

## LEGISLATIVE BILL 678

Approved by the Governor April 30, 1971

Introduced by Terry Carpenter, 48th District

AN ACT to amend section 39-771, Revised Statutes Supplement, 1969, and section 39-741, Reissue Revised Statutes of Nebraska, 1943, as amended by section 2, Legislative Bill 396, Eighty-second Legislature, First Session, 1971, relating to highways; to redefine terms relating to rules of the road and motor vehicles as prescribed; to provide an exception; and to repeal the original sections.

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

Section 1. That section 39-741, Reissue Revised Statutes of Nebraska, 1943, as amended by section 2, Legislative Bill 396, Eighty-second Legislature, First Session, 1971, be amended to read as follows:

39-741. As used in Chapter 39, article 7, unless the context otherwise requires:

(1) ~~Motor vehicle shall mean every self-propelled vehicle;~~

(2) ~~Motorcycle shall mean every motor vehicle built to run on less than four wheels;~~

(3) ~~Person shall mean every natural person, firm, copartnership, association, or corporation;~~

(4) ~~Owner shall mean a person who holds the legal title of a vehicle, a mortgagor entitled to the possession of a vehicle, and the vendee 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) ~~Highway shall mean every way or place of whatever nature open to the use of the public as a matter of right, for the purposes of vehicular travel, but shall not be deemed to include a roadway or driveway upon grounds owned by private persons, colleges, universities, or other institutions;~~

(6) ~~Private road or driveway shall mean every~~

road-or-driveway-not-open-to-the-use-of-the--public--for  
the-purposes-of-vehicular-travel;

{7}-Intersection-shall-mean--the--area--embraced  
within-the-prolongation-of-the-lateral-curb-lines-or,if  
none,-then-the-lateral-boundary-lines--of--two--or--more  
highways-which-join-one-another-at-an-angle,-whether--or  
not-one-such-highway-crosses-the-other;

{8}-Safety-zone-shall-mean--the--area--or--space  
officially-set-aside-within-a-highway-for-the--exclusive  
use-of-pedestrians-and-which-is-so-marked--or--indicated  
by-proper-signs-as-to-be-plainly-visible--at--all--times  
while-set-apart-as-a-safety-zone;

{9}-Right-of-way-shall-mean-the-privilege-of-the  
immediate-use-of-the-highway;

{10}-Business-district-shall-mean-the--territory  
contiguous-to-highway-when-fifty-per-cent-or-more-of-the  
frontage-thereon,-for-a-distance-of-three--hundred--feet  
or-more,-is-occupied-by-buildings-in-use-for-business;

{11}-Residence-district-shall-mean-the-territory  
contiguous--to--a--highway--not--comprising--a--business  
district--when--the--frontage--on--such--highway--for--a  
distance--of--three--hundred--feet--or--more--is--mainly  
occupied-by-dwellings-and-buildings-in-use-for-business;

{12}-Department-shall--mean--the--Department--of  
Motor-Vehicles-of-this-state-acting-directly-or--through  
its-duly-authorized-officers-and-agents;

{13}-Local-authorities-shall-mean-every--county,  
municipal,-and--other--local--board--or--body--having  
authority-to-adopt-local-police--regulations--under--the  
Constitution-and-laws-of-this-state;

{14}-Director-of-Motor-Vehicles-shall--mean--the  
Director-of-the-Department-of-Motor-Vehicles;

{15}-Final--conviction--shall--mean--the--final  
determination-of-all-questions-of-fact-and-of-law;-and

{16}-Cabin-trailer-shall-mean-any-rigid--vehicle  
without-motive-power-designed-for-towing-behind-a--motor  
vehicle-and-designed-for-living-quarters-of-which--there  
shall-be-three-classes:

{a)-Travel-trailer--which--shall--include--cabin  
trailers-not-more-than-eight-feet--in--width,-not--more  
than-thirty-five-feet-in-length-from-front-hitch-to-rear

bumper; less than six thousand pounds manufacturers' weight; and may be used for occasional and temporary living quarters;

(b) Mobile home which shall include cabin trailers more than seven and one-half feet wide, more than thirty feet long, and may be used as a residential dwelling; and

(c) Camping trailer which shall include cabin trailers less than seven and one-half feet wide, adjusted mechanically smaller for towing and may be used as a temporary dwelling;

(1) Alley shall mean a street or highway intended to provide access to the rear or side of lots or buildings in urban districts and not intended for the purpose of through vehicular traffic;

(2) Arterial street shall mean any United States or State numbered route, controlled access highway, or other major radial or circumferential street or highway designated by local authorities within their local authorities within their respective jurisdictions as part of a major arterial system of streets or highways;

(3) Authorized emergency vehicle shall mean such fire department vehicles, police vehicles and ambulances as are publicly owned, and such other publicly or privately-owned vehicles as are designated by the director;

(4) Bicycle shall mean every device propelled by human power upon which any person may ride, having two tandem wheels either of which is more than fourteen inches in diameter;

(5) Bus shall mean every motor vehicle designed for carrying more than ten passengers and used for the transportation of persons, and every motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation;

(6) Business district shall mean the territory contiguous to and including a highway when within any six hundred feet along such highway there are buildings in use for business or industrial purposes, including but not limited to hotels, banks, or office buildings, railroad stations and public buildings which occupy at least three hundred feet of frontage on one side or three hundred feet collectively on both sides of the highway;

(7) Cabin trailer shall mean any rigid vehicle without motive power designed for towing behind a motor vehicle and designed for living quarters of which there shall be three classes:

(a) Travel trailer which shall include cabin trailers not more than eight feet in width, not more than thirty-five feet in length from front hitch to rear bumper, less than six thousand pounds manufacturers' weight, and may be used for occasional and temporary living quarters;

(b) Mobile home which shall include cabin trailers more than seven and one half feet wide, more than thirty feet long, and may be used as a residential dwelling; and

(c) Camping trailer which shall include cabin trailers less than seven and one half feet wide, adjusted mechanically smaller for towing and may be used as a temporary dwelling;

(8) Cancellation of operator's license shall mean the annulment or termination by formal action of the department of a person's license because of some error or defect in the license or because the licensee is no longer entitled to such license, but the cancellation of a license shall be without prejudice and application for a new license may be made at any time after such cancellation:

(9) Controlled access highway shall mean every highway, street or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street or roadway:

(10) Crosswalk shall mean:

(a) That part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or in the absence of curbs, from the edge of the traversable roadway; or

(b) Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface;

(11) Dealer shall mean every person engaged in

the business of buying, selling or exchanging vehicles who has an established place of business for such purpose in this state, and to whom current dealer registration plates have been issued by the department;

(12) Department shall mean the Department of Motor Vehicles;

(13) Director shall mean the Director of Motor Vehicles;

(14) Farm tractor shall mean every motor vehicle designed and used primarily as a farm implement, for drawing plows, mowing machines, and other implements of husbandry;

(15) Final conviction shall mean the final determination of all questions of fact and of law;

(16) Highway shall mean the entire width between the boundary limits of every way publicly-maintained when any part thereof is open to the use of the public for purposes of vehicular travel;

(17) Intersection shall mean:

(a) The area embraced within the prolongation or connection of the lateral curb lines, or, if there are no lateral curb lines, then the lateral boundary lines of the roadways of two highways, which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict;

(b) Where a highway includes two roadways thirty feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting highway also includes two roadways thirty feet or more apart, then every crossing of two roadways of such highways shall be regarded as a separate intersection; or

(c) The junction of an alley with a street or highway shall not constitute an intersection;

(18) License or license to operate a motor vehicle shall mean any operator's license or any other license or permit to operate a motor vehicle issued under, or granted by, the laws of this state;

(19) Lienholder shall mean a person holding a

security:

(20) Local authorities shall mean every county, municipal, and other local board or body having authority to enact laws or regulations relating to traffic under the Constitution and laws of this state:

(21) Mail shall mean to deposit in the United States mail properly addressed and with postage prepaid:

(22) Motor vehicle shall mean every self-propelled vehicle:

(23) Motorcycle shall mean every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a tractor:

(24) Official traffic control devices shall mean all signs, signals, markings and devices placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning or guiding traffic:

(25) Operator shall mean every person who drives or is in actual physical control of a vehicle:

(26) Operator's license shall mean any license to operate a motor vehicle issued under the laws of this state:

(27) Owner shall mean a person other than a lienholder, having the property in or title to a vehicle. The term includes a person entitled to the use and possession of a vehicle subject to a security interest in another person, but excludes a lessee under a lease not intended as security:

(28) Park or parking shall mean the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers:

(29) Pedestrian shall mean any person afoot:

(30) Person shall mean every natural person, firm, copartnership, association or corporation:

(31) Pneumatic tire shall mean every tire in which compressed air is designed to support the load:

(32) Police officer shall mean every officer authorized to direct or regulate traffic or to make arrests for violation of traffic regulations;

(33) Private road or driveway shall mean every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons;

(34) Railroad shall mean a carrier of persons or property upon cars, other than streetcars, operated upon stationary rails;

(35) Railroad sign or signal shall mean any sign, signal or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train;

(36) Residence district shall mean the territory contiguous to and including a highway not comprising a business district when the property on such highway for a distance of three hundred feet or more is in the main improved with residences or residences and buildings in use for business;

(37) Revocation of operator's license shall mean the termination by formal action of the department of a person's license or privilege to operate a motor vehicle on the public highways, which termination shall not be subject to renewal or restoration except that an application for a new license may be presented and acted upon by the department after the expiration of the applicable period of time prescribed in the statute providing for revocation;

(38) Right-of-way shall mean the privilege of the immediate use of the highway by one vehicle or pedestrian over another vehicle or pedestrian approaching under such circumstances of direction, speed and proximity as to give rise to danger of collision unless one grants precedence to the other;

(39) Roadway shall mean that portion of a highway improved, designed or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway includes two or more separate roadways, the term roadway shall refer to any such roadway separately but not to all such roadways collectively;

(40) Safety zone shall mean the area or space

officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone:

(41) School bus shall mean every motor vehicle that complies with the color and identification requirements as provided in the laws of this state and is used to transport children to or from school or in connection with school activities, but not including buses operated by common carriers in urban transportation of school children:

(42) Security agreement shall mean a written agreement which reserves or creates a security interest:

(43) Security interest shall mean an interest in a vehicle reserved or created by agreement and which secures payment or performance of an obligation. The term includes the interest of a lessor under a lease intended as security. A security interest is perfected when it is valid against third parties generally, subject only to specific statutory exceptions:

(44) Sidewalk shall mean that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for use by pedestrians:

(45) Solid tire shall mean every tire of rubber or other resilient material which does not depend upon compressed air for the support of the load:

(46) Stand or standing shall mean the halting of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in receiving or discharging passengers:

(47) Stop, when required, shall mean a complete cessation from movement:

(48) Stop or stopping, when prohibited, shall mean any halting even momentarily of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control sign or signal:

(49) Street shall mean the entire width between boundary lines of every way publicly-maintained when any part thereof is open to the use of the public for purposes of vehicular travel:



(50) Suspension of operator's license shall mean the temporary withdrawal by formal action of the department of a person's license or privilege to operate a motor vehicle on the public highways, which temporary withdrawal shall be for a period specifically designated by the department:

(51) Through highway shall mean every highway or portion thereof on which vehicular traffic is given preferential right-of-way, and at the entrances to which vehicular traffic from intersecting highways is required by law to yield the right-of-way to vehicles on such through highway in obedience to a stop sign, yield sign, or other official traffic control device, when such signs or devices are erected as provided by law:

(52) Traffic control signal shall mean any device, whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed:

(53) Vehicle shall mean every device in, upon or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks; and

(54) Urban district shall mean the territory contiguous to and including any street which is built up with structures devoted to business, industry or dwelling houses situated at intervals of less than one hundred feet for a distance of a quarter of a mile or more.

Sec. 2. That section 39-771, Revised Statutes Supplement, 1969, be amended to read as follows:

39-771. Every solid rubber tire on a vehicle moved on any highway shall have rubber on its entire traction surface at least one inch thick above the edge of the flange of the entire periphery. No tire on a vehicle moved on a highway shall have on its periphery any clock, stud, flange, cleat or spike or any other protuberance of any material other than rubber which projects beyond the tread of the traction surface of the tire, except that (1) this prohibition shall not apply to pneumatic tires with metal or metal-type studs not exceeding five-sixteenths of an inch in diameter inclusive of the stud-casing with an average protrusion beyond the tread surface of not more than seven sixty-fourths of an inch between October 1 and April 15; Provided, that school buses, mail carrier vehicles and

emergency vehicles shall be permitted to use metal or metaltype studs between April 15 and October 1, (2) it shall be permissible to use farm machinery with tires having protuberances which will not injure the highway, and (3) it shall be permissible to use tire chains of reasonable proportions upon any vehicle when required for safety because of snow, ice or other condition tending to cause a vehicle to slide or skid. The Department of Roads and local authorities in their respective jurisdictions may, in their discretion, issue special permits authorizing the operation upon a highway of traction engines or tractors having movable tracks with transverse corrugations upon the periphery of such movable tracks or farm tractors or other farm machinery.

Sec. 3. That original section 39-771, Revised Statutes Supplement, 1969, and section 39-741, Reissue Revised Statutes of Nebraska, 1943, as amended by section 2, Legislative Bill 396, Eighty-second Legislature, First Session, 1971, are repealed.