

LEGISLATIVE BILL 833

Approved by the Governor April 7, 1988

Introduced by Beyer, 3; Hartnett, 45

AN ACT relating to motor vehicles; to amend sections 39-671, 60-110, and 60-2410, Reissue Revised Statutes of Nebraska, 1943, and section 18-1740, Revised Statutes Supplement, 1987; to change provisions relating to the remittance of parking permit fees to the Department of Motor Vehicles; to provide liens for towing and storage fees as prescribed; to change a provision relating to the cancellation of liens on motor vehicles; 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 18-1740, Revised Statutes Supplement, 1987, be amended to read as follows:

18-1740. All permits authorized under sections 18-1736 to 18-1741 for handicapped or disabled parking shall be issued for a period ending January 1 of the fourth year following the date of issuance. All temporarily handicapped or disabled parking permits authorized under sections 18-1736 to 18-1741 shall be issued for a period ending ninety days from the date of issuance but may be renewed for up to three additional ninety-day periods. For each additional ninety-day renewal period, there shall be submitted an additional application with proof of a handicap or disability and the required permit fee. A permit fee of three dollars shall be charged for each permit, two dollars and fifty cents of which shall be retained by the city or village clerk and fifty cents shall be forwarded on a quarterly basis to the Department of Motor Vehicles.

Sec. 2. That section 39-671, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

39-671. (1) Whenever any police officer, or other authorized employee of a law enforcement agency who is employed by a political subdivision of the state and specifically empowered by ordinance to act, shall ~~find~~ finds a vehicle standing upon a highway in violation of any of the provisions of ~~sections 39-601 to~~

39-6,122 the Nebraska Rules of the Road, such individual may remove the vehicle or have such vehicle removed, or require the driver or other person in charge of the vehicle to move such vehicle, to a position off the roadway of such highway or from such highway.

(2) The owner or other person lawfully entitled to the possession of any vehicle towed or stored shall be charged with the reasonable cost of towing and storage fees. Any such towing or storage fee shall be a lien upon the vehicle prior to all other claims. Any person towing or storing a vehicle shall be entitled to retain possession of such vehicle until such charges are paid. The lien provided for in this section shall not apply to the contents of any vehicle. The owner or other person lawfully entitled to the possession of such vehicle may be charged with the reasonable cost for such removal and storage, payable before such vehicle is released. Any such towing or storage fee shall become a security interest in the vehicle prior to all other claims.

Sec. 3. That section 60-110, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-110. The provisions of article 9, Uniform Commercial Code, shall never be construed to apply to or to permit or require the deposit, filing, or other record whatsoever of a security agreement, conveyance intended to operate as a mortgage, trust receipt, conditional sales contract, or similar instrument, or any copy of the same covering a motor vehicle. Any mortgage, conveyance intended to operate as a security agreement as provided by article 9, Uniform Commercial Code, trust receipt, conditional sales contract, or other similar instrument covering a motor vehicle, if such instrument is accompanied by delivery of such manufacturer's or importer's certificate and followed by actual and continued possession of same by the holder of said such instrument or, in the case of a certificate of title, if a notation of same has been made by the county clerk on the face thereof, shall be valid as against the creditors of the debtor, whether armed with process or not, and subsequent purchasers, secured parties, and other lienholders or claimants but otherwise shall not be valid against them, except that during any period in which a motor vehicle is inventory, as defined in subdivision (4) of section 9-109, Uniform Commercial Code, held for sale by a person or corporation who that is licensed as provided in Chapter 60, article 14, and is in the business of selling motor vehicles, the filing

provisions of article 9, Uniform Commercial Code, as applied to inventory, shall apply to a security interest in such motor vehicle created by such person or corporation as debtor without the notation of lien on the instrument of title. A buyer at retail from a licensed dealer of any vehicle which is subject to Chapter 60, article 14, in the ordinary course of business shall take such vehicle free of any security interest.

Subject to the foregoing, all liens, security agreements, and encumbrances, noted upon a certificate of title, shall take priority according to the order of time in which the same are noted thereon by the county clerk. Exposure for sale of any motor vehicle by the owner thereof with the knowledge or with the knowledge and consent of the holder of any lien, security agreement, or encumbrance ~~thereon~~, on such motor vehicle shall not render the same void or ineffective as against the creditors of such owner or holder of subsequent liens, security agreements, or encumbrances upon such motor vehicle.

The holder of a security agreement, trust receipt, conditional sales contract, or similar instrument, upon presentation of such instrument to the clerk of the county where such certificate of title was issued together with the certificate of title and the fee prescribed by ~~sections 60-102 to 60-117~~ section 60-115, may have a notation of such lien made on the face of such certificate of title. The county clerk shall enter ~~said~~ the notation and the date thereof over the signature of such officer or deputy and the seal of office, and shall also note such lien and the date thereof on the duplicate of same on file and on that day shall notify the Department of Motor Vehicles, which shall do likewise. The county clerk shall also indicate by appropriate notation and on such instrument itself the fact that such lien has been noted on the certificate of title.

The county clerk, upon receipt of a lien instrument duly signed by the owner in the manner prescribed by law governing such lien instruments together with the fee prescribed for notation of lien, shall notify the first lienholder to deliver to the county clerk, within fifteen days from the date of notice, the certificate of title to permit notation of such junior lien and, after such notation of lien, the county clerk shall deliver the certificate of title to the first lienholder. The holder of a certificate of title, who refuses to deliver a certificate of title to

the county clerk, for the purpose of showing a junior lien on such certificate of title, within fifteen days from the date when notified to do so by the county clerk, shall be liable for damages to such junior lienholder for the amount of damages such junior lienholder suffered by reason of the holder of the certificate of title refusing to permit the showing of such lien on the said certificate of title.

When such lien is discharged, the holder thereof shall execute a notarized release within fifteen days after payment is received. Such release shall contain the certificate of title number, the amount of the lien and the date of the notation thereof. The holder shall also note a cancellation of ~~same~~ the lien on the face of the certificate of title over his, her, or its signature and deliver the release and certificate of title to the county clerk, who shall note the cancellation of ~~said~~ the lien on the face of the certificate of title and on the records of such office and on the same day notify the department which shall do likewise. The county clerk shall then return the certificate of title to the owner or as otherwise directed by the owner. ~~Said~~ The cancellation of lien shall be noted on the certificate of title by the county clerk without charge.

Sec. 4. That section 60-2410, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-2410. The owner or other person lawfully entitled to the possession of any vehicle towed or stored shall be charged with the reasonable cost of towing and storage fees. Any such towing or storage fee shall be a lien upon the vehicle prior to all other claims. Any person towing or storing a vehicle shall be entitled to retain possession of such vehicle until such charges are paid. The lien provided for in this section shall not apply to the contents of any vehicle. The owner of any motor vehicle towed or stored pursuant to sections 60-2401 to 60-2411 shall be liable for any towing and storage fees incurred but neither the motor vehicle nor the contents therein shall be subject to any storage or towing lien except as provided in section 60-2404.

Sec. 5. That original sections 39-671, 60-110, and 60-2410, Reissue Revised Statutes of Nebraska, 1943, and section 18-1740, Revised Statutes Supplement, 1987, are repealed.

Sec. 6. Since an emergency exists, this act shall be in full force and take effect, from and after

LB 833

LB 833

its passage and approval, according to law.