

## LEGISLATIVE BILL 307

Approved by the Governor April 14, 1987

Introduced by Beyer, 3

AN ACT relating to motor vehicles; to amend section 60-1307, Revised Statutes Supplement, 1986; to provide for the detention of certain vehicles as prescribed; to require a bond; and to repeal the original section.

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

Section 1. That section 60-1307, Revised Statutes Supplement, 1986, be amended to read as follows:

60-1307. (1) Whenever any person is arrested at one of the state weighing stations or portable scales for a violation of the laws relating to the trip permit provided in section 66-410.03 or to the size, weight, load, and registration of buses, motor trucks, truck-tractors, semitrailers, trailers, or towed vehicles, the arresting officer shall take the name and address of such person and the license number of his or her motor vehicle and issue a summons or otherwise notify him or her in writing to appear at a time and place to be specified in such summons or notice, such time to be at least five days after such arrest, unless the person arrested shall demand an earlier hearing. Such person shall, if he or she desires, have a right to an immediate hearing or a hearing within twenty-four hours at a convenient hour. The hearing shall be before a magistrate within the county wherein such offense was committed. Such officer shall, upon such person giving a written promise to appear at such time and place, forthwith release him or her from custody. Such person arrested and released shall not be permitted to operate the motor vehicle concerned until it is in compliance with section 39-6,185 and Chapter 60, article 3. Any person refusing to give such written promise to appear shall be immediately taken by the arresting officer before the nearest or most accessible magistrate. Any person who willfully violates a written promise to appear, given in accordance with this section, shall be guilty of a Class III misdemeanor, regardless of the disposition of the charge upon which he or she was originally arrested.

(2) Subsection (1) of this section shall not

apply to any person not a resident of the State of Nebraska. The arresting officer shall take such person forthwith before the nearest or most accessible magistrate.

(3) When any person appears before the magistrate and pleads not guilty, the The arresting officer may prohibit such person from operating shall seize and detain the motor vehicle concerned until the motor vehicle is in compliance with sections 39-6,179 and 39-6,180 or in conformity with the exceptions permitted by section 39-6,185 and, unless all the violations pending before the magistrate relating to sections 39-6,179 and 39-6,180 have been the subject of a conviction, acquittal, or dismissal and all related fines and costs have been paid, the arresting officer may detain the motor vehicle concerned when the officer has reasonable grounds to believe that (a) the accused will refuse to respond to the citation, (b) the accused has no ties to the jurisdiction reasonably sufficient to assure his or her appearance in court, or (c) the accused has previously failed to appear in response to a citation. If a motor vehicle detained pursuant to this section is transporting livestock, procedures and precautions shall be taken if necessary to ensure the health and welfare of such livestock while the motor vehicle is detained. A motor vehicle detained pursuant to this subsection shall be released upon execution of a bond with such surety or sureties as the court deems proper or, in lieu of such surety or sureties and at the option of the accused, a cash deposit, conditioned upon his or her appearance before the proper court to answer the offense for which he or she may be charged and to appear at such times thereafter as the court so orders. Such bond shall be in an amount as set forth in the schedule adopted pursuant to section 29-901.05 and shall be administered, subject to review and forfeiture, in the same manner as bail bonds, except that for violations of subdivision (1)(c) of section 39-6,179 and section 39-6,180, such bond or cash deposit shall be in an amount not less than the sum of costs together with the appropriate fine prescribed in section 39-6,184.

In addition to the operator, any owner or lessee of the motor vehicle may execute the bond or make the cash deposit required by this section. Upon execution of the bond or cash deposit, the arresting or custodial officer shall release the motor vehicle and cargo to the person who executed the bond or deposited the cash or to the designee of such person.

Towing and storage charges, if any, shall be

paid by the person to whom the motor vehicle is released prior to the release of the motor vehicle. Such charges shall be assessed as costs in any action for the forfeiture of the recognizance.

(4) Nothing in this section shall (a) prevent the owner or the owner's representative of such motor vehicle or the cargo on the motor vehicle from taking possession of the cargo and transferring it to another vehicle or taking possession of the cargo and the trailer, if the trailer can be separated from the power unit, or (b) create any liability for the state arising out of damage to such motor vehicle and its cargo.

Sec. 2. That original section 60-1307, Revised Statutes Supplement, 1986, is repealed.