

LEGISLATIVE BILL 113

Approved by the Governor February 26, 1991

Introduced by Cudaback, 36; Schellpeper, 18

AN ACT relating to motor vehicles; to amend sections 18-1737, 60-311.14, and 60-311.25, Reissue Revised Statutes of Nebraska, 1943, and sections 60-106, 60-112, and 60-114, Revised Statutes Supplement, 1990; to provide a penalty for certain parking violations; to change signature requirements for certificates of title as prescribed; to provide for the issuance of special license plates for handicapped or disabled persons; to harmonize provisions; and to repeal the original sections.

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

Section 1. That section 18-1737, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

18-1737. (1) Any city or village and any person in lawful possession of any offstreet parking facility may designate stalls or spaces in such facility owned or operated by the city or village or person for the exclusive use of handicapped or disabled persons whose vehicles display the distinguishing license plates issued to such individuals pursuant to section 60-311.14, such other handicapped or disabled persons or temporarily handicapped or disabled persons, as certified by the city or village, whose vehicles display the identification specified in section 18-1739, and such other motor vehicles, as certified by the city or village, which display such identification. Such designation shall be made by posting immediately adjacent to and visible from each stall or space a sign which is in conformance with the nineteenth edition of the Manual on Uniform Traffic Control Devices for Streets and Highways issued by the Federal Highway Administration.

(2) The owner or person in lawful possession of an offstreet parking facility, after notifying the police or sheriff's department, as the case may be, and any city or village providing onstreet parking or owning, operating, or providing an offstreet parking facility, may cause the removal, from a stall or space

designated exclusively for handicapped or disabled persons or temporarily handicapped or disabled persons or motor vehicles for the transportation of handicapped or disabled persons or temporarily handicapped or disabled persons, of any vehicle not displaying proper identification or the distinguishing license plates specified in this section if there is posted immediately adjacent to and visible from such stall or space a sign which clearly and conspicuously states the area so designated as a tow-in zone. Anyone parking in any onstreet parking space which has been designated exclusively for handicapped or disabled persons or temporarily handicapped or disabled persons or motor vehicles for the transportation of handicapped or disabled persons or temporarily handicapped or disabled persons, or in any so exclusively designated parking space in any offstreet parking facility, without properly displaying the proper identification or when the handicapped or disabled person to whom or for whom, as the case may be, the license plate or permit is issued is not being transported shall be guilty of a traffic infraction as defined in section 39-602 and shall be subject to the penalties and procedures set forth in section 39-6,112. In the case of a privately owned offstreet parking facility, a city or village may require the owner or person in lawful possession of such facility to inform the city or village of a violation of this section prior to taking any action pursuant to this section.

Sec. 2. That section 60-106, Revised Statutes Supplement, 1990, be amended to read as follows:

60-106. (1) Application for a certificate of title shall be made upon a form prescribed by the Department of Motor Vehicles and shall be sworn to before a notary public or other officer empowered to administer oaths. All applications shall be accompanied by the fee prescribed in section 60-115.

(2)(a) If the motor vehicle has tax situs in Nebraska, the application shall be filed with the county clerk of the county in which the vehicle has tax situs as defined in section 77-1240.

(b) If the applicant is a nonresident, the application shall be filed in the county in which the transaction is consummated.

(c) All applicants registering a vehicle pursuant to section 60-305.09 shall file the application for title to the vehicle with the Department of Motor Vehicles. The department shall deliver the certificate to the applicant if there are no liens on the vehicle.

If there are any liens on the vehicle, the department shall deliver or mail the certificate of title to the holder of the first lien on the day of issuance. All certificates of title issued by the department shall be issued in the manner prescribed for the county clerk in section 60-107.

(3) If a certificate of title has previously been issued for the motor vehicle in this state, the application for a new certificate of title shall be accompanied by the certificate of title duly assigned unless otherwise provided for in sections 60-102 to 60-117. If a certificate of title has not previously been issued for the motor vehicle in this state, the application, unless otherwise provided for in such sections, shall be accompanied by a manufacturer's or importer's certificate, as provided for in such sections, a duly certified copy thereof, a certificate of title, a court order issued by a court of record, a manufacturer's certificate of origin, or an assigned registration certificate, if the law of the state from which the motor vehicle was brought into this state does not have a certificate of title law. The county clerk shall retain the evidence of title presented by the applicant and on which the certificate of title is issued.

(4) The county clerk shall use reasonable diligence in ascertaining whether or not the statements in the application for a certificate of title are true by checking the application and documents accompanying the same with the records of motor vehicles in his or her office. If he or she is satisfied that the applicant is the owner of such motor vehicle and that the application is in the proper form, the county clerk shall issue a certificate of title over his or her signature and sealed with his or her seal.

(5) In the case of the sale of a motor vehicle, the certificate of title shall be obtained in the name of the purchaser upon application signed by the purchaser, except that (a) for titles to be held by husband and wife, applications may be accepted by the clerk upon the signature of either one as a signature for himself or herself and as agent for his or her spouse and (b) for an applicant providing proof that he or she is a handicapped or disabled person as defined in section 18-1738, applications may be accepted by the clerk upon the signature of the applicant's parent, legal guardian, foster parent, or agent.

(6) In all cases of transfers of motor vehicles, commercial trailers, semitrailers, or cabin

trailers, the application for a certificate of title shall be filed within fifteen days after the delivery of such vehicle or trailer. A licensed dealer need not apply for certificates of title for motor vehicles, commercial trailers, semitrailers, or cabin trailers in stock or acquired for stock purposes, but upon transfer of such vehicle or trailer in stock or acquired for stock purposes, the licensed dealer shall give the transferee a reassignment of the certificate of title on such vehicle or trailer or an assignment of a manufacturer's or importer's certificate. If all reassignments on the certificate of title have been used, the licensed dealer shall obtain title in his or her name prior to any subsequent transfer.

(7) An application for a certificate of title shall include a statement that an identification inspection has been conducted on the vehicle unless (a) the title sought is a salvage certificate of title as defined in section 60-129 or a nontransferable certificate of title provided for in section 60-131, (b) the surrendered ownership document is a Nebraska certificate of title, a manufacturer's statement of origin, an importer's statement of origin, a United States Government Certificate of Release of a motor vehicle, or a nontransferable certificate of title issued under section 60-131, (c) the application for a certificate of title contains a statement that such vehicle is to be registered under section 60-305.09, or (d) the vehicle is a cabin trailer. The statement that an identification inspection has been conducted shall be furnished by the county sheriff of the county in which application is made or by any other holder of a current certificate of training issued pursuant to section 60-121 and shall be in a format as determined by the Department of Motor Vehicles. The clerk may accept a certificate of inspection, approved by the Superintendent of Law Enforcement and Public Safety, from an officer of a state police agency of another state. For each inspection a fee of ten dollars shall be paid to the county treasurer. All such fees shall be credited to the county sheriff's vehicle inspection account within the county general fund. The identification inspection required by this subsection shall include examination and notation of the current odometer reading and a comparison of the vehicle identification number with the number listed on the ownership records, except that if a lien is registered against a vehicle and recorded on the vehicle's ownership records, the county clerk shall provide a copy

of the ownership records for use in making such comparison. If such numbers are not identical or if there is reason to believe further inspection is necessary, the person performing the inspection shall make a further inspection of the vehicle which may include, but shall not be limited to, examination of other identifying numbers placed on the vehicle by the manufacturer and an inquiry into the numbering system used by the state issuing such ownership records to determine ownership of a vehicle. The identification inspection shall also include a statement that the vehicle identification number has been checked for entry in the National Crime Information Center and the Nebraska Crime Information Service. If there is cause to believe that odometer fraud exists, written notification shall be given to the office of the Attorney General. If after such inspection the sheriff or his or her designee determines that the vehicle is not the vehicle described by the ownership records, no statement shall be issued. In the case of an assembled vehicle such inspection shall include, but not be limited to, an examination of the records showing the date of receipt and source of each major component part as defined in section 60-2601.

Sec. 3. That section 60-112, Revised Statutes Supplement, 1990, be amended to read as follows:

60-112. In the event of a lost or destroyed certificate of title, application shall be made the owner of the motor vehicle or the holder of a lien on the motor vehicle shall apply, upon a form prescribed by the Department of Motor Vehicles, to the clerk of the county where such certificate of title was issued or, if issued by the department, to the department, by the owner of such motor vehicle or the holder of a lien thereon; for a certified copy of the certificate of title and shall be accompanied by pay the fee prescribed by section 60-115. The application shall be signed and sworn to by the person making the same application or a person authorized to sign under subsection (5) of section 60-106. Thereupon the county clerk, with the approval of the department, or the department shall issue a certified copy of the certificate of title to the person entitled to receive the certificate of title under sections 60-102 to 60-117. If the county clerk's records of the title have been destroyed pursuant to section 60-107, the county clerk shall issue a duplicate certificate of title to the person entitled to receive the same upon such showing as the clerk may deem sufficient. If the applicant cannot produce such proof

of ownership, he or she may apply directly to the department and submit such evidence as he or she may have, and the department may, if it finds the evidence sufficient, authorize the county clerk to issue a duplicate certificate of title. The new purchaser shall be entitled to receive an original title upon presentation of the assigned duplicate copy of the certificate of title, properly assigned to the new purchaser, to the county clerk prescribed in subsection (2) of section 60-106. Any purchaser of such motor vehicle may at the time of purchase require the seller of the same to indemnify him or her and all subsequent purchasers of the motor vehicle against any loss which he, she, or they may suffer by reason of any claim presented upon the original certificate. In the event of the recovery of the original certificate of title by the owner, he or she shall forthwith surrender the same to the county clerk or the department for cancellation.

Sec. 4. That section 60-114, Revised Statutes Supplement, 1990, be amended to read as follows:

60-114. A certificate of title shall be printed upon safety security paper to be selected by the Department of Motor Vehicles. The certificate of title, manufacturer's statement of origin, and assignment of manufacturer's certificate shall be upon forms prescribed by the department and may include, but shall not be limited to, county of issuance, date of issuance, certificate of title number, previous certificate of title number, vehicle identification number, year, make, model, and body type of the vehicle, name and address of the owner, acquisition date, issuing county clerk's signature and official seal, and sufficient space for the notation and release of liens, mortgages, or encumbrances, if any. An assignment of certificate of title shall appear on each certificate of title and shall include, but not be limited to, a statement that the owner of the vehicle assigns all his or her right, title, and interest in the vehicle, the name and address of the assignee, the name and address of the lienholder or secured party, if any, and the duly notarized signature of the owner, duly notarized or the owner's parent, legal guardian, foster parent, or agent in the case of an owner who is a handicapped or disabled person as defined in section 18-1738. A reassignment by licensed dealer shall appear on each certificate of title and shall include, but not be limited to, a statement that the dealer assigns all his or her right, title, and interest in the vehicle, the name and address of the assignee, the name and address of the lienholder

or secured party, if any, the signature of the licensed dealer or designated representative, duly notarized, and the dealer license number. Reassignments shall be printed on the reverse side of each certificate of title as many times as convenient. The department may prescribe a secure power-of-attorney form and may contract with one or more persons to develop, provide, sell, and distribute secure power-of-attorney forms in the manner authorized or required by the federal Truth in Mileage Act of 1986, and amendments thereto, and any other federal law or regulation. Any secure power-of-attorney form authorized pursuant to a contract shall conform to the terms of the contract and be in strict compliance with the requirements of the department.

The department may, with the approval of the Attorney General, require additional information on such forms.

Sec. 5. That section 60-311.14, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-311.14. The Department of Motor Vehicles shall, without the payment of any fee except the fees required by section 60-311, issue license plates for one motor vehicle not used for hire, which to any handicapped or disabled person as defined in section 18-1738 or his or her parent, legal guardian, foster parent, or agent upon application and proof of handicap or disability. The license plates shall carry the internationally accepted wheelchair symbol, which symbol is a representation of a person seated in a wheelchair surrounded by a border six units wide by seven units high, and such other letters or numbers as the Director of Motor Vehicles prescribes. may prescribe, to any person who applies for such plates and proves that he or she is a handicapped or disabled person as defined in section 18-1738. Such plates shall be used by such person in lieu of the usual license plates.

Sec. 6. That section 60-311.25, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-311.25. The Department of Motor Vehicles shall compile and maintain a registry of the names, addresses, and license numbers of all handicapped or disabled persons who obtain special license plates pursuant to section 60-311.14 and all persons who obtain a handicapped or disabled parking permit as described in section 18-1739.

Sec. 7. That original sections 18-1737,

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60-311.14, and 60-311.25, Reissue Revised Statutes of Nebraska, 1943, and sections 60-106, 60-112, and 60-114, Revised Statutes Supplement, 1990, are repealed.