fee for an ignition interlock permit shall be forty-five dollars. Five dollars of the fee shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund. Forty dollars of the fee shall be remitted to the State Treasurer for credit to the Probation Cash Fund.

(b) The fee for a duplicate or replacement ignition interlock permit shall be ten dollars. Twenty-five cents of the fee shall be remitted to the county treasurer for credit to the county general fund. Five dollars of the fee shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund. Four dollars and seventy-five cents of the fee shall be remitted to the State Treasurer for credit to the Probation Cash Fund.

(c) The fee for adding, changing, or removing a class, endorsement, or restriction on an ignition interlock permit shall be five dollars. The fee shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

(5) This subsection applies beginning on the implementation date designated by the director pursuant to section 60-462.02. The department and its agents may collect an identity security surcharge to cover the cost of security and technology practices used to protect the identity of applicants for and holders of operators' licenses and state identification cards and to reduce identity theft, fraud, and forgery and counterfeiting of such licenses and cards to the maximum extent possible. The surcharge shall be in addition to all other required fees for operators' licenses and state identification cards. The amount of the surcharge shall be determined by the department. The surcharge shall not exceed eight dollars. The surcharge shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

Sec. 3. Section 60-4,127, Reissue Revised Statutes of Nebraska, is amended to read:

60-4,127 (1) No person shall operate a motorcycle on the alleys or highways of the State of Nebraska until such person has obtained a Class M license. No such license shall be issued until the applicant has (a) met the vision and physical requirements established under section 60-4,118 for operation of a motor vehicle and (b) successfully completed an examination, including the actual operation of a motorcycle, prescribed by the director, except that the required examination may be waived, including the actual operation of a motorcycle, if the applicant presents proof of successful completion of a motorcycle safety course under the Motorcycle Safety Education Act within the immediately preceding ~~forty-eight~~ twenty-four months.

~~(2)(a) This subdivision applies until the implementation date designated by the director pursuant to section 60-462.02. Any applicant who qualifies for a Class M license shall be issued a license for such operation by the county treasurer as provided for the issuance of an operator's license. If the applicant is the holder of an operator's license, the county treasurer shall, upon receipt of the examiner's certificate, have endorsed on the license the authorization to operate a motorcycle. Fees for Class M licenses shall be as provided by section 60-4,115.~~

~~(b) This subdivision applies beginning on the implementation date designated by the director pursuant to section 60-462.02.~~ (2) Upon presentation of an issuance certificate, the county treasurer shall collect the fee and surcharge for a Class M license as prescribed by section 60-4,115 and issue a receipt with driving privileges which is valid for up to thirty days. The license shall be delivered as provided in section 60-4,113. If the applicant is the holder of an operator's license, the county treasurer shall, upon receipt of the examiner's certificate, have endorsed on the license the authorization to operate a motorcycle. Fees for Class M licenses shall be as

provided by section 60-4,115.

Sec. 4. Section 60-2120, Reissue Revised Statutes of Nebraska, is amended to read:

60-2120 Sections 60-2120 to 60-2139 and section 13 of this act shall be known and may be cited as the Motorcycle Safety Education Act.

Sec. 5. Section 60-2121, Reissue Revised Statutes of Nebraska, is amended to read:

60-2121 For purposes of the Motorcycle Safety Education Act, unless the context otherwise requires:

(1) Department means the Department of Motor Vehicles;

(2) Director means the Director of Motor Vehicles; and

~~(3) Fund means the Motorcycle Safety Education Fund created in section 60-2132.~~

(3) Driving course means a driving pattern used to aid students in learning the skills needed to safely operate a motorcycle as part of a motorcycle safety course;

(4) Motorcycle safety course means a curriculum of study which has been approved by the department designed to teach drivers the skills and knowledge to safely operate a motorcycle;

(5) Motorcycle safety instructor means any person who has successfully passed a motorcycle safety instructor's course curriculum and is certified by the department to teach a motorcycle safety course; and

(6) Motorcycle trainer means a person who is qualified and certified by the department to teach another person to become a certified motorcycle safety instructor in this state.

Sec. 6. Section 60-2125, Reissue Revised Statutes of Nebraska, is amended to read:

60-2125 (1) The department shall establish may adopt and promulgate rules and regulations establishing minimum requirements for both basic and advanced motorcycle safety courses, which qualify for reimbursement under the Motorcycle Safety Education Act. The courses shall be designed to develop, instill, and improve the knowledge, attitudes, habits, and skills necessary for safe operation of a motorcycle.

~~(2) Minimum requirements for a basic course shall include, but not be limited to:~~

~~(a) At least six hours of classroom instruction and sufficient laboratory instruction time for the student to apply and practice through observation and actual driving experience what has been learned in the classroom;~~

~~(b) At least eight hours of laboratory instruction time which includes actual driving of a motorcycle by the student; and~~

~~(c) Classroom and laboratory instruction shall be scheduled in an integrated and correlated sequence with laboratory driving experience following the relevant classroom instruction.~~

~~(3) Minimum requirements for an advanced course shall include, but not be limited to, at least six hours of coordinated classroom and laboratory instruction and driving experience specifically designed for the experienced motorcycle operator.~~

(2) The motorcycle safety courses shall be designed to teach either a novice motorcycle rider knowledge and basic riding skills or to refresh the knowledge and riding skills of motorcycle riders necessary for the safe and legal operation of a motorcycle on the highways of this state. Every motorcycle safety course shall be conducted at a site with room for a driving course designed to allow motorcycle riders to practice the knowledge and skills necessary for safe motorcycle operation.

Sec. 7. Section 60-2126, Reissue Revised Statutes of Nebraska, is amended to read:

60-2126 (1) A school, business, or organization conducting a basic or advanced may apply to the department to provide a motorcycle safety course for which reimbursement will be requested or courses in this state. Prospective providers of such course or courses shall submit an application for approval of such course or courses to the director, a request for approval of such course along with the names of all certified instructors who will be teaching such course. The application shall include a list of instructors of the course or courses. Such instructors shall be or shall become motorcycle safety instructors certified by the department prior to teaching any motorcycle safety course in this state. Applications for certification of motorcycle safety instructors may be included along with an application for approval of a motorcycle safety course or courses. The director shall approve such course if it meets the requirements of section 60-2125 set forth by the department by rule and regulation and will be taught by a certified motorcycle safety instructor or instructors.

(2) The application for certification or renewal of a certification of each motorcycle safety course shall be accompanied by a fee of one hundred dollars. The fee shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund. Motorcycle safety course certification shall expire two years from the date of the director's certification.

(3) Motorcycle safety courses shall be subject to audits by the department to assure compliance with the Motorcycle Safety Education Act and rules and regulations of the department.

Sec. 8. Section 60-2127, Reissue Revised Statutes of Nebraska, is amended to read:

60-2127 (1) ~~The director shall establish~~ may adopt and promulgate rules and regulations establishing minimum standards, skills' qualifications, and education requirements for motorcycle safety instructors. The director shall issue or renew a permit certificate in the manner and form prescribed by the director to motorcycle safety instructor applicants who meet such requirements. A motorcycle safety instructor certificate shall expire two years after the date of issuance. To renew a certificate, a person shall submit an application demonstrating compliance with rules and regulations of the department. The minimum requirements shall include, but not be limited to:

~~(a) The applicant shall have a high school diploma or equivalent education;~~

~~(b) The applicant shall have a valid motorcycle operator's license or permit or a valid motor vehicle operator's license which has endorsed thereon the authorization to operate a motorcycle and shall have at least two years' motorcycle driving experience;~~

~~(c) The applicant's operator's license shall not have been suspended or revoked at any time during the immediately preceding two-year period; and~~

~~(d) The applicant shall have passed an approved motorcycle safety instructor's course established pursuant to section 60-2128.~~

(2) If the certification requirements are comparable to the requirements in this state, a person currently certified as a motorcycle safety instructor by another state or recognized accrediting organization may be issued a motorcycle safety instructor's permit certificate by the department without having to take the course established in section 60-2128.

(3) A person who holds a valid, unexpired permit issued by the department to be a motorcycle safety instructor before the operative date of this act shall be recognized as a certified motorcycle safety instructor until January 1, 2014, or until the expiration date of such permit, whichever is earlier. At that time the permit holder may apply for and become a certified motorcycle safety instructor to teach a motorcycle safety class in this state as provided in rules and regulations of the department.

Sec. 9. Section 60-2128, Reissue Revised Statutes of Nebraska, is amended to read:

60-2128 ~~(1) The department shall develop~~ may adopt and promulgate rules and regulations developing a motorcycle safety instructor preparation course which shall be taught by motorcycle trainers. The motorcycle safety instructor preparation courses shall be offered at least once per year in each congressional district. Such course shall insure that the motorcycle safety instructor who successfully passes the course is familiar with the material included in the particular motorcycle safety course which such motorcycle safety instructor will be teaching.

~~(2) The department shall establish requirements for admission to the motorcycle safety instructor preparation course for persons who are also applying for reimbursement under section 60-2135. Such requirements shall include written agreement by the person seeking to attend the course that he or she will, upon successful completion, teach at least one approved basic motorcycle safety course and one approved advanced motorcycle safety course or at least two approved basic motorcycle safety courses in the state.~~

~~(3) To pass such course the instructor shall display knowledge of the course material which he or she will be teaching, knowledge of safe motorcycle operating practices, and an aptitude for instructing students.~~

Sec. 10. Section 60-2129, Reissue Revised Statutes of Nebraska, is amended to read:

60-2129 (1) The director shall establish may adopt and promulgate rules and regulations establishing minimum education requirements for chief instructors. motorcycle trainers. The director shall issue permits certificates in the manner and form prescribed by the director to at least three chief instructor applicants no more than two motorcycle trainers who meet the minimum education, skill, and experience requirements. Chief instructors The department may reimburse documented expenses incurred by a person in connection with taking and successfully passing an educational course to become a motorcycle trainer, as provided in sections 81-1174 to

81-1177, when there are less than two motorcycle trainers working in this state. In return for the reimbursement of such documented expenses, motorcycle trainers shall teach the motorcycle safety instructor preparation course in any one of the three congressional districts as assigned by the director.

(2) If the certification requirements are comparable to the requirements in this state, a person currently certified as a chief instructor motorcycle trainer by another state or recognized accrediting organization may be issued a chief instructor's permit motorcycle trainer's certificate by the department without having to receive the training required by this section.

(3) A person who holds a valid, unexpired permit issued by the department to be a chief instructor for motorcycle safety before the operative date of this act shall be recognized as a motorcycle trainer until January 1, 2014, or until the expiration date of such permit, whichever is earlier. At that time the permit holder may apply for and be recertified as a motorcycle trainer to teach a motorcycle safety instructor preparation class in this state as provided in rules and regulations of the department.

Sec. 11. Section 60-2130, Reissue Revised Statutes of Nebraska, is amended to read:

60-2130 All ~~permits~~ certificates issued under sections 60-2127 and 60-2129 shall be valid for ~~three~~ two years and may be renewed upon application to the director as ~~prescribed by the~~ provided in rules and regulations of the department. If the applicant is an individual, the application for a permit shall include the applicant's social security number. Each application for a new or renewal motorcycle safety instructor's permit or chief instructor's permit shall be accompanied by a fee of five dollars. The fees collected under this section shall be placed in the state treasury and by the State Treasurer credited to the General Fund. No fee shall be refunded in the event that the permit is rejected, suspended, or revoked.

Sec. 12. Section 60-2131, Reissue Revised Statutes of Nebraska, is amended to read:

60-2131 (1) The director may cancel, suspend, revoke, or refuse to issue or renew certification of a motorcycle safety course, a motorcycle safety instructor's permit or chief instructor's permit certificate, or a motorcycle trainer's certificate in any case when the director finds the permittee certificate holder or applicant has not complied with or has violated the Motorcycle Safety Education Act or any rule or regulation adopted and promulgated by the director. A ~~suspended or revoked~~ permit shall be returned to the director by the permittee, and its holder shall not be eligible to apply for a permit under section 60-2127 or 60-2129 until twelve months have elapsed since the date of such suspension or revocation. Any

(2) No person or provider whose certificate has been canceled, suspended, revoked, or refused shall be certified until the person or provider meets the requirements of rules and regulations of the department and shows that the event or occurrence that caused the director to take action has been corrected and will not affect future performance. Persons or providers who are suspended may be summarily reinstated upon the director's acceptance of a demonstration of compliance and satisfactory correction of any noncompliance. All other persons or providers shall reapply for certification. A person or provider may contest action taken by the director to cancel, suspend, revoke, or refuse to issue or renew a permit shall comply with the Administrative Procedure Act. certificate by filing a written petition with the department within thirty days after the date of the director's action.

Sec. 13. Within sixty days after the operative date of this act, twenty-five percent of the money remaining in the Motorcycle Safety Education Fund shall be transferred to the Department of Motor Vehicles Cash Fund and seventy-five percent of the money remaining in the Motorcycle Safety Education Fund shall be transferred to the Highway Trust Fund. The Motorcycle Safety Education Fund shall be eliminated on such date after the transfers are made.

Sec. 14. Section 60-2139, Reissue Revised Statutes of Nebraska, is amended to read:

60-2139 The director ~~shall~~ may adopt and promulgate such rules and regulations for the administration and enforcement of the Motorcycle Safety Education Act as are necessary. In adopting such rules and regulations, the director shall comply with the Administrative Procedure Act.

Sec. 15. This act becomes operative on January 1, 2012.

Sec. 16. Original sections 39-2215, 60-4,115, 60-4,127, 60-2120, 60-2121, 60-2125, 60-2126, 60-2127, 60-2128, 60-2129, 60-2130, 60-2131, and 60-2139, Reissue Revised Statutes of Nebraska, are repealed.

Sec. 17. The following sections are outright repealed: Sections 60-2132, 60-2133, 60-2134, 60-2135, 60-2136, 60-2137, and 60-2138, Reissue Revised Statutes of Nebraska.