

LEGISLATIVE BILL 284

Approved by the Governor March 14, 1989

Introduced by Transportation Committee, Lamb, 43,
Chairperson; Beyer, 3; Schellpeper, 18;
Byars, 30; Peterson, 21; Goodrich, 20;
Rogers, 41

AN ACT relating to the Motor Vehicle Operator's License Act; to amend sections 60-401, 60-402, 60-406.04, 60-407, 60-411, 60-411.01, 60-415, and 60-417, Reissue Revised Statutes of Nebraska, 1943; to provide for issuance, expiration, renewal, replacement, and cancellation of state identification cards; to provide fees; to prohibit certain acts; to eliminate provisions relating to identification cards; to harmonize provisions; to provide an operative date; and to repeal the original sections, and also sections 23-393 to 23-396, Reissue Revised Statutes of Nebraska, 1943.

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

Section 1. That section 60-401, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-401. For purposes of sections 60-401 to 60-430-06 the Motor Vehicle Operator's License Act, unless the context otherwise requires: (1) Motor vehicle includes all vehicles propelled by any power other than muscular power except (a) self-propelled invalid chairs, (b) farm tractors, (c) farm tractors used occasionally outside of general farm usage, (d) road rollers, (e) any vehicles which run only on rails or tracks, and (f) all off-road vehicles, including, but not limited to, golf carts, go-carts, riding lawnmowers, garden tractors, all-terrain vehicles as defined in section 60-2801, and snowmobiles; (2) person includes every natural person, firm, partnership, association, or corporation; (3) operator includes every person who is in the actual physical control of a motor vehicle upon a highway; (4) owner includes a person who holds legal title to a motor vehicle, a mortgagor entitled to the possession of a vehicle, or the conditional vendee or lessee of a vehicle which is the subject of an agreement for the conditional sale or lease thereof with the right

of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee; (5) nonresident includes every person who is not a resident of this state; (6) street or highway includes the entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right or easement, for purposes of vehicular traffic; (7) the director shall be the Director of Motor Vehicles of the State of Nebraska; (8) superintendent means the Superintendent of Law Enforcement and Public Safety, appointed by and responsible to the Governor, who is charged with the administration and enforcement of the laws pertaining to the Nebraska State Patrol and, under the direction of the Governor, is further charged with the duty and responsibility of enforcing the laws of the state relating to felonies as provided in section 84-106 and with the enforcement of laws pertaining to criminal investigation, criminal identification, and radio communications; and (9) the term this act shall be construed as referring exclusively to ~~sections 60-401 to 60-430-06~~ the Motor Vehicle Operator's License Act.

Sec. 2. That section 60-402, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-402. This act Sections 60-401 to 60-430.06 and sections 3 and 6 of this act shall be known and may be cited as the Motor Vehicle Operator's License Act.

Sec. 3. Any person who is a resident of this state may obtain a state identification card with a color photograph of the person affixed thereto. State identification cards shall be issued in the manner provided in section 6 of this act. Any identification card issued under prior law prior to the operative date of this act shall be invalid after such date.

Sec. 4. That section 60-406.04, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-406.04. (1) All state identification cards and motor vehicle operators' licenses, except limited, special, and learners' permits, temporary licenses and permits as provided by subsections (3) and (4) of section 60-415, and licenses issued pursuant to subsection (2) of this section, shall have a color photograph of the licensee affixed thereto. Such license State identification cards and motor vehicle operators' licenses shall be issued by the county treasurer. The Director of Motor Vehicles shall

negotiate and enter into a contract to provide the necessary equipment, supplies, and forms for the photographs. All costs incurred by the department under this section shall be paid by the state out of appropriations made to the Department of Motor Vehicles department. All costs of taking and affixing the photographs shall be paid by the county from the fees provided pursuant to section 60-409 and section 6 of this act.

(2) Any person who, at the time of renewal of his or her motor vehicle operator's license, is out of the state may be issued, after proper application, a license without an affixed photograph upon payment of a fee as provided in section 60-409. Such application shall be made to the county treasurer of the county in which the applicant resides.

(3) Any motor vehicle operator's license requiring an affixed color photograph of the licensee issued after July 17, 1986, and any state identification card issued after the operative date of this act, to a minor as defined in section 53-103, as such definition may be amended from time to time by the Legislature, shall have a different background color in such photograph than the background color used in the photograph affixed to the motor vehicle operator's license or state identification card of a person who is not a minor. When a person is no longer a minor, he or she may apply for a replacement license or card with a photograph having the background color used for persons who are not minors. The fee for such replacement license or card shall be the same as the fee for a replacement license issued for a change of address pursuant to subsection (2) of section 60-415.

Sec. 5. That section 60-407, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-407. (1) No license or permit to operate a motor vehicle shall be granted to any applicant until such applicant satisfies the examiner that he or she possesses, with or without the aid of glasses, sufficient powers of eyesight to enable him or her to operate a motor vehicle on the highways of this state with a reasonable degree of safety. If, from the examination given any applicant, it appears that the applicant's powers of eyesight are such that he or she cannot operate a motor vehicle on the highways of this state with a reasonable degree of safety, the examiner shall require the applicant to present a doctor's or optometrist's certificate to the effect that the

applicant has sufficient powers of eyesight for such purpose before issuing a license to the applicant. If it is indicated by the examination by the examiner or by the doctor's or optometrist's certificate that the applicant must wear glasses to meet the minimum visual standards set by the department, then the applicant shall have the use of any license issued to him or her restricted to wearing glasses while operating a motor vehicle. If the application to operate a motor vehicle required by the Motor Vehicle Operator's License Act discloses that the applicant for such license suffers from any other physical defect or defects of a character which may affect the safety of operation by such applicant of a motor vehicle, the examiner shall require the applicant to show cause why such license should be granted and, through such personal examination and demonstration as may be prescribed by the director, to show the necessary ability to safely operate a motor vehicle on the public highways. If the examiner is satisfied, after the demonstration, that such applicant has the ability to safely operate a motor vehicle, an operator's license may be issued to the applicant subject, at the discretion of the director, to a limitation to operate only such motor vehicles at such time, for such purpose, and within such area as the license shall designate. The director may, at the request of a law enforcement officer or when he or she has reason to believe that a person may be physically or mentally incompetent to operate a motor vehicle or a person's driving record appears to the department to justify an examination, give notice to the holder of an operator's license to appear before an examiner for examination to operate a motor vehicle safely. A refusal to appear before an examiner for an examination shall be unlawful and shall result in the immediate cancellation of the person's operator's license by the director. If the license holder cannot qualify at the examination, his or her operator's license shall be immediately surrendered to the examiner and forwarded to the director who shall cancel his or her license and privilege to operate a motor vehicle. Refusal to appear before an examiner for examination after notice to do so or to surrender an operator's license on demand shall be unlawful, and any person failing to surrender his or her operator's license as required by this section shall be guilty of a Class III misdemeanor. No operator's license referred to in this subsection shall, under any circumstances, be issued to any person who has not attained the age of sixteen years but, upon application

therefor and proof of age in the manner provided in subsection (3) of this section, any such person may take the examination required by this subsection at any time within sixty days prior to his or her sixteenth birthday.

(2) A person who has not attained the age set forth in subsection (1) of this section but is over the age of fourteen years may be issued, by the county treasurer, a limited permit to drive a motor vehicle, moped, or motorcycle to and from where he or she attends school, by the nearest highway or street from his or her place of residence, if such child lives a distance of one and one-half miles or more from such school and either resides outside a metropolitan-, primary-, or first-class city or attends a school which is outside a metropolitan-, primary-, or first-class city. Such limited permit shall be used for the sole purpose of transporting such person or any family member who resides with such person to attend school, except that the holder of the permit may drive under the personal supervision of his or her parents or guardian. A permit shall not be issued until such person has appeared before an examiner to demonstrate that he or she is capable of successfully operating a motor vehicle or motorcycle and has in his or her possession an examiner's certificate authorizing the county treasurer to issue a school permit. Any such person desiring such limited permit may first obtain a learner's permit from the county treasurer, which permit shall be valid for a period of two months. While holding the permit, the person may operate a motor vehicle on the highways of this state if he or she has seated next to him or her a person who is a licensed operator or, in the case of a motorcycle or moped, if he or she is within visual contact with and is under the supervision of a person who, in the case of a motorcycle, is a licensed motorcycle operator or, in the case of a moped, is a licensed motor vehicle operator. Such licensed motor vehicle or motorcycle operator shall either be a parent or guardian of the child or a person over the age of nineteen years who is authorized in writing by the child's parent or guardian to supervise the actions of the child in operating the vehicle. Prior to issuance of a learner's permit it shall be required that such person demonstrate that he or she has sufficient powers of eyesight to safely operate a motor vehicle or motorcycle.

(3) Each individual who is making an application for his or her first operator's license, or

a limited or learner's permit, or a state identification card shall furnish proof of age and name by a legal document, a learner's permit, a school permit, a birth certificate, a valid operator's license from another state, military papers, passport papers, immigration papers, alien registration papers, an affidavit, or written information signed by a parent or guardian of the applicant. The applicant may be required to furnish proof to the examiner that the parent or guardian signing any written information is in fact the parent or guardian of such applicant. All licenses, and limited permits issued pursuant to subsection (2) of this section, shall be subject to revocation under the terms of section 60-427, and any person who violates the terms of such license or limited permit shall be deemed guilty of a Class III misdemeanor.

(4) Any person who has attained the age of fifteen years or more may obtain a learner's permit from the county treasurer which shall be valid for a period of twelve months, and he or she may operate a motor vehicle on the highways of this state if he or she is accompanied at all times by a licensed operator who is at least nineteen years of age and who is actually occupying the seat beside the driver or, in the case of a motorcycle or moped, if he or she is within visual contact with and under the supervision of, in the case of a motorcycle, a licensed motorcycle operator or, in the case of a moped, a licensed motor vehicle operator. Any person who has attained the age of fourteen years may operate a motor vehicle over the highways of the state if he or she is accompanied or, in the case of a motorcycle or moped, supervised at all times by a licensed operator who shall be a high school driver training instructor certified by the Commissioner of Education.

(5) Any person who is thirteen years of age or older and resides upon a farm in this state or who is fourteen years of age or older and who is employed for compensation upon a farm in this state may obtain a special permit authorizing the operation of farm tractors and other motorized implements of farm husbandry upon the public highways and roads of this state if the applicant for such a restricted permit furnishes to a license examiner satisfactory proof of age and satisfactorily demonstrates to the examiner that he or she has knowledge of the operation of such equipment and of the rules of the road and laws respecting the operation of motor vehicles upon the highways and public roads of this state. Any person

under sixteen years of age but not less than thirteen years of age may obtain a temporary permit to operate such equipment for a six-month period after presentation to the Department of Motor Vehicles of a request for the temporary permit signed by the person's parent or guardian and payment of five dollars. After the expiration of the six-month period it shall be unlawful for any person under sixteen years of age to operate such equipment upon the public highways and roads of this state unless he or she has been issued a special permit under the provisions of this subsection. The fee for such special permit shall be five dollars, and the special permit shall be subject to revocation for cause.

(6) The county treasurer shall collect a fee of three dollars from each successful applicant for a school or learner's permit.

Sec. 6. (1) A state identification card shall be issued by the county treasurer after the person requesting the card (a) files an application with an examining officer, (b) furnishes two forms of proof of identification described in subsection (3) of section 60-407, and (c) pays a fee to the county treasurer of ten dollars for a card which will be valid for three years or more, eight dollars for a card which will be valid two years or more but less than three years, five dollars and fifty cents for a card which will be valid for one year or more but less than two years, and three dollars and fifty cents for a card which will be valid for less than one year. The application shall include the name, age, post office address, place of residence, date of birth, sex, and physical description of the applicant. One dollar and seventy-five cents of the fee shall be credited to the general fund of the county and shall be included in the report of fees required by law by the county treasurer. The balance of the fee shall be remitted to the State Treasurer by the county treasurer and credited to the General Fund.

(2) The director may summarily cancel any state identification card, and any judge or magistrate may order a state identification card canceled in a judgment of conviction, if the application for the card contains any false or fraudulent statements which were deliberately and knowingly made as to any matter material to the issuance of the card or if the application does not contain required or correct information. Any state identification card so obtained shall be void from the date of issuance. Any judgment of conviction ordering cancellation of a state identification card shall be transmitted to the director

who shall cancel the card.

Sec. 7. That section 60-411, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-411. All motor vehicle operators' licenses contemplated by this act the Motor Vehicle Operator's License Act issued after September 1, 1967, shall expire on the licensee's birthday in the first year after issuance in which his or her age is divisible by four. All state identification cards issued on or after the operative date of this act shall expire on the cardholder's birthday in the first year after issuance in which his or her age is divisible by four. The expiration date shall be stated on each license or card. All licenses and cards which expire under this section may be renewed within a ninety-day period before the expiration date. The holder of a valid motor vehicle operator's license or state identification card may renew his or her license or card prior to the ninety-day period before the expiration date on such license or card if such applicant furnishes positive proof that he or she will be absent from the state during the ninety-day period prior to such expiration date. The motor vehicle operator's license of any person serving on active duty, other than for training purposes, outside the State of Nebraska as a member of the United States Armed Forces, or the spouse of any such person or a person who has been with such member of the armed forces, shall be valid during such person's period of active duty and for not more than sixty days immediately following such person's date of separation from service and shall be renewed after the expiration date without examination upon written application to the county treasurer who issued the license. No person shall be permitted to renew a license in such manner more than twice. The county treasurer also shall issue a renewal license, without examination, to any person whose license expired while serving in the armed forces of the United States, or the spouse of any such person or a person who has been with such member of the armed forces, and who makes application for renewal within sixty days after his or her (a) discharge or return to the State of Nebraska to reside, whichever is later, or (b) return to the State of Nebraska while the member is still on active duty upon proof that such member is still on active duty. Each individual who is applying for renewal of his or her operator's license shall submit his or her previous license to the examiner or, when the previous license is unavailable, furnish

identification in accordance with subsection (3) of section 60-407.

Sec. 8. That section 60-411.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-411.01. (1) Except as provided in subsections (2) and (3) of this section, no original or renewal motor vehicle operator's license and after November 1, 1967, no renewal operator's license shall be issued to any person until such person has appeared before an examiner to demonstrate his or her ability to operate a motor vehicle safely as provided in section 60-408. The director shall have the authority to cause acceptance of currently valid Nebraska School Bus Driver Permits in lieu of reexamination for renewal of the motor vehicle operators' licenses of the holders of such permits.

(2) Any person who renews his or her Class A motor vehicle operator's license, as defined by the Department of Motor Vehicles, shall appear before an examiner to demonstrate his or her ability to operate a motor vehicle safely as provided in section 60-408, except that such person shall be required to demonstrate his or her ability to drive and maneuver a motor vehicle, as provided in subdivision (2) of section 60-408, only at the discretion of the examiner.

(3) Any person who renews his or her Class A motor vehicle operator's license, as defined by the Department of Motor Vehicles, prior to its expiration shall not be required to demonstrate his or her knowledge of the motor vehicle laws of this state as provided in subdivision (3) of section 60-408 if he or she presents to the examiner an abstract of his or her driving record which shows that such person has had no traffic violations as described in section 39-669.26 from the date the operator's license was last issued to the date the abstract was issued. A person may apply for and receive an abstract of his or her driving record from the Department of Motor Vehicles using the procedure prescribed in section 60-412. For purposes of this section, no abstract shall be used if issued more than ninety-five days prior to the expiration of such person's motor vehicle operator's license.

(4) Any person who renews a state identification card shall appear before an examiner and present his or her current state identification card. The examining officer, upon examination of the card, may require one additional form of proof of identification described in subsection (3) of section 60-407.

Sec. 9. That section 60-415, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-415. (1) Except as provided in subsection (4) of this section for persons temporarily out of the state, any person duly licensed ~~under this act or holding a valid state identification card issued under the Motor Vehicle Operator's License Act~~ who loses his or her license, ~~or permit, or card~~ may obtain a duplicate upon filing with the county treasurer an application and affidavit showing such loss and furnishing proof of identification in accordance with subsection (3) of section 60-407. Upon the officer being satisfied that the loss is genuine, the officer shall cause to be issued, upon the payment of a fee of five dollars, a duplicate license, ~~or permit, or card~~. No more than two duplicates of a license ~~or card~~ may be issued in this manner. Upon the issuance of any duplicate or replacement license, ~~or permit, or card~~, the license, ~~or permit, or card~~ from which the duplicate or replacement license ~~or permit~~ is issued shall be void. The five-dollar fee shall be handled by the treasurers in the same manner as original or renewal license fees, except that such duplicate license ~~or permit~~ fee in each instance shall be credited, allocated, and accounted for by the county treasurer as in the cases of original and renewal motor vehicle operator's license fees as provided in section 60-409 ~~or original or renewal state identification card fees as provided in section 6 of this act~~.

(2) If any person changes his or her name because of marriage or divorce or by court order or a common-law name change, he or she shall apply to the county treasurer for a replacement motor vehicle operator's license ~~or state identification card~~ and furnish proof of identification in accordance with subsection (3) of section 60-407. Such license ~~or card~~ shall be issued upon payment of a fee of five dollars. Such application shall be made within thirty days after the change of name. If any person changes his or her address, the person shall apply to the county treasurer for a replacement motor vehicle operator's license ~~or state identification card~~ and furnish satisfactory evidence of such change. Such license ~~or card~~ shall be issued upon payment of a fee of five dollars.

(3) In the event a mutilated and unreadable license or permit is held by any person duly licensed under ~~this act~~ the Motor Vehicle Operator's License Act ~~or a mutilated and unreadable state identification card~~

which was issued under the act is held by a person, such person may obtain a replacement license, or permit, or card upon showing the original mutilated or unreadable license, or permit, or card to the county treasurer. A replacement license or card may be issued, without an affixed photograph, to any person who is out of the state at the time of application for the replacement license or card. Such license or permit card shall state on its face that it shall become invalid thirty days after such person resumes residence in the state. If the county treasurer is satisfied that the license, or permit, or card is mutilated or unreadable, the county treasurer shall cause to be issued, upon the payment of a fee of five dollars, a replacement license, or permit, or card. The fee shall be handled by the treasurer in the same manner as the original or renewal license fee, except that the replacement license or permit fee in each instance shall be credited, allocated, and accounted for by the county treasurer as in the cases of original and renewal motor vehicle operator's license fees as provided in section 60-409 or original or renewal state identification card fees as provided in section 6 of this act.

(4) If any person duly licensed under sections 60-401 to 60-430-06 the act loses his or her license or if any holder of a state identification card loses his or her card while temporarily out of the state, he or she may apply for a duplicate operator's license or card without an affixed photograph by filing with the county treasurer an application and affidavit showing such loss. Upon the officer being satisfied that the loss is genuine, the officer shall cause to be issued, upon the payment of a fee of five dollars, a duplicate operator's license or card without an affixed photograph. Upon the issuance of the duplicate, license, the original license or card shall be void.

(5) Any person holding a valid operator's license or state identification card without an affixed photograph shall surrender such license or card to the treasurer of his or her county of residence within thirty days of resuming residency in this state. After the thirty-day period, such license or card shall be considered invalid. Upon the timely surrender of the license or card and payment of a fee of five dollars, such person shall be issued an operator's license or card with a color photograph of the licensee affixed to it.

Sec. 10. That section 60-417, Reissue Revised Statutes of Nebraska, 1943, be amended to read as

follows:

60-417. It is hereby declared to be unlawful for any person: (1) To ~~(1)~~ to display or cause or permit to be displayed or have in his or her possession any canceled, revoked, suspended, fictitious, or fraudulently altered operator's license or state identification card; (2) to lend his or her operator's license or state identification card to any person or knowingly permit the use thereof by another; (3) to display or represent as one's own any operator's license or state identification card not issued to him or her; (4) to fail or refuse to surrender to the director upon his or her lawful demand any operator's license or state identification card which has been suspended, revoked, or canceled; (5) to use a false or fictitious name in any application for an operator's license or state identification card or knowingly to make a false statement or knowingly to conceal a material fact or otherwise commit a fraud in any such application; (6) to permit any unlawful use of an operator's license or state identification card issued to him or her; (7) to do any act forbidden or fail to perform any act required by this act the Motor Vehicle Operator's License Act; (8) to make any false affidavit, or knowingly to swear or affirm falsely to any matter or thing required by the terms of this the act to be sworn to or affirmed, and such person is guilty of perjury, and, upon conviction thereof, shall be punished as other persons committing perjury are punishable; (9) to cause or knowingly permit his or her child or ward under the age of sixteen years to drive a motor vehicle upon any highway when such minor is not authorized hereunder, or in violation of any of the provisions of this the act; or (10) to authorize or knowingly permit a motor vehicle owned by him or her or under his or her control to be driven upon any highway by any person who is not authorized hereunder, or in violation of any of the provisions of this the act; or (11) to manufacture any fraudulent state identification card.

Sec. 11. This act shall become operative on January 1, 1990.

Sec. 12. That original sections 60-401, 60-402, 60-406.04, 60-407, 60-411, 60-411.01, 60-415, and 60-417, Reissue Revised Statutes of Nebraska, 1943, and also sections 23-393 to 23-396, Reissue Revised Statutes of Nebraska, 1943, are repealed.