

LEGISLATIVE BILL 120

Approved by the Governor May 26, 1983

Introduced by Warner, 25

AN ACT to amend sections 39-1302 and 39-1320.06, Reissue Revised Statutes of Nebraska, 1943, and sections 39-602 and 39-1320.01, Revised Statutes Supplement, 1982, relating to highways and signs; to define terms; to harmonize provisions; to authorize certain expenditures; to prohibit certain signs; to repeal the original sections; and to declare an emergency.

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

Section 1. That section 39-602, Revised Statutes Supplement, 1982, be amended to read as follows:

39-602. As used in sections 39-601 to 39-6,122 and in Chapter 39, unless the context otherwise requires:

(1) Acceleration or deceleration lane shall mean a supplementary lane of a highway laned for traffic, which adjoins the traveled lanes of a highway and connects an approach or exit road with such highway;

(2) Alley shall mean a 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;

(3) Approach or exit road shall mean any highway or ramp designed and used solely for the purpose of providing ingress or egress to or from an interchange or rest area of a highway. An approach road shall begin at the point where it intersects with any highway not a part of the highway for which such approach road provides access, and shall terminate at the point where it merges with an acceleration lane of a highway. An exit road shall begin at the point where it intersects with a deceleration lane of a highway and shall terminate at the point where it intersects any highway not a part of a highway from which the exit road provides egress;

(4) Arterial street shall mean any United States or state numbered route, controlled access

highway, or other major radial or circumferential highway designated by local authorities within their respective jurisdictions as part of a major arterial system of highways;

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

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

(7) 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;

(8) 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, office buildings, railroad stations, or public buildings which occupy at least three hundred feet of frontage on one side or three hundred feet collectively on both sides of a highway;

(9) Cabin trailer shall mean a trailer or semitrailer which is designed, constructed, and equipped as a dwelling place, living abode, or sleeping place, whether used for such purposes or instead permanently or temporarily for the advertising, sale, display, or promotion of merchandise or services, or for any other commercial purpose except transportation of property for hire or transportation of property for distribution by a private carrier. Cabin trailer shall not mean a trailer or semitrailer which is permanently attached to real estate. There shall be three classes of cabin trailers:

(a) Travel trailer which shall include cabin trailers not more than eight feet in width nor more than forty feet in length from front hitch to rear bumper;

(b) Mobile home which shall include cabin trailers more than eight feet in width or more than forty feet in length; and

(c) Camping trailer which shall include cabin trailers eight feet or less in width and forty feet or less in length and adjusted mechanically smaller for towing;

(10) 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 such license or because the licensee is no longer entitled to such license, and without

prejudice to application for a new license which may be made at any time after such cancellation;

(11) Compressed gas shall mean any gaseous or vaporous material or mixture confined in a container under either an absolute pressure exceeding forty pounds per square inch at seventy degrees Fahrenheit, or an absolute pressure exceeding one hundred thirty degrees Fahrenheit, or both, or any liquid flammable material having a Reid Vapor Pressure exceeding forty pounds per square inch absolute at one hundred degrees Fahrenheit;

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

(13) 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 such roadway measured from the curbs or, in the absence of curbs, from the edge of the roadway; or

(b) Any portion of a roadway at an intersection or elsewhere distinctly designated by competent authority and marked for pedestrian crossing by lines, signs, or other devices;

(14) Corrosive liquid shall mean an acid, alkaline caustic liquid, or other liquid which, when in contact with living tissue, will cause severe damage to such tissue by chemical action, or will materially damage or destroy other materials by chemical action, or which is liable to cause fire when in contact with organic matter or with certain chemicals;

(15) Daytime shall mean that period of time between sunrise and sunset;

(16) Dealer shall mean any 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 license plates have been issued by the department;

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

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

(19) Divided highway shall mean a highway with separated roadways for traffic in opposite directions;

(20) Drag race shall mean the operation of two or more vehicles from a point side by side at accelerating speeds in a competitive attempt to outdistance each other, or the operation of one or more

vehicles over a common selected course, each starting at the same point and proceeding to the same point, for the purpose of comparing the relative speeds or power of acceleration of such vehicle or vehicles within a certain distance or time limit;

(21) Driver's license shall mean any operator's or chauffeur's license or any other license or permit to operate a motor vehicle issued under the laws of this state, including:

(a) Any temporary license or instruction permit;

(b) The privilege of any person to drive a motor vehicle whether or not such person holds a valid license;

(c) Any nonresident's operating privilege as defined in sections 39-601 to 39-6,122; and

(d) An employment driving permit issued as provided by this act;

(22) Essential parts shall mean all integral and body parts of a vehicle of a type required to be registered for operation on the highways of this state, the removal, alteration, or substitution of which would tend to conceal the identity of the vehicle or substantially alter its appearance, model, type, or mode of operation;

(23) Established place of business shall mean the place actually occupied either continuously or at regular periods by a dealer or manufacturer where his or her books and records are kept and a large share of his or her business is transacted;

(24) Explosives shall mean any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion, that is with substantially instantaneous release of gas and heat, including, but not limited to, gunpowder, blasting powder, high explosives, and blasting caps, but shall not include liquid petroleum or organic products, chemical or mineral solvents, or other substances commonly classified as flammable liquids or solids;

(25) 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;

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

(27) Flammable liquid shall mean any liquid which gives off flammable vapors at or below a temperature of eighty degrees Fahrenheit as determined by flash point from Tagliabue's Open Cup Tester, as used for test of burning oils;

(28) Flammable solid shall mean any solid substance other than an explosive which is liable, under conditions incident to transportation, to ignite through

friction, absorption, or moisture, or spontaneous chemical changes, or as a result of retained heat from manufacturing or processing;

(29) Freeway shall mean a divided arterial highway designed primarily for through traffic with full control of access and with grade separations at all intersecting road crossings, including all interchanges, and approach and exit roads thereto;

(30) Full control of access shall mean that the right of owners or occupants of abutting land or other persons to access or view is fully controlled by public authority having jurisdiction, and that such control is exercised to give preference to through traffic by providing access connections with selected public roads only and by prohibiting crossings or intersections at grade or direct private driveway connections;

(31) Grade separation shall mean a crossing of two highways at different levels;

(32) Highway shall mean the entire width between the boundary limits of any street, road, avenue, boulevard, or way which is publicly-maintained publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel;

(33) Home state shall mean the state which has issued and has the power to grant, suspend, or revoke the privilege to operate a motor vehicle on the public way;

(34) Identifying number shall mean the numbers, and letters if any, on a vehicle designated by the department for the purpose of identifying such vehicle;

(35) Implement of husbandry shall mean every vehicle designed and adapted exclusively for agricultural, horticultural, or livestock-raising livestock raising operations or for lifting or carrying an implement of husbandry and in either case usually primarily used off of any highway;

(36) Interchange shall mean a grade separated intersection with one or more turning roadways for travel between any of the highways radiating from and forming part of such intersection;

(37) Intersection shall mean 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 or more 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; PROVIDED, that 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; AND PROVIDED FURTHER, that the junction of an alley with a highway shall not constitute an intersection;

(38) Laned roadway shall mean a roadway which is divided into two or more clearly-marked clearly marked lanes for vehicular traffic;

(39) License or license to operate a motor vehicle shall mean the privilege granted by this state to operate a motor vehicle;

(40) Licensing authority shall mean the Department of Motor Vehicles;

(41) Lienholder shall mean a person holding a security interest in a vehicle;

(42) Local authority shall mean every county, municipal, and other local board or body having power to enact laws or regulations relating to traffic under the Constitution and laws of this state, and generally including the directors of state institutions and the Game and Parks Commission with regard to roads not a part of the state highway system and within the limits of such institution or of an area under Game and Parks Commission control, but outside the limits of any incorporated city or village;

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

(44) Maintenance shall mean the act, operation, or continuous process of repair, reconstruction, or preservation of the whole or any part of any highway, including surface, shoulders, roadsides, traffic-control traffic control devices, structures, waterways, and drainage facilities, for the purpose of keeping it at or near, or improving, upon its original standard of usefulness and safety;

(45) Manual shall mean the most recent edition of the Manual on Uniform Traffic Control Devices for Streets and Highways;

(46) Manufacturer shall mean any person who engages in the business of constructing or assembling vehicles of a type required to be registered for operation on the highways of this state at an established place of business in this state;

(47) Median shall mean that part of a divided highway, such as a physical barrier or clearly indicated dividing section or space, so constructed as to impede vehicular traffic across or within such barrier, section, or space, or to divide such highway into two roadways for vehicular travel in opposite directions;

(48) Median crossover shall mean a connection between roadways of a divided highway the use of which

may permit a vehicle to reverse its direction by continuously moving forward;

(49) Median opening shall mean a gap in a median provided for crossing and turning traffic;

(50) Metal tire shall mean every tire the surface of which in contact with the highway is wholly or partly of metal or other hard nonresilient material;

(51) Minibike shall mean a two-wheel motor vehicle which has a total wheel and tire diameter of less than fourteen inches, or an engine-rated capacity of less than forty-five cubic centimeters displacement, or any other two-wheel motor vehicle primarily designed by the manufacturer thereof for off-road use only. Minibikes, their owners and their operators, shall be exempt from the requirements of Chapter 60, articles 1, 3, 4, 5, and 17;

(52) Moped shall mean a bicycle with fully operative pedals for propulsion by human power, an automatic transmission, and a motor with a cylinder capacity not exceeding fifty cubic centimeters, which produces no more than two brake horsepower and is capable of propelling the bicycle at a maximum design speed of no more than thirty miles per hour on level ground. mopeds, their owners, and their operators shall be subject to Chapter 60, article 4, but shall be exempt from the requirements of Chapter 60, articles 1, 3, 5, and 17;

(53) Motor vehicle shall mean every self-propelled land vehicle, not operated upon rails, except mopeds and self-propelled invalid chairs;

(54) 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;

(55) Motor-driven cycle shall mean every motorcycle, including every motor scooter, with a motor which produces not to exceed five brake horsepower, as measured at the drive shaft, mopeds, and every bicycle with motor attached;

(56) Nighttime shall mean that period of time between sunset and sunrise;

(57) Nonresident shall mean every person who is not a resident of this state;

(58) Nonresident's operating privilege shall mean the privilege conferred upon a nonresident by the laws of this state pertaining to the operation by such person of a motor vehicle, or the use of a vehicle owned by such person, in this state;

(59) Operator or driver shall mean any person who drives or is in actual physical control of a vehicle;

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

state;

(61) Owner shall mean a person, other than a lienholder, having the property in or title to a vehicle, including a person entitled to the use and possession of a vehicle subject to a security interest in another person, but excluding a lessee under a lease not intended as security;

(62) Oxidizing material shall mean any substance such as chlorate, permanganate, peroxide, or a nitrate that yields oxygen readily to stimulate the combustion of organic matter;

(63) 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;

(64) Passenger car shall mean any motor vehicle, except motorcycles and motor-driven cycles, designed for carrying ten passengers or less and used primarily for the transportation of persons;

(65) Pedestrian shall mean any person afoot;

(66) Period of insufficient light shall mean nighttime and all other times when atmospheric conditions are such that there is insufficient light to reveal a person or an object of comparable size or larger at a distance of one thousand feet;

(67) Person shall mean every natural person, firm, partnership, association, or corporation;

(68) Pneumatic tire shall mean any tire designed so that compressed air supports the load of the wheel;

(69) Poisonous substance shall mean any liquid or gas of such nature that a very small amount of the gas, or vapor of the liquid, mixed with air is dangerous to life; or any liquid or solid substance that upon contact with fire or when exposed to air gives off dangerous or intensely irritating fumes or substances which are chiefly dangerous by external or internal contact with the body;

(70) Police officer shall mean any officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations;

(71) 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;

(72) Radioactive material shall mean any substance which spontaneously emits radiation capable of penetrating and severely damaging living tissue and undeveloped photographic film, and fissile radioactive materials shall mean those which are classified according to controls needed for nuclear criticality safety;

(73) Racing shall mean the use of one or more vehicles in an attempt to outgain, outdistance, or prevent another vehicle from passing, to arrive at a given destination ahead of another vehicle or vehicles, or to test the physical stamina or endurance of drivers over ~~long-distance~~ long distance driving routes;

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

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

(76) Railroad train shall mean a steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails;

(77) Reconstructed vehicle shall mean any vehicle of a type required to be registered for operation on the highways of this state materially altered from its original construction by the removal, addition, or substitution of essential parts, new or used;

(78) Registration shall mean the registration certificate or certificates and registration plates issued under the laws of this state pertaining to the registration of vehicles;

(79) Residential 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;

(80) Revocation of operator's license shall mean the termination by a court of competent jurisdiction or 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 employment driving permit may be issued as provided by this act. 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;

(81) Right-of-way shall mean the right of one vehicle or pedestrian to proceed in a lawful manner in preference to 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;

(82) Road tractor shall mean any motor vehicle designed and used for drawing other vehicles and not so constructed as to carry any load thereon either

independently or as any part of the weight of a vehicle or load so drawn;

(83) Roadway shall mean that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder. If 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;

(84) Safety glass shall mean any product which is composed of glass or similar material which will withstand discoloration caused by exposure to sunlight or abnormal temperature over an extended period of time, and which is so manufactured, fabricated, or treated as substantially to prevent or reduce, in comparison with ordinary sheet glass or plate glass, the likelihood of injury to persons when the glass is struck or broken;

(85) Safety zone shall mean an 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 such area;

(86) School bus shall mean any motor vehicle that complies with the color and identification requirements as provided in the laws of this state, or set forth in the most recent edition of Minimum Standards for School Buses, produced and sponsored by the National Commission on Safety Education of the National Education Association, 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;

(87) Security agreement shall mean a written agreement which reserves or creates a security interest;

(88) Security interest shall mean an equitable title or property right in a vehicle reserved or created by agreement and which secures payment or performance of an obligation, including the interest of a lessor under a lease intended as security, and which is perfected when it is valid against third parties generally, subject only to specific statutory exceptions;

(89) Semitrailer shall mean any vehicle, with or without motive power, designed to carry persons or property and to be drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle;

(90) Separation structure shall mean that part of any bridge or road which is directly overhead of the roadway of any part of a highway;

(91) Shoulder shall mean that part of the highway contiguous to the roadway and designed for the accommodation of stopped vehicles, for emergency use, and for lateral support of the base and surface courses of the roadway;

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

(93) Sidewalk space shall mean that portion of a street between the curb line and the adjacent property line;

(94) Snowmobile shall mean a self-propelled motor vehicle designed to travel on snow or ice or a natural terrain steered by wheels, skis, or runners and propelled by a belt-driven track with or without steel cleats;

(95) Solid tire shall mean every tire of rubber or other resilient material which does not depend upon compressed air or metal for the support of the load of the wheel to which it attaches;

(96) Special mobile equipment shall mean any vehicle not designed or used primarily for transportation of persons or property and only incidentally operated or moved over a highway, including but not limited to: Ditch-digging apparatus, well-boring apparatus, and road construction and maintenance machinery such as asphalt spreaders, bituminous mixers, bucket loaders, tractors other than truck-tractors, ditchers, leveling graders, finishing machines, motor graders, road rollers, scarifiers, earthmoving carryalls and scrapers, power shovels and drag lines, self-propelled cranes, and earthmoving equipment, but not including cabin trailers, dump trucks, truck-mounted transit mixers, cranes, or shovels, or other vehicles designed for the transportation of persons or property to which machinery has been attached;

(97) Specially constructed vehicle shall mean any vehicle of a type required to be registered for operation on the highways of this state and not originally constructed under a distinctive name, make, model, or type by a generally recognized manufacturer of vehicles and not materially altered from its original construction;

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

(99) State shall mean a state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a province of Canada;

(100) Stop, when required, shall mean a complete cessation of movement;

(101) 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 device;

(102) Suspension of operator's license shall mean the temporary withdrawal by a court of competent jurisdiction or by formal action of the department of a person's license or privilege to operate a motor vehicle on the public highways for a period specifically designated by the court or department. An employment driving permit shall be issued following suspension as provided in this act;

(103) 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 such right-of-way to vehicles on such highway in obedience to a stop sign, yield sign, or other traffic-control device, when such sign or device is erected as provided by law;

(104) Traffic shall mean pedestrians, ridden or herded animals, and vehicles and other conveyances either singly or together while using any highway for purposes of travel;

(105) Traffic-control device shall mean any sign, signal, marking, or other device not inconsistent with sections 39-601 to 39-6,122 placed or erected by authority of a public body or official having jurisdiction for the purpose of regulating, warning, or guiding traffic;

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

(107) Traffic infraction shall mean the violation of any provision of sections 39-601 to 39-6,122 or of any law, ordinance, order, rule, or regulation regulating traffic which is not otherwise declared to be a misdemeanor or a felony and which shall be a civil offense;

(108) Trailer shall mean any vehicle, with or without motive power, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle;

(109) Transporter shall mean any person who engages in the business of delivering vehicles of a type required to be registered for operation on the highways of this state from a manufacturing, assembling, or distributing plant to dealers or sales agents of a manufacturer;

(110) Truck shall mean any motor vehicle designed, used, or maintained primarily for the transportation of property;

(111) Truck-tractor shall mean any motor

vehicle designed and primarily used for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn;

(112) 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; and

(113) 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 solely by human power or used exclusively upon stationary rails or tracks; and =

(114) Visible, as used in reference to advertising signs, displays, or devices, shall mean the message or advertising content of such sign, display, or device is capable of being seen without visual aid by a person of normal visual acuity. A sign shall be considered visible even though the message or advertising content may be seen but not read.

Sec. 2. That section 39-1302, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

39-1302. As used in sections 39-1301 to 39-1362, unless the context otherwise requires:

(1) Abandon shall mean to reject all or part of the department's rights and responsibilities relating to all or part of a fragment, section, or route on the state highway system;

(2) Alley shall mean an established passageway for vehicles and pedestrians affording a secondary means of access in the rear to properties abutting on a street or highway;

(3) Arterial highway shall mean a highway primarily for through traffic, usually on a continuous route;

(4) Channel shall mean a natural or artificial watercourse;

(5) Connecting link shall mean the roads, streets, and highways designated as part of the state highway system and which are within the corporate limits of any city or village in this state;

(6) Controlled access facility shall mean a highway or street especially designed for through traffic, and over, from, or to which owners or occupants of abutting land or other persons have no right or easement or only a controlled right or easement of access, light, air, or view by reason of the fact that their property abuts upon such controlled access facility or for any other reason. Such highways or streets may be freeways or they may be parkways;

(7) Department shall mean the Department of Roads of the State of Nebraska;

(8) Easement shall mean a right acquired by public authority to use or control property for a designated highway purpose;

(9) Expressway shall mean a divided arterial highway for through traffic with full or partial control of access and generally with grade separations at intersections;

(10) Freeway shall mean an expressway with full control of access;

(11) Frontage road shall mean a local street or road auxiliary to an arterial highway for service to abutting property and adjacent areas and for control of access;

(12) Highway shall mean a road or street, including the entire area within the right-of-way, which has been designated a part of the state highway system;

(13) Map shall mean a drawing or other illustration or a series of drawings or illustrations which may be considered together to complete a representation;

(14) Mileage shall mean the aggregate distance in miles without counting double mileage where there are one-way or divided roads, streets, or highways;

(15) Parking lane shall mean an auxiliary lane primarily for the parking of vehicles;

(16) Parkway shall mean an arterial highway for noncommercial traffic, with full or partial control of access, and usually located within a park or a ribbon of park-like development;

(17) Person shall include bodies politic and corporate, societies, communities, the public generally, individuals, partnerships, joint stock companies, and associations;

(18) Relinquish shall mean to surrender all or part of the rights and responsibilities relating to all or part of a fragment, section, or route on the state highway system to a political or governmental subdivision or public corporation of Nebraska;

(19) Right of access shall mean the rights of ingress and egress to or from a road, street, or highway, and the rights of owners or occupants of land abutting a road, street, or highway or other persons to a way or means of approach, light, air, or view;

(20) Right-of-way shall mean land, property, or interest therein, usually in a strip, acquired for or devoted to a road, street, or highway;

(21) Road shall mean a public way for the purposes of vehicular travel, including the entire area within the right-of-way. A road designated as part of the state highway system may be called a highway, while a road in an urban area may be called a street;

(22) Roadside shall mean the area adjoining the outer edge of the roadway. Extensive areas between the roadways of a divided highway may also be considered roadside;

(23) Roadway shall mean the portion of a highway, including shoulders, for vehicular use;

(24) State highway purposes shall have the meaning set forth in subsection (2) of section 39-1320;

(25) State highway system shall mean the roads, streets, and highways shown on the map provided for in section 39-1311, as forming a group of highway transportation lines for which the department shall be the primary authority. The state highway system shall include, but not be limited to, rights-of-way, connecting links, drainage facilities, and the bridges, appurtenances, easements, and structures used in conjunction with such roads, streets, and highways;

(26) Street shall mean a public way for the purposes of vehicular travel in a city or village and shall include the entire area within the right-of-way;

(27) Structure shall mean anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having a permanent location;

(28) Title shall mean the evidence of a person's right to property or the right itself;

(29) Traveled way shall mean the portion of the roadway for the movement of vehicles, exclusive of shoulders and auxiliary lanes;

(30) Written instrument shall mean a deed or any other document that states a contract, agreement, gift, or transfer of property;

(31) Displaced person shall mean any individual, family, business or farm operation which moves from real property acquired for state highway purposes or for a federal-aid highway;

(32) Individual shall mean a person who is not a member of a family;

(33) Family shall mean two or more persons living together in the same dwelling unit who are related to each other by blood, marriage, adoption, or legal guardianship;

(34) Business shall mean any lawful activity conducted primarily for the purchase and resale, manufacture, processing, or marketing of products, commodities, or other personal property, or for the sale of services to the public, or by a nonprofit corporation;

(35) Farm operation shall mean any activity conducted primarily for the production of one or more agricultural products or commodities for sale and home use, and customarily producing such products or commodities in sufficient quantity to be capable of

contributing materially to the operator's support;

(36) Federal-aid primary roads shall mean roads, streets, and highways, whether a part of the state highway system, county road systems, or city streets, which have been designated as federal-aid primary roads by the department and approved by the Secretary of Transportation of the United States, and shown on the maps provided for in section 39-1311;

(37) Commercial activity shall mean those activities generally recognized as commercial by zoning authorities in this state, and industrial activity shall mean those activities generally recognized as industrial by zoning authorities in this state, except that none of the following shall be considered commercial or industrial:

(a) Outdoor advertising structures;

(b) General agricultural, forestry, ranching, grazing, farming and related activities, including but not limited to, wayside fresh produce stands;

(c) Activities normally or regularly in operation less than three months of the year;

(d) Activities conducted in a building principally used as a residence;

(e) Railroad tracks and minor sidings; and

(f) Activities more than six hundred sixty feet from the nearest edge of the right-of-way of the road or highway;

(38) Unzoned commercial or industrial area for purposes of control of outdoor advertising shall mean all areas within six hundred sixty feet of the nearest edge of the right-of-way of the interstate and federal-aid primary systems which are not zoned by state or local law, regulation, or ordinance and on which there is located one or more permanent structures devoted to a business or industrial activity or on which a commercial or industrial activity is conducted, whether or not a permanent structure is located thereon, the area between such activity and the highway, and the area along the highway extending outward six hundred feet from and beyond each edge of such activity, and in the case of the primary system may include the unzoned lands on both sides of such road or highway to the extent of the same dimensions; PROVIDED, those lands on the opposite side of the highway are not deemed scenic or having aesthetic value as determined by the department. In determining such an area, measurements shall be made from the furthest or outermost edges of the ~~regularly-used~~ regularly used area of the commercial or industrial activity, structures, normal points of ingress and egress, parking lots, storage and processing areas constituting an integral part of such commercial or industrial activity; and

(39) Zoned commercial or industrial areas

shall mean those areas within six hundred sixty feet of the nearest edge of the right-of-way of the National System of Interstate and Defense Highways and all federal-aid primary roads, zoned by state or local authorities for industrial or commercial activities; and

(40) visible, as used in sections 39-1320.06, 39-1320.07, and 39-1320.09 in reference to advertising signs, displays, or devices, shall mean the message or advertising content of such sign, display, or device is capable of being seen without visual aid by a person of normal visual acuity. A sign shall be considered visible even though the message or advertising content may be seen but not read.

Sec. 3. That section 39-1320.01, Revised Statutes Supplement, 1982, be amended to read as follows:

39-1320.01. (1) The Department of Roads is authorized to acquire the interest in lands, real or personal property, necessary to exercise the power authorized by subdivision (m) of subsection (2) of section 39-1320, and to pay just compensation upon removal of the following outdoor advertising signs, displays, and devices, as well as just compensation for the disconnection and removal of electrical service to the same:

(a) Those lawfully erected or in existence prior to March 27, 1972, and not conforming to the provisions of this act except as otherwise authorized by this act; and

(b) Those lawfully erected after March 27, 1972, which become nonconforming after being erected.

(2) Such compensation for removal of such signs, displays, and devices is authorized to be paid only for the following:

(a) The taking from the owner of such sign, display, or device or of all right, title, leasehold, and interest in connection with such sign, display, or device, or both; and

(b) The taking, from the owner of the real property on which the sign, display, or device is located, of the right to erect and maintain such signs, displays, and devices thereon.

(3) In all instances where signs, displays, or devices, which are served electrically, are taken under subdivision (2) (a) of this section, the Department of Roads shall pay just compensation to the supplier of electricity for supportable costs of disconnection and removal of such service to the nearest distribution line, or in the event such sign, display, or device is relocated, just compensation for removal of such service to the point of relocation.

The Except for expenditures for the removal of nonconforming signs erected between April 16, 1982, and

the effective date of this act, the department shall not be required to expend any funds under the provisions of this act unless and until federal-aid matching funds are made available for this purpose.

Sec. 4. That section 39-1320.06, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

39-1320.06. Except as provided in this act, the erection or maintenance of any advertising sign, display, or device which is visible from the main-traveled way of the National System of Interstate and Defense Highways and the system of federal-aid primary roads of the State of Nebraska erection or maintenance of any advertising sign, display, or device which is visible from the main-traveled way of the National System of Interstate and Defense Highways and the system of federal-aid primary roads of the State of Nebraska is hereby prohibited. On-premise signs, directional and official signs, and notices as defined and controlled in the department's rules and regulations shall be permitted.

(1) Other signs controlled in accordance with the federal-state agreement shall be permitted, if conforming to the provisions of this act, in the following areas:

(a) All zoned commercial or industrial areas within the boundaries of incorporated municipalities, as those boundaries existed on September 21, 1959, and all other areas where the land use as of September 21, 1959, was clearly established by law or ordinance as industrial or commercial in which outdoor advertising signs, displays, and devices may be visible from the main-traveled way of the National System of Interstate and Defense Highways; PROVIDED, that no such signs, displays, or devices shall be permitted in areas in which advertising control easements have been acquired;

(b) All zoned and unzoned commercial and industrial areas in which outdoor advertising signs, displays, and devices may be visible from the main-traveled way of those portions of the National System of Interstate and Defense Highways constructed upon right-of-way, any part of the width of which was acquired on or before July 1, 1956; PROVIDED, that no such signs, displays, or devices shall be permitted in areas in which advertising control easements have been acquired;

(c) All zoned and unzoned commercial and industrial areas in which outdoor advertising signs, displays, and devices may be visible from the main-traveled way of all portions of all federal-aid primary roads within the State of Nebraska; PROVIDED, that no such signs, displays, or devices shall be permitted in areas in which advertising control

easements have been acquired; and

(d) All signs, displays, or devices beyond six hundred sixty feet of the edge of the right-of-way of the federal-aid interstate, federal-aid primary roads, and outside of urban areas which are visible from the main-traveled way are prohibited except those which are authorized to be erected by the Federal-Aid Highway Acts of 1965, 1970, and 1974, and those signs whose advertising message is only visible from a secondary road or street but not visible from the main-traveled way of such federal-aid roads or the National System of Interstate and Defense Highways.

(2) In the areas described in subdivision (1) of this section, advertising signs, displays, and devices shall be allowed to be erected in accordance with the following criteria:

(a) Whenever a bona fide state, county, or local zoning authority has made a determination of customary use, as to size, lighting, and spacing, such determination may be accepted in lieu of criteria established by regulation in the zoned commercial and industrial areas described in subdivision (1) of this section within the geographical jurisdiction of such authority unless conflicting with laws not contained in this section, or with the rules and regulations of the department; and

(b) In all other areas described in subdivision (1) of this section, the following criteria shall apply:

(i) On-premise signs as defined and controlled in the department's rules and regulations shall be permitted;

(ii) Those signs referred to as being permitted in the October, 1968, federal-state agreement shall be permitted when in conformity with the rules and regulations of the department;

(iii) Within the areas in which, according to the provisions of this act, advertising signs will be permitted, such signs shall conform to standards and criteria as to height, width, spacing, and lighting as set forth in the rules and regulations of the department;

(iv) Nothing contained in this act shall be construed to allow any person or persons, except the department, to erect signs within the right-of-way of any portion of the state highway system or, except the county, to erect official signs within the right-of-way of any portion of the county road system;

(v) Nothing contained in this act shall be construed to prevent the department from acquiring easements for the control of outdoor advertising;

(vi) Nothing contained in this act shall be construed to require the removal of signs in zoned and

unzoned commercial and industrial areas, as defined in section 39-1302, lawfully in existence on March 27, 1972, which signs may under this act remain and continue in place even if nonconforming; and

(vii) The powers conferred by this act are supplementary and additional powers, and nothing contained in this act shall be deemed amendatory or in derogation of any other grant of power or authority to the department.

Sec. 5. That original sections 39-1302 and 39-1320.06, Reissue Revised Statutes of Nebraska, 1943, and sections 39-602 and 39-1320.01, Revised Statutes Supplement, 1982, are repealed.

Sec. 6. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.